

Chapter 90 ZONING¹

ARTICLE I. IN GENERAL

Sec. 90-1. Preamble.

In accordance with the authority and intent of the Michigan Zoning Enabling Act, P.A. 110 of 2006 (MCL 125.3101 et seq.) as amended, the city desires to provide for the orderly development of the city, which is essential to the well-being of the community, and which will place no undue burden upon developers, commerce or residents. The city further desires to ensure the provision of adequate sites for commerce and residence; to provide for the free movement of vehicles upon the proper streets and highways of the city; to protect commerce and residences against incongruous and incompatible uses of land, and to promote the proper use of land and natural resources for the economic well-being of the city as a whole; to ensure the provision of adequate space for the parking of vehicles of customers using commercial and retail areas; and that all uses of land and buildings within the city be so related as to provide for economy in government and mutual support. The result of such purposes of this chapter, which relates to the city's comprehensive development plan, will promote and protect the public health, safety, comfort, convenience and general welfare of the residents, shoppers and workers in the city.

(Code 1980, § 5.1; Ord. No. 370, § I, 10-16-06)

Sec. 90-2. Short title.

This chapter shall be known and may be cited as the Zoning Ordinance of the City of Grosse Pointe.

(Code 1980, § 5.2)

Sec. 90-3. Definitions.

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

Accessory building means a subordinate building or structure on the same lot, or part of the main building occupied by or devoted exclusively to an accessory use, other than play equipment and play structures as defined herein.

Accessory building-attached means a subordinate building or structure on the same lot, or that is an integrated part of the main building occupied by or devoted exclusively to an accessory use, other than play

¹Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 14; businesses, ch. 18; planning, ch. 54; signs, ch. 58; streets, sidewalks and other public places, ch. 66; subdivisions, ch. 70; utilities, ch. 78; waterways, ch. 86.

State law reference(s)—Authority to regulate land use, MCL 125.581 et seq.

structures as defined herein. Integrated part shall mean connected to the principal structure by a common wall, enclosed breezeway, or covered porch.

Accessory building-detached means a subordinate building or structure on the same lot, occupied by or devoted exclusively to an accessory use that is not connected to the principal structure. Unenclosed breezeways, arbors, or patios do not constitute a connection to the principal structure for the purpose of this definition.

Accessory use means a use naturally and normally incidental to, subordinate to, and auxiliary to the permitted use of the premises.

Alley means any dedicated public way providing a secondary means of ingress to or egress from land or structures thereon, as designated upon the zoning map.

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

Animal-grooming shop means an establishment providing grooming services to domestic pet animals including, but not limited to, clipping, bathing and related services.

Apartment means a room or suite of rooms used as a dwelling for one family which may do its cooking therein.

Apartment house means a structure with three or more apartments sharing a building and a lot; may be for rent, or for sale as a condominium.

Artisan maker spaces means non-residential space designed to be used for personal-scale, low-impact artisan production of wholesale goods. Consumption or sale of goods on-site is permitted as an accessory use.

Automobile 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, aircraft 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 temporary storage of vehicles not over 48 hours, minor repair or servicing, but not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rustproofing or high-speed washing thereof.

Bank means an establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange. A bank shall be construed to mean an establishment wherein all business is transacted with customers totally within a building, and shall not include drive-in teller windows, booths and accessory structures designed to serve customers while in their automobiles.

Basement means a portion of a building partly or wholly below the finished grade level and so located that the vertical distance from the grade level to the floor is greater than the vertical distance from the grade level to the ceiling. (See illustration, Table A, at the end of this section.)

Billboard means any construction or portion thereof upon which a sign or advertisement is placed, painted, or otherwise designated for the purpose of making anything known to the general public, but not including bulletin boards used to display official court or public office notices.

Block means the property abutting one side of a street and lying between the two nearest intersecting streets or between the nearest such streets and unsubdivided acreage or lake; or between any of the foregoing and any other barrier to the continuity of development.

Board of zoning appeals means the board of zoning appeals of the city.

Brewpub means an eating and drinking establishment that includes the brewing of beer (including ale) as an accessory use for sale on the same premises of not more than 5,000 barrels per year.

Buildable area means the space of a lot remaining after the minimum open space requirements of this chapter have been complied with.

Building means any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal or chattel.

Building height means the vertical distance measured from the reference level to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. (See illustration, Table B, at the end of this section.)

Building inspector means the building inspector of the building department or his authorized representative.

Building line means a line established, in general, parallel to the front street right-of-way line between which line and the front street line no part of a building shall project, except as otherwise provided by this chapter.

Building, principal means a building in which is conducted the principal use of the lot in which it is located.

Building, separate means any portion of any structure completely separated from every other portion by masonry or a fire wall, which wall extends from the ground to the roof.

Carport means a building or structure which is not completely enclosed, and which is designed or used for the storage of not more than three motor vehicles not more than one of which may be a commercial vehicle not larger than a regularly manufactured pickup or panel truck of three-fourths ton capacity, owned by and for the private use of the occupants of the building to which it is accessory.

Catering hall or banquet hall means any establishment whose principal business is the sale of foods or beverages in a ready-to-consume state, and whose design or principal method of operation includes one of the following characteristics:

- (1) A minimum of 25 percent of the useable floor area (excluding kitchens) is devoted to a room, hall or combination of rooms or halls available for rental or leasing, these facilities not being open to the general public;
- (2) Such rooms are made primarily available for use by private groups, or for meetings of groups, clubs and organizations or for social affairs; or
- (3) The general tenure of a customer using the premises is in excess of two hours.

Childcare center means a facility, other than a private residence, licensed by the State of Michigan, in which one or more preschool or school age children are given care and supervision for periods of less than 24 hours per day, and where a parent or legal guardian is not immediately available. Childcare or day care center includes a facility, which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. Child care or day care center does not include those operated in a private residence, Sunday school, or a religious class that is conducted by a religious organization where children are in attendance for not greater than four hours per day for an indefinite period, or not greater than eight hours per day for a period not to exceed four weeks, during a 12-month period, or a facility operated by a religious organization where children are cared for not greater than four hours, while persons responsible for the children are attending religious classes or services.

City engineer means the city engineer or his authorized representative.

Clerk means the clerk of the city.

Convalescent home means a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein two or more persons are cared for. Such home shall conform and qualify for license under state laws.

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

Craft distillery means an establishment that manufactures not more than 60,000 gallons of spirits annually. A craft distillery may also include retail sales, and/or a restaurant, bar, or tasting room as an accessory use.

Density means the number of families residing on, or dwelling units developed on, an acre of land. As used in this chapter, all densities are stated in families per net acre, that is, per acre of land devoted to residential use, exclusive of land in streets, alleys, parks, playgrounds, school yards, or other public lands and open spaces.

District means a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas and other requirements are established.

Drive-in establishment means a business establishment, other than a drive-in restaurant, so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, and may include drive-in banks, drive-in cleaners, and drive-in laundries.

Drive-in restaurant means a drive-in restaurant or other drive-in establishment serving food and/or drink so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons for consumption on the premises while in the motor vehicle.

Dwelling, multiple means a building or portion thereof used or designed as a residence for three or more families living independently of each other and doing their own cooking in the building. This definition includes three-family houses, four-family houses and apartment houses, but does not include hotels, motels, trailer camps or mobile home parks.

Dwelling unit means a building or portion thereof designed or used as a place of residence for a single family.

Education uses means publicly or privately owned and operated activities that provide extracurricular education courses such as, but not limited to, art, cooking, and tutoring services.

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

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

Family means one or more persons living together and interrelated by bonds of consanguinity, marriage or legal adoption, and occupying the whole or a part of a dwelling unit as a single nonprofit housekeeping unit, or a group of not more than three persons who need not be related by bonds of consanguinity, marriage or legal adoption living together as a single housekeeping unit and occupying a single nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, boardinghouse, fraternity or sorority house. A family shall be deemed to include domestic servants, gratuitous guests and not more than three foster or boarded children who are sponsored or whose room and board is paid by a recognized child care agency or organization.

Filling means the depositing or dumping of any matter on or into the ground, except deposits resulting from common household gardening.

Fitness center means a commercial establishment providing accommodations for a variety of physical activities and their instruction. Space may be provided for, among other activities, weightlifting, running, dance, basketball, racquetball, or handball. This definition also includes establishments where physical exercise is conducted in group sessions with an instructor including, but not limited to: Yoga, barre, Pilates, spinning, and

interval training studios. This definition does not include those facilities which are only accessible to residents of a development.

Floor area, gross means the sum of the gross horizontal areas of the floors within outside walls of a building including basement, elevator shafts and stairwells at each story, floor space used for mechanical equipment, penthouse, half story, and mezzanine or interior balcony. (See illustration, Table C, at the end of this section.)

Floor area, usable means any floor area within outside walls of a building exclusive of areas in cellars, basements, utility areas, unfinished attics, garages, open porches and accessory buildings. (See illustration, Table C, at the end of this section.)

Foster child means a child unrelated to a family by blood or adoption with whom he lives for the purposes of care and/or education.

Garage apartment means a room or suite of rooms in an accessory building used as a dwelling unit for one family which may do its cooking therein.

Garage, commercial means any premises used for the storage, care, repair or refinishing of motor vehicles, but not including a place where any such vehicles are for hire or sale. (See also definition of *Automobile service station*.)

Garage, community means a series of private garages located jointly on a parcel of land under a single ownership.

Garage, private means an enclosed building or structure not larger than the principal building on same lot, if any, which is completely enclosed by solid walls except for windows and garage doors and which is used primarily for the storage of not more than three motor vehicles, not more than one of which may be a commercial vehicle not larger than a regularly manufactured pickup or panel truck of three-fourths ton capacity, owned by and for the private use of the occupants of the building to which it is accessory. See sections 90-207(4), 90-222(1).

Home occupation means any use customarily conducted entirely within the dwelling and carried on entirely by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof; provided further, that no article or service is sold or offered for sale on the premises, except such as is produced by the occupation; that the occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage or commercial signs. Clinics, hospitals, barbershops, beauty parlors, tearooms, tourist homes, animal hospitals, kennels, millinery shops, and childcare day nurseries, among others, shall not be deemed to be home occupations.

Hospital means an institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

Hotel means a building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one bedroom and a bath, occupied for hire, and which typically provides hotel services such as maid service, the furnishing and laundering of linens, telephone and secretarial or desk service, the use of furniture, a dining room and general kitchen, and meeting rooms.

Housing for the elderly means:

- (1) Independent elderly housing means housing for the elderly or seniors provided in a multiple-family form with full facilities for self-sufficiency in each individual unit.
- (2) Assisted living means housing for the elderly or seniors provided in a multiple-family housing form with central dining facilities provided as a basic service to each unit. Dependent elderly housing may also include congregate care or assisted care facilities where some assistance with the activities of daily living is provided.

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- (3) Convalescent or nursing home means a home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein two or more persons are cared for. Such home shall conform and qualify for license under state laws.

Inspector means the building inspector of the city.

Live-work means a dwelling unit that contains a ground floor commercial component occupied by the same occupant.

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

Lot means land occupied or to be occupied by a use, building or structure and permitted accessory buildings together with such open spaces, lot width and lot area as are required by this chapter and having its principal frontage upon a public street or upon a private way used for street purposes. A lot need not be a lot of record.

Lot area means the total horizontal area of a lot within the lot line as defined. For lots fronting or lying adjacent to private street or public alleys, lot area shall be interpreted to be that area within the lot lines measured to the center of the adjacent private street or public alley.

Lot, corner means a lot of which at least two adjacent sides abut for their full length upon a street, provided that such two sides intersect at an angle of not more than 135 degrees. Where a lot is on a curve, if tangents through the extreme point of the street line of such lot make an interior angle of not more than 135 degrees, it is a corner lot. In the case of a corner lot with curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (See illustration, Table D, at the end of this section.)

Lot coverage means the part or percent of the lot occupied by buildings or structures, including accessory buildings or structures, and permanent swimming pools.

Lot depth means the mean horizontal distance from the front street line to the rear lot line.

Lot, double frontage means an interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, one street will be designed as the front street in the plat and the request for a building permit. (See illustration, Table D, at the end of this section.)

Lot, interior means a lot other than a corner lot. (See illustration, Table D, at the end of section.)

Lot, lakefront means a lot adjoining Lake St. Clair.

Lot lines means the property lines bounding the lot.

- (1) *Front lot line.* In the case of a lot abutting upon one public or private street, the front lot line shall mean the line separating such lot from such street right-of-way. In the case of any other lot, the owner shall, for the purpose of this chapter, have the privilege of electing any street lot line, the front lot line, providing that such choice, in the opinion of the building inspector, will not be injurious to the existing, or the desirable future development of adjacent properties. (See illustration, Table E, at the end of this section.)
- (2) *Rear lot line.* Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line ten feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the building inspector shall designate the rear lot line. (See illustration, Table E, at the end of this section.)
- (3) *Side lot line.* Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line. (See illustration, Table E, at the end of this section.)

(4) *Street or alley lot line.* A lot line separating the lot from the right-of-way of a street or an alley.

Lot width means the mean horizontal distance between the side lot lines, measured at right angles to the side lot lines. Where the side lot lines are not parallel, the lot width shall be considered as the average of the width between such side lot lines.

Microbrewery means a brewery that produces less than 30,000 barrels of beer per year as allowed by state law. A microbrewery may also include retail sales, and/or a restaurant, bar, or tasting room as an accessory use.

Mobile home means any structure intended for or capable of human habitation, sleeping or cooking, mounted on wheels or any other devices and capable of being moved from place to place, either by its own power or by the power supplied by some vehicle attached thereto. This definition shall not include travel homes eight feet or under in width and 32 feet or under in length as defined in this section.

Motor vehicle repair means general repair, engine rebuilding, rebuilding or reconditioning of a motor vehicle; collision service such as body, frame or fender straightening and repair; overall painting; but not including undercoating of automobiles unless conducted in a completely enclosed spray booth.

Municipal use means any use of land, building or structure, owned or controlled by the City of Grosse Pointe or an agency, commission or instrumentality thereof, which serves a public purpose.

Nonconforming building means a nonconforming building or portion thereof lawfully existing at the effective date of this chapter, or amendments thereto, and which does not conform to the provisions of the chapter in the zoning district in which it is located.

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

Nursery, day nursery, nursery school or child care center means an establishment wherein three or more children not related by bonds of consanguinity or fostership to the family residing on the same premises are, for remuneration, cared for. Such nurseries or centers need not have a resident family on premises.

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

Parking space means a rectangular area of not less than nine feet wide by 20 feet long, for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

Personal service establishment means establishments providing services, as opposed to products, to the general public, including financial services, insurance, real estate, dry cleaning, tailors, salons, spas, wellness, and similar uses.

Play structure means any structure transported or built on-site, or fabricated and assembled on-site, that is designed to be used by climbing thereon or entering therein. A play structure is an accessory building under this chapter. Sheds designed for and used for the storage of yard equipment shall also be considered as accessory buildings under the provisions of this chapter 90, zoning, but shall not be deemed to be play structures.

Public or quasi-public use means a nonprofit, public, or quasi-public use, such as a school, library, museum, or government owned or government operated structure or land use for public purpose.

Public utility means any person, municipal department or board, duly authorized to furnish and furnishing under federal, state or municipal regulations to the public electricity, gas, steam, communications, telegraph, transportation or water.

Reference level, for any building within ten feet of the front lot line, means the official established curb grade opposite the center of the front of such building; for any building more than ten feet from the front lot line, or where no curb grade is established, the reference level is the mean level of the finished grade of the ground across the front of such building. When the mean finished grade abutting any portion of a building varies five feet or more from that at the front, such mean may be taken as the reference level for such portion of the building.

Retail establishment means establishments engaged in selling goods or merchandise to the general public for personal or household consumption, which render services incidental to the sale of such goods, and are engaged in activity designed to attract the general public to purchase such goods or merchandise. Such definition includes any establishment selling food or beverages for consumption off-premises.

Rubbish means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

Satellite dish antenna means an electronic device which can collect electromagnetic waves transmitted from a satellite for conversion into television or sound.

Sign, outdoor advertising means any "sign" as defined in section 58-2 of this Code, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term "placed" as used in the definition of outdoor advertising sign and outdoor advertising structure shall include erecting, constructing, posting, painting, printing, tacking, mailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever. See also "billboard."

Single parcel ownership means possession of a parcel of property wherein the owner does not own adjoining vacant property or developed property.

Small winemaker means a facility that manufactures, sells, and/or distributes no more than 50,000 gallons of wine or related products, including mead or cider, per year. A small wine maker may also include retail sales, and/or a restaurant, bar, or tasting room, with required state licenses.

Soil removal means the removal of any kind of soil or earth matter which includes topsoil, sand, gravel, clay or similar materials or any combination thereof, except common household gardening and general farm care.

State equalized valuation means the value shown on the city assessment roll as equalized through the process of state and county equalization.

State licensed residential facilities: means any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979 and provides residential services to six or fewer persons under 24-hour supervised care. These acts provide for the following types of residential structures:

- (1) *Adult foster care family home* means a private residence with the approved capacity to receive six or fewer adults to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.
- (2) *Family day care home* means a private home in which one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
- (3) *Foster family home* means a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code are given care and supervision for 24 hours a day,

for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

- (4) *Foster family group home* means a private home in which more than four but fewer than seven minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

Story means that portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it. (See illustration, Table G, at the end of this section.)

- (1) *Mezzanine*: Shall be deemed a full story when it covers more than 50 percent of the story underneath the mezzanine, or if the vertical distance from the floor next below it to the floor next above it is 24 feet or more. For the purpose of this chapter, a basement or cellar shall be counted as a story if over 50 percent of its height is above the level from which the height of the building is measured, or if it is used for business purposes, or if it is used for dwelling purposes by other than a janitor or domestic servants employed in the same building including the family of the same.
- (2) *Ground story*: The lowest story of a building, the floor of which is not more than 12 inches below the elevation of the reference level.
- (3) *Half story*: The part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed one-half of the floor area of the full story.

Street means a thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley. A public street is a street accepted by dedication or otherwise by the city. A private street is a street not so accepted, or any street designated as a private street upon a recorded plat.

Structure means anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

Structural alteration means any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders or any change in the width or number of exits, or any substantial change in the roof.

Structure, outdoor advertising means any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, including also outdoor advertising statuary.

Terrace dwelling means a series of attached single-family private dwellings separated from one another by common or party walls of fireproof construction, and composed of three to 12 attached one-family dwellings, not more than 2½ stories in height in which each dwelling unit has its own front entrance and rear entrance, except as otherwise provided in section 90-251 et seq.

Travel home or travel trailer means any structure intended for or capable of human habitation, sleeping or eating, mounted upon wheels and capable of being moved from place to place, either by its own power or power supplied by some other vehicle attached thereto. This definition shall include all such vehicles eight feet or under in width and 32 feet or under in length. Such definition shall include travel trailers, motor homes, campers, etc.

Use means the purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Utility room means a room or space, located other than in the basement, specifically designed and constructed to house any home utilities or laundry facilities.

Yard means an open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter. The measurement of a yard is the minimum horizontal distance between the lot line and the building or structure. (See illustration, Table H, at the end of this section.)

Yard, front means a yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building on the lot.

Yard, rear means a yard extending the full width of the lot, the depth of which is the horizontal distance between the rear lot line and the nearest point of the principal building or of accessory building attached thereto on the lot.

Yard, side means a yard between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front and rear lot lines as the case may be; except that on a corner lot, the side yard adjacent to a street shall extend the full depth of the lot.

Zone or zoning district means a portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas and other requirements are established.

Drawing, Table A

Drawing, Table B—ms 1888

Drawing, Table C—ms 1889

Drawing, Table D—ms 1890

Drawing, Table E—ms 1891

Drawing, Table F—ms 1892

Table G

BASIC STRUCTURAL TERMS

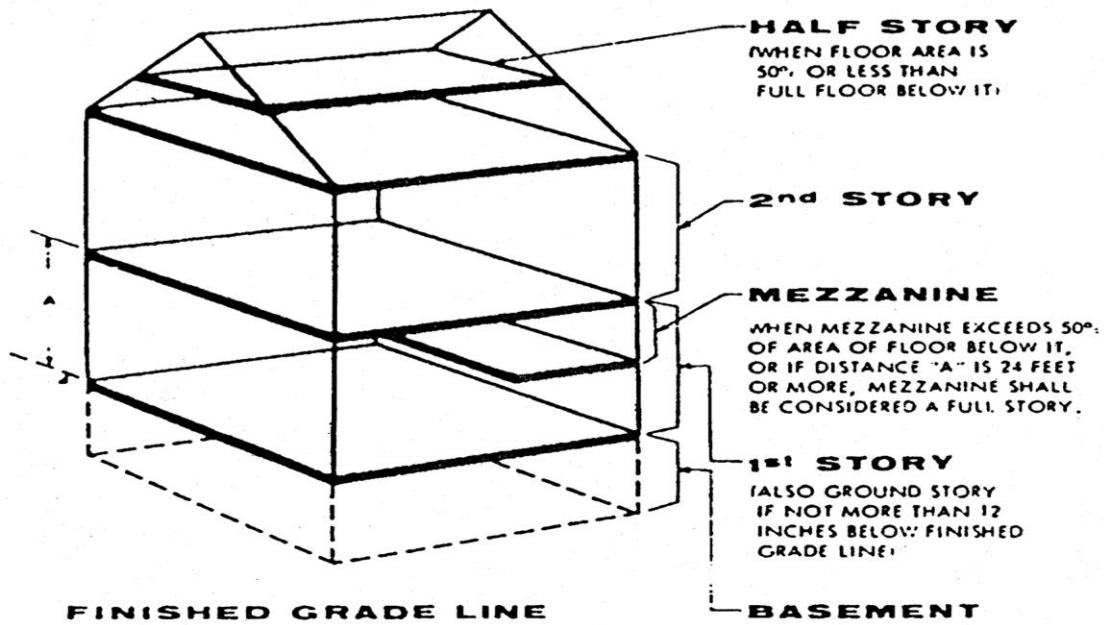
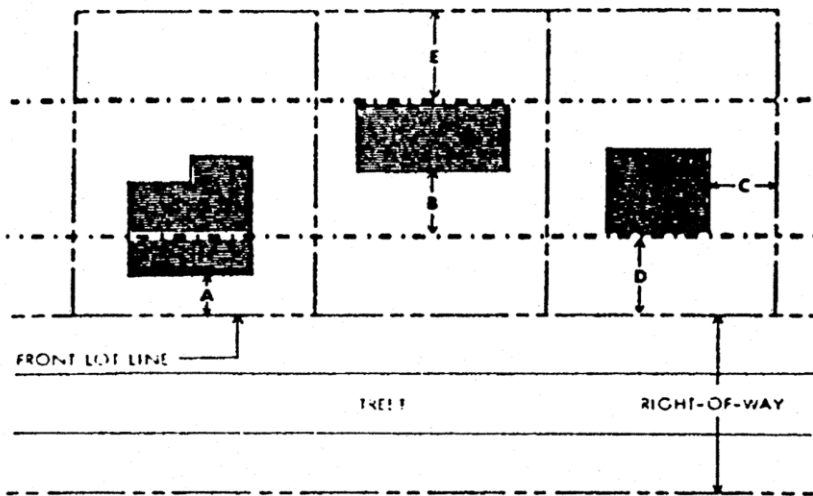


Table G—Basic Structural Terms

Table H

YARD REQUIREMENTS



LEGEND

- A — EFFICIENT FRONT YARD
- B — FRONT YARD IN EXCESS OF MINIMUM FRONT YARD REQUIRED
- C — MINIMUM SIDE YARD REQUIRED
- D — MINIMUM FRONT YARD REQUIRED, ALSO BUILDING SETBACK LINE
- E — MINIMUM REAR YARD REQUIRED

Table H—Yard Requirements

(Code 1980, §§ 5.3—5.13; Ord. No. 309, § 3, 10-19-98; Ord. No. 327, §§ I, II, 9-17-01; Ord. No. 350, § I, 11-1-04; Ord. No. 357, § I, 8-15-05; Ord. No. 358, § I, 12-12-05; Ord. No. 370, § II, 10-16-06; Ord. No. 407, §§ I, II, 7-15-13; Ord. No. 414, § IV, 6-16-14; Ord. No. 445, § I, 5-17-21)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 90-4. Districts.

The city is divided into 11 zoning districts known as follows:

E-R Estate Residential District.

R-1A Single-Family Residential District.

R-1B Single-Family Residential District.

R-T Terrace District.

RO-1 Restricted Office District.

C-1 Local Business District.

C-2 Central Business District.

T Transition District.

T-1 Transition-1 District.

T-2 Transition-2 District.

P-1 Vehicular Parking District.

(Code 1980, § 5.21; Ord. No. 358, § II, 12-12-05; Ord. No. 407, § III, 7-15-13)

Sec. 90-5. Zoning map.

The boundaries of the zoning districts are shown upon the map which is on file in the city clerk's office and made a part of this chapter, which map is designated as the zoning map of the city. The zoning map 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 or described in this chapter. Except where references on the map are to a street or other line designated by the dimensions shown on the map, the district boundary lines follow lot lines or the centerlines of the street or alley rights-of-way or such lines extended and the corporate limits of the city as they existed at the time of the adoption of this chapter.

(Code 1980, § 5.22)

Sec. 90-6. Conflicting regulations.

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

(Code 1980, § 5.27)

Sec. 90-7. Scope.

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

(Code 1980, § 5.28)

Sec. 90-8. Violations; penalties.

Any person violating or neglecting or refusing to comply with any of the provisions of this chapter, upon conviction thereof, shall be punished by imposition of a fine not to exceed \$500.00 or by imprisonment for a

period not to exceed 90 days, or by imposition of both fine and imprisonment in the discretion of the court. Each day that a violation exists shall constitute a separate offense.

(Code 1980, § 5.202)

Sec. 90-9. Validity.

This chapter and the various articles, sections, paragraphs and clauses thereof are declared to be severable. If any article, section, paragraph or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be affected thereby.

(Code 1980, § 5.203)

Sec. 90-10. Interpretation, purpose and conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this chapter, or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and likewise not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction or requires larger open spaces, or larger lot areas than are imposed or required by such chapter or agreements, the provisions of this chapter shall control.

(Code 1980, § 5.201)

Sec. 90-11. Street and alley rights-of-way.

All street and alley rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such street and alley rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

(Code 1980, § 5.29)

Sec. 90-12. Permitted uses.

No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, designed or arranged for any purpose other than is permitted in the district in which the building or land is located.

(Code 1980, § 5.30)

Sec. 90-13. Permitted area.

No building shall be erected, converted, enlarged, reconstructed or structurally altered, except in conformity with the area regulations of the district in which the building is located.

(Code 1980, § 5.31)

Sec. 90-14. Permitted height.

No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established in this chapter for the district in which the building is located, except that roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, individual domestic radio and television aerials and wireless masts, water tanks or similar structures may be erected above the height limits prescribed in this chapter. No such structure may be erected to exceed by more than 15 feet the height limits of the district in which it is located; nor shall such structure have a total area greater than 25 percent of the roof area of the building, nor shall such structure be used for any residential purpose or any commercial purpose other than a use incidental to the main use of the building.

(Code 1980, § 5.32)

Sec. 90-15. Buildings on zoning lot.

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot and in no case shall there be more than one such building on one lot unless otherwise provided in this chapter.

(Code 1980, § 5.33)

Sec. 90-16. Lots, yards, open spaces.

No space which for the purpose of a building or dwelling group 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, court or other open space requirement of or for any other building. In any residential district, the front and rear yard requirements of a double frontage lot shall be the same as prescribed for any single lot in the zone wherein the double frontage lot is located.

(Code 1980, § 5.34)

Sec. 90-17. Yard encroachments.

(a) The following shall be considered as part of the building and shall not be allowed to encroach into any required yard or open space:

- (1) Outside stairways.
- (2) Fire escapes.
- (3) Fire towers.
- (4) Enclosed porches. An "enclosed porch" shall mean any porch with screen(s), roof(s) or removable storm window sash.
- (5) Balconies at any level of the building.
- (6) Boiler flues.
- (7) Other similar projections.

(b) The following structure may encroach or project a maximum of 12 inches into a required yard:

- (1) One fireplace or chimney, which does not exceed eight feet in width.

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- (c) The following may encroach or project a maximum of 18 inches into a required yard or open space:
 - (1) Cornices not exceeding 18 inches in width, including the width of the gutter or downspout.
 - (d) The following may encroach or project a maximum of 12 feet into a required front or rear yard, but in no case shall the encroachment be closer than four feet to an interior side lot line, or closer than five feet to a side lot line abutting upon a street:
 - (1) Platforms.
 - (2) Terraces.
 - (3) Steps below the first floor.
 - (4) Unenclosed porches
 - (5) Ground level unenclosed projections not over one story in height.
 - (e) The minimum yard spaces, including lot area per family and maximum lot coverage required by this chapter for each and every building existing at the time of the passage of this chapter or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building.

(Code 1980, § 5.35; Ord. No. 374, § V, 8-20-07)

Sec. 90-18. Use of yard spaces, other open areas for storage.

- (a) No front or other yard shall be used for the storage or parking of automobiles or any other material or equipment; provided that in residential areas not more than three automobiles with a current license and in operating condition may be parked on an approved service driveway, extending from the street directly to a side yard or a garage. (See also section 90-26.)
- (b) No machinery, equipment, vehicles, lumber piles, crates, boxes, building blocks or other materials either discarded, unsightly or showing evidence of a need for repairs, with or without a current license, shall be stored, parked, abandoned or junked in any open area that is visible from the street, public place or adjoining residential property; and should such use of land occur, it shall be declared to be a nuisance. In addition to penalties if such nuisance is not abated within ten days after the owner of the land is notified by the city manager, the city may perform the necessary work to eliminate the nuisance at the expense of the property owner; and if the property owner fails to reimburse the city within 30 days after receiving notice of the amount due from the city treasurer, the amount shall become a lien upon the property.

(Code 1980, § 5.36)

Sec. 90-19. Substandard lots.

Any residentially zoned lot which was of record at the time of the adoption of this chapter that does not meet the requirements of this chapter for yards or other areas of open space may be utilized for single residence purposes, provided the area for such yard or court in width, depth, or open space is not less than 80 percent of that required by the terms of this chapter, except that vacant lots having in the aggregate a continuous frontage of 120 feet or more, regardless of ownership, shall not be subject to this exception. The purpose of this provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided.

(Code 1980, § 5.37)

Sec. 90-20. Street access.

No dwelling shall be built, moved or converted upon a lot having a frontage of less than 20 feet upon a public street, or upon a private street or other permanent easement giving access to a public street. No building permit shall be issued for any construction located on any lot or parcel of land in the city that does not abut on a public street or highway or upon a private street fully improved according to chapter 70, relating to new subdivisions; provided, that this chapter shall not be the basis for preventing the issuance of a building permit for ordinary repair or maintenance of any building that is already erected on the date of the adoption of this chapter upon a lot or parcel of land that does not so abut such a street or highway. For the purpose of this chapter, no lot or parcel of land shall be construed to abut on such a street or highway unless it includes title to a minimum frontage of 20 feet on such a street or highway and title to land providing access not less than 20 feet in width from such street or highway to the proposed construction.

(Code 1980, § 5.38)

Sec. 90-21. Visibility at intersections.

No structure, wall, fence, shrubbery or trees shall be erected, maintained or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection, excepting that shrubbery and low retaining walls not exceeding 2½ feet in height above the curb level and shade trees where all branches are not less than eight feet above the street level will be permitted. For residential corner lots, this unobstructed area will be a triangular section of land formed by the two street curblines and a line connecting them at points 30 feet from the intersection of the curblines, or in the case of a rounded corner, the unobstructed area shall be construed to be an area formed by the curved curbline and an arc with a radius of 30 feet measured from the midpoint of the rounded corner at the curb extending from one street curb to the other street curb (e.g., the area being a football shape with two arcs facing each other, connected at each curbline).

(Code 1980, § 5.39)

Sec. 90-22. Reserved.

Editor's note(s)—Ord. No. 408, § I, adopted July 15, 2013, repealed § 90-22, which pertained to dwellings in nonresidential districts and derived from the Code of 1980, § 5.40.

Sec. 90-23. Dwellings in other than main structure.

No residential structure shall be erected upon the rear of a lot or upon a lot with another dwelling, other than servants' quarters serving the principal building on the lot in accordance with requirements of section 90-207(4).

(Code 1980, § 5.41)

Sec. 90-24. Number of buildings on lot, restricted.

Each dwelling hereafter erected or structurally altered shall be located on a lot and, except in the case of a terrace housing project, there shall be not more than one main building and an accessory building on any single lot. In order to permit the assembly of two or more adjoining lots by the owner of the lots for the purpose of erecting or constructing a principal building on the lots, there shall be required a declaration of restrictions running with the land executed by the owner and recorded with the county register of deeds, consolidating the lots into one single parcel which shall henceforth be deemed by the building inspector as a single lot and subject to all of

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the provisions contained in this chapter. The location of the dwelling and its accessory building on the lot shall conform with the general plan and scheme of the subdivision in which the lot is located.

(Code 1980, § 5.42)

Sec. 90-25. Accessory buildings.

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

- (1) No more than one detached accessory building may be located on a residential lot except that a second detached accessory building no more than 100 square feet in area and no more than ten feet in height at the highest point may be located on a residential lot, provided the combined floor area of all accessory buildings does not exceed the maximum permitted area for accessory buildings allowed in the zoning district in which the lot is located.
- (2) Attached accessory buildings shall be subject to, and must conform with all regulations of this chapter applicable to main or principal buildings.
- (3) Detached accessory buildings shall only be located in a rear yard. Further, in no instance shall such a building be nearer than three feet to any adjoining side lot line nor closer than six feet to any adjoining rear lot line.
- (4) The highest point of a detached accessory building shall not exceed 20 feet. A detached accessory building greater than 18 feet in height at the highest point must maintain a minimum roof pitch of 6:12. Further, in no instance shall the highest point of a detached accessory building exceed the highest point of the main building.
- (5) No detached accessory building shall be located closer than ten feet to any main or principal building. On lots that are less than 100 feet deep, the building inspector may allow this distance to be reduced if he determines that there is adequate fire separation.
- (6) In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on the streets in the same block or adjacent blocks.
- (7) In the case of corner lots detached accessory buildings shall be set back from the lot line adjacent to the side street at least as far as the main building and in no case shall be closer than 17 feet to the sidewalk, or to the property line if no sidewalk exists. The building inspector may allow a detached accessory building to be set back a minimum of 12 feet from the lot line adjacent to the side street on lots with a lot width of 40 feet or less if there are no other locations for a detached accessory building on the lot, provided that the proposed detached accessory building will be in keeping with the general development pattern of the immediately surrounding neighborhood.
- (8) When an accessory building is located in the rear yard area on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, the accessory building shall be set back from the street side at least as far as the established front yard setback of the lot at the rear of the subject corner lot.
- (9) Generally, attached accessory buildings shall be located completely to the rear of the principal building except as permitted on corner lots in section 90-25(8). However, on lots over 20,000 square feet where the principal building is set back a minimum of 50 feet from the front property line, an attached accessory building may project in front of the principal building, if the attached accessory building will meet the applicable front yard setback and, also, will be less than 50 percent of the width of the principal building.

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- (10) In any residential zone, no attached accessory building shall be erected closer to the side lot line than the permitted distance for the dwelling.
 - (11) Accessory buildings in single-family districts on lots that are less than 6,000 square feet in area shall not exceed 60 percent of the required rear yard or 600 square feet, whichever is less. Accessory buildings in two-family districts on lots that are less than 6,000 square feet in area shall not exceed 60 percent of the required rear yard or 800 square feet, whichever is less. Accessory buildings in single family and two-family districts on lots that are between 6,000 square feet and 11,999 square feet in area shall not exceed 65 percent of the required rear yard or 800 square feet, whichever is less. Accessory buildings in single family and two-family districts on lots that are 12,000 square feet, or more in area shall not exceed 40 percent of the required rear yard or 1,200 square feet, whichever is less. In no case shall an accessory building exceed the ground floor of the main structure.
 - (12) All accessory buildings shall be included in the determination of compliance with the maximum lot coverage standards as specified in section 90-351 for the zoning district in which they are located.
 - (13) All accessory buildings having a roof and walls shall be provided with a slab foundation and rat wall. Accessory buildings of more than 400 square feet must have a footing that complies with the International Residential Code.

(Ord. No. 1980, § 5.43; Ord. No. 350, § II, 11-1-04)

Sec. 90-26. Parking, storage of mobile homes, travel homes, boats, trucks, other items.

Mobile homes, travel homes, boats, trucks and other items shall be subject to the following requirements:

- (1) No mobile home may be stored or parked on any lot.
- (2) No more than one travel home, and no more than one boat may be parked on any lot which is zoned or used for residential purposes.
- (3) Travel homes and boats, where parked or stored, shall be located only in the rear yard, and in addition shall conform to the required yard space requirements for accessory buildings in the zoning district wherein located.
- (4) On lots zoned for residential use, the maximum permitted lot coverage of all buildings, including travel home or boat storage space, shall not be exceeded.
- (5) All travel homes and boats shall be locked or secured at all times when not in use so as to prevent access thereto by children or others.
- (6) A suitable covering (e.g., tarpaulin) shall be placed over all boats and travel devices whenever they are not enclosed, in order to prevent vandalism by or injury to children.
- (7) Commercial trucks and trailers shall not be parked or stored on residentially zoned property at any time, except as provided for under section 90-207(4).
- (8) It shall be a prohibited use in all residentially zoned districts to park or store power driven construction equipment, used lumber or metal, or any other miscellaneous scrap or salvageable material.
- (9) It shall be a prohibited use in all zoned districts to park or store wrecked or junked vehicles.

(Code 1980, § 5.44)

Sec. 90-27. Automobile service stations and public garages.

In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automobile service stations, and to regulate and control the adverse effects which these and other problems incidental to the automobile service station may exercise upon adjacent and surrounding areas, the following additional regulations and requirements are provided for automobile service stations located in any zone. All automobile service stations erected after the effective date of this Code shall comply with all requirements of this section. No automobile service station existing on the effective date of this Code shall be structurally altered so as to provide a lesser degree of conformity with the provisions of this section than existed on the effective date of this Code.

- (1) An automobile service station shall be located on a lot having a frontage along the principal street of not less than 140 feet, and having a minimum area of not less than 14,000 square feet.
- (2) An automobile service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than 40 feet from any street lot line, and not less than 25 feet from any side or rear lot line adjoining a residentially zoned district.
- (3) All driveways providing ingress to or egress from an automobile service station shall be not more than 30 feet wide at the property line. No more than one curb opening shall be permitted for each 50 feet of frontage or major fraction thereof along any street. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line, as measured along the property line. No driveway shall be located nearer than 30 feet, as measured along the property line, to any other driveway giving access to or from the same automobile service station.
- (4) A raised curb six inches in height shall be erected along all street lot lines, except for driveway openings.
- (5) The entire lot, excluding the area occupied by a building, shall be hardsurfaced with concrete or a plant-mixed bituminous material, or, if any part of the lot is not so surfaced, then that area shall be landscaped and separated from all surface areas by a low barrier or curb.
- (6) All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 15 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.
- (7) An automobile service station located on a lot having an area of 14,000 square feet shall include not more than eight gasoline pumps and two enclosed stalls for servicing, lubricating, greasing and/or one enclosed stall may be included with the provision of each additional 2,000 square feet of lot area.
- (8) Where an automobile service station adjoins property located in any residential zone, a masonry wall five feet in height shall be erected and maintained between the station and required yard space, or if separated from the residential zone by an alley, then along the alley lot line. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall. (See also section 90-39.)
- (9) All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.
- (10) No automobile service station or public garage shall be located nearer than 500 feet as measured from any point on the property line to any public or private school or playground.

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- (11) Outdoor storage or parking of vehicles other than private automobiles shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m.
 - (12) No fuel tank shall be filled at an automobile service station except through a hose connected to a pump of a type approved by the Underwriters' Laboratories, Inc.
 - (13) No gasoline or inflammable liquid shall be kept or conveyed in open receptacles or in glass bottles or other breakable containers on the premises of an automobile service station, except in glass bottles of not more than eight-ounce capacity used for sample purposes, and shall not be used for cleaning purposes on such premises. No gasoline pump shall be installed in any building.
 - (14) All combustible waste and rubbish, including crankcase drainings, shall be kept in metal receptacles fitted with a tight cover until removed from the premises. No gasoline, oil, grease or inflammable liquid shall be allowed to flow into or be placed in the sewer system. Oil and grease shall not be allowed to accumulate on the floor. Sawdust shall not be kept in any automobile service station or place of storage therein, and sawdust or other combustible material shall not be used to absorb oil, grease or gasoline.
 - (15) All automobile service station proprietors and attendants upon being notified by the building inspector of the presence of gasoline or volatile liquids in sewers shall cooperate in ascertaining the reason therefor. There shall be constantly maintained in good working order at least one, 2½ gallons fully charged, portable foam type fire extinguisher at each automobile service station.

(Code 1980, § 5.45)

Sec. 90-28. Occupancy; garage apartments, basement apartments, mobile home dwellings, accessory buildings used for residential purposes.

No garage, basement, accessory building, temporary building or mobile home now existing or in the future erected or placed on a lot after the effective date of the zoning ordinance adopted February 20, 1967, shall be occupied or used for dwelling purposes. Expressly excepted from this regulation are living quarters for members of the family occupying the principal building located on the same lot and domestic servants employed by the family.

(Code 1980, § 5.46)

Sec. 90-29. Building grades.

- (a) 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 curb level as determined by the building inspector, shall be maintained and established from the center of the front lot line to the finished grade line at the front of the building. The rear and side yards shall be sloped to allow for the flow of surface water away from the building without creating a nuisance. 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 from creating a nuisance on the adjacent properties.
- (b) When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the reference level shall be used 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.

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- (c) Final grades shall be approved by the building inspector, who may require a certificate of grading and location of building within the city in accordance with the approved grading plan on file with the building department, which has been duly completed and certified by a registered civil engineer or land surveyor.

(Code 1980, § 5.47)

Sec. 90-30. Buildings to be moved, placed on premises in city.

Any building or structure which has been wholly or partially erected on any premises shall not be moved to and be placed upon any premises in the city.

(Code 1980, § 5.48)

Sec. 90-31. Excavations, 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 public health, safety or welfare, is hereby prohibited; provided, however, this section shall not prevent any excavation 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 department and, provided further, that this section shall not apply to streams, natural bodies of water or to ditches, streams, reservoirs or other major bodies of water created or existing by authority of the state, the county, the city or other governmental agency.

(Code 1980, § 5.49)

Sec. 90-32. Excavation, removal and filling of land.

The use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish, or other wastes or byproducts is not permitted in any zoning district except under a certificate from, and under the supervision of the building department in accordance with a topographic plan, approved by the city engineer, submitted by the feeholder owner of the property concerned. The topographic plan shall be drawn at a scale of not less than 50 feet equals one inch and shall show existing and proposed grades and topographic features and such other data as may from time to time be required by the city engineer. Such certificate may be issued in appropriate cases upon the filing with the application of a cash bond or surety bond by a surety company authorized to do business in the state running to the city in an amount as established by the city engineer which will be sufficient in amount to rehabilitate the property upon default of the operator of the excavating or filling operation, and to cover court costs and other reasonable expenses. This regulation does not apply to normal soil removal for basement or foundation work when a building permit has previously been duly issued by the building department. Costs of a permit to fill or excavate shall be established in accordance with section 90-71.

(Code 1980, § 5.50)

Sec. 90-33. Restoring unsafe buildings.

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the building inspector or the required compliance with his lawful order.

(Code 1980, § 5.51)

Sec. 90-34. Construction begun prior to adoption of chapter.

Nothing in this chapter shall be deemed to require any change in the plans, construction or designed use of any building upon which actual construction was lawfully begun prior to the adoption of this chapter, and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within one year from the date of passage of this chapter.

(Code 1980, § 5.52)

Sec. 90-35. Temporary use of premises as voting place.

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

(Code 1980, § 5.53)

Sec. 90-36. Approval of plats.

No proposed plat of a new subdivision shall hereafter be approved by the city council unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this chapter, and unless such plat fully conforms with the statutes of the state and this Code.

(Code 1980, § 5.54)

Sec. 90-37. Essential services.

- (a) Essential services as defined in section 90-3 shall be permitted as authorized and regulated by law and other provisions of this Code, it being the intention to exempt such essential services from the application of this chapter.
- (b) The board of zoning appeals shall have the power to permit the erection and use of a building or an addition to an existing building, of a public service corporation or for public utility purposes, in any permitted district to a greater height or of larger area than the district requirement established in this chapter, and permit the location in any use district of a public utility building, structure or use, if the board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service, provided such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.

(Code 1980, § 5.55)

Sec. 90-38. Signs.

The erection, construction or alteration of all outdoor advertising structures, billboards, signs and other notices which advertise a business, commercial venture or name of a person or persons shall be approved by the building inspector as to compliance with all applicable city sign regulations and ordinances and all requirements of this chapter.

(Code 1980, § 5.56)

Sec. 90-39. Protective screening.

In order to provide adequate protective screening for residential areas adjacent or near nonresidential areas, the following regulations shall apply:

- (1) *Adjacent residential property.* Where a C-2, T, T-1, or T-2 use abuts directly upon a residentially zoned district, an ornamental masonry wall, approved by the building inspector, not less than four feet or more than six feet in height above the grade shall be constructed along the abutting property line; or a building constructed along the building setback line between the properties and the residential area, with an unpierced masonry wall, having a brick face or a facing of other material meeting the approval of the building inspector.

When the building is constructed along the building setback line, the yard area required by article VII shall be landscaped and maintained by the owner of the C-2, T, T-1, or T-2 used properties.

The planting plans for the required yard or greenbelt area shall be subject to the approval of the building inspector as to the suitability of planting materials and arrangements. The planting shall be designed and arranged and shall be so maintained that within two years after it is planted it shall form a complete screening not less than four feet in height.

Where vehicles or open-air display exceed a height of five feet, the wall or screening shall be increased to a height of not to exceed 12 feet to completely screen the areas used for commercial purposes.

Where a greenbelt is provided and it is not sufficiently and properly maintained, the city manager, after five days' notice sent by regular mail to the owner thereof as shown on the latest assessment rolls, may take whatever steps are necessary to suitably maintain a greenbelt area and charge all the costs plus a fee of \$25.00 to the abutting business or commercial property owner responsible for the maintenance.

- (2) *Residential property across the alley.* Any C-2 district on which a drive-in business, open air display, commercial parking lot or other uses are conducted shall be separated along its entire length from any adjacent residentially zoned district, located across a public alley of not less than 20 feet wide, by either a building housing a permitted use or by a solid ornamental masonry wall four to six feet in height above grade located, preferably, on the residential side of the public alley. Greater wall height may be required in accordance with subsection (1) above.

(Code 1980, § 5.57; Ord. No. 408, § II, 7-15-13; Ord. No. 445, § II, 5-17-21)

Sec. 90-40. Animals.

No livestock shall be kept or maintained in any zone, except that for each dwelling unit the occupant may keep for his personal use domestic pets so long as they are not kept or used for commercial or breeding purposes, subject to all applicable provisions of this Code.

(Code 1980, § 5.58)

Sec. 90-41. Trash containers.

Outside trash containers shall be permitted in R-T, RO-1, C-1, C-2, T, T-1, and T-2 districts provided that they comply with the following requirements:

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- (1) Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
 - (2) A solid ornamental screening wall or fence shall be provided around all sides of trash containers which shall be provided with a gate for access and be of such height as to completely screen the containers, the maximum height of which shall not exceed six feet.
 - (3) The trash containers, the screening wall or fence and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, waste paper or other debris. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
 - (4) There shall be compliance with all city, county and state health ordinances and statutes.

(Code 1980, § 5.59; Ord. No. 408, § III, 7-15-13)

Sec. 90-42. Drive-in facilities for banks, similar financial institutions.

Drive-in facilities for banks and similar financial institutions shall be subject to the following requirements:

- (1) A site plan shall be submitted to the planning commission in accordance with section 90-283.
- (2) A site plan for the drive-in facility shall be submitted to the city planner, director of public safety and city engineer or traffic consultant for review and recommendation to the planning commission. The review will specifically address itself to the impact the drive-in facility would have on adjacent land uses and immediate traffic patterns.
- (3) The drive-in facility shall, in the opinion of the planning commission, substantially conform to the architectural style and building material of the principal building to which it is attached.
- (4) No more than two drive-in facilities in the principal building or an auxiliary building or more than three remote pneumatic tube installations shall be permitted for each bank or financial institution.
- (5) Drive-in facilities shall be so planned and designed as to effectively separate patrons utilizing the drive-in facility and patrons seeking service inside the principal building.
- (6) Each drive-in facility shall, in the opinion of the city engineer or traffic consultant, have adequate maneuvering space and a stacking space magazine for waiting cars at least 200 feet in length.

(Code 1980, § 5.60; Ord. No. 353, § I, 5-9-05; Ord. No. 408, § IV, 7-15-13)

Sec. 90-43. Satellite dish antenna.

Placement of a satellite dish antenna in any zoning district in the city shall comply with the following requirements:

- (1) *Permit required.* Any satellite dish antenna which is to be constructed, placed or established in the open and not contained within a building in any zoning district shall be considered structures subject to the provisions and terms of this chapter and a permit for such installation shall be obtained from the building department prior to the installation of any satellite antenna. Antenna having a diameter of three feet or less and mounted on the roof of a building are exempted from the requirements of this section.
- (2) *Requirements for permit.*

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- a. Applications for a permit to install a satellite dish antenna shall be submitted to the building department. The application shall include a site plan showing the proposed location of the installation; including building locations on the site and on any contiguous lot, a picture or sketch of all the elements of the antenna which would be exposed to view from adjacent properties and the dimensions of all buildings, size and exact location of the antenna, lot lines and setback lines as established in the zoning regulations.
 - b. There shall be compliance with the following design standards:
 1. Maximum number per residential lot: one.
 2. Maximum diameter of antenna dish: ten feet.
 3. Maximum height: compliance with height limits of the zoning district wherein located, and as regulated under subsection (2)b.4 following.
 4. Location: Location in only the rear yard space between rear lot line and rear building line of the principal building on the site. There shall also be compliance with required yard setbacks for the zoning district wherein located. Roof installation is permitted but only if antenna and supports are not visible from any part of public street right-of-way at a six-foot height of vision.
 5. By placement of such antenna on the ground, area so occupied shall be considered in calculating compliance with lot coverage limits in this chapter.
 6. Signs, as defined in chapter 58, attached to or painted on satellite dish antenna are prohibited.
 7. The satellite dish antenna shall be designed so that both construction plans and final construction of the antenna meet the requirements of this section and the building code and afford safety to the public at time of high winds. Roof installation shall meet dead weight and wind loading and torque factors on roof structure strength.
 - c. The building department shall submit all applications for a permit to install a satellite dish antenna to the planning commission, together with recommendations concerning screening, landscaping, fencing or other matters having an impact on adjoining properties. The planning commission shall establish a date for a public hearing on the application and shall cause a notice of the hearing to be sent to the owners of property located within 300 feet of the lot or parcel upon which the installation is proposed pursuant to notice of hearing procedures at section 90-102.
 - d. The planning commission, after the public hearing where interested property owners shall have the opportunity to be heard, may grant the request, may deny the request (if it is found to be injurious to the surrounding neighborhood) or may grant the request subject to conditions. Such conditions may relate to the location, size, elevation, screening, landscaping, fencing or other matters having impact upon adjoining properties. A petitioner may appeal a determination of the planning commission to the board of zoning appeals. Upon approval of the application, the building department shall issue a permit for such installation.
- (3) *Prior nonconforming installation.* A satellite dish antenna in existence on the effective date of Ordinance No. 230 shall be deemed to be nonconforming and shall not be moved or relocated without first securing a permit for installation as provided in this section; and the owner or person in possession of such satellite dish antenna shall either remove same or report same to building inspector not later than July 1, 1985.

(Code 1980, § 5.61)

Sec. 90-44. Commercial antennas.

- (a) Commercial radio, television, cable TV, cellular and other transmitting, receiving or relay antenna towers or poles housing one or more antennas are permitted in C-1, C-2, T, T-1, T-2 and P-1 districts and on property used or committed for other than residential or school purposes, subject to the provisions of this section.
- (b) Application for a special use permit for placement of a commercial antenna in any district shall be made to the city planning commission in accordance with procedures established by the city administration.
- (c) The city planning commission shall hold a public hearing with notice pursuant to section 4a of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.) as amended.
- (d) In making its determination of whether or not to recommend approval of the application, the city planning commission shall consider the following criteria:
 - (1) Whether the requested use is essential or desirable to the public convenience or welfare.
 - (2) Whether the proposed antenna tower or pole is of such location, size and character as to be compatible with the orderly development of the zoning district in which it is situated, and shall not be detrimental to the orderly development, property values, environment or use of adjacent properties and/or zoning districts.
 - (3) In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on the city, co-location, or the provision of more than one facility at a single location shall be encouraged by the city planning commission. In this regard the applicant may be required to provide information regarding the feasibility of co-location at proposed sites. Further the applicant may be required to provide a letter of intent to lease excess space on a facility and commit itself to:
 - a. Respond to any requests for information from another potential shared use applicant;
 - b. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable; and
 - c. Make no more than a reasonable charge for a shared use lease.
- (e) If the city planning commission determines that the applicant has met the above criteria, it may recommend to the city council that the application be approved.
- (f) The city council may grant the permit if it determines that the following standards have been met:
 - (1) A 40 percent fall zone shall be required for any antenna tower or pole. Fall zone percentage means the distance relative to the height of the tower or pole, as measured from surrounding grade to the uppermost element of the antenna, which the tower or pole must set back from all adjacent property lines.
 - (2) All transmission lines related to and serving any antenna tower or pole shall be placed underground.
 - (3) Antenna towers or poles may be on owned or leased premises, on top of or adjacent to existing buildings, steeples or other towers, subject to setback standards as measured from surrounding grade for freestanding towers and poles.
 - (4) Antenna towers, poles and related equipment shelter buildings shall be subject to site plan review as provided in this chapter. Equipment shelter buildings shall be constructed of face brick on all sides with gable roof.
 - (5) Equipment shelter buildings shall be considered as accessory buildings to the principal use (i.e., antenna tower or pole) and shall comply with building setback and height standards at section 90-25.

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- (6) Antenna towers shall not exceed 150 feet in height as measured from surrounding grade.
- (g) A permit may include reasonable conditions for the protection of the health and safety of the public, including requiring periodic structural and safety inspections or reports. A permit may also require the hold to provide a cable television or telecommunications carrier with nondiscriminatory access to the antenna or pole if (1) there is sufficient capacity and (2) there is no safety or reliability reason to deny access under generally applicable engineering standards. Violation of any such reasonable condition shall be grounds for revocation of a permit by the city council after notice to the holder and an opportunity for hearing.
- (h) On application for a permit, a fee shall be paid in accordance with a commercial antenna schedule established from time to time by resolution of the city council.
- (i) Issuance, amendment or renewal of a permit shall not limit or impair the right of the city to acquire any property, right or interest by eminent domain proceedings.

(Ord. No. 298, § 1, 3-18-96; Ord. No. 408, § V, 7-15-13)

Sec. 90-45. Play structures.

- (a) No owner or tenant of any residential property within the city shall install or maintain play structures on any residential property owned or controlled by him or her within the city if such play structures do not conform to the regulations contained in this chapter.
- (b) No play structure shall be installed or maintained within the residential areas of the city, which play structure exceeds 100 square feet of gross floor area as measured within the outside walls of the structure, or ten feet in height. Further, no play structure shall be installed or maintained within ten feet of any property line of the property where such equipment is installed or maintained. No play structure shall be installed or maintained in the front yard area of any residence.
- (c) Any play structure having a roof and walls must also have a slab foundation and a rat wall.

(Ord. No. 327, § III, 9-17-01; Ord. No. 350, § III, 11-1-04)

Sec. 90-46. Prohibition of marihuana establishments.

- (a) Marihuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marihuana Act (the "Act"), are prohibited in all zoning districts, and shall not be permitted as home occupations under section 90-3 of this chapter.
- (b) No use that constitutes or purports to be a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter or any other type of marihuana related business authorized by the Act, that was engaged in prior to the enactment of this section, shall be deemed to have been a legally established use under the provisions of the city zoning code; i.e., that use shall not be entitled to claim legal nonconforming status.
- (c) This section does not superseded rights and obligations with respect to the transportation of marihuana by marihuana secure transporters through the city to the extent provided by the Act.

(Ord. No. 436, § I, 12-17-18)

Secs. 90-47—90-65. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT²

Sec. 90-66. Enforcement.

The provisions of this chapter shall be administered by the building department and the building inspector and his deputies.

(Code 1980, § 5.181)

Sec. 90-67. Duties of building inspector.

- (a) The building inspector shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. It shall be unlawful for the building inspector to approve any plans or issue a zoning compliance permit or a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this chapter. To this end, the building inspector shall require that every application for a zoning compliance permit for excavation, construction, moving or alteration or change in type of use or the type of occupancy be accompanied by written statements and plans or plats drawn to a scale of not less than one inch equals 50 feet, in duplicate, and showing the following in sufficient detail to enable the building inspector to ascertain whether the proposed work or use is in conformance with this chapter.
- (1) The legal description, actual shape, location and dimensions of the lot.
 - (2) The shape, size and location of all buildings or other structures to be erected, altered or moved, and of any buildings or other structures already on the lot.
 - (3) The existing and intended use of the lot and all such structures upon it, including in the residential areas the number of dwelling units the building is intended to accommodate.
 - (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.
 - (5) Existing and proposed grades to an extent necessary to allow the building department and the city engineer to properly determine the results of the proposed work.
- (b) If the proposed excavation, construction, moving or alteration, or use of land, as set forth in the application, are in conformity with the provisions of this chapter, the building inspector shall issue a zoning compliance permit. If any application for such permit is not approved, the building inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this chapter.
- (c) The building inspector is, under no circumstances, permitted to grant exceptions to the actual meaning of any clause, order or regulation, contained in this chapter to any person making application to excavate, construct, move, alter or use either buildings, structures or land within the city.

²Cross reference(s)—Administration, ch. 2.

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- (d) The building inspector is, under no circumstances, permitted to make changes to this chapter nor to vary the terms of this chapter in carrying out his duties as building inspector.

(Code 1980, § 5.182)

Sec. 90-68. Permits.

The following shall apply in the issuance of any permit:

- (1) *Permits required.* It shall be unlawful for any person to commence excavation for, or construction of any building structure, or moving of an existing building without first obtaining a building permit from the building inspector. No permit shall be issued for the construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this chapter, showing that the construction proposed is in compliance with the provisions of this chapter and with the building code. No plumbing, electrical, drainage or other permit shall be issued until the building inspector has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this chapter. Alteration or repair of an existing building or structure shall include any changes in structural members, stairways, basic construction, type, kind or class of occupancy, light or ventilation, means of egress and ingress or any other changes affecting or regulated by the building code or this chapter, except for minor repairs or changes not involving any of the aforesaid provisions. (See also definition of term "alteration" in section 90-3.)
- (2) *Permits for new use of land.* A building permit shall also be obtained for the new use of land, whether presently vacant or a change in land use is proposed.
- (3) *Permits for new use of buildings or structures.* A building permit shall also be obtained for any change in use of an existing building or structure to a different class or type.
- (4) *Special land use, site plan and planned unit development permits.* Applications for permits for special land use approval, site plan review and planned unit developments shall be filed with the building inspector or with such other city official or body as the city manager may designate by administrative order. Approval of a special use or a site plan or a planned unit development shall not relieve an applicant of the need to obtain a building permit if a permit would otherwise be required by this section. Application and filing requirements for special land use approval are specified in section 90-75.
- (5) *Technical review.* The building inspector or such other city official or body as the city manager shall designate, may require that community planners, engineers, architects or other experts review one or more submissions of an application, and report as to compliance or noncompliance with this ordinance and advise, if necessary, of procedures which will result in compliance. The applicant shall pay or reimburse the city for the costs of such review and advice in accordance with section 90-71.

(Code 1980, § 5.183; Ord. No. 353, § II, 5-9-05)

Sec. 90-69. Certificates of occupancy.

It shall be unlawful to use or permit the use of any land, building or structure for which a building permit is required, and to use or permit to be used any building structure hereafter altered, extended, erected, repaired or moved, until the building inspector shall have issued a certificate of occupancy stating that the provisions of this chapter and the building code have been complied with.

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- (1) *Certificate of validity.* The certificate of occupancy as required for new construction of, or renovations to existing buildings and structures, in the building code, shall also constitute certificates of occupancy as required by this chapter.
 - (2) *Certificates for existing nonresidential buildings.* Certificates of occupancy shall be issued for existing nonresidential building, structures or parts thereof, or existing uses of land if after inspection it is found that such buildings, structures or parts thereof, or such use of land, are in conformity with the provisions of this chapter.

Where an existing nonresidential building has been occupied without the issuance of a proper certificate of occupancy, the building inspector shall, as soon as possible, issue a temporary certificate of occupancy which shall set forth all of the alterations and changes necessary to bring the structure or use to meet the requirements of this chapter and other provisions of this Code. Such temporary certificate of occupancy shall specify a date by which the building or use shall be made to conform to this chapter and other provisions of this Code. The date for bringing the structure or use into conformation with all the requirements of this Code shall not be more than six months later than the date of the temporary certificate of occupancy.

Where the structure or use cannot be made to conform with all requirements of this Code, then the structure or use shall be vacated within the six-month period. This order may be subject to alteration or extension by the board of zoning appeals.

- (3) *Temporary certificates.* Temporary certificates of occupancy may be issued for a part of a building or structure prior to the occupation of the entire building or structure, provided that such temporary certificate of occupancy shall not remain in force more than six months, nor more than five days after the building or structure is fully completed and ready for occupancy and, provided further, that such portions of the building or structure are in conformity with the provisions of this chapter.
- (4) *Records of certificates.* A record of all certificates of occupancy shall be kept in the office of the building inspector, and copies of such certificates of occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.
- (5) *Certificates for accessory buildings to dwelling.* Accessory buildings or structures to dwellings shall not require a separate certificate of occupancy, but rather may be included in the certificate of occupancy for the principal dwelling, building or structure on the same lot when such accessory buildings or structures are completed at the same time as the principal use.
- (6) *Application for certificates.* Certificate of occupancy shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or alteration of such building shall have been completed in conformity with the provisions and requirements of this chapter. If such certificate is refused for cause, the applicant therefor shall be notified of such refusal and the cause thereof within ten days.
- (7) *Certificates for nonconforming buildings and uses.* Reference is made to section 90-127.

(Code 1980, § 5.184)

Sec. 90-70. Inspections; notice required; duties.

In order to ensure compliance with the provisions of this chapter, the building inspector will be notified as construction or alteration reaches the following stages:

- (1) Prior to completion of the footings and prior to the erection of any foundations.

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- (2) Upon completion of all work authorized by the building permit. Until inspection is completed, no further work shall be accomplished. At each inspection, the building inspector shall insure that all work accomplished complies with the applicable provisions of this chapter. If he determines that any provision of this chapter has been violated, he shall immediately suspend the building permit, and such suspension shall remain in effect until correction of all violations shall have been approved by the building inspector.

(Code 1980, § 5.185)

Sec. 90-71. Fees, recoverable costs; lien.

Fees for inspections; for review of applications for permits generally; for review of site plans; and applications for special land use approval or planned unit developments (PUDs); and for certificates or copies thereof required or issued under the provisions of this chapter shall be collected by the city treasurer in advance of the review or issuance of the permits, certificates or approvals. The amount of the fees shall be established and revised by the city council from time to time, and shall include the cost of inspection and supervision for the enforcement of this chapter. All fees shall be paid to the general fund of the city.

- (1) Every application for a special use permit or approval of a site plan or PUD shall be accompanied by a non-refundable application and filing fee established by the city council, plus a deposit for the estimated recoverable costs to be incurred by the city in processing the application, as shall be fixed from time to time by administrative order of the city manager. The owner of the property subject of the application and, if different, the applicant shall sign the application. Both shall be jointly and severally liable for the payment of the fee and the city's recoverable costs. By signing the application, the owner shall be deemed to have agreed to pay such fee and costs and to consent to the filing and foreclosure of a lien on the subject property to ensure collection of any unpaid fee and costs, plus the costs of collection. Any lien filed pursuant to this paragraph may be charged against the premises and the owner thereof in accordance with the provisions of section 1-15 of this Code.
- (2) "*Recoverable costs*" means the costs incurred by the city in processing an application for special use permit approval or approval of a site plan or PUD, and shall be deemed to consist at least of the following items of direct and indirect expenses:
 - (a) Legal publication (direct cost);
 - (b) Document preparation and review (hourly salary times a multiplier to be established from time to time by administrative order of the city manager at a level sufficient to recover 100 percent of the direct and indirect cost of such service);
 - (c) Copy reproduction (direct cost);
 - (d) Document recordation (direct cost);
 - (e) Professional and technical consultant services such as engineers, architects, and community planners (direct cost);
 - (f) Legal review, consultation, and advice (direct cost).
 - (g) Inspection fees (direct cost);
 - (h) Conduct of any planning commission hearings (direct cost), including recording secretarial services and court reporter, if required;
- (3) At the request of an applicant for a special use permit, or for approval of a site plan or PUD, made before any engineering review, the building inspector will obtain a non-binding estimate of the city's consulting engineers' or community planners' fees. During the review and process, the applicant's

deposit pursuant to paragraph (1) of this section will be adjusted upward or downward, as warranted, to accurately reflect the actual costs incurred by the city in processing the permit. The city shall give the applicant timely notice of any additions required to maintain a reasonable deposit balance. The city shall also notify an applicant when the processing costs surpass \$5,000.00, and shall thereafter notify the applicant when such costs surpass each \$500.00 increment greater than \$5,000.00. The failure of the city to notify any applicant shall not relieve the applicant of the duty to pay all such costs and shall not prevent the city from assessing and collecting all its recoverable costs.

- (4) No application for special use permit or for approval of a site plan or PUD shall be considered complete until all fees, deposits and costs due pursuant to this section have been paid. Every permit and approval issued pursuant to this Code, whether or not expressly so stated, shall be deemed to be conditioned on payment of fees and deposits as required by this section. The failure to fully pay any such amount when due shall be grounds for refusing to process an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee or deposit relates.
- (5) The provisions of this section 90-71 may be waived or modified by the city council with respect to any application filed by any public body or agency, or by any charitable or eleemosynary organization.

(Code 1980, § 5.186; Ord. No. 353, § II, 5-9-05)

Sec. 90-72. Amendments.

The city council may amend, supplement or change the regulations of the district boundaries of this chapter as established in this chapter, subsequently pursuant to the authority and procedure set forth in Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended. Any applicant desiring to have any change made in this chapter shall file a petition for such change and shall pay a fee to the city treasurer at the time of filing. The amount of such fee shall be established by the city council from time to time and shall cover the publication and other administrative costs of the requested change.

(Ord. No. 273, § 1(5.187), 12-16-91)

Sec. 90-73. Performance bonds.

Where in this chapter there is delegated to the city council or the board of zoning appeals the function of establishing certain physical site improvements as a contingency to securing a zoning amendment, special approval or variance, the building inspector shall, to ensure strict compliance with any regulation contained in this chapter or required as a condition of the issuance of a permit, require the permittee to furnish a performance or surety bond, or cash bond at the discretion of the board of zoning appeals, executed by a reputable surety company authorized to do business in the state in an amount determined by the city council or the board of zoning appeals to be reasonably necessary to insure compliance hereunder; provided, however, that in fixing the amount of such performance or surety bond, the city council or the board of zoning appeals shall take into account the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel operator to comply to court judgment, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding the application.

(Code 1980, § 5.188)

Sec. 90-74. Site plan review.

- (a) *Purpose.* The site plan review process is established for the following purposes:
- (1) A purpose of site plan review is to provide a framework for consultation and cooperation between land owners and developers and the city in order to accomplish the owner's and developer's land use objectives in harmony with surrounding existing and planned land.
 - (2) This section establishes procedures to ensure that development proposals are in compliance with this ordinance and other applicable city, county, state and federal regulations.
- (b) *Overview of procedures.*
- (1) Pre-site plan review provides the landowner or developer and city the opportunity to discuss a proposed development prior to planning commission review to determine the projects feasibility and potential problems.
 - (2) Planning commission review is required to determine the compliance of the site plan with the zoning ordinance and other applicable regulations, its adherence with sound site planning and design principles, and conformance with the criteria for approval of site plans outlined in elsewhere in this chapter.
 - (3) Variances may be required for site plan approval if the site plan does not conform to specific requirements of the zoning ordinance. The zoning board of appeals hears requests for variances under the provisions of article III.
 - (4) Administrative review is conducted by the city manager or his or her designated representative for site plans involving minor modifications.
- (c) *General rules.*
- (1) In each zoning district, except for single family residential uses in the single family residential districts, no building shall be erected, moved, relocated, converted or structurally altered and no change or addition of use, expansion or reduction of off-street parking, exterior modification, or filling, excavation or grading shall be undertaken until a site plan has been submitted for review and approval, as specified in this section. A structural alteration shall be defined as one that changes the location of the exterior walls or the area of the building. Filling, grading or excavation, which causes more than five cubic yards of earth material to be disturbed, shall require site plan approval. Condominium development in any district requires site plan approval.
 - (2) Planning commission review shall be required for all site plans that involve a request for a variance, a special land-use request, for proposals that involve discretionary decisions, for proposals that involve a nonconforming use, and for proposals which involve a site that is not in compliance with a previously-approved site plan.
- (d) *Pre-site plan review.* Pre-site plan review shall be required for all site plans except those determined by the city manager or his designated representative to be generally minor in scope, complete and in compliance with zoning regulations, free of any impact on surrounding property, and not requiring a discretionary decision by the planning commission. In making these determinations, the director may seek the advice of the city planner or others.
- (e) *Changes exempt from review and permits.* Site plan review and a building permit shall generally not be required for painting, re-shingling, window replacement that does not involve structural or dimensional changes, replacement of existing diseased or dead landscaping, pot hole repair, parking lot re-striping, installation of a dumpster screen in accordance with this section, or other ordinary maintenance activities.

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- (f) *Criteria for approval of site plans* The following criteria shall be used by the planning commission as a basis upon which site plans will be reviewed and approved. The planning commission shall adhere to sound planning and design principles, yet may allow for design flexibility in the administration of the following standards:
- (1) All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted on such property.
 - (2) The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in the schedule of regulations unless otherwise provided in this section.
 - (3) The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
 - (4) There shall be reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users.
 - (5) All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
 - (6) Where possible and practical, drainage design shall recognize existing natural drainage patterns.
 - (7) There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to insure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.
 - (8) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a city recognized source of reference. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a marginal access road.
 - (9) Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of storm-water facilities, and the prevention of erosion and dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas. Final grades may be required to conform to existing and future grades of adjacent properties. Grading and drainage plans shall be subject to review by the city engineer.
 - (10) Off-street parking, loading and unloading areas and outside refuse storage areas, or other storage areas that face or are visible from adjacent homes, or from public thoroughfares, shall be screened by walls or landscaping of effective height. Dumpsters shall have gates.
 - (11) Exterior lighting shall be so arranged and limited in intensity and height or adequately shielded, so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.

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- (12) Adequate services and utilities including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
 - (13) Any use permitted in any zoning district must also comply with all applicable federal, state, county and city health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, flood plains, and requirements of the state fire marshal.
 - (14) An objective of site plan review shall be to protect and to promote public health, safety and general welfare by requiring the screening, buffering and landscaping of sites and parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to preserve underground water reservoirs and return precipitation to the ground water strata; to act as a natural drainage system and solve storm water drainage problems; to reduce the level of carbon dioxide and return oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values; to relieve the stark character of parking lots; to conserve energy, provide visual and sound privacy and to otherwise facilitate the preservation and creation of a healthful, convenient, attractive and harmonious community.
 - (15) It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in keeping with sound site development standards of the city.
 - (16) A major objective shall be to retain, enhance and protect the quality, value and privacy of single-family land uses.
 - (17) All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development potential of lands.
 - (18) All sites shall be designed to comply with state and local barrier-free requirements and to reasonably accommodate the handicapped and elderly.
 - (19) All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities and open space shall be coordinated with adjacent properties.
 - (20) All designs shall recognize and follow any design themes adopted by the city.
- (g) *Pre-site plan review committee.*
- (1) *Membership.* Membership on the pre-site plan review committee may vary depending on the nature of the proposal being reviewed at a particular committee meeting, but shall generally consist of the members listed below. The city manager shall determine the specific composition for each proposal. Attendance by each member or class of members is not required, and a majority of members need not be present for the Committee to conduct a review of a development proposal.
 - i. The city manager or his or her designated representative or successor.
 - ii. The city planner and city engineer.
 - iii. One to three representatives of the planning commission.
 - iv. Other city staff or consultants who the city manager or his designated representative determines are needed to properly evaluate a proposal.

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- (2) *Meetings.* Meetings of the pre-site plan review committee shall be scheduled and held as needed by the city manager or his designated representative. The city manager or his designated representative shall insure that all members of the committee are notified of meetings.
- (3) *Responsibilities.* The committee may, in an advisory capacity:
- i. Review and comment on site plan proposals;
 - ii. Provide guidance to land developers, particularly regarding zoning ordinance and other applicable regulations and planning and development objectives of the city;
 - iii. Review other plans or proposals referred to it by the planning commission or city manager or his designated representative; and
 - iv. Identify when a site plan or other development proposal is substantially complete.
- (4) *Effect of committee's review.* The pre-site plan review committee's review shall not substitute for or be construed in any way as a decision or opinion of the planning commission regarding the site plan.
- (5) *Placement of site plan on planning commission's agenda.* The city manager or his representative shall prepare the agenda for the planning commission's regular meeting. The manager may seek assistance from the planning commission chairperson and the city planner.
- (h) *Application for review by pre-site plan review committee.*
- (1) An applicant shall submit the following prior to review by the pre-site plan review committee:
 - i. A completed application form.
 - ii. The fee established by the city council.
 - iii. Any required deposit for costs.
 - iv. Not less than nine individually folded copies of the site plan and supporting documentation, prepared in sufficient detail to indicate the layout of the proposed development and to enable determination of compliance with the zoning ordinance.

An applicant may submit plans and documentation that are less than complete for the purposes of obtaining guidance during the plan preparation process. The pre-site plan review committee can only comment on the plans that have been submitted, so the committee's comments are subject to revision when completed plans and documentation are submitted.
 - (2) The city manager or his representative shall review the plans and supporting documentation to determine if sufficient information has been provided to determine the nature and scope of the proposal and compliance with zoning regulations.
 - (3) If the city manager or his representative determines the materials are sufficient, he shall schedule a meeting of the pre-site plan review committee as soon as is convenient.
- (i) *Planning commission review.* Where a site plan requires review by the planning commission, the applicant shall comply with the following procedures and requirements:
- (j) *Application for planning commission review.*
- (1) An applicant shall submit the following in order to be entitled to review by the planning commission:
 - i. Not less than 16 individual folded copies of the detailed site plan and supporting documentation.
 - ii. A completed application form (if one has not been submitted previously for pre-site plan review).
 - iii. Any required deposit for costs.

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- iv. The fee established by the city council.
 - (2) The city manager or his representative shall examine the site plan to determine that it contains all the required information as specified in this section.
 - (3) If the site plan has been placed on the planning commission agenda as a result of pre-site plan review committee action, then the city manager or his representative shall determine if the plan submitted for planning commission review is substantially similar to the plan reviewed by the committee. If the plan is not substantially similar, or is incomplete, the city manager or his representative shall return it to the applicant with a written explanation of the plan's deficiencies.
 - (k) *Required information.* All plans must conform to the detailed requirements for site plans in the specific zoning district prior to acceptance for planning commission review.
 - (l) *Distribution of plans for review.* The city manager or his representative shall review the site plans and shall secure comments from the departments of public works and public safety, the city engineer and the city planner, and shall forward the site plans along with written comments to the planning commission for review. The planning commission shall review the plans and may solicit further comments from the review authorities. The planning commission has the authority to take action on a site plan at the first meeting that it appears on the planning commission agenda.
 - (m) *Planning commission action.* The planning commission shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations from the city staff, city planner, city engineer and other reviewing agencies. The planning commission shall then approve, approve with conditions, deny, or table the site plan as follows:
 - (1) *Approval.* Upon determination that a site plan is in compliance with the subsection 90-74(f) standards and requirements of this section, including the criteria in subsection 90-74(f), and other applicable ordinances and laws, the planning commission shall approve the plan.
 - (2) *Approval subject to conditions.* Upon determination that a site plan is in compliance except for certain modifications or other conditions, the planning commission may approve the site plan subject to conditions. The modifications or other conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances or obtain approvals from other agencies. If a site plan has been approved subject to conditions, the applicant shall be required to re-submit a revised site plan with a revision date, and with all conditions addressed on the plan.
 - (3) *Denial.* Upon determination that a site plan does not comply with the standards and regulations set forth in this section or elsewhere in this section, or requires extensive revision in order to comply with said standards and regulations, the planning commission shall deny the site plan.
 - (4) *Tabling.* Upon determination that a site plan is not ready for approval or denial, or upon request by the applicant, the planning commission may table consideration of a site plan until a later meeting.
 - (n) *Record of action.* Each action taken with reference to site plan review and approval shall be recorded in minutes of the planning commission. A building permit shall not be issued until five copies of the final site plan which addresses all conditions of approval and includes a revision date and notation of all variances, has been signed by the planning commission chairperson or the city manager or his representative.
 - (o) *Administrative review for site plans involving minor modifications.* If a site plan involves only minor modifications, the plan is subject to administrative review instead of planning commission review. All minor modifications must be completed in accordance with all other applicable regulations and specifications.
 - (p) *Minor modifications.* For the purpose of this section, "minor modifications" means proposed alterations to an existing building or site that will not result in expansion or substantially affect the character or intensity of

the use, vehicular or pedestrian traffic circulation, drainage patterns, the demand for public services or the vulnerability to hazards. Examples of minor modifications include:

- (1) Additions to the landscape plan or landscape materials, relocation of plant material because of road right-of-way restrictions or to avoid conflict with utilities, substitution of comparable species instead of the approved species, and installation of street trees consistent with the species and location standards specified by the City of Grosse Pointe.
 - (2) Relocation of a trash receptacle or installation of screening around an existing dumpster, provided that the dumpster is in compliance with the required setbacks.
 - (3) Alterations to the internal parking layout of an off-street lot or installation of paving and curbing improvements on legally existing lots, provided that:
 - i. The total number of spaces shall not be reduced or increased.
 - ii. New parking lots shall not be created without complete site plan review.
 - iii. Nonconforming lots shall be brought into compliance with current curbing, drainage, landscaping and brick paver installation.
 - iv. Paving and drainage projects shall require review by the city engineer.
 - v. The paving shall not extend beyond the minimum necessary to comply with parking dimension requirements.
 - (4) Construction of sidewalks, whether on private property or within the road right-of-way.
 - (5) Installation of street and parking lot lighting, provided that lighting fixtures installed in the road right-of-way shall comply with the design and installation standards specified by the city.
 - (6) Minor alterations to an existing building facade to add or change awnings, cornices, windows, doors, color, or similar architectural features.
 - (7) Minor building alterations designed to improve accessibility to a building consistent with the state barrier-free design regulations and/or the Americans with Disabilities Act or to otherwise enhance public safety and convenience.
 - (8) Installation of concrete curbing and drainage adjacent to public streets.
 - (9) Burial of existing above ground utility lines.
- (q) *Classification as a minor modifications plan.* The city manager or his designated representative shall determine if the proposed modifications on a site plan are minor in accordance with these guidelines. If the city manager or his designated representative does not deem the modifications minor, then the plan shall be submitted to the pre-site plan review committee. If the pre-site plan review committee concurs with the manager's determination that the modifications are not minor, then normal review involving the planning commission shall be required. However, the pre-site plan review committee may deem that the modifications are minor in which case the plan shall be resubmitted to the city manager or his designated representative for review and action as minor modifications.
- (r) *Application requirements and procedures for administrative review.* If the proposed modifications are determined to be minor, then a sketch plan and application shall be submitted. The sketch plan must include the following minimum information:
- (1) Name, address and telephone number of the applicant.
 - (2) Title block.
 - (3) Scale.

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- (4) Northpoint.
 - (5) Dates of submission and revisions (month, date, year).
 - (6) The seal of one of the following professionals registered in the State of Michigan: Architect, civil engineer, landscape architect, or professional community planner. The architectural plan of all buildings shall be prepared by and bear the seal of an architect.
 - (7) Existing lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site.
 - (8) Detailed plans and specifications describing the proposed improvements on the site.

Other information required for site plan review is contained in the site plan application available at city offices. The city manager or his representative may request any additional information deemed necessary to determine compliance with the city ordinances. The manager or representative may waive any application requirement, which he determines is not needed to determine compliance.

- (s) *City manager—Review.* The city manager or his representative shall review each site plan that has been submitted for administrative review, together with any reports and recommendations submitted by review agencies and professionals. The city manager or his designated representative may request that review agencies or professionals, including the departments of public works and public safety, the city engineer and the city planner review the application or only the proposed alterations, rather than review the entire building or site layout.
- (t) *City manager—Action.* The city manager or his representative shall make a final determination based on the requirements and standards in this section. The city manager or his representative is authorized to grant approval, approval with revisions, or denial of the site plan, in accordance with the standards set forth herein. The city manager or his representative shall notify the planning commission in writing within 30 days after making a decision. If the plan is approved, the applicant shall submit five copies of the approved plan, which shall address all conditions of approval, include a revision date, and identify all variances.
- (u) *Construction pursuant to an approved plan.* When an applicant receives site plan approval, the applicant shall develop the site in complete conformity with the approved site plan. Complete construction plans, including a landscape plan prepared by a registered landscape architect for all landscaped areas, shall be submitted for review by the city manager or his representative. Upon finding by the city manager or his representative that the construction plans meet the requirements of site plan approval and other applicable ordinances of the city, he shall authorize issuance of a building permit.
- (v) *Period of validity, extension of site plan approval.* Site plan approval shall be valid for one year from the date of approval. If no building permit is obtained within one year of site plan approval or if no work is commenced within six months after the issuance of a building permit, the site plan approval shall expire and be of no force or effect, unless extended by the planning commission.
- (w) *Certificate of occupancy.* No certificate of occupancy shall be issued by the building inspector if construction is not substantially consistent with the approved site plan. The building inspector may approve minor variations. If the planning commission originally approved the site plan, the building inspector shall report such minor variations to the planning commission within 30 days after issuance of the certificate of occupancy.

(Ord. No. 354, § I, 5-9-05; Ord. No. 357, § II, 8-15-05)

Sec. 90-75. Special land use review.

- (a) *Purpose.* The types of uses requiring special approval shall be deemed to be permitted uses in their respective districts, subject, as to each specific use, to satisfaction of the procedures, requirements and standards set forth in this section. Each specific use for which a permit is sought shall be considered as an individual case and shall conform to the detailed application of the following procedures and standards in a manner appropriate to the particular circumstances of such use. Each use as listed in any district requiring special approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed and will not be detrimental to the orderly development of adjacent districts and uses.
- (b) *Public hearings.* Upon receiving a substantially complete application for special approval, the building inspector shall schedule a public hearing before the planning commission. Notification of the public hearing shall be published and given as provided by law.

On the initiative of the applicant, or on determination by the planning commission, the applicant shall post a public hearing notice on the roadway(s) adjacent to the property, which is subject to the special land use request. The notice shall be a readable sign, shall be posted not less than ten days before the scheduled hearing date, and shall be removed within ten days after completion of the hearing. The face of the sign shall be at least 36 inches in height and 48 inches in length. The sign shall contain the zoning action requested, date, time, and place where the hearing shall be held, a statement that further information can be obtained from the applicant and the building inspector of the City of Grosse Pointe, and the phone number of the city and applicant. The sign shall have a white background with 1.5 inch high black block letters, except that the words "PUBLIC HEARING NOTICE" shall be three-inch high red capital block letters. The sign shall meet any other requirements of the city for temporary signs.

NOTICE OF PUBLIC HEARING	
HEARING FOR:	Fill in current Zoning and action requested)
HEARING LOCATION:	Grosse Pointe City Council Chambers
DATE: (Fill in hearing date)	
	TIME: (Fill in hearing time)
PUBLIC ATTENDANCE AND COMMENTS INVITED	
For details call:	
(Fill in applicant's name and phone number)	City of Grosse Pointe (313) 885-5800

- (c) *Procedure of notice.* One notice of a public hearing shall be published in a newspaper of general circulation in the city; said notice shall be posted in the city offices, and shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed, within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice shall be given not less than five and not more than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:
 - (1) Describe the nature of the special land use request.
 - (2) Indicate the property which is the subject of the special land use request.

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- (3) State when and where the special land use request will be considered.
 - (4) Indicate when and where written comments will be received concerning the request.
 - (d) *Planning commission hearing, review and approval.* Special land use approval shall not be granted until a public hearing has been held by the planning commission, in accordance with the procedures and notice described herein above. The planning commission shall deny, approve, or approve with conditions, requests for special land use approval. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.
 - (e) *Site plan review and information required.* For all special approval uses, a site plan shall be required and submitted in accordance with section 90-74 of this article. Approval shall run with the land and shall not be issued for specified periods, unless the use is temporary or time-related in nature.
 - (f) *Performance guarantees.* Performance guarantees may be required by the planning commission to insure compliance with special approval conditions.
 - (g) *Standards.* In addition to any specific site plan standards set forth elsewhere in this section which the city shall apply to the use, the following standards shall serve the planning commission as the basis for decisions involving special land uses and other discretionary decisions contained in this section. Each proposed use or activity shall:
 - (1) In location, size and intensity of the principal and accessory operations, be compatible with adjacent uses and zoning of land.
 - (2) Be consistent with and promote the intent and purpose of this section.
 - (3) Be compatible with the natural environment and conserve natural resources and energy.
 - (4) Be consistent with existing and future capabilities of municipal services and facilities affected by the proposed use.
 - (5) Protect the public health, safety, and welfare as well as the social and economic well being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent, and the city as the whole.
 - (6) Promote the use of land in a socially and economically desirable manner.
 - (7) Not be in conflict with convenient, safe and normal neighborhood vehicular and pedestrian traffic routes, flows, intersections, and general character and intensity of neighborhood development.
 - (8) Be of such a design and impact that the use, its location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
 - (9) In the nature, location, size and site layout and function of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of said district.
 - (10) In the location, size, intensity of the use and site layout, be such that operations will not be objectionable to nearby dwellings or uses, by reason of noise, fumes, glare, flash of lights, or other similar externalities.
 - (h) *Record.* All conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the planning commission and the applicant. The city shall maintain a record of changes granted in conditions.

Sec. 90-76. Planned unit development review and approval procedures.

- (a) *Purpose.* The intent of this section is to provide, through the use of the planned unit development (PUD) concept, an added degree of flexibility in the density, placement, bulk and interrelation of buildings and uses on major redevelopment sites within the city, and the implementation of new design concepts so as to encourage a more efficient, innovative, and compatible use of land through the use of a unified, flexible, planning approach, while at the same time maintaining adequate amounts of light, air, access and required open space and facilitating the economical provisions of public services and utilities. To further this intent, the respective district regulations may be modified by the city, as part of a PUD, after recommendation of the city planning commission and as provided for in this section. The general boundaries of any PUD approved by the city shall be indicated on the zoning map as information for zoning purposes.
- (b) *Qualifying conditions.* The following provisions shall apply to all planned unit developments:
- (1) The planned unit development site shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
 - (2) A PUD may only be approved in conjunction with either an approved overall PUD concept plan or an approved PUD site plan.
 - (3) An approved PUD shall function as an overlay district, with the underlying zoning district remaining in effect.
 - (4) A PUD may be approved in any district within the area bounded by Waterloo Avenue, Cadieux Road, St. Paul Avenue and the rear property line of the homes on the westerly side of Neff Road.
 - (5) The uses contained in a PUD with multiple uses must be complementary in nature.
 - (6) A PUD shall achieve a higher quality development than is otherwise possible with the regulations for the underlying zoning district.
 - (7) A PUD shall result in a recognizable and substantial benefit to ultimate users of the project and to the community. The benefit to the community must be proportionate to any modifications of the development standards being requested. Such benefits may include, but are not limited to, the following:
 - a. Provide a complementary variety of housing types and/or a complementary mixed-use plan of residential and commercial uses that is harmonious with adjacent development.
 - b. Provide a civic facility or other public improvement.
 - c. Alleviate traffic congestion.
 - d. Provide for the appropriate redevelopment or re-use of sites.
 - e. A PUD shall further certain other public objectives as identified in the city master plan.
- (c) *PUD review process.* The following procedure shall be followed when applying for planned unit development (PUD) approval:
- (1) *Pre-application conference.* Before submitting an application for approval of a PUD, the applicant shall confer in a pre-application conference with the city manager or his/her designee, building inspector, and the city planner to obtain information and guidance regarding land development regulations, the city's master plan and the application process. At the pre-application conference the applicant shall submit a concept plan for the proposed PUD, containing both maps and a written statement. The plan should include enough of the surrounding area to demonstrate the relationship of the PUD to adjoining

uses, both existing and proposed. The maps, which are a part of the preliminary sketch plan, may be in general schematic form but must contain enough information to obtain feedback from city officials and consultants regarding the suitability of utilizing a PUD approach to the development of the subject property.

- (2) *Planning commission review of PUD.* Upon completion of the pre-application conference stage, a PUD application meeting the submission requirements of section 90-76 and incorporating the preliminary site plan shall be submitted to the planning commission for its review.
 - (3) *Planning commission hearing.* A public hearing on the PUD shall be held by the planning commission, pursuant to the notification requirements outlined in section 90-77 herein.
 - (4) *Planning commission decision.* Following the public hearing, the planning commission shall make a decision on the PUD application. Based upon the qualifying conditions, and, to the extent they are applicable to review of the PUD application, the standards in project design standards, the planning commission may deny, approve, or approve with conditions the proposed PUD. The commission shall prepare a report stating its conclusions on the request for a PUD, the basis for its decision, the decision, and any conditions relating to an affirmative decision.
 - (5) *PUD site plan review.* A complete site plan shall be submitted for review pursuant to section 90-302, site plan review, for each phase(s) of an approved PUD plan.
- (d) *PUD application submittal requirements.*
- (1) *PUD application.* The PUD application shall include all the following information, unless the city determines that some of the required information is not reasonably necessary for the consideration of the planned unit development:
 - a. Application form and required fee.
 - b. A narrative indicating the period of time within which it is contemplated the project will be completed.
 - c. A concept plan showing a layout of the uses and structures in the PUD and their locations.
 - d. Written verification of access easements or agreements, if applicable.
 - e. A note on each plan sheet stating, "Not to be used as construction drawings."
 - f. Information pursuant to subsection 90-76(b), and any additional graphics or written materials reasonably requested by the planning commission to assist in determining the impacts of the proposed site plan, including, but not limited to, economic or market studies; impact on public primary and secondary schools and utilities; traffic impacts; impact on significant natural, historical, and architectural features and drainage; impact on the general area and adjacent property; and estimated construction cost.
 - g. Additional information that may be reasonably necessary for a full and complete consideration of the proposed PUD and its impact on the immediately surrounding area and the city as a whole.
 - h. Draft PUD agreement between the city and the applicant, which shall include, among other items, a provision as to such revisions to the site plan that may be approved administratively by the planning commission, any specific terms and conditions relating to an approved PUD including specific terms relating to the administration of the project.
 - i. The application for PUD review shall include a community impact statement. The statement shall be derived from a study of the city based on information from the following community elements:

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- i. Planning/zoning issues, including conformance with the master plan, zoning ordinance, and other applicable city codes and policies;
 - ii. Land development issues, including topographic, soil conditions, and site safety concerns;
 - iii. Private utilities consumption, including electrical needs and natural gas utilization;
 - iv. Noise level conditions;
 - v. Air quality conditions;
 - vi. Environmental design and historic values including visual quality and historic resources;
 - vii. Community facilities and services, including refuse collection, sanitary and storm sewer, and water supply;
 - viii. Public safety needs, including police, fire and emergency medical services;
 - ix. Open space landscaping and recreation, including cultural elements;
 - x. Traffic impact study.
- (e) *Site plan review.* For the total PUD or for each portion of the PUD, if staging of development is planned, a site plan review is required in accordance with section 90-302 prior to the issuance of building permits. The site plan submittal shall include the following:
- (1) Building footprints, setbacks, floor plans and elevations showing height and materials for all proposed structures; typical layout for condominium projects.
 - (2) Proposed locations of utility services (with sizes), noting which will remain and which are to be removed, including storm drainage, sanitary/storm sewer, fire hydrants, and any public or private easements.
 - (3) General description and location of storm water management system including pre- and post-site development run-off calculations used for determination of storm water management.
 - (4) A landscape plan indicating proposed plant locations with common plant name, number, and size at installation. Berms, retaining walls or fences shall be shown with elevations from the surrounding average grade.
 - (5) A site grading plan with existing and proposed topography at a minimum of two-foot contour intervals and with topography extending a minimum of 50 feet beyond the site in all directions and further where required to indicate storm water run-off into an approved drain or detention/retention pond.
 - (6) Locations of significant natural, historical, and architectural features, including landmark trees, that will be designated "to remain," and/or location and acreage of areas "not to be disturbed;" noting protection method such as a fence, barrier or police line installed prior to site preparation.
 - (7) Location and method of screening for all refuse storage stations/receptacles.
 - (8) Location and dimensions of parking spaces, loading/unloading areas and calculations to meet the parking requirements of this ordinance.
 - (9) Details of exterior lighting including locations, height, and method of shielding.
 - (10) Locations of all signs including:
 - a. Location, type, height and method of lighting for identification signs;
 - b. Location and type of any directional or regulatory/traffic control signs, with details for any sign not conforming to the Michigan Manual of Uniform Traffic Control Devices.

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- (11) Details of site circulation and access design, including:
- a. Indication of street pavement widths and pavement type;
 - b. Street horizontal and vertical dimensions, including curve radii;
 - c. Dimensions of access points, including deceleration or passing lanes, distance from adjacent driveways or intersection streets, including those across a street;
 - d. Identification of width and material to be used for pedestrian paths.
- (12) A note on each plan sheet stating, "Not to be used as construction drawings."
- (f) *Regulatory flexibility.* The planning commission, either during the PUD review stage, or after site plan review, may increase, decrease, waive, or otherwise modify the current standards within the zoning ordinance including, but not limited to; use, density, intensity, setbacks, building heights, parking, design standards, project design standards in subsection 90-76(g), project design standards, and landscape standards provided the modification is found to improve the quality of development above and beyond what could be developed under the underlying zoning, or results in a higher level of public benefit, and to achieve the purpose of this section.
- (g) *Project design standards.* The following standards are intended as guidelines and may be modified by the city under the provisions of subsection 90-76(f), regulatory flexibility.
- (1) The planning commission shall use any applicable standards for approval contained in city ordinances related to land use and any adopted development guidelines, as well as the standards contained in Public Act 110 of 2006, (MCL 125.3101 et seq.) as amended, which are not inconsistent with the approved PUD agreement, in reviewing and approving site plan.
 - (2) Density. The planning commission, considering the requirements of the affected districts, shall determine appropriate density, lot sizes and developmental provisions. The city may permit proportionate increases in density or intensity for projects that demonstrate a higher level of public benefit to the city.
 - (3) Open spaces and recreation areas. At least 20 percent of the total PUD acreage shall be in open space and recreation area, including plazas. This provision may be modified by the planning commission provided the overall project will further a certain public objective such as, public improvements, public gathering places, or other items included in subsection 90-76(b) or in the city master plan, which could not be otherwise achieved under conventional zoning, or if provided for in the PUD agreement.
 - (4) The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation system, surrounding properties, or the environment. The public benefit shall be one that could not be achieved under the regulations of the underlying district alone, or that of any other single zoning district.
 - (5) The number and dimensions of off-street parking spaces shall be sufficient to meet the minimum required by the zoning ordinance. However, if the parking needs of the development can be met by a modification of such requirements, or where warranted by overlapping or shared parking arrangements, or where parking spaces can simultaneously accommodate more than one use; the planning commission may adjust the required number of parking spaces. The planning commission may also allow portions of required parking spaces to be banked as open space until determined either by the owner or the city that such spaces should be improved.
 - (6) All streets and parking areas within the planned unit development shall meet the minimum construction and other requirements of city ordinances, unless modified by the planning commission.

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- (7) Existing landscaping shall be preserved and/or improved or additional landscaping be provided to ensure that proposed uses will be adequately buffered, where buffering is appropriate, from one another and from surrounding public and private property. The quality and/or quantity of landscaping materials shall exceed the minimums otherwise required by the zoning ordinance.
 - (8) Public water and sewer facilities shall be available or shall be provided for by the developer as part of the site development.
 - (9) Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within and into the site shall be provided.
 - (10) Drives, streets and other elements within the property shall be designed to promote safe and efficient traffic operations within the site and at its access points.
 - (11) The uses proposed shall be consistent with the city's master plan or the approved PUD concept plan.
- (h) *Effect of planning commission approval.*
- (1) When approved, the PUD 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 authorization. Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the Wayne County Register of Deeds.
 - (2) The planning commission may cause to have legal documents, covenants or contracts prepared which are not inconsistent with the PUD agreement, and may require the execution thereof by the applicant, which documents involve the city and are required as a result of the conditions contained in the PUD agreement or the site plan approvals in a PUD area.
 - (3) The building inspector shall review all building permits for an approved PUD project for compliance with the terms of the approved PUD agreement, and any other applicable codes and ordinances.
 - (4) The building inspector or their designee shall inspect the development at each stage to ensure reasonable compliance with the conditions of the approved PUD or approved site plans, as applicable.
- (i) *Revocation or changes.* The planning commission, upon a breach of the PUD agreement may revoke a PUD or any portion thereof. Revocation of any portion of a PUD reverts that portion of the PUD to the status and requirements of the original zoned district, without benefit of the PUD provisions. Proposed changes in a PUD, other than those considered a part of site plan review for all or a portion of the PUD, must be processed in the same manner as the original PUD procedure.
- (j) (1) The zoning board of appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcement of this section.
- (2) Any violation or deviation from an approved site plan or written conditions, except as authorized in this ordinance, shall be considered a violation of section 90-76 and treated as a violation of this ordinance. Furthermore, any such deviation may be grounds to invalidate the PUD designation.
 - (3) The cost of enforcing or remediating violations of the approved PUD site plan or agreement shall be borne by the developer or its successor in ownership.

(Ord. No. 347, § I, 5-17-04; Ord. No. 357, § II, 8-15-05; Ord. No. 359, § I, 3-20-06; Ord. No. 370, §§ III, IV, 10-16-06)

Sec. 90-77. Notice requirements.

Where public notice is required by the zoning code before a public hearing or discretionary decision, a notice shall be provided as follows:

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- (1) Notice shall be published in a newspaper of general circulation in the City of Grosse Pointe not less than 15 days prior to the public hearing scheduled.
 - (2) Notice shall also be sent by mail or personal delivery to the owners of all property for which approval is being considered, to the owners of all real property within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four such units or spatial areas, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. This notice shall be sent not less than 15 days prior to the date of the public hearing scheduled.
 - (3) The notice shall contain:
 - a. A description of the nature of the request to be heard.
 - b. A description of the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
 - c. A statement of when and where the request will be considered.
 - d. An indication of when and where written comments will be received concerning the request.

If the nature of the proposed amendment is to rezone an individual property or several adjacent properties, then notice shall be provided as described as above, with the exception that, if 11 or more adjacent properties are proposed for rezoning, then notice is not required for the owners of those properties or the owners or occupants of property within 300 feet, nor is it necessary for the notice to list the addresses of the individual properties.

(Ord. No. 370, § V, 10-16-06)

Secs. 90-78—90-95. Reserved.

ARTICLE III. BOARD OF ZONING APPEALS

Sec. 90-96. Creation.

It is hereby established that the city council shall act as a zoning board of appeals, which shall perform its duties and exercise its powers as provided in Section 601 of P.A. 110 of 2006 (MCL 125.3601 et seq.), as amended, in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done.

(Code 1980, § 5.191; Ord. No. 370, § VI, 10-16-06)

Sec. 90-97. Officers.

The chairman and vice-chairman of the zoning board of appeals shall be elected annually by the members of the board.

(Code 1980, § 5.192; Ord. No. 370, § VII, 10-16-06)

(Supp. No. 27)

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Sec. 90-98. Meetings.

All meetings of the zoning board of appeals shall be held at the call of the chairman or, in his absence, the vice-chairman, and at such times as the board may determine. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its findings, proceedings at hearings and other official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

(Code 1980, § 5.193; Ord. No. 370, § VIII, 10-16-06)

Sec. 90-99. Appeals; review.

- (a) An appeal may be taken to the zoning board of appeals by any person or by any officer, board, department, or bureau affected by a decision of the building inspector. Such appeals shall be taken within such time as shall be prescribed by the zoning board of appeals by general rule by filing with the building inspector and with the board a notice of appeal specifying the grounds thereof. The building inspector shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken.
- (b) An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector certifies to the board, after the notice of appeal has been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.
- (c) The board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

(Code 1980, § 5.194; Ord. No. 370, § IX, 10-16-06)

Sec. 90-100. Fees for appeals.

A fee shall be paid to the city treasurer at the time the notice of appeal is filed, unless payment of fees is waived by the general rule adopted by the zoning board of appeals. The amount of the fee shall be established by the city council from time to time and shall cover the administrative cost of processing the application.

(Ord. No. 273 § 1(5.195), 12-16-91; Ord. No. 370, § X, 10-16-06)

Sec. 90-101. Powers concerning variances.

The zoning board of appeals, as created in the article, is a body of limited powers. The board shall have the following specific powers and duties:

- (1) *Purpose.* To hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter, and to hear and decide appeals where there are practical difficulties or unnecessary hardship

in the way of carrying out the strict letter of this chapter so that the spirit of this chapter shall be observed, public safety secured and substantial justice done.

- (2) *Authorization.* In hearing and deciding appeals, the board shall have the authority to grant such variances from this chapter as may be in harmony with its general purpose and intent, so that the function of this chapter be observed, public safety and welfare secured, and substantial justice done, including the following:
- a. *Interpretation of zoning district boundaries.* Interpret the provisions of the chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street layout as shown on the map aforesaid. In cases of any question as to the locations of any boundary line between zoning districts, the board shall interpret the zoning map.
 - b. *Height, yard spaces and area requirements.* Permit such modification of the height, yard space and area requirements as may be necessary to secure appropriate improvement of a lot which is of such shape or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification.
 - c. *Additions to buildings.* Permit modifications of zoning requirements for additions or enlargements to existing buildings provided that all requirements for the particular use in the zoning district where such use is first permitted cannot be met without extreme physical hardship owing to the shape of the lot, adjacent land uses or topography.
 - d. *Off-street parking and loading requirements.* Permit the modification of the off-street automobile parking space or loading space requirements where, in the particular instance, such modifications will not be inconsistent with the purpose and intent of such requirements.
 - e. *Off-street parking lot development requirements.* Permit a variation, modification or exception in the required regulations, specified in section 90-159, if, after investigation by the board, it is found that such variation, modification or exception is necessary because of peculiar existing conditions and that such variation, modification or exception will not be inconsistent with the purpose and spirit of this chapter.
 - f. *Greenbelt and wall screening requirements.* Permit the modification or waiver of greenbelt and/or wall screening requirements as specified in section 90-39 where such screening would serve no good purpose, where other methods of screening would be suitable, or where it is necessary to provide entrances to and exits from required off-street parking and loading areas.
 - g. *Temporary buildings.* Permit temporary buildings and uses for periods not to exceed six months.
 - h. *Public utilities.* Permit the erection and use of a building, or an addition to an existing building, of a public service corporation to be used for public utility purposes, in any permitted district to a greater height or of larger area than the district requirements established in this chapter, and permit the location in any use district of a public utility building structure, or use, provided the board of zoning appeals shall find such use, height, area, building or structure reasonably necessary for the public convenience and service, and provided further, that such building, structure, or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such a district.
 - i. *Community garage.* Permit a community garage in any district or a public garage in an R-T district provided that any such garage shall not be located within 50 feet of any street lot line, and provided further that no such use shall be permitted unless there are on file with the board the written consents of the owners of 80 percent by frontage of all lots lying within 150 feet of any point on the lot for which such use is proposed. Any lot which lies more than 50 percent by area

within such radius shall be deemed to lie wholly within for the purpose of computing the frontage specified in this section. In computing the percentage of consents required under this provision, the frontage of lots already used for public garages shall be counted as consenting.

- j. *Performance bonds.* Establish performance bonds to insure compliance of any requirement which may be deemed necessary for approving any variance. (See section 90-73.)
 - k. *Generally.* Where there are practical difficulties or unnecessary hardships in complying with the provisions of this chapter, the board of zoning appeals may in specific cases adjust any such condition in harmony with the general purpose and intent of this chapter so that the public health, safety and general welfare may be secured and substantial justice done.
- (3) *Application.* The concurring vote of two-thirds of the members of the board shall be necessary to reverse any order, requirement, decision or determination of the building inspector in favor of the applicant on any matter upon which it is authorized by this chapter to render a decision. The power or authority to alter or change this chapter or the zoning map is reserved to the city council in the manner provided by law.
- (4) *Standards.* In consideration of all appeals and all proposed variations to this chapter, the board shall, before making any variations from the chapter in a specific case, first determine that the proposed variations involve exceptional circumstances not found in other areas of the same district; will not in any other respect impair the public health, safety, comfort, or welfare of the inhabitants of the city; and in addition meets the following general standards:
- a. The proposed use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood.
 - b. The proposed use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child vehicle contacts in residential districts.
 - c. The location, size, intensity, site layout and periods of operation of any such proposed use will be designed to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.
 - d. The location and height of buildings or structures and the location, nature and height of walls and fences will be such that the proposed use will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
- (5) *Conditions.* The zoning board of appeals, in acting on any appeal in connection with a request or waiver may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the foregoing standards.

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

(Code 1980, § 5.196; Ord. No. 370, §§ XI, XII, 10-16-06)

Sec. 90-102. Notice of hearing.

The zoning board of appeals in conducting any public hearing shall comply with the noticing requirements outlined in section 90-77 herein.

(Code 1980, § 5.197; Ord. No. 370, § XIII, 10-16-06)

Sec. 90-103. Approval period.

No order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than three months unless such use is established within such period; provided, however, that where the use permitted is dependent upon the erection or alteration of a building, the order shall continue in force and effect if a building permit for the erection or alteration is obtained within such period, and the erection or alteration is started and proceeds to completion in accordance with the permit within 12 months after the order of the board. The board may, upon application in writing stating the reasons therefor, extend either the three-month or 12-month period for an additional three-month period.

(Code 1980, § 5.198; Ord. No. 370, § XIV, 10-16-06)

Sec. 90-104. Appeal to the circuit court.

The decision of the zoning board of appeals shall be final. However, a person having an interest affected by the decision may appeal to the Circuit Court within 30 days.

(Ord. No. 370, § XV, 10-16-06)

Secs. 90-105—90-125. Reserved.

ARTICLE IV. NONCONFORMING USES AND BUILDINGS

Sec. 90-126. Legality.

Any lawful use of the land or buildings existing at the date of passage of this chapter or amendment thereto and located in a district in which it would not be permitted as a new use under the regulations of this chapter is hereby declared to be a nonconforming use and any building which does not meet the provisions of this chapter, as to setbacks, height, off-street parking, or other requirement is hereby declared to be a nonconforming building, and such uses and buildings shall not be considered in violation of this chapter; provided, however, that all nonconforming uses and buildings shall be subject to, and the owner shall comply with, the regulations of this article. Provided, further, that existing single-family residential uses may continue in all districts with building requirements compatible with R-1B zoning.

(Code 1980, § 5.71; Ord. No. 445, § III, 5-17-21)

Sec. 90-127. Certificate of occupancy for nonconforming uses.

- (a) Should the city become aware of a nonconforming use, the owner of the nonconforming use shall be notified by the building inspector of the provisions of this section, and that his property constitutes a nonconforming use. Within 30 days after receipt of the notice, the owner shall apply for and be issued a certificate of

occupancy for the nonconforming use. The application of such certificate shall designate the location, nature and extent of the nonconforming use and such other details as may be necessary for the issuance of the certificate of occupancy. If the owner of a nonconforming use fails to apply for a certificate of occupancy within 30 days after receipt of the foregoing notice, the use ceases to be nonconforming and is hereby declared to be in violation of this chapter. The building inspector and the city attorney shall take appropriate action to enjoin such violation.

- (b) If the building inspector shall find, upon reviewing the application for a certificate of occupancy, that the existing use is illegal or in violation of any other ordinance or law or if he finds that the building for which the certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the building code or the zoning ordinance in effect at the time of construction or alteration, he shall not issue the certificate of occupancy but shall declare such use to be in violation of this chapter.
- (c) The certificate of occupancy issued by the building inspector for a nonconforming use shall state that the use may be continued indefinitely, or for those uses listed in section 90-128, that the use must be discontinued.

(Code 1980, § 5.72)

Sec. 90-128. Nonconforming use of land; continuation of use.

The nonconforming use of land, where no building or structure is involved, which exists when this chapter becomes effective or amendments thereto, may be continued provided that:

- (1) No such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property.
- (2) No such nonconforming use of land shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use.
- (3) If such nonconforming use of land or any portion thereof is discontinued or changed for a period of more than 30 days, any future use of such land shall be in conformity with the provisions of this chapter.
- (4) Any sign, billboard, commercial advertising structure or similar object which lawfully existed and was maintained at the time this chapter became effective may be continued although such use does not conform with the provisions of this chapter; provided, that all such nonconforming signs, billboards, commercial outdoor advertising structures and objects, and their supporting members located in R-1A, R-1B, R-2 and R-T districts shall be completely removed from the premises within five years of the passage of this chapter or amendments applicable to the property in question.

(Code 1980, § 5.73)

Sec. 90-129. Change of nonconforming use.

A nonconforming use may be changed to another nonconforming use of the same or greater restriction provided no structural changes are made in the building and provided that the board of zoning appeals shall determine that the proposed new use is equally appropriate or more appropriate to the particular neighborhood than the existing nonconforming use. Whenever a nonconforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a nonconforming use. For the purpose of this chapter, the E-R district shall be considered the most restrictive district, followed in turn by the R-1A, R-1B, R-T, RO-1, C-1, and C-2 districts.

(Code 1980, § 5.74; Ord. No. 358, § III, 12-12-05)

Sec. 90-130. Extension prohibited for nonconforming use in building.

A nonconforming use may not be expanded or extended throughout other portions of a building. If such nonconforming use or portion thereof is discontinued or changed to a conforming use, any future use of the building or portion thereof shall be in conformity to the regulations of the district in which the building is located.

(Code 1980, § 5.75)

Sec. 90-131. Moving of nonconforming building.

No building in which a nonconforming use exists may be moved to any other part of a parcel of land upon which same was located at the time of the adoption of this chapter. No nonconforming building shall be moved for any reason unless it shall then conform to the regulations for the zoning district in which it is located after the moving.

(Code 1980, § 5.76)

Sec. 90-132. Nonconforming structures; alterations.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity except to make it comply with the requirements of health and safety laws or ordinances, provided that the cost of such work shall not exceed 50 percent of the state equalized valuation of such structure at the time such work is done. All alterations made to a nonconforming structure shall be in compliance with all requirements of this chapter and other codes and ordinances of the city.
- (2) Notwithstanding the requirements in subsection (1), an alteration or enlargement would not be considered nonconforming solely by following an existing side yard setback of the existing structure, if it does not extend further than 50 percent of the depth of the existing structure into the required rear yard of the lot, but not to exceed 35 feet.

(Code 1980, § 5.77; Ord. No. 302, § 1, 6-16-97)

Sec. 90-133. Restoration.

Any nonconforming use or nonconforming building which has been destroyed or damaged by fire, explosion, act of God, or by public enemy to the extent of 50 percent or more of its state equalized valuation, exclusive of the foundation at the time such damage occurred, shall thereafter be made to conform with the provisions of this chapter. Where such destruction or damage has occurred, removal of the nonconforming use of a building also shall eliminate the nonconforming use status of the land on which the building is located. If such damage is less than 50 percent of its state equalized valuation before the damage occurred, exclusive of the foundation, such structure may be restored to the same nonconforming use or nonconforming building as existed before such damage, provided that such restoration shall be subject to the approval of the board of zoning appeals. The restoration shall be commenced within one year of the date of the partial destruction and shall be diligently carried on to completion.

(Code 1980, § 5.78)

Sec. 90-134. Discontinuance or abandonment of nonconforming use of building.

Any nonconforming use of a building which has become vacant or remains unoccupied owing to abandonment or discontinuance for a period of six months shall thereafter conform to the provisions of this chapter. See also section 90-128 for nonconforming use of land.

(Code 1980, § 5.79)

Sec. 90-135. Record of nonconforming uses.

The building inspector shall prepare a record of all known nonconforming uses of buildings and of land, including tents and mobile homes, existing at the time of the adoption of the ordinance from which this chapter is derived or amendment thereto. Such record shall contain the names and addresses of the owners of record 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. Such list shall be available at all times in the office of the building inspector.

(Code 1980, § 5.80)

Sec. 90-136. Removal.

The city council may acquire by purchase, condemnation or otherwise private property as does not conform in use or structure to the regulations and restrictions of the various districts defined in this chapter; and cause the removal of such use or structure. The city council may, in its discretion, provide that the cost and expenses of such acquisitions and of the removal of the nonconformity, less the probable resale price, be assessed to a benefit district. In assessing such costs and expenses, the city council shall also establish the assessment district, the properties to be assessed and a basis or formula for the distribution of the amount to be assessed against the benefitted properties.

(Code 1980, § 5.81)

Secs. 90-137—90-155. Reserved.

ARTICLE V. PARKING AND LOADING REQUIREMENTS

DIVISION 1. GENERALLY

Sec. 90-156. Parking requirements.

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings erected, altered or extended after the effective date of this chapter shall be provided as prescribed below. For required parking areas or loading zone areas, a plan shall be submitted showing the areas set aside for parking or loading zone with a legal description of such lands and a statement signed by the legal owners of the property that such lands are irrevocably set aside and maintained for the parking of automobiles or a loading zone for the purpose required, unless an equivalent number of such spaces are provided elsewhere in conformance with this chapter. Such plan shall be on a form to be furnished by the building inspector which shall include a certificate by the building inspector that the parking

areas or loading zone requirements of this chapter have been met as of this date. The form shall be kept on file in the city clerk's office during the life of the required use.

- (1) *[Intentionally omitted.]*
- (2) *Fractional requirements.* When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- (3) *Loading space limitations.* Loading space as required in section 90-158 shall not be construed as supplying off-street parking space.
- (4) *Location of parking space for one- and two-family dwellings.* An off-street parking facility required for a one- or two-family dwelling shall be located on the same lot or plot of ground as the building it is intended to serve, and shall consist of an enclosed garage not less than of 20 feet wide by 20 feet deep for a one-family, or of not less than 40 feet wide by 20 feet deep for a two-family dwelling. The garage shall be served by a paved driveway from the garage to the access street or alley. Garages required for one- and two-family dwellings shall be subject to the provisions for accessory buildings contained in section 90-25, and the specific district requirements for accessory buildings in the district in which the dwelling is located. Carports are specifically prohibited.
- (5) *Location of parking space for other land uses.* The off-street parking facilities required for all other uses shall be located on the lot or within 300 feet of the permitted use requiring such off-street parking, such distance to be measured along lines of public access to the property between the nearest point of the parking facility and the building to be served.

Where required parking facilities are provided on land other than the site on which the land or building served by such facilities is located, such other land shall be and remain in the same ownership and control as the site occupied by the building or use to which the parking facilities are accessory. No site plan or use or occupancy permit may be approved where that relationship does not exist unless the city council, after reviewing the plans and conducting an open hearing, finds that (a) common ownership and possession or extended occupancy of both sites are reasonably certain to continue, (b) the off-site parking facilities will be maintained by or with the principal site and (c) issuance of a use or occupancy permit is in the public interest.

- (6) *Usable floor area.* For the purpose of this section, usable floor area in the case of offices, merchandizing and service types of uses, and private nonprofit theatrical facilities shall mean the gross floor area used or intended to be used by customers, patrons, clients, patients, owners, tenants and theatrical participants, less 20 percent thereof.
- (7) *Seating capacity or seats.* As used in this article for parking requirements, shall mean that each 20 inches of seating facilities shall be counted as one seat, except that where specifications and plans filed with the building department specify a certain seating capacity for a particular building, such specified seating capacity shall be used as the basis for required parking space.
- (8) *Bed.* Wherever the term "bed" is referred to, it shall mean such beds as are occupied by the patients or guests of the hospital or building in question, provided however, that bassinets and incubators shall not be counted as beds.
- (9) *Similar uses and requirements.* In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use which is so mentioned, and to which the use is similar, shall apply.
- (10) *Existing off-street parking at effective date of chapter.* Off-street parking existing at the effective date of this chapter which serves an existing building or use shall not be reduced in size less than that required under the terms of this chapter.

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- (11) *Collective provisions.* Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided such facilities collectively shall not be less than the sum requirements for the various individual uses computed separately in accordance with the table under section 90-157.
- (12) *General use conditions.* Except when land is used as storage space in connection with the business of a repair or service garage, the time limits for parking in off-street parking areas shall prevail as specified under section 90-157(13); it being the purpose and intention of the foregoing that the requirements of maintaining vehicle storage or parking space is to provide for the public safety in keeping parked cars off the streets, but such requirement is not designed to or intended to provide, and it shall be unlawful to permit the storage or parking on such open land of wrecked or junked cars, trailers, mobile homes, travel homes, boats, boat trailers, or for creating a junkyard or nuisance in such area.
- (13) *Restriction of parking on private property.* It shall be unlawful for any person to park any motor vehicle on any private property or use the private property for vehicle storage, or use any portion of any private property as parking space, without the express or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of the property.
- (14) *Village parking district.* The parking exempt area shown on the city's zoning map as of January 1, 2006, may be referred to as the village parking district or the parking district. To the extent of and subject to the conditions in this subsection (14), all nonresidential buildings and nonresidential uses existing within the parking district existing on November 1, 2009 shall be exempt from the requirements of this division: Provided that any then-existing accessory off-street parking or loading facilities located on a site shall not be reduced (or, if already than less, shall not be further reduced) below the requirements of this subsection (14).
- a. Any structure or use which is established, expanded or changed after November 1, 2009 may be required to provide off-street parking facilities as specified in this section. When there is a change in use to a use that has the same or lesser parking impact as determined by the village parking model than the previous use, no additional parking shall be required. When there is a change to a use that has a greater parking impact than the previous use, the difference in required spaces between the previous and proposed use shall be provided, except as specified in this section. When an existing structure or use is enlarged or expanded, minimum off-street parking shall be provided for the area of such enlargement or expansion.
 - b. Any applicant for a building, use or occupancy permit in the parking district who is required to provide off-street parking because of a proposed change of use, expansion of an existing use or new construction may request a waiver of all or a portion of the village parking district parking requirement by making a payment to the city's special parking fund in accordance with then applicable fee schedule established by the city council.
 - c. Such payment shall be a condition of approval and shall be made to the city prior to the issuance of any permit. No refund of such payment shall be made for any reason including when there is a change or decrease in a use requiring less parking.
 - d. Funds derived from such payment shall be deposited by the city in a special parking fund which shall be used and expended exclusively for any or all of the following: Maintaining, planning, designing, acquiring, and/or developing off-street parking facilities that will service the businesses within the parking exempt area.
 - e. An application for waiver and permission to make such payment-in-lieu of providing off-street parking shall be made as part of an application to the building inspector or his designee for approval of the underlying permit. The decision as to whether, to what extent and on what additional conditions to grant the waiver shall be made by the city council after considering the current inventory and future needs for parking in or near the parking district, as well as the

benefit to the private owners and to the public from parking which might subsequently be provided by the city.

- f. Minimum parking requirements may be satisfied where buildings are located within a special assessment district or other district established by the city council for purposes of providing off-street parking facilities, provided that such parking facilities are completed and accepted by the city council.

(15) *C-1 district.* In the C-1 district, the following parking waivers may be permitted:

- a. Ten percent to account for the availability of on-street parking, and an additional five percent for available public off-street parking.
- b. Ten percent for those uses that can demonstrate that they have a shared parking arrangement or a mix of uses that do not have conflicting peak hour parking requirements.
- c. Five percent for those uses that can demonstrate that reasonable transit alternatives (e.g., walking, biking, bus, car share) are available.

(Code 1980, § 5.91; Ord. No. 336, § I, 11-18-02; Ord. No. 350, § IV, 11-1-04; Ord. No. 389, §§ I, II, 10-19-09; Ord. No. 407, §§ IV, V, 7-15-13; Ord. No. 445, § IV, 5-17-21)

Sec. 90-157. Table of off-street parking requirements.

The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings as specified in section 90-156 shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building permit, shall be irrevocably reserved for such use and/or shall comply with the initial part of this section, and shall be provided in the city.

Use		Required number of parking spaces	Per each unit of measure as follows
(1)	Artisan/maker spaces	1	500 square feet of usable floor area, or 1 space per employee/work station, whichever is lesser.
(2)	Auditoriums or assembly halls	1	3 seats based upon maximum seating capacity in the main place of assembly therein, plus 1 space for every 2 employees.
(3)	Automobile service stations	1	1 parking space for each employee plus 1 parking space for the owner and/or management, plus 2 parking spaces for each grease rack or stall for servicing automobiles or wash rack.
(4)	Banks, business or professional offices of lawyers, architects, engineers, or similar or allied professions	1	200 square feet of usable floor area.
(5)	Beauty parlor or barbershops	2	Each barbershop and/or beauty shop operator, plus 1 space for each employee.
(6)	Churches	1	3 seats, based on maximum seating capacity in the main place of assembly therein.
(7)	Elderly housing, assisted	0.75	Per dwelling unit.

(8)	Elderly housing, independent	1.25	Per dwelling unit.
(9)	Establishments for sale and consumption on the premises of beverages, food or refreshments	1	350 square feet of usable floor area, plus 1 space for each 4 employees.
(10)	Exhibition halls, skating rinks, lodge halls and assembly halls without fixed seats	1	4 people within the maximum occupancy load as established by the fire marshal.
(11)	Furniture and appliance, household equipment repair shops, showroom of a plumber, decorator, electrician or similar trade; clothing and shoe repair, laundry, hardware stores, wholesale stores, and machinery sales	1	800 square feet of usable floor area, plus 1 space for the owner or management plus 1 space for each 2 employees.
(12)	Hospitals	1	Each patient bed, plus 1 additional space for every 5 employees employed during that 8-hour shift in which the greatest number of employees are on duty, plus 1 space for each 10 doctors on the hospital staff.
(13)	Hotels		
	Rooms	1.26	Guest room.
	Restaurant/lounge	1	100 square feet of floor space.
	Conference center	3	100 square feet of floor space.
(14)	Libraries and museums	1	200 square feet of floor space.
(15)	Mortuary establishments, funeral homes	1	75 square feet of floor space in the slumber rooms, parlors and individual funeral service rooms.
(16)	Multi-family residential or apartment houses	1.5	Each dwelling unit.
(17)	Personal service establishments	2	Establishment, plus 1 space for each employee.
(18)	Private and nonprofit theatrical facilities	1	200 square feet of usable floor space.
(19)	Private clubs, dormitories used for sleeping and/or temporary living quarters	1	2 beds, plus 2 additional spaces for owner, management and/or service employees.
(20)	Professional offices of doctors and dentists	1	100 square feet of usable floor area.
(21)	Residential single- or two-family dwelling	2	Each dwelling unit.
(22)	Residential terrace dwelling		
	2 or fewer bedrooms	1.5	Each dwelling unit.
	3 or more bedrooms	2.0	Each dwelling unit.
(23)	Restaurant/lounge	1	250 square feet of floor space.
(24)	Retail store, except as otherwise specified herein	1	150 square feet of usable floor space.
(25)	Sanitariums, convents, homes for the aged, convalescent homes, nursing homes and children's homes	1	3 beds.

(26)	Schools	1	2 teachers, employees, and administrators in addition to the requirements of the auditorium or assembly therein.
(27)	Service garages	1	2 of the maximum number of employees on duty at any one time, plus 1 parking space for each of the maximum number of salesmen on duty at any one time, plus 1 parking space each for the owners and/or management on duty at any one time, plus 2 parking spaces for each stall.

(Code 1980, § 5.92; Ord. No. 407, § VI, 7-15-13; Ord. No. 445, § V, 5-17-21)

Sec. 90-158. Joint use.

Parking spaces already provided to meet off-street parking requirements for auditoriums and other places of public assembly, stores and office buildings lying within 500 feet of a church as measured along lines of public access, and that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on Sundays, and are made available for other parking may be used to meet not more than 75 percent of the off-street parking requirements of a church.

(Code 1980, § 5.93)

Sec. 90-159. Off-street parking development regulations.

All lands and areas now or hereafter used for the parking of more than three vehicles shall be developed and constructed in accordance with the following general requirements; provided that lands now in use for parking purposes shall be improved to meet the following requirements. (See illustration, Table I, at the end of this section.)

- (1) The construction of any parking lot shall be in accordance with the requirements of the building code, The Dimensions of Parking—Fourth Addition, or subsequent editions, and the provisions of this chapter and such construction shall be completed and approved by the building inspector and the city engineer before actual use of the property as a parking lot. Plans for the development of any parking lot must be submitted in triplicate to the building inspector, prepared at scale indicating existing and proposed grades, drainage, water mains and sewers, surfacing and base materials to be used and the general layout of the proposed parking lot. The plans are to be prepared in a presentable form by person or persons competent in such work. No land shall be used for parking purposes until approved by the building inspector; provided whenever the lot does not meet the specifications set forth in this chapter, the building inspector shall give notice to the property owner to repair the same within a specified time, and if such repairs are not made in accordance with such notice, he shall obtain the necessary court warrants and enforce the chapter and shall order the lot closed forthwith; and such land or lot shall not be used for parking until repairs are made and approved by the building inspector.
- (2) All such parking lots, parking spaces, driveways, approaches or aprons shall be hard-surfaced with a pavement having an asphalt or concrete binder which shall be equivalent to or better than a double seal bituminous penetration surfacing on a gravel base, and shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. No surface water from

such parking area shall be permitted to drain into adjoining private property or across a public sidewalk. All plans must be approved by the city engineer. Such parking lots shall be continuously maintained with a hard, smooth, dustproof surface at all times. In the case of residential driveways and driveway approaches, alternative materials may be utilized. If materials other than asphalt or concrete binder pavement (e.g., brick pavers) are utilized for a driveway, or driveway approach, within a street right-of-way, those materials shall meet city engineering strength specifications for at least a six-inch depth concrete surface. If the city requires access to any utilities in the right-of-way area, the city will not be obligated to incur the costs of the approach surface replacement other than the normal costs for asphalt or concrete binder pavement (Refer also to section 66-39).

- (3) Adequate lighting facilities shall be provided and so arranged as to reflect light away from any adjacent residential areas. When the parking lot is closed at night so that no vehicles may enter or leave, then no lighting need be maintained. No sign shall be illuminated by other than electrical means and electrical devices and wiring shall be installed in accordance with the requirements of the National Electrical Code and this Code. Illumination shall be white and indirect with the lighting source concealed.
- (4) Side yards shall be maintained for a space of not less than ten feet between the side lot lines of adjoining residential lots and the parking area. The depth of the front yard or setback line from the street as established for houses in any block in any given residential area shall be continued and made applicable to parking space in such residential area and it shall be unlawful to use the space between such setback line and the sidewalk for the parking of motor vehicles; provided, however, that the barrier specified in subsection (5) of this section shall be located on the setback line as required in this section.
- (5) Whenever the parking area adjoins residential property and/or a residential street or alley, an ornamental, uniformly colored solid masonry or brick wall not less than four feet or more than six feet in height shall be erected and maintained between the required yard space and the area to be used for parking. Dense shrubbery in lieu of a wall may be permitted by the building inspector. Location of the wall or dense shrubbery facing a residential street shall be determined with due regard to side yard and building setback requirements adjoining the commercial district as may be required in the particular residential zoning district. Bumper guards of a type described in subsection (6) of this section shall be provided to prevent vehicles striking the wall or shrubbery.
- (6) In all cases where such parking lots abut public sidewalks, continuous concrete curbing, at least six inches high, shall be placed so that a motor vehicle cannot be driven or parked with any part thereof extending within two feet of a public sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets and sidewalks, curbs as described above shall be installed.
- (7) Adequate means of ingress and egress shall be provided and shown on plan submitted which must meet the approval of the director of public safety and the city engineer. No entrance or exit from any parking lot shall be nearer than 20 feet to any residentially zoned district.
- (8) Where street setback lines are provided by ordinance or established through the adoption of a major street plan, such setback lines shall be maintained.
- (9) All land between the boundaries of the parking lot and the barriers referred to in this section, as well as the surface of the parking area, shall be kept free from tall grass, weeds, rubbish, refuse and debris, and shall be landscaped to conform with the neighborhood.
- (10) No repairs or service to vehicles and no display of vehicles for purpose of sale shall be carried on or permitted on the premises.
- (11) No building or structures shall be hereafter built or permitted, except necessary buildings for attendants of not more than 50 square feet each in area and not more than 15 feet in height.

- (12) Any sign erected or maintained on the premises shall comply with the requirements of chapter 58 of this Code, and any other city sign regulations.
- (13) It shall be unlawful to park or store motor vehicles for continuous periods of more than 48 hours.
- (14) A parking lot may not be used for the storage or parking of trailers, mobile homes, travel trailers, boats, boat trailers, junked or wrecked vehicles of any type, or used as a storage area for industrial equipment or material, or used as a dump for refuse of any description.

(Code 1980, § 5.94; Ord. No. 300, § 2, 1-13-97; Ord. No. 357, § III, 8-15-05; Ord. No. 407, § VII, 7-15-13)

Sec. 90-160. Off-street loading requirements.

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

Gross floor area (in square feet)	Loading and unloading spaces required in terms of square feet of usable floor area
0— 2,000	none
2,000— 5,000	1 space
5,000— 20,000	1 space plus 1 space for each 5,000 square feet in excess of 5,000 square feet
20,000—100,000	4 spaces plus 1 space for each 20,000 square feet in excess of 20,000 square feet
100,000—500,000	5 spaces plus 1 space for each 40,000 square feet in excess of 100,000 square feet
Over 500,000	15 spaces plus 1 space for each 80,000 square feet in excess of 500,000 square feet

No loading space shall be located closer than 50 feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall or ornamental fence of a type approved by the board of zoning appeals not less than six feet in height.

(Code 1980, § 5.95)

Secs. 90-161—90-170. Reserved.

*DIVISION 2. PARKING BETWEEN FRONT LOT LINE AND
FRONT SETBACK LINE IN RESIDENTIAL DISTRICTS*

Sec. 90-171. 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:

Fence means any artificial partition, structure or gate erected as a dividing marker, barrier or enclosure.

Front lot line means the same as defined under section 90-3.

Front setback line means the line formed at the outer surface of a building where the building wall meets the surface ground level, not to be construed to be the minimum required front yard setback established under section 90-351, and such line shall extend the width of such lot parallel to the front lot line.

Landscaping means the treatment of an area of land or part of site design with plant materials, earth, rocks and water for the purpose of enhancing property, screening or separating land uses, or lessening noise levels.

Motor vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway or street which is self-propelled by an internal combustion engine or electric motor or designed or intended to be drawn by a self-propelled vehicle.

Parking area means that portion of a lot located between the front lot line and the front setback line, and including semicircular drive but excluding driveway which is used for motor vehicle parking.

(Code 1980, § 5.280)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 90-172. General prohibition.

It shall be unlawful for the owner or person in possession of any motor vehicle or for any owner or tenant of any property zoned R-1A, R-1B, R-2, R-T or RO-1 district located within the city to allow or to permit the parking of any motor vehicle in the area between the front lot line and the front setback line of any such lot except upon the parking area.

(Code 1980, § 5.281)

Sec. 90-173. Parking area requirements.

- (a) It shall be unlawful for any owner, tenant or occupant of any residential lot to allow the use of a parking area for motor vehicles which, including the driveway and garage apron, exceeds 30 percent in coverage of the area formed between the front lot line and the front setback line, as defined, for any lot. Such permitted parking area may consist of the driveway and garage apron, a semicircular drive and/or a separate parking area having up to a maximum of 360 square feet for a two-vehicle parking area, and 180 square feet for a one-vehicle parking area. Semicircular driveways shall not be permitted on lots of less than 60 feet in width, nor may more than two parking spaces be permitted separate from the driveway or garage apron. The semicircular driveways shall not exceed ten feet in width. The above allowance does not exempt a property owner from compliance with requirements of section 90-156(4) specifying an enclosed two-car garage on site for each dwelling unit in a R-1A, R-1B or R-2 district.
- (b) Only private passenger automobiles with current year license plates and registration may be parked in any parking area, and further, such automobile may not be parked longer than 12 hours in any 24-hour period. The term "private passenger automobile" specifically does not include "junk automobiles or motor vehicles" as defined at section 90-6, and vans, motor homes, travel homes, campers, trailers, boats, boat trailers, trucks, including pickup trucks and other types of commercial, industrial, recreational or agricultural vehicles, trailers or buses. (See section 90-26.)

(Code 1980, § 5.282)

Sec. 90-174. Site plan review and permit.

No parking area shall be constructed pursuant to this division until permit has been issued by building inspector. All parking areas and driveways proposed to be located between the front lot line and the front setback line shall be reviewed by the building inspector to permit a determination that all requirements of this Code are complied with and that environmental concerns are considered regarding surrounding properties. More specifically, all parking areas and driveways located in the area between the front lot line and the front setback line shall comply with general intent of the following submittal requirements and design and development standards:

- (1) Application requirements. Drawings and plans shall be submitted at a scale sufficient to illustrate clearly the design for which approval is sought. Such plans shall show the following information:
 - a. Existing conditions, topography where appropriate, trees and other natural features, all structures and uses on the subject lot and the immediately adjacent lots, public street right-of-way, sidewalks, and any public and private easements and restrictions.
 - b. Proposed parking area, driveways, topographic changes, if any, landscaping and natural features retained, trees that are to be removed or to be retained, and sufficient other information to demonstrate the proposed development.
 - c. Architectural elevations of all structural improvements such as walls, fences, and railroad tie retaining features, and other ornamental or decorative landscape material to the parking area.
- (2) In carrying out the purpose of this section, the building inspector shall consider the following standards in reviewing the plans, sketches and other documents in each case. These standards are intended to provide a frame of reference for the applicant in the development of the parking area site plan, as well as a method of review for the building inspector. These standards shall not be regarded as inflexible requirements, nor are they intended to discourage creativity, invention and innovation. To assure compliance with approved development plans a performance guarantee may be required by the building inspector pursuant to section 90-73.
 - a. *Landscaping and screening.* Landscaping shall be required for all new parking area development. Such landscaping shall be completed within six months after the issuance of the permit unless an extension of time, not to exceed six months, is authorized by the building inspector owing to seasonal weather conditions. Such landscaping shall thereafter be maintained with permanent plant materials in healthy condition to enhance and complement the parking area on the site and to provide a screen to abutting properties. Existing landscape shall be preserved as practicable by minimizing tree and soil removal and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

Fences (opaque or of an open post and rail type), hedges and ornamental masonry walls used to screen parking areas shall not exceed three feet in height, nor be located closer than three feet from any public sidewalk. The intent of this landscaping and fencing is to create a suitable yearround, attractive screen of the parking area from view from public rights-of-way and adjacent properties.
 - b. *Driveways, parking areas; circulation and surfacing.* For vehicular circulation and parking areas, consideration shall be given to location and number of curb cuts and access points, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of the building on the lot and the neighboring properties. All driveways and parking areas shall be either hard-surfaced with a pavement having an asphalt or concrete binder as provided in section 90-159(2), or be provided with brick or other paving stone material set in concrete or compacted sand base.

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- c. *Surface water drainage.* Special attention shall be given to proper site drainage so that removal of surface waters will not adversely affect neighboring properties or the public stormwater drainage system.

(Code 1980, § 5.283)

Sec. 90-175. Appeals and reviews.

Appeals and reviews under this division may be taken to the board of zoning appeals in accordance with provisions of article III of this chapter.

(Code 1980, § 5.284)

Secs. 90-176—90-195. Reserved.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Secs. 90-196—90-205. Reserved.

DIVISION 2. E-R ESTATE RESIDENTIAL DISTRICT³

Sec. 90-206. Statement of purpose.

The E-R estate residential district is established exclusively for single-family residential and municipal uses. This district is tailored to certain residential estate areas having characteristics of planned residential developments, larger lot sizes, and a relationship to the lake. The specific intent of this district is:

- (1) To encourage the construction and continued use of the land for single-family dwellings.
- (2) To encourage the continued use and improvement of significant accessory structures such as garages, coach houses, pool houses, etc. of the existing homes and accessory structures.
- (3) To provide special zoning provisions that reflects the unique characteristics and architectural heritage of the existing homes of the city.
- (4) To preserve the estates of Gross Pointe by discouraging the subdivision of existing lots.
- (5) To prohibit business, commercial, or industrial use of the land, and to prohibit any other use which would substantially interfere with the development and maintenance of single-family dwellings.

³Editor's note(s)—Ord. No. 358, § IV, adopted December 12, 2005, amended division 2 in its entirety to read as herein set out. Former division 2, §§ 90-206—90-208, pertained to R-1A single-family residential district, and derived from §§ 5.101—5.103 of the 1980 Code; Ord. No. 298, § 1, 3-18-96; Ord. No. 303, § 1, 6-16-97; Ord. No. 309, § 1, 10-19-98; Ord. No. 350, § V, 11-1-04.

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- (6) To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter.
 - (7) To discourage any land use which would generate traffic on minor or local streets, other than normal traffic to serve those residences.
 - (8) To discourage any use which because of its character or size would create requirements or costs for public services such as fire and police protection, water supply, and sewerage, substantially in excess of such requirements and costs if the district were developed solely for single-family dwellings.

(Ord. No. 358, § IV, 12-12-05)

Sec. 90-207. Permitted uses.

In the E-R district the following uses are permitted:

- (1) Single-family detached dwellings.
- (2) Municipal buildings and uses pursuant to plans being reviewed and approved by the planning commission and subject to the review standards set forth in sections 90-74 and 90-75.
- (3) Municipal parks, municipal recreation areas, and municipal community centers pursuant to plans being reviewed and approved by the planning commission and subject to the review standards set forth in sections 90-74 and 90-75.
- (4) Home occupations as limited and defined in section 90-3.
- (5) Temporary buildings for use incidental to the construction work as approved by the board of zoning appeals for a period not to exceed six months, subject to renewal, which buildings shall be removed upon the completion or abandonment of the construction work.
- (6) Commercial antennas only as permitted in section 90-44 and subject to those provisions.
- (7) Wireless communication facilities only as permitted in section 90-44 and subject to those provisions.
- (8) State licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.

(Ord. No. 358, § IV, 12-12-05; Ord. No. 370, § XVI, 10-16-06)

Sec. 90-208. Accessory uses and structures.

- (1) Accessory buildings or uses customarily incidental to any of the permitted uses, when located on the same lot and not involving any business, profession, trade or occupation. Subject to the following provisions:
 - a. One private detached garage for each residential lot in which there are housed not more than one commercial vehicle not larger than a regularly manufactured pickup or panel truck of three-quarter-ton capacity which shall be housed within a garage and provided the commercial vehicle is owned and operated by a member of the family who resides in the living unit. (Refer also to section 90-28(8)).
 - b. All accessory buildings shall conform and be located as required in section 90-25.
 - c. Private swimming pools as defined in section 90-3.
 - d. Additional living quarters shall be considered an accessory use if used for household staff employed at subject property.

(Ord. No. 358, § IV, 12-12-05)

Sec. 90-209. Area, height, bulk, and placement requirements.

The area, height, bulk and placement requirements for the E-R district shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Ord. No. 358, § IV, 12-12-05)

Secs. 90-210—90-220. Reserved.

DIVISION 3. R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT⁴

Sec. 90-221. Statement of purpose.

The R-1A, single-family residential district provides for a principal land use of single-family dwellings and related educational, cultural, and religious uses where found appropriate and harmonious with the residential environment. In promoting the general purpose of this chapter, the specific intent of the R-1A, single family residential district is:

- (1) To encourage the construction and continued use of the land for single-family dwellings.
- (2) To preserve the existing design of the district characterized by larger homes, lots, and open spaces by discouraging the division of existing lots.
- (3) To prohibit business, commercial, or industrial use of the land, and to prohibit any other use which would substantially interfere with the development and maintenance of single-family dwellings.
- (4) To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter.
- (5) To discourage any land use which would generate traffic on minor or local streets, other than normal traffic to serve those residences.
- (6) To discourage any use which because of its character or size would create requirements or costs for public services such as fire and police protection, water supply, and sewerage, substantially in excess of such requirements and costs if the district were developed solely for single-family dwellings.

(Ord. No. 358, § IV, 12-12-05)

Sec. 90-222. Permitted uses.

In the R-1A district the following uses are permitted:

- (1) Any use permitted in, and subject to, the provisions of the E-R, estate residential district.
- (2) Religious and other facilities normally incidental thereto, provided that the proposed site for a religious facility is not less than five acres, that there is adequate access to all off-street parking areas, and that

⁴Editor's note(s)—Ord. No. 358, § IV, adopted December 12, 2005, amended division 3 in its entirety to read as herein set out. Former division 3, 90-221—90-223, pertained to R-1B single-family residential district, and derived from §§ 5.108—5.110 of the 1980 Code; Ord. No. 298, § 1, 3-18-96; Ord. No. 303, § 2, 6-16-97; Ord. No. 309, § 2, 10-19-98; Ord. No. 350, § VI, 11-1-04.

there is no parking in the required front yard, that the site is adjacent to a major thoroughfare as defined in the city's comprehensive master plan, and subject to site plan review and approval from the planning commission and subject to the review standards set forth in sections 90-74 and 90-75.

- (3) Public, parochial, and private elementary, junior, and senior high schools offering courses in general education and libraries, not operated for profit, and subject to site plan review and approval from the planning commission.
- (4) Private non-profit theatrical facilities, subject to the following use, locational, and design standards:
 - a. Use must have direct access to and principal footage upon a thoroughfare or collector street as defined by the city's comprehensive development plan.
 - b. Minimum size of site shall be 20,000 square feet.
 - c. Maximum building size on site shall be 7,500 square feet.
 - d. Minimum yard spaces, maximum building height, and maximum lot coverage shall be as required in section 90-351 and section 90-352.
 - e. Only one non-illuminated identification sign not larger than 12 square feet in area is permitted on the premises.
 - f. No shows, theatrical productions, or other types of stage performances for the public, with or without charge, shall be permitted.
 - g. Rehearsals or any other music-producing effects shall be limited to the hours between 9:00 a.m. and 11:00 p.m.
- (5) Commercial antennas only as permitted in section 90-44 and subject to those provisions.
- (6) State licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.

(Ord. No. 358, § IV, 12-12-05; Ord. No. 370, § XVII, 10-16-06)

Sec. 90-223. Area, height, and bulk, and placement requirements.

The area, height, bulk, and placement requirements for the R-1A district shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Ord. No. 358, § IV, 12-12-05)

Secs. 90-224—90-235. Reserved.

DIVISION 4. R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT⁵

⁵Editor's note(s)—Ord. No. 358, § IV, adopted December 12, 2005, amended division 4 in its entirety to read as herein set out. Former division 4, §§ 90-236—90-238, pertained to R-2 two-family residential district, and derived from §§ 5.115—5.117 of the 1980 Code; Ord. No. 298, § 1, 3-18-96; Ord. No. 303, § 3, 6-16-97; Ord. No. 350, § VII, 11-1-04.

Sec. 90-236. Statement of purpose.

The purpose of the R-1B, single-family residential district is to establish a principal land use of single-family residential and to provide for the existing two-family dwellings within the city. The specific intent of this section is:

- (1) To encourage the construction and continued use of the land for single-family dwellings.
- (2) Provide for the varying lot sizes within this district to promote reinvestment and maintenance of the property.
- (3) To preserve the balance between single-family and two-family housing stock by allowing only existing lots with two-family dwelling units to be rebuilt.
- (4) Encourage the design and maintenance of two-family dwelling units to be consistent with the surrounding single-family homes.
- (5) To prohibit business, commercial, industrial, or any other use of the land, which would substantially interfere with the development and maintenance of the existing residences.
- (6) To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter.
- (7) To discourage any land use which would generate traffic on minor or local streets, other than normal traffic to serve those residences.
- (8) To discourage any use which because of its character or size would create requirements or costs for public services such as fire and police protection, water supply, and sewerage, substantially in excess of such requirements and costs if the district were developed solely for single-family or two-family dwellings.

(Ord. No. 358, § IV, 12-12-05)

Sec. 90-237. Permitted uses.

In the R-1B district the following uses are permitted:

- (1) Any use permitted in, and subject to, and subject to the provisions of the R-1A, single-family residential district.
- (2) State licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.

(Ord. No. 358, § IV, 12-12-05; Ord. No. 370, § XVIII, 10-16-06)

Sec. 90-238. Permitted uses after special land use review.

- (1) Two-family dwellings, subject to the special land use review standards as stated in section 90-75 and subject to the following provisions:
 - a. The two-family dwellings must be an existing use on the subject property at the time of this Code amendment adoption.
 - b. Only one entrance per two-family dwelling unit shall be visible from each public right-of-way.
 - c. The structure must have the overall appearance of a single-family dwelling including but not limited to such items as: architectural design, roof design, garage and driveways.

(Supp. No. 27)

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(Ord. No. 358, § IV, 12-12-05)

Sec. 90-239. Area, height, and bulk, and placement requirements.

The area, height, bulk, and placement requirements for the R-1B district shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Ord. No. 358, § IV, 12-12-05)

Secs. 90-240—90-250. Reserved.

DIVISION 5. R-T TERRACE DISTRICT

Sec. 90-251. Statement of purpose.

The R-T terrace district is designed to permit residential use of land with terrace types of multiple dwellings and related uses. These areas would be located near major streets for good accessibility and be designed to complement adjacent single-family areas. Various types and sizes of residential accommodations for ownership or rental would thereby be provided to meet the needs of the different age and family groups in the community without over-taxing existing community facilities, utilities or services.

(Code 1980, § 5.121)

Sec. 90-252. Permitted uses.

In the R-T district the following uses are permitted:

- (1) All uses permitted in the R-1A and R-1B districts, subject to all requirements for such uses in zoning districts where first permitted.
- (2) Terrace dwellings and apartment houses.
- (3) Hospitals and nursing homes, provided that the proposed site for a hospital or nursing home is not less than five acres, that there is adequate access to all required off-street parking areas, that there is no parking in the required front yard, that the site is adjacent to a major thoroughfare as defined on the city's comprehensive development plan, and that approval is secured from the city council.
- (4) Semiprivate, nonprofit clubs.
- (5) Signs, as regulated by chapter 58, and when located on the same lot pertaining to the use of the particular building or buildings, provided that they shall not overhang any public right-of-way; shall not be illuminated; shall not exceed six square feet in area; shall not project higher than four feet above the level of the ground; and shall not indicate any other information except the name or address of the building or management thereof. For community facility uses as enumerated in subsections (3) and (4), signs shall be in accordance with chapter 58. Signs for off-street parking areas, open or enclosed, are permitted providing they do not exceed two square feet in area and are not higher than seven feet above curb level.
- (6) Community garages and carports serving the principal residential building, containing space for no more than two passenger vehicles for each dwelling unit in the principal building on the lot, and having

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common and unpierced dividing walls between every two contiguous private garages or carports. Further, there shall be compliance with standards at section 90-25(8).

- (7) Private swimming pools (as regulated by section 14-176 et seq.) designed and operated only for occupants of the principal building and their personal guests.
- (8) Off-street parking in accordance with the requirements of article V.
- (9) Commercial antennas only as permitted in section 90-44 and subject to those provisions.
- (10) State licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.

(Code 1980, § 5.122; Ord. No. 298, § 1, 3-18-96; Ord. No. 303, § 4, 6-16-97; Ord. No. 358, § IV, 12-12-05; Ord. No. 370, § XIX, 10-16-06)

Sec. 90-253. Specifically prohibited uses.

In order to clarify the type of permitted uses in a R-T district, the following uses, among others, are specifically prohibited:

- (1) Rental offices, as accessory to a terrace dwelling unit project or an apartment house project.
- (2) Tourist home, lodginghouse, or boardinghouse.
- (3) Motel, hotel or mobile home park.
- (4) A residential structure for a home for children of other than those residing therein, or for the aged, indigent or physically handicapped; or a rest or convalescent home.

(Code 1980, § 5.123)

Sec. 90-254. Site plan review.

For all uses permitted in a R-T district, a site plan must be submitted to the city council showing all buildings, parking areas and landscaping at a scale sufficient to permit study of all elements of the plan. Typical elevations and floor plans of the building must also be provided. If the plans meet the required standards and design and indicate no adverse effects which in the opinion of the city council cause injury to adjoining property or the city as a whole, the city council may approve or disapprove the plan and shall determine whether required standards have been met. Plans so approved shall regulate the development on the premises unless modified in the same manner as the plans were originally approved.

(Code 1980, § 5.124)

Sec. 90-255. Area, height, bulk and placement requirements.

The area, height, bulk and placement requirements for the R-T district shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Code 1980, § 5.125)

Secs. 90-256—90-265. Reserved.

DIVISION 6. RO-1 RESTRICTED OFFICE DISTRICT⁶

Sec. 90-266. Statement of purpose.

The RO-1 restricted office district is intended to permit those office and restricted business uses which will provide opportunities for local employment close to residential areas, thus reducing travel to and from work; and which will provide clean, modern office buildings in landscaped settings; which will provide, adjacent to residential areas appropriate districts for uses which do not generate large volumes of traffic, traffic congestion and parking problems; and which will promote the most desirable use of land in accordance with the comprehensive development plan.

(Ord. No. 348, § I, 5-17-04)

Sec. 90-267. Permitted uses.

In the RO-1 district the following uses are permitted:

- (1) Uses resulting from any of the following occupations: executive, administrative, professional, accounting, banking, clerical, stenographic and drafting.

The above uses shall not be construed to eliminate offices of recognized manufacturers' agents, provided that no display will be in an exterior show window, and the total area devoted to display including both the objects displayed and the floor space set aside for persons observing the displayed objects, shall not exceed 15 percent of the usable floor area of the establishment using the display of an actual product for sale as a sales procedure; provided that there shall be no outdoor storage of goods or material, irrespective of whether or not they are for sale, and provided further, that there shall be no warehousing or indoor storage of goods or material, irrespective of whether or not they are for sale, and provided further, that there shall be no warehousing or indoor storage of goods or material beyond that normally incidental to the above permitted office type uses.

- (2) Medical or dental centers, not including veterinarian hospital or any type of medical facility permitting overnight patients.
- (3) Professional office of a medical doctor, osteopath, chiropractor, dentist, architect, lawyer, professional engineer, land surveyor or city planner.
- (4) Publicly owned building and public utility offices, transformer stations and substations but not including storage yards.
- (5) There shall be no accessory structures in a RO-1 district except that signs may be permitted, providing they pertain to a use conducted within the main building and shall be displayed flat against the side of the building and not project above the roof line. Such signs shall not have flashing illumination and

⁶Editor's note(s)—Ordinance No. 348, § I, adopted May 17, 2004, amended Ch. 90, Art. 6, Div. 6 in its entirety. Formerly, such sections pertained to similar provisions and derived from §§ 5.129—5.134 of the 1980 Code.

shall not exceed 12 square feet in area for anyone building. One sign shall be permitted for each office or clinic use in a building; such sign shall not exceed ten square feet in area.

(Ord. No. 348, § I, 5-17-04)

Sec. 90-268. Permitted uses after special approval.

In the RO-1 restricted office district, the following special approval uses are permitted, subject to application design and location criteria, and to the approval of the city planning commission after public hearing and notice pursuant to the requirements of this section and to site plan review as provided under section 90-269:

- (1) Barbershop or beauty shop, with the condition that the planning commission may modify the parking requirements provided the applicant can demonstrate to the satisfaction of the planning commission that there is adequate parking available for the proposed use after considering; the intensity of the proposed use, the hours of operation of the proposed use and other uses within the same block, public parking available within the same block, available on-street parking, or shared parking arrangements with other uses within the same block.
- (2) Uses similar to the principal permitted uses provided in section 90-267, permitted uses, after the planning commission has determined that such uses are in harmony with the character of the district and the purpose and intent of the master plan of the city.
- (3) Dance studios, fitness centers, yoga studios, or similar uses as determined by the planning commission, with the condition that the planning commission may modify the parking requirements provided the applicant can demonstrate to the satisfaction of the planning commission that there is adequate parking available for the proposed use after considering; the intensity of the proposed use, the hours of operation of the proposed use and other uses within the same block, public parking available within the same block, available on-street parking, or shared parking arrangements with other uses within the same block.

(Ord. No. 348, § I, 5-17-04; Ord. No. 391, § I, 7-19-10; Ord. No. 434, § I, 7-18-18)

Sec. 90-269. Site plan approval.

For all uses permitted or permitted uses after special approval in the RO-1 district, a site plan must be submitted to the city council showing all buildings, parking areas and landscaping at a scale sufficient to permit study of all elements of the plan. Typical elevations and floor plans of the building must also be provided. If the plans meet the required standards and design indicates no adverse effects which in the opinion of the city council cause injury to adjoining property or the city as a whole, the city council shall determine whether the required standards have been met and then may approve or disapprove the plans. Plans so approved shall regulate the development on the premises unless modified in the same manner as the plans were originally approved.

(Ord. No. 348, § I, 5-17-04)

Sec. 90-270. Off-street parking facilities.

In RO-1 districts, off-street parking facilities shall be provided as specified in article V of this chapter, with the further condition that no parking be permitted in the front yard, nor within five feet of any side or rear property zoned E-R, R-1A, R-1B or R-T, or which is adjacent to any property or lot used for residential purposes. (Refer to section 90-159 for off-street parking development regulations.)

(Ord. No. 348, § I, 5-17-04; Ord. No. 358, § IV, 12-12-05)

Sec. 90-271. Landscaping.

Along any property line of an RO-1 district abutting a residentially zoned district a five-foot greenbelt shall be maintained. The greenbelt shall be sodded, planted and shrubbed to form a permanent screen which shall be maintained at a height of not less than four feet or more than seven feet.

(Ord. No. 348, § I, 5-17-04)

Sec. 90-272. Architectural plans.

In RO-1 districts, all architectural plans for buildings shall be presented to the city council and receive its approval prior to submitting plans to the building inspector for approval and issuance of a building permit. It is intended that such buildings, when located adjacent to a residential area, shall take on the appearance of residential buildings in order to preserve the general character of the residential neighborhood.

(Ord. No. 348, § I, 5-17-04)

Sec. 90-273. Area, height, bulk and placement regulations.

The area, height, bulk and placement requirements for RO-1 districts shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Ord. No. 348, § I, 5-17-04)

DIVISION 6A. NEIGHBORHOOD COMMERCIAL DISTRICT

Sec. 90-274. Statement of purpose.

The neighborhood commercial (NC) district is intended to maintain a mix of small scale, office, retail, residential and service uses while maintaining the unique physical characteristics of the district such as the generous private frontage area, protect the adjacent residential uses, and balance the demand for parking.

Further, it is designed and intended to:

- (1) Maintain the existing character of the NC district by developing regulations that require parking to be located to the rear or sides of buildings.
- (2) Balance the need to maintain a critical mass of buildings with the need for adequate parking by developing parking requirements that accurately reflect the demand for parking in this business district.
- (3) Promote a compatible balance of neighborhood retail uses that conveniently serve the commercial needs of the surrounding neighborhood, office uses to maintain a viable commercial district and maximize the use of the existing parking supply.
- (4) Encourage the shared use of private parking lots to maximize the use of the existing parking supply.
- (5) Maintain the current boundaries of the NC district.
- (6) Establish definitive screening requirements to protect the adjacent residential uses to the west including decorative fencing and landscaping.
- (7) Enhance the appearance of the parking areas and public sidewalk areas.

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(Ord. No. 414, § I, 6-16-14)

Sec. 90-275. Permitted uses.

The following table lists the permitted, special approval, accessory, and not permitted uses allowed in the NC district:

Use	NC-4	
Residential		
Residential	P	Limited to second floor or above
Live/work unit	S	
Lodging¹		
Inn (up to 12 rooms)	S	
Office¹		
Professional	P	
Medical/dental	P	
Retail¹		
Retail establishments	P	
Restaurant (without drive through)	P	
Antique and consignment shops	P	
Art galleries	P	
Bake shops, retail	P	
Banks, savings and loan, credit union or other type of financial institutions.	P	
Barbershop or beauty shop	P	
Clothing or costume rental establishments	P	
Fitness centers or dance studios	P	
Furniture stores	P	
Interior decorating establishments including bath and kitchen design, with a showroom.	P	
Outdoor cafes	P	
Civic		
Live theatre	S	
Museum	S	
Surface parking lot	A	
Uses specifically prohibited		
Pawn shops		
Currency exchanges		
Payday loan stores		
Resale shops		

;adv=6;¹ Use over 5,000 square feet in area may be permitted subject to special use approval.

(Ord. No. 414, § I, 6-16-14)

Sec. 90-276. Protective screening.

- (a) Any surface parking visible from a public street must be screened from the street with a three-foot tall decorative wall constructed of brick or stone. The reviewing body including; planning commission, city manager, or his designee may allow alternative screening methods that are in keeping with the intent to protect adjacent roads and residential uses, the intent to provide consistent screening throughout the district, and that are compatible with the architecture of adjacent buildings.
- (b) Residential uses or zoning shall be screened from adjacent parking lots with a decorative brick or stone wall a minimum of six feet in height. The reviewing body including planning commission, city manager, or his designee, may require an eight-foot decorative brick or stone wall to screen more intensive activities such as garbage collection or loading areas.

(Ord. No. 414, § I, 6-16-14)

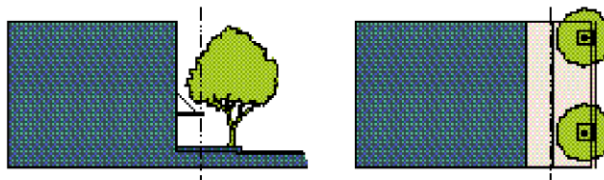
Sec. 90-277. Development standards.

- (a) *Private frontage.* The private frontage is the area between the right-of-way and the principal building façade. Buildings must contain architectural elements consistent with one of the following four private frontages. Each frontage is designed to be consistent with some or all of the uses permitted in the NC district.

Note that the following table includes specific dimensional requirements for each of the frontages. Unless otherwise noted, the dimensional requirements are in addition to any other dimensional requirement of this section:

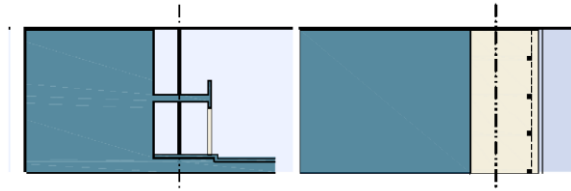
Frontage Type	Where Permitted	Dimensional Requirements
<i>Shopfront.</i> A frontage where the building façade is located close to the predominant building line with the building entrance at sidewalk grade. This frontage type is suitable for nonresidential uses on the first floor.	Fisher St. Paul Maumee	The building may be set back a maximum of 5 feet from the predominant building line.

Shopfront Illustration:



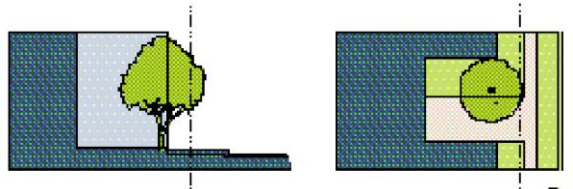
Frontage Type	Where Permitted	Dimensional Requirements
<i>Gallery.</i> A frontage where the façade is aligned close to the predominant building line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk. A gallery is appropriate for retail use.	Fisher Road	The gallery shall be 10 feet deep.

Gallery Illustration:



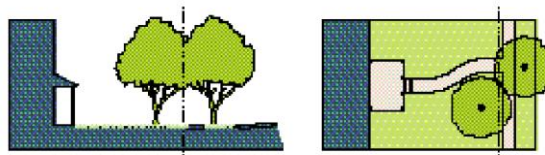
Frontage Type	Where Permitted	Dimensional Requirements
<i>Courtyard.</i> A frontage where a portion of the building façade is close to the predominant building line with a portion set back. The courtyard may accommodate tree plantings or a vehicle drop-off area. This frontage is suitable for any building use.	Fisher St. Paul Maumee	The building may be set back a maximum of 5 feet from the predominant building line. The courtyard area shall be considered part of the front building façade for the purposes of determining compliance with front setback requirements.

Courtyard Illustration:



Frontage Type	Where Permitted	Dimensional Requirements
<i>Terrace.</i> A frontage wherein the façade is setback from the front lot line by an elevated terrace or landscaped area. This frontage is suitable for any building use.	Fisher St. Paul Maumee	The building may be setback a maximum of 5 feet from the predominant building line.

Terrace Illustration:



- (b) *Streetscape improvements.* Property owners shall provide one street tree every 50 feet on center. Each street tree shall be located in a tree well with a grate. Details are available at the city.

Property owners shall provide decorative light fixtures (details available at the city) every 50 feet on center.

Required trees and lighting shall be located within five feet of the curb.

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- (c) *Outdoor displays.* Outdoor displays shall be permitted as an accessory use subject to the following standards:
 - (1) All outdoor display areas must be maintained and displayed in a neat, orderly and safe manner.
 - (2) Must maintain access to the business and may not be located on public property.
 - (3) The goods, merchandise or products offered for sale in an outdoor display area must be of such a nature that they are typically located within the principle use.
 - (4) Display fixtures shall be decorative in nature, constructed of high quality durable material, and compatible with the character of the principal building.
 - (d) *Building design standards.* All building façades visible from a public street, parking area, or adjacent residential district shall comply with section 90-305.
 - (e) *Service areas.* All service areas, including utility access, above ground equipment and dumpsters shall be located in side or rear yards and shall be screened from view from any street.
 - (f) *Mechanical and utility equipment.* Mechanical equipment, electrical and gas meter and service components, and similar utility devices (whether ground level, wall mounted, or roof mounted) shall be screened from view from the front property line. Exterior screening materials shall be the same as the predominant exterior materials of the principal building.

(Ord. No. 414, § I, 6-16-14)

Sec. 90-278. Parking.

The parking requirements of section 90-157 parking and loading requirements may be reduced by ten percent to account for the availability of on-street parking.

In addition the city may allow an additional reduction of up to ten percent for those uses that can demonstrate that they have a shared parking arrangement or a mix of uses that do not have conflicting peak hour parking requirements. In order to be eligible for the ten percent parking reduction, the applicant shall provide a parking study.

Designated parking areas may encroach up to ten feet into the predominant front building setback. Property owners may receive credit for one parking space for each additional 200 square feet of landscaping or streetscape improvements located in front of a parking lot and within the first ten feet of the predominant front building setback.

(Ord. No. 414, § I, 6-16-14)

Sec. 90-279. Area, height, bulk and placement regulations.

The area, height, bulk and placement requirements for the NC district shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Ord. No. 414, § I, 6-16-14)

Sec. 90-280. Reserved.

DIVISION 7. C-1 LOCAL BUSINESS DISTRICT

Sec. 90-281. Statement of purpose.

The local business district (C-1) intends to encourage a vibrant mix of office, commercial, and residential uses within easy walking or biking distance of residential neighborhoods. Pedestrian-oriented development standards and flexible parking strategies are provided to decrease parking demand in the district and provide for easy access to sites through other modes of transportation.

(Code 1980, § 5.139; Ord. No. 445, § VI, 5-17-21)

Sec. 90-282. Permitted uses.

In the C-1 district the following uses are "permitted", "special use", "accessory" or "not permitted", subject to the conditions set forth below:

	Use Type	C-1	Conditions
	<i>Civic Uses</i>		
(1)	Essential services	P	
(2)	Public and quasi-public uses	P	
	<i>Commercial Uses</i>		
(3)	Auto service, auto repair, and gas/charging stations	P	Such uses should be located only on corner lots, at least 1,500 feet from nearest other auto use. The spacing requirement shall not prohibit combination of two auto uses on the same site.
(4)	Animal-grooming shops	P	No pet kennel or boarding facilities shall be allowed on-premises.
(5)	Artisan/maker spaces	P	
(6)	Banks and financial institutions	P	
(7)	Brewpub, microbrewery, craft distillery, and small winemakers, and similar uses	S	Shall not include outdoor storage of brewing or distilling products.
(8)	Child care center	S	Shall be licensed and comply with all state standards. Required outdoor recreation areas shall be located at least 30 feet from Mack Avenue and provide landscaped buffering and fencing at least four feet in height around the perimeter.
(9)	Educational uses	P	
(10)	Fitness centers	P	
(11)	Grocery or specialty food store	P	
(12)	Interior decorating establishments and home furnishings stores	P	
(13)	Medical or dental clinic, physical therapy	P	
(14)	Office, business or professional	P	
(15)	Office, medical or dental	P	
(16)	Outdoor cafés and eating areas	A	Shall comply with standards of section 90-297(16).
(17)	Personal services establishments and massage therapy	P	

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(18)	Repair shop for personal and household items	P	
(19)	Restaurant, carry-out or full-service	P	
(20)	Resale shops	P	
(21)	Retail establishments	P	
(22)	Small animal clinics	P	
(23)	Studio, school, or gallery for arts and similar uses	P	
	<i>Parking</i>		
(24)	Parking structures	S	
(25)	Surface parking lots	A	
	<i>Residential</i>		
(26)	Live/Work	S	
(27)	Multi-family Residential	P	Permitted on 2nd floor or above
	<i>Uses Specifically Prohibited</i>		
(28)	Drive-thru facilities (for any use)	NP	

(Code 1980, § 5.140; Ord. No. 298, § 1, 3-18-96; Ord. No. 445, § VII, 5-17-21)

Sec. 90-283. Development standards.

(a) *Applicability.*

- (1) *New construction.* All new developments that require site plan review after the effective date of this ordinance amendment shall fully comply with the development standards in this section.
- (2) *Existing buildings.* Any expansion or redevelopment of a site less than 25 percent of the existing building area or site need not comply with the development standards. Expansion or redevelopment that exceeds 25 percent of the existing building area or site shall require the site to become more compliant, and shall not result in the site being less compliant, with the development standards in this section.

(b) *Build-to-line.* All buildings must be built-to the predominant building line established along the block in accordance with section 90-351(f)(3). Exceptions from this requirement include:

- (1) *Plazas, outdoor cafés, or public amenities.* Where provided, up to 40 percent of the building façade may be set back up to ten feet to allow space for a public plaza or outdoor dining area.
- (2) *Architectural features such as bay windows, awnings, or other projection not exceeding 25 percent of the building frontage may project up to five feet beyond the build-to line.*

(c) *Facade breaks required.* There shall be no blank or unarticulated façades. All façades must provide windows and/or façade offsets and breaks. Breaks may include changes of material, projections or recessions, distinctive window patterns, parapet or cornice on the upper level, or other design treatment that satisfies the intent of this standard. Articulations shall follow the traditional building width within the district.

(d) *Building entrances.*

- (1) Building fronts shall be oriented to the primary street.
- (2) All buildings shall have pedestrian access on the street frontage side of the building and off-street parking side of the building in the side or rear yard, as applicable.

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- (3) Building entrances shall be clearly defined by utilizing elements such as overhangs, awnings, or lintels; change in plane (such as a recessed) entryway, differentiation in material and/or color; greater level of detail; or enhanced lighting. Any such element shall be architecturally compatible with the style, materials, colors, and details of the primary building.
- (e) *Storefront design.*
- (1) Building storefronts shall have open, plate-glass storefronts.
- (2) Display windows shall not be blocked with merchandise or interior display.
- (3) If a building has several storefronts, they shall be unified in design treatment, such as the design of windows and door openings, materials, or colors.
- (f) *Exterior lighting.* Façades shall be internally or externally illuminated. Lights should be properly shielded or recessed behind architectural features, so they do not produce glare or spillage of light onto adjacent properties. No light, except streetlights, shall shine directly onto public roads.
- (g) *Windows.* Windows shall be untinted. Windows should not be visually obstructed by signs, advertisements, window screens, security grills, or other permanent window coverings.
- (1) All facades facing a public street or parking area shall have a minimum of 60 percent clear glass area on the ground floor and 30 percent transparency on upper floors.
- (2) For all other facades, a minimum of 20 percent of the façade shall consist of clear glass area.
- (h) *Building colors and materials.* Coordination of colors and material finishes is encouraged within the district to establish continuity and positive district character. Similar or engineered equivalents of any permitted materials are also acceptable, subject to approval by the city manager or their appointed designee.
- (1) *Permitted primary materials (at least 50 percent of building façade):* Brick, cut stone, field stone, cast stone, or other masonry; stucco; timber or dimensional wood; metal paneling.
- (2) *Permitted accent materials:* Clear or lightly tinted glass; metal and metal paneling; timber or dimensional wood; polymer plastic (for example Fypon and Azek materials); fiber cement boards or paneling; exterior insulation and finishing systems (EIFS) above the first story only.
- (3) *Permitted roofing materials:* Architectural shingles; slate; clay; copper; standing metal seam; EPDM, rubber sheet, or other layered roofing system.
- (4) *Prohibited materials:* Vinyl; concrete masonry units (CMU) or similar concrete block units (e.g., split-face block); dark tinted, reflective, or mirrored glass.
- (i) *Roofs.* Roofs shall be flat or set pitch with a terminating vertical break such as a parapet, cornice, or eaves.
- (j) *Security features.* Security roll-down grilles should be designed and recessed into the interior of the window system. Where an exterior grille already exists, the roll-down grille box should be as inconspicuous as possible.
- (k) *Location and design of parking areas.*
- (1) Parking shall be located in the side or rear yard only.
- (2) Side yard parking and existing front yard parking shall be screened in accordance with section 90-284.
- (3) Canopies, port-cochères, or similar structures shall be located in the side or rear yard. When located in the side yard, the structure shall be set back at least ten feet from the front building line. Canopies shall be designed to be consistent with the primary building style, materials, and colors.
- (l) *Site access.* Vehicular access to sites and off-street parking areas shall be provided from a side street, rear alley, or shared access drive between properties.

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- (m) *Loading, refuse collection, and service areas.* All loading, refuse collection, and service areas on a site shall be located in side or rear yards and shall be screened from view from any street.
 - (n) *Green building and site design.*
 - (1) Green building and site design techniques are permitted and encouraged for all buildings and sites.
 - (2) For parking lots, minimum landscaping requirements may be satisfied by bioswales, rain gardens, or other green infrastructure.
 - (3) Native plantings are encouraged for all landscaped areas.

(Ord. No. 445, § VIII, 5-17-21)

Editor's note(s)—Ord. No. 445, § VIII, adopted May 17, 2021, amended § 90-283 in its entirety to read as herein set out. Former § 90-283, pertained to site plan approval, and derived from the Code of 1980, § 5.141.

Sec. 90-284. Screening.

- (a) *Mechanical and utility equipment.* All mechanical equipment, HVAC, utility boxes, telecommunications devices, and similar utility devices shall be screened from public view. Exterior screening materials shall be the same as the predominant exterior materials of the principal building.
- (b) *Roofs.* Building roofs are to be uncluttered with vertical projections integrated in the architecture and screened from view by parapet walls or other enclosures.
- (c) *Parking.*
 - (1) Side and front yard parking shall be screened from the street by a decorative low wall, fence, or hedge row between 30 and 36 inches in height. Street walls, where provided, shall extend from the primary façade of the principal building to maintain a cohesive streetscape.
 - (2) Where front yard parking already exists, similar screening and incorporation of pedestrian cut throughs in the screening are required to be incorporated into the site plan for any plan requiring planning commission review.
- (d) *Adjacent residential property.*
 - (1) Where a use directly abuts a residentially zoned use, a buffer at least five feet in width consisting of a living fence, comprised of a combination of ornamental shrubs, grasses, and other plantings and a decorative fence or masonry wall at least four feet in height shall be provided along the abutting property line. Where space for a five-foot buffer does not exist, an ornamental masonry wall between four to six feet in height above grade shall be constructed along the abutting property line.
 - (2) Where a use abuts a residentially zoned use but is separated along its entire length by a public alley not less than 20 feet wide, an ornamental fence or masonry wall four to six feet in height above grade shall be constructed along the abutting property line. If an ornamental masonry wall is constructed, it is preferred to be constructed on the residential side of the public alley. A taller ornamental masonry wall may be required in certain instances.

(Code 1980, § 5.142; Ord. No. 445, § IX, 5-17-21)

Sec. 90-285. Area, height, bulk and placement regulations.

The area, height, bulk and placement requirements for C-1 districts shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Code 1980, § 5.143)

Secs. 90-286—90-295. Reserved.

DIVISION 8. C-2 CENTRAL BUSINESS DISTRICT

Sec. 90-296. Statement of purpose.

The C-2 central business district is designed and intended to promote the development of a pedestrian oriented and accessible, central commercial service district in which a variety of retail, commercial, office, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the district and shall not have adverse impact upon the viability of retail uses adjacent, street capacity and safety, utilities, and other city services.

The C-2 central business district is further designed and intended to:

- (1) Maintain and enhance a viable mix of complimentary retail uses and discourage domination of the village by any single category of use.
- (2) Preserve and enhance the village as a community asset that contributes positively to property values, community identity, and a sense of place.
- (3) Serve as the central business district for the citizens of the community to shop in a safe and enjoyable environment.
- (4) Create a retail oriented mix of businesses that encourages an active pedestrian environment and promotes both convenience and destination shopping activities.
- (5) Encourage a lively social environment and economically viable downtown with a wide variety of uses in a pedestrian oriented unified setting, with shared parking.
- (6) Extend greater opportunities for traditional community living, working, housing and recreation to citizens and residents of the city.
- (7) Discourage the development of separate off-street parking facilities for each individual use, and encourage the development of off-street parking facilities designed to accommodate the needs of several individual uses with access from side streets only.
- (8) Promote the creation of urban places such as plazas which are oriented to the pedestrian thereby promoting citizen security and social interaction.
- (9) Promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of traditional urban design and architectural design elements. Such elements shall relate to the design characteristics of an individual structure or development based on usage of traditional early American and late 1800 to early 1900 architectural style influences, ranging from Colonial styles of Georgian and Williamsburg; Victorian styles of Italianate, Gothic and Queen Anne; and later Romanticized styles of Tudor and French Country, used in a harmonious manner, resulting in coherent overall development patterns and streetscape for the downtown as well as surrounding areas.
- (10) Discourage commercial and business uses that create objectionable noise, glare or odors.
- (11) Promote uses that support and compliment the retail focus of the village, such as office and residential uses, above the first floor.

(Supp. No. 27)

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- (12) Preserve and promote opportunities for mid-size retail uses that will attract customers from local and regional markets to support other uses in the village.

(Code 1980, § 5.148; Ord. No. 336, § I, 11-18-02; Ord. No. 389, § III, 10-19-09; Ord. No. 408, § VI, 7-15-13)

Sec. 90-297. Permitted uses.

In the C-2 district the following uses are permitted provided that the use occupies 5,000 square feet of gross floor area or less. The following uses are permitted because they are considered to generate and promote pedestrian activity at the street level creating a vibrant and viable downtown environment.

- (1) Advertising signs subject to the requirements set forth in chapter 58.
- (2) Antique and consignment shops.
- (3) Art galleries.
- (4) Bake shops, retail.
- (5) Barbershop or beauty shop.
- (6) Clothing or costume rental establishments.
- (7) Department stores.
- (8) Furniture stores.
- (9) Interior decorating establishments with a showroom.
- (10) Office supply store.
- (11) Off-street parking and loading in accordance with article V, provided that no off-street parking, parking ingress or egress, or access lanes for parking or loading shall be permitted within 100 feet of the Kercheval Avenue right-of-way.
- (12) Photographic establishments.
- (13) Sit-down restaurants except those having a drive-in or drive-through facility.
- (14) Generally recognized retail sales businesses, within an enclosed building, that supplies commodities on the premises for use or consumption off the premises, such as, but not limited to: Groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.
- (15) Dance studios, offices, either business professional, medical, or governmental, including stockbroker, real estate and insurance offices and travel agencies, subject to the following provisions:
 - a. The use may be located in a basement or above the first floor.
 - b. For buildings more than 150 feet deep as measured from the building line running closest to and parallel to Kercheval, the use may be located on the first floor of a building with frontage on Cadieux, Notre Dame or St. Clair provided such use is no closer than 45 percent of the building depth to Kercheval or 70 feet, whichever is greater.
 - c. For buildings more than 150 feet deep as measured from the building line running closest to and parallel to Kercheval, the use may be located on the first floor of a building with frontage on Kercheval provided such use is no closer than 45 percent of the building depth to Kercheval or 70 feet, whichever is greater.
 - d. For buildings 150 feet deep or less as measured from the building line running closest to and parallel to Kercheval, the use may be located on the first floor of a building with frontage on

Cadieux, Notre Dame or St. Clair provided the building is a minimum of 80 feet deep and such use occupy no more than the rear 40 percent of the building depth or 40 feet whichever is greater to Kercheval.

- e. For buildings 150 feet deep or less as measured from the building line running closest to and parallel to Kercheval, the use may be located on the first floor of a building with frontage on Kercheval provided the building is a minimum of 80 feet deep and such use occupy no more than the rear 40 percent of the building depth or 40 feet whichever is greater to Kercheval.
 - f. Such use may not be located in buildings less than 80 feet deep.
- (16) Outdoor cafés and outdoor eating areas subject to the following provisions:
- a. Such eating areas shall be defined by planters, posts with ropes, or other decorative, removable enclosures.
 - b. The outdoor seating shall in no way impair the use and enjoyment of adjacent or nearby properties.
 - c. Outdoor seating shall be subject to applicable city, county and state requirements.
 - d. A site plan shall specify the plans for storage of tables, chairs, and equipment during the months when the outdoor seating is not in use.
 - e. The outdoor eating area shall be kept clean and void of litter at all times.
 - f. Outdoor eating areas shall not be operated between the hours of 11:00 p.m. and 7:00 a.m.
 - g. The capacity of the outdoor seating area shall be provided by the applicant and verified by the building official.
 - h. Additional signs associated with the outdoor eating area are prohibited.
 - i. Details regarding the hours and type of entertainment, music, speakers, or similar devices used in outdoor eating areas must be identified at the time of special use/site plan review.
 - j. Preparation of food and beverages shall be prohibited in any outdoor eating area. The sale and consumption of alcohol are governed by the Michigan Liquor Control Act and local ordinance.
 - k. In addition to the standards listed above, outdoor sidewalk cafés shall also be subject to the following standards:
 - (i) To allow for pedestrian circulation, a minimum of five feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. If the sidewalk is not wide enough to allow for a five-foot wide clearance for circulation, the café should not be permitted.
 - (ii) Pedestrian circulation and access to store entrances should not be impaired. Thus, a boundary (maximum encroachment width and length) into the public sidewalk should be established, with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of the National Americans with Disabilities Act (ADA) and Michigan barrier-free requirements.
 - (iii) Tables, chairs, planters, trash receptacles, and other elements of street furniture should be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they should complement building colors.
 - (iv) Liability issues for use of the public sidewalk should be addressed and reviewed by the city attorney.

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- (17) Residential uses subject to the following provisions:
- a. Residential uses shall only be located on the second story of a building or above.
 - b. Residential uses shall be intergraded into the design of a larger mixed-use development.
 - c. No dwelling unit shall be located on the same floor as a business use (excluding a home occupation), and no floor may be utilized for business or office purpose which is located above a floor used for residential purposes.
 - d. Adequate provisions for off-street parking for any use above the second floor must be demonstrated to the satisfaction of the city planning commission.
- (18) Uses similar to the uses listed above as determined by the city manager, or his designee. Such determination shall be based on a finding of fact:
- a. That the proposed use(s) will contribute to the viable mix of uses in the village;
 - b. Is compatible with the uses permitted in the village; and
 - c. Will not adversely impact the retail oriented environment of the village.

(Code 1980, § 5.149; Ord. No. 336, § I, 11-19-02; Ord. No. 374, §§ II, III, 8-20-07; Ord. No. 389, § III, 10-19-09; Ord. No. 408, § VII, 7-15-13; Ord. No. 410, § I, 9-5-13; Ord. No. 441, § I, 2-10-20)

Sec. 90-298. Permitted uses after special approval.

- (a) In the C-2 district the following special approval uses are permitted, subject to the approval of the city planning commission after public hearing and notice pursuant to the requirements of the Michigan Planning Enabling Act, PA12 of 2008, as amended, and to site plan review as provided under section 90-302. The following uses are considered to be supporting and compatible with those uses listed in section 90-297 provided they comply with the general criteria identified in section 90-300.
- (1) Uses permitted in section 90-297 that exceed 5,000 square feet.
 - (2) Banks, savings and loan, credit union or other type of financial institutions.
 - (3) Buildings and facilities for furnishing utility services, including heat, light, water and power.
 - (4) Fitness centers located on the ground floor of a building fronting on Kercheval, subject to the following provisions:
 - a. No less than 30 percent of the building depth from Kercheval (rounded to the nearest whole foot) shall be devoted to retail sales. The city council may modify this requirement based on a finding that the proposed use will be consistent with the intent of the ordinance.
 - b. Business shall remain open during regular retail hours.
 - c. Retail area shall be staffed during business hours.
 - d. Lockers rooms with changing areas and showers shall be provided within the business.
 - (5) Hotel subject to the following conditions:
 - a. Adequate parking, as determined by the city, for hotel guests and visitors shall be located in a parking structure connected to or designed as an integral part of the hotel.
 - b. Drop-off or pick-up areas shall be located in that portion of the building directly opposite of the Kercheval Avenue frontage.

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- c. The area located on the ground floor between the exterior wall of a building facing Kercheval Avenue or any intersecting side street and a line parallel to the exterior wall, setback 20 feet, with the exception of the hotel entrance, shall be occupied with a use permitted under section 90-297 or section 90-298 subject to all applicable conditions. Exceptions to this condition may be granted by the city planning commission provided the applicant can demonstrate that the proposal will be consistent with the intent of the C-2 district to provide a pedestrian oriented environment.
- (6) Permitted uses with gross floor area in excess of 5,000 square feet.
- (7) Theaters.
- (b) Also, the following temporary special uses are permitted in the C-2 district, subject to approval of the city planning commission after like notice and hearing:
- (1) Use of existing, portable or other structures (including trailers and sheds) and use of yards, on a temporary basis, as (a) offices, (b) places to store materials or equipment or (c) similar support facilities, in connection with and incidental to the construction or development of a property within the C-2 district or a property within a P-1 or PUD district which adjoins the C-2 district, for a principal permissible use;
- (2) Use of existing, portable or other structures (including trailers and non-conforming buildings), on a temporary basis, as (a) showrooms, (b) sales or marketing offices or (c) similar support facilities, in connection with and incidental to the construction or development of a property within the C-2 district or a property within a P-1 or PUD district which adjoins the C-2 district, for a principal permissible use;
- Temporary special uses may be approved with respect to one property in the C-2 district together with, and incidental to, development of another property (not necessarily contiguous) owned, leased, or occupied by the applicant elsewhere within the C-2 district or the adjoining P-1, or PUD overlay district.
- (c) The application for a temporary special use shall:
- (1) Describe the nature and purpose of the proposed use, and how the temporary use and any structure will be removed from the site on expiration of the approved period.
- (2) State whether the temporary use will in any way constitute a change in the basic uses permitted in the C-2 district.
- (3) Be accompanied by (i) a site plan for review and approval which includes such items as, but not limited to: parking, signage, trash, noise, lighting, and typical elevations if applicable; and (ii) a description of any provisions for emergency vehicle access, off-street parking and loading, drainage and soil erosion.
- (4) Demonstrate adequate provisions for or availability of off-street parking.
- (5) Demonstrate that such temporary use shall not displace viable, existing retail business establishments as permitted in section 90-297.
- (d) The planning commission shall consider whether the proposed temporary special use is consistent with the requirements of this section 90-298 and any applicable requirements of section 90-300, and whether the applicant has available, or has made provision for, adequate off-street parking. In approving any application, the commission may impose other conditions deemed necessary to protect the public health, safety, and general welfare.
- (e) Approval for a temporary special use may be granted for a period not exceeding 24 months; provided that the commission may authorize the building inspector to extend the approval for not more than six additional months if the continued use is incidental and necessary to the construction, sales or marketing of the principal property under construction or development.

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- (f) Performance bonds. To insure strict compliance with the conditions attached to the issuance of the permit for a temporary structure or use, the planning commission may require the applicant to furnish a performance bond in accordance with section 90-73 of this division (performance bonds) in an amount equal to the estimated cost of removing and disposing of the temporary structure or use (\$1,000.00 minimum). The bond, less any sum applied under (G), shall be returned after the temporary structure has been removed from the premises and any temporary special use has been discontinued.
 - (g) Temporary buildings associated with construction shall not be erected unless a site plan has been approved. Such building shall be removed from the site before a final certificate of occupancy is issued for the primary building. Temporary structures other than temporary construction buildings shall be removed and temporary uses shall be discontinued within ten days after expiration of the permit or approval. If the applicant or other party in possession fails to effect such a timely removal, the building inspector may use the bond to effect the removal.

(Code 1980, § 5.150; Ord. No. 336, § I, 11-18-02; Ord. No. 367, § I, 6-5-06; Ord. No. 374, § IV, 8-20-07; Ord. No. 389, § IV, 10-19-09; Ord. No. 408, § VIII, 7-15-13; Ord. No. 441, § II, 2-10-20)

Sec. 90-299. Reserved.

Editor's note(s)—Ord. No. 389, § V, adopted October 19, 2009, repealed § 90-299, which pertained to design and locational criteria for uses permitted after special approval and derived from Ord. No. 336, § I, 11-18-02; Ord. No. 357, § IV, 8-15-05.

Sec. 90-300. General criteria for uses permitted after special approval in the C-2 district.

In addition to specific site plan standards, which the city planning commission may apply to the use, the following standards shall serve the city planning commission as the basis for decisions involving special land uses. Each proposed use or activity shall:

- (a) In location, size and intensity of the principal and/or accessory operation, be compatible with adjacent uses and zoning of land;
- (b) Be consistent with and promote the intent and purpose of this division.
- (c) Be compatible with the natural environment and conserve natural resources and energy;
- (d) Be consistent with existing and future capabilities of public services and facilities affected by the proposed use;
- (e) Protect the public health, safety, and welfare as well as the social and economic well-being of those who will use the land use or activity, residents, businesses and landowners immediately adjacent and the city as the whole;
- (f) Promote the use of land in a socially and economically desirable manner;
- (g) Not be in conflict with convenient, safe and normal neighborhood vehicular and pedestrian traffic routes, flows, intersections, and general character and intensity of neighborhood development;
- (h) Be of such a design and impact that the location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping on the site shall not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;
- (i) In the nature, location, size and site layout of the use, be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by

prospective patrons, the physical and economic relationship of one type of use to another and characteristic groupings of uses of said district;

- (j) In the location, size, intensity and site layout be such that operations will not be objectionable to nearby dwellings, by reason of noise, fumes, glare or flash of lights.

(Ord. No. 336, § I, 11-18-02)

Sec. 90-301. Rezoning area requirements.

No district shall be zoned as a C-2 district unless the zone shall contain several or all of the uses in section 90-297 and satisfies the objectives of section 90-296. Any expansion of the C-2 district must be consistent with the city's general development plan.

(Code 1980, § 5.151; Ord. No. 336, § I, 11-18-02)

Sec. 90-302. Site plan review.

For all new construction, renovation consisting of exterior modifications, new use, or expansion of existing use in a C-2 district, a site plan must be submitted to the city planning commission showing all buildings, parking areas and landscaping at a scale sufficient to permit study of all elements of the plan. Typical elevations (with color renderings and a material board) and floor plans of the building must also be provided. A duly licensed or certified design professional must prepare plans.

A community impact statement must be completed with each application. The contents of the community impact statement are contained in the forms available at the city.

If the plans meet the required standards and design and indicate no adverse effects which, in the opinion of the city planning commission, cause injury to adjoining property or the city as a whole, the city planning commission shall determine whether the required standards have been met and then may approve or disapprove the plans. Plans so approved shall regulate the development on the premises unless modified in the same manner as the plans were originally approved.

(Code 1980, § 5.152; Ord. No. 336, § I, 11-18-02)

Sec. 90-303. Protective screening.

Protective screening for C-2 districts that directly abut residential districts shall be in compliance with the regulations set forth in section 90-39. In addition, any parking visible from a public street must be screened from the street with a continuous row of evergreen shrubs a minimum of 30 inches high at the time of planting, or a 30-inch decorative masonry wall constructed of brick or stone.

(Code 1980, § 5.153; Ord. No. 336, § I, 11-18-02)

Sec. 90-304. Area, height, bulk and placement requirements.

The area, height, bulk and placement requirements for C-2 districts shall be in accordance with the schedule of regulations in section 90-351 et seq.

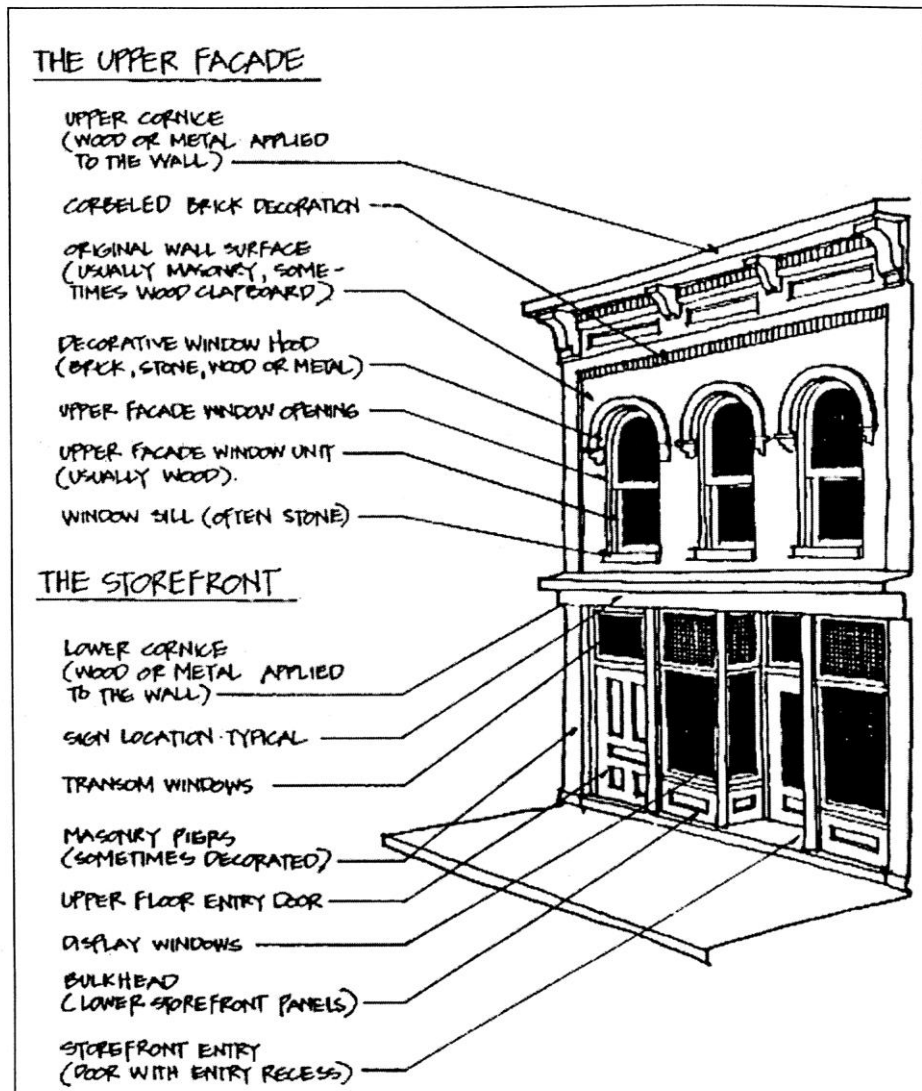
(Code 1980, § 5.154; Ord. No. 336, § I, 11-18-02)

Sec. 90-305. Development standards.

The following standards shall apply to all new development, redevelopment, or renovation within the C-2, central business district.

- (1) *Building scale.* The intent of these standards is to encourage the construction of buildings that are in scale and design with the majority of the existing buildings in the village, while promoting a traditional architectural style such as; traditional early American and late 1800 to early 1900 architectural style influences, ranging from Colonial styles of Georgian and Williamsburg; Victorian styles of Italianate, Gothic and Queen Anne; and later Romanticized styles of Tudor and French Country. The majority of the older buildings are narrow in width. The intent of these standards is not to limit building width, but to encourage the division of wide facades by dividing the mass in proportion and scale with existing buildings, to create compatibility with existing facades.
 - (a) Large, long facades shall be subdivided into bays, through the location and arrangement of openings and architectural treatments, that are compatible in size and scale to existing buildings.
 - (b) The height to width ratio of one-story, single bay facades, or individual bays of multiple bay facades, is not to exceed 1:2.
 - (c) The height to width ratio of two-story, single bay facades, or individual bays of multiple bay facades, is not to exceed 1:1.
- (2) *Building height.* Buildings in the central business district are a mix of one, two, and two and one-half story buildings. Taller buildings, a maximum of four floors, shall be limited to the core of the village and the maximum height should be limited to 2 ½ floors at the edges of the Village where commercial buildings are adjacent to or facing residential buildings.
 - (a) Buildings located within 300 feet of the Neff Street right-of-way shall be limited to two and one-half stories in height, or 35'-0".
 - (b) Buildings located between 300 feet of the Neff Street right-of-way and St. Clair Avenue shall be limited to three stories in height, or 42'-0".
 - (c) Buildings located within 240 feet of the Cadieux Road right-of-way shall be limited to two and one-half stories in height, or 35'-0".
 - (d) Buildings located between 240 feet of the Cadieux Road right-of-way and Notre Dame Avenue shall be limited to three stories in height, or 42'-0".
 - (e) Buildings located with frontage on Kercheval between St. Clair and Notre Dame shall be limited to four stories or 54'-0" provided, the fourth story shall be enclosed in a mansard roof, or setback 15 feet from the building facade of the third story.
 - (f) No building may be more than one story taller or less than one story shorter than any adjacent building.
 - (g) Special architectural features will be allowed to exceed the above height if:
 - The feature is located at a corner or,
 - The feature is deemed necessary to the type, use, or style of the building in question.
 - Special architectural features such as pediments, turrets, or other elements compatible with the architecture of the building, shall not exceed the height of the remainder of the building by more than ten feet.

- (h) Roof top equipment must be screened with architecturally compatible building elements such as parapet walls.
- (3) *Building roof types.*
 - (a) Roof types shall consist of flat roofs with parapets, gabled, or hipped roofs consistent with traditional architectural styles of the building.
 - (b) Mansard roofs must extend around all sides of the roof. Cantilevered or mock mansards are not permitted.
- (4) *Street facade.* The majority of the existing street facades, the facade that faces a public right-of-way, are comprised of common facade components. The arrangement of facade elements shall follow this model, which include the following typical components: Facade frame, storefront opening, canopy/awning and sign.



Front Facade Elements

Front Facade Elements

- (a) *Facade frame.* The facade frame, shall be constructed primarily of brick or stone, constructed principally in a single plane. E.I.F.S (exterior insulation systems) shall not be permitted. The top of the parapet wall shall be flat or step slightly to accentuate end piers. (a) The facade frame shall be capped by a stone, or simulated stone, coping or narrow cap flashing. Brick shall be laid primarily in running bond with minimal decorative detail.
 - (b) *Storefront opening.* Storefronts shall be directly accessible from public sidewalks. Each storefront must have transparent areas, equal to 70 percent of its portion of the facade, between one and eight feet from the ground. The wood or metal glass framing system shall be painted, bronze, or powder coated. The building entry is often centered in the storefront opening and is commonly recessed.
 - (c) *[Blank walls.]* Blank walls shall not face a public street or parking area. Walls facing a public street or parking area shall included windows and architectural features customarily found on the front facade of a building, such as awnings, cornice work, edge detailing, or decorative finish materials.
 - (d) *Canopies/awnings.* A canopy or awning is typically located at the top of the storefront opening.
 - i. Awning shall be traditional in design; they shall be triangular in section, sloping outward and down from the top of the opening. Narrow front and side flaps are common. Round-top, half-round, box, or other unusual awning shapes are discouraged. Internally lighted awnings are prohibited. Signage on awnings shall be limited.
 - ii. Canopies shall be narrow in elevation, six inches to 12 inches, and flat. Typically such canopies would have internal drainage. Canopies shall be self-supporting or supported by tension rods. Canopy projections to be limited to 48 inches. Sloping, or unusually shaped, canopies are prohibited.
- (5) *Rear facades.* Rear facades, facades not facing a public right-of-way, are as important as street facades because they are located adjacent to parking and, therefore, serve as the primary entrance to the building. Often times they must also accommodate service and delivery functions.

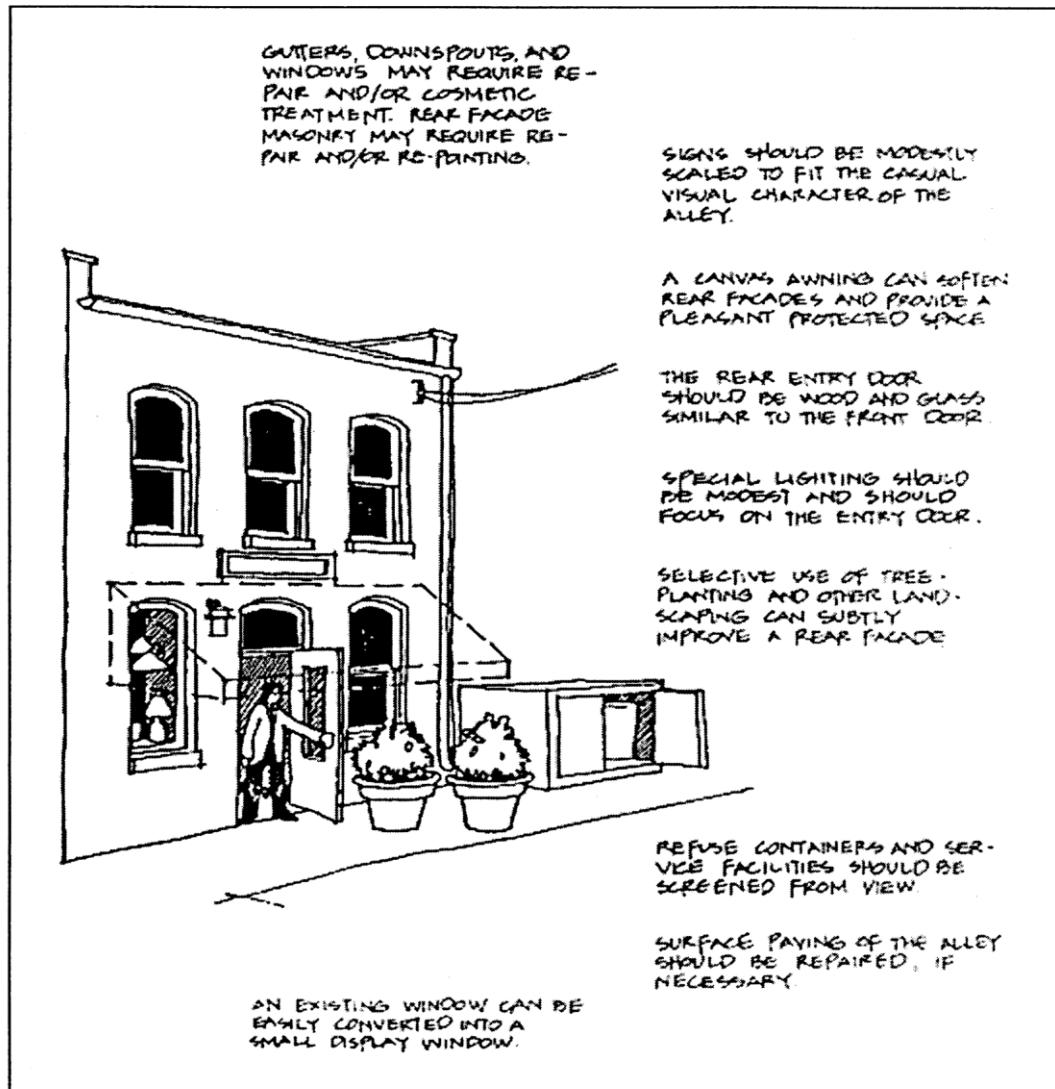
Rear facades shall exhibit the same components as street facades, however, need not follow as rigorous a design model:

- (a) *Facade frame.* The facade frame, like that at the street facade, shall be constructed principally in a single plane. If a parapet is used at the rear facade, the parapet wall shall be flat or step slightly to accentuate end piers, as illustrated. If no parapet is used, downspouts shall be located at the outer sides of the facades, not in the middle of the facade. Acceptable materials include brick or stone consistent with the design of the front facade.
- (b) *Storefront opening.* Like the street facade, the storefront opening shall be a rectangular or square opening, ten feet to 12 feet high, yet it may be a smaller portion of the width of the facade, or bay than the street facade; approximately 40 percent of the width. The opening shall be almost entirely glass (window, showcases, or door) with few subdivisions. The wood or metal glass framing system shall be painted, bronze, or powder coated. The building entry is often centered in the storefront opening and is commonly recessed.
- (c) *Canopies/awnings.* A canopy or awning typically located at the top of the storefront opening, is recommended.
 - i. Awnings shall be traditional in design; they shall be triangular in section, sloping outward and sown from the top of the opening. Narrow front and side flaps are common. Round-

top, half-round, may be approved by the city planning commission if it is determined that a round-top or half-found awning is consistent with the architectural character of the building. Box, or other unusual awning shapes are prohibited. Internally lighted awnings are also prohibited. Awnings are not intended to be a principal means of signage.

- ii. Canopies shall be narrow in elevation and flat. Typically such canopies would have internal drainage. Canopies shall be self-supporting or supported by tension rods, as illustrated. Canopy projections to be limited to 48".

- (6) *Materials.* Maintained consistent palette of materials is important to establish continuity within the streetscape and to maintain and enhance the overall appearance of the village. The following are identified as acceptable building materials.



Rear Facade Elements

Rear Facade Elements

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- (a) *Facade frame*. Acceptable materials:
 - i. *Brick*: Shall be standard modular brick with common tooled mortar joints. Untooled joints, distressed brick, or irregular shaped brick are prohibited. Brick color and texture shall be compatible with original brick facades in the central business district. Textures varied from smooth or glazed to rough. Textures tended to be uniform.
 - ii. *Stone*: Smooth finish stone such as limestone or sandstone.
 - iii. *Aluminum parapet cap*: Typical material is aluminum or painted sheet steel. Color and finish shall match that of window framing system.
 - iv. *Artificial stone and pre-case parapet cap*: To simulate traditional limestone and sandstone caps.
 - (b) *Storefront opening*. Acceptable materials:
 - i. *Storefront framing system*: Aluminum or pre-painted steel storefront glazing system. Natural finish aluminum is the most common material and finish.
 - ii. *Glass*: Clear or with slight green tint.
 - iii. *Entry door*: One or two-lite door matching storefront glazing system.
 - (c) *Canopies*. Acceptable materials:
 - i. *Canopy fascia trim*: Metal. Typically, natural finish aluminum or painted.
 - ii. *Soffit*: Metal or cement plaster.
 - iii. *Support rods*: Metal.
 - (d) *Awnings*. Acceptable materials:
 - i. *Frame*: No requirements.
 - ii. *Fabric*: Standard fabrics for non-internally lighted awnings. Patterns and colors to be compatible with other facade materials.
 - (7) *Colors*. Colors shall be limited to those traditional colors that were predominant in early American architectural styles. A color board showing the proposed colors and materials of the various exterior building elements shall be submitted during the site plan review process.
 - (8) *Design standard modifications*. When a particular building design and the materials and colors or combination of materials and colors proposed to be used in the exterior walls are found by the city planning commission to be in keeping with the intent and purpose of this section, but may differ from the strict application of this section, the city planning commission may modify the requirements of this section.
 - (9) *Signs*. All signs in the C-2 district shall comply the City Sign Code and be compatible with the architectural style and details of the building on which they are located.
 - (10) *Lighting*.
 - (a) Site lighting for parking lots shall utilize a similar traditional style fixture as those used in the village streetscape. The model number for the light pole and luminaire, as well as detailed product specifications will be provided by the city.
 - (b) The light source shall be consistent with that used in the city's street lighting along Kercheval Avenue.

- (c) The light intensity shall average a minimum of one-half foot-candles, measured five feet above grade for parking lots and one- to three-foot-candles measured five feet above grade for pedestrian sidewalks.
- (d) All lighting shall be shielded or directed away from any adjacent roads, parking, residential zone, or residential use.
- (e) Building lighting shall be directed downward toward the building. Fixtures shall be compatible with the traditional style of building architecture.

(Ord. No. 336, § I, 11-18-02)

Sec. 90-306. Specifically prohibited uses.

In order to clarify the type of permitted uses in the C-2 district, the following uses, among others, are specifically prohibited:

- (a) Pawn shops.
- (b) Currency exchanges.
- (c) Payday loan stores.
- (d) Resale shops.

(Ord. No. 389, § VI, 10-19-09)

DIVISION 8A. HF HOSPITAL FACILITIES DISTRICT

Sec. 90-307. Statement of purpose.

The hospital facilities (HF) zone district is intended to accommodate the unique nature and requirements of large scale and significant medical facilities associated with a full service hospital and their accessory uses in a manner compatible with the surrounding land uses.

Further, it is designed and intended to:

- (1) Help meet the health and wellness needs of the community.
- (2) Provide opportunities for the logical and orderly development of hospital facilities.
- (3) Ensure compatibility between hospital facilities and surrounding residential land uses.
- (4) Minimize traffic related impacts on adjacent road network.

(Ord. No. 412, § I, 2-24-14)

Sec. 90-308. Permitted uses.

In order to ensure consistency with the master plan and the purpose of the HF district, the HF district has been divided in to four subdistricts. The following table lists the permitted, special approval, accessory, and not permitted use allowed in the four subdistricts.

Use	HF-4	HF-3	HF-2	HF-1	
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Ambulance service/maintenance	A	—	—	—	
Conference facilities	A	A	—	—	
Diagnostic/laboratory	P	P	—	—	
Educational facilities	A	A	—	—	For the training of interns, nurses or allied health care personnel
Essential services	P	P	—	—	
Health club/fitness center	A	A	—	—	Not available to the public
Hospitals	P	P	—	—	
Limited commercial service uses	A	A	—	—	Uses of a commercial character that are compatible with and are intended to support the needs of the employees or patrons of the district in which they are located. Uses such as but not limited to the following may be considered: pharmacy or optical sales, child or adult day care services, business services, cafeterias and restaurant uses, barber/beauty shops, dry-cleaning drop off, florists, banks, outdoor cafes and outdoor seating areas
Mechanical equipment and accessory structures less than 650 square feet in area and 15 feet in height	A	A	A	A	May be located in parking areas that do not meet the minimum setback requirements
Medical clinics	P	P	—	—	
Medical research	P	P	—	—	
Mobile medical technology	A	—	—	—	
Nursing home/convalescent	S	S	—	—	Including Interim/congregate care (a shared living environment designed to integrate the housing and services needs of elders), nursing home, and convalescent homes. Not including independent or assisted living facilities
Parking—Above ground	A	A	P	—	Parking may be located above existing grade
Parking—At grade	A	A	P	P	No parking level may be located above existing grade
Places of worship	A	A	—	—	

Private recreational facilities	A	A	—	—	Not available to the public
Professional office	P	P	—	—	Primarily for hospital related professions, activities, or support services
Short term rehabilitation	A	A	—	—	
Specialized lodging	S	S	—	—	i.e. Ronald McDonald House

Key: P — Permitted S — Special Approval A — Accessory — Not Permitted

(Ord. No. 412, § I, 2-24-14)

Sec. 90-309. Area, height, bulk and placement requirements.

(a) *Setbacks.* The following schedule lists the setback requirements for the HF district:

	Parking ^{1, 2} (In Feet)	HF-4 Buildings (In Feet)	HF-3 Buildings (In Feet)
Maumee	40	40	—
Cadieus	20	34	140 ³
Jefferson	50	—	550 ⁴
Notre Dame	20	40	140

;adv=6;(1) Existing parking areas that do not meet the required setbacks may be allowed to be repaired or replaced but not expanded.

- (2) Light wells may project into the required setback, but in no case shall encroach closer than ten feet to a lot line adjacent to a street.
- (3) The minimum setback from Cadieus for buildings in the HF-3 district may be reduced to 40 feet subject to special use approval.
- (4) The minimum setback from Jefferson for buildings in the HF-3 district may be reduced to 450 feet subject to special use approval.

(b) *Building height.* The following schedule lists the maximum building height requirements for the HF district:

	Building Height (In Feet)
HF-4	¹
HF-3	35 ²
HF-2	35
HF-1	—

¹ Buildings in the HF-4 district may not exceed the maximum height of the existing building as of the date the ordinance from which this division is derived goes into effect.

² Buildings in the HF-3 district that exceed 35 feet shall be setback a minimum of 140 feet from Cadieux. Buildings in the HF-3 district shall not exceed the building height allowed in the HF-4 district under any circumstances.

(Ord. No. 412, § I, 2-24-14)

Sec. 90-310. Protective screening.

- (a) Any surface parking visible from a public street must be screened from the street with a six foot tall decorative wall constructed of brick. To avoid a continuous horizontal surface, there shall be offsets or other architectural features on the wall surface. Walls may not be located within ten feet of an adjacent right-of-way. In addition, a landscape plan shall be provided indicating the use of evergreen and deciduous plant material subject to the approval of the city manager or his designee to further minimize the visual impact of the wall.

(Ord. No. 412, § I, 2-24-14)

Sec. 90-311. Development standards.

The following standards shall apply to all new development, redevelopment, or renovation within the HF district:

- (1) All buildings and other architectural elements shall be subject to review by the City Manager or his designee to ensure compatibility with the existing hospital and surrounding neighborhoods.
- (2) All buildings shall be predominantly brick with stone and glass as acceptable accent materials.
- (3) Buildings that have facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses. No uninterrupted length of any façade shall exceed 20 horizontal feet.

(Ord. No. 412, § I, 2-24-14)

Sec. 90-312. Parking.

At the time of adoption of this section, the hospital in the HF district shall pay to have a parking study conducted of the existing facility to document current parking supply and parking demand generation to be conducted by a parking consultant selected by the hospital and approved by the city. This study shall be revised for each building addition, or for major changes in use as determined by the city manager or his designee. In no case shall the parking supply be less than 110 percent of the parking demand generation.

(Ord. No. 412, § I, 2-24-14)

Sec. 90-313. Site plan review.

For all new construction, renovation consisting of exterior modifications, new use, or expansion of existing use in the HF district over 1,000 square feet or that would represent a major change in use as determined by the city manager or his designee, a site plan must be submitted to the city planning commission showing all buildings, parking areas and landscaping at a scale sufficient to permit study of all elements of the plan. Typical elevations (with color renderings and a material board) and floor plans of the building must also be provided. A duly licensed or certified design professional must prepare plans.

(Supp. No. 27)

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A community impact statement must be completed with each application. The contents of the community impact statement are contained in the forms available at the city. If the plans meet the required standards and design and indicate no adverse effects which, in the opinion of the city planning commission, cause injury to adjoining property or the city as a whole, the city planning commission shall determine whether the required standards have been met and then may approve or disapprove the plans. Plans so approved shall regulate the development on the premises unless modified in the same manner as the plans were originally approved.

The hospital shall provide the city with an annual report from the management entity providing an update on the status of the facility and addressing any changes in the operation or other impacts such as traffic and parking. (Ord. No. 412, § I, 2-24-14)

Sec. 90-314. Notice.

Notice shall be sent by mail or personal delivery to the owners of all property for which site plan approval is being considered, to the owners of all real property within 150 feet of the boundary of the property in question, and to the occupants of all structures within 150 feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four such units or spatial areas, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. This notice shall be sent not less than 15 days prior to the date of the public hearing schedule. The noticing requirements from section 90-77 shall be followed where public notice is required by the zoning code (special approval uses or variance).

(Ord. No. 412, § I, 2-24-14)

Sec. 90-315. Reserved.

DIVISION 9. P-1 VEHICULAR PARKING DISTRICT

Sec. 90-316. Statement of purpose.

The P-1 vehicular parking district is intended to permit the establishment of areas to be used for off-street vehicular parking or private cars, so as to serve business, commercial and institutional areas. This district is also designed to afford maximum protection to next adjacent residential areas by providing landscaped setbacks, fences and well-designed parking lot facilities. It is also intended that this district act as a transitional area between nonresidential areas and residential areas, thereby permitting private developers as well as public agencies to provide needed off-street parking. There is also permitted as special land uses offices, financial institutions, utility buildings and facilities and residential apartments subject to design and locational criteria.

(Code 1980, § 5.158; Ord. No. 336, § I, 11-18-02)

Sec. 90-317. Permitted uses.

Vehicular parking, subject to requirements in section 90-318—90-334 inclusive and commercial antennas subject to provisions at section 90-44 are permitted in the P-1 district.

(Code 1980, § 5.159; Ord. No. 298, § 1, 3-18-96; Ord. No. 336, § I, 11-18-02)

Sec. 90-318. Uses permitted after special review.

In the P-1 district the following special approval uses are permitted, subject to application design and locational criteria provided under section 90-319, and to the approval of the city planning commission after public hearing and notice pursuant to the requirements of Section 4a of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended, and to site plan review as provided under section 90-333. The following uses are considered to be supporting and compatible with those uses listed in section 90-297 provided they comply with the design and locational criteria in section 90-319.

- (1) Offices, either business, professional, medical or governmental, including stockbroker, real estate and insurance offices, and travel agencies.
- (2) Banks, savings and loan, credit union or other type of financial institutions.
- (3) Buildings and facilities for furnishing utility services, including heat, light, water and power.
- (4) Residential apartments.

(Code 1980, § 5.160; Ord. No. 298, § 1, 3-18-96; Ord. No. 336, § I, 11-18-02)

Sec. 90-319. Design and locational criteria for uses permitted after special approval.

- (1) Any of the uses permitted after special approval in the P-1 district shall only be permitted if they are an integral part of a parking structure serving a use or uses located in the C-2 central business district.
- (2) Office, financial, and utility uses may occupy a portion of the ground floor of a parking structure consisting of the first 40 feet from any facade of the parking structure facing a road.
- (3) Residential uses in the P-1 district shall only be located above the top level of a parking structure provided the total combined structure shall not exceed 35 feet.
- (4) Residential dwellings in the P-1 district shall comply with the minimum area per dwelling unit and minimum floor area per dwelling located in the C-2 district.
- (5) The architectural design of any parking structure must be compatible with the design of buildings located in the C-2 district.

(Ord. No. 336, § I, 11-18-02)

Sec. 90-320. Limitation of use.

The following regulations shall apply in P-1 districts:

- (1) Parking areas shall be used only for parking of passenger vehicles operated by the management, the employees, customers and guests of the enterprise doing business in the city.
- (2) Parking may be with or without charge.
- (3) No business involving the repair or services to vehicles, trailers, mobile homes, travel trailers, boats or boat trailers, or sale, display, or storage of same shall be permitted from or upon property zoned in a P-1 district.
- (4) No building other than those for shelter of attendants shall be erected upon the premises, except as provided for in section 90-319, 90-332 and 90-44. There shall not be more than two such buildings in the area and each such building shall not be more than 50 square feet in area nor shall exceed 15 feet in height.

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- (5) Any signs erected or maintained on the premises shall comply with the requirements of chapter 58 of this Code, and any other city sign regulations.

(Code 1980, § 5.160; Ord. No. 336, § I, 11-18-02; Ord. No. 357, § IV, 8-15-05)

Sec. 90-321. Location.

All P-1 districts shall be contiguous to a business, commercial or industrial district. In all cases, lots, which are use for parking, shall be the adjacent successive lots from the business or commercial property.

(Code 1980, § 5.161; Ord. No. 336, § I, 11-18-02)

Sec. 90-322. Ingress and egress.

In P-1 districts adequate ingress and egress shall be provided for vehicles to premises used for parking and shall be in accordance with the plan, which shall be submitted in triplicate for approval in accordance with section 90-333.

(Code 1980, § 5.162; Ord. No. 336, § I, 11-18-02)

Sec. 90-323. Surface of parking area.

In P-1 districts the parking area shall be provided with a pavement in accordance with section 90-159(2).

(Code 1980, § 5.163; Ord. No. 336, § I, 11-18-02)

Sec. 90-324. Front yard.

- (a) Where a P-1 district is contiguous to a residentially zoned district which has a common frontage on the same block with the P-1 district, and wherein residential structures have been erected, there shall be provided a yard space equal to the average setback of homes in the block on the same side of the street.
- (b) Where the P-1 district is contiguous to a residentially zoned district which has a common frontage in the same block with the P-1 district, and wherein residential structures have been erected having a front yard of greater than 20 feet in depth, there shall be provided a yard space equal in depths to the minimum distance of any residential structure so located or to the minimum distance required by such restriction, except in cases where residential structures have been erected at the rear of lots. In such cases, the yard space shall not be less than 20 feet in depth or equal to the minimum required by the private restrictions.
- (c) Where the P-1 district lies across a street and opposite a residentially zoned district where the lots front upon such a street, there shall be provided a yard space not less than 20 feet in depth, and a protective wall as set forth in section 90-326.

(Code 1980, § 5.164; Ord. No. 336, § I, 11-18-02)

Sec. 90-325. Side yards.

- (a) Where a P-1 district is contiguous to side lot lines of premises in a residentially zoned district, there shall be provided a side yard not less than ten feet in width between the side lot lines and the parking area.
- (b) Where the P-1 district lies across a street and opposite a residentially zoned district where the side lot lines are contiguous to such street, there shall be provided a yard space not less than ten feet in depth.

(Code 1980, § 5.165; Ord. No. 336, § I, 11-18-02)

Sec. 90-326. Protective wall.

Where the P-1 district adjoins or fronts upon residentially zoned or used property, there shall be provided around the parking area between the required yard spaces and the actual parking area a wall in accordance with section 90-159(5).

(Code 1980, § 5.166; Ord. No. 336, § I, 11-18-02)

Sec. 90-327. Bumper rail.

In P-1 district there shall be provided a bumper rail in accordance with section 90-159(6).

(Code 1980, § 5.167; Ord. No. 336, § I, 11-18-02)

Sec. 90-328. Landscaping.

- (a) Wherever a wall is required, all land between the wall and the boundaries of the P-1 district shall be kept free from refuse or debris, and shall be landscaped. The landscaped area adjacent to the wall shall be planted with deciduous shrubs, evergreens and/or ornamental trees. Fruit trees shall not be used. Where the arrangement of planting materials will result in exposure of the walls, the walls shall be covered with ivy, spirea border or similar plant material. The remainder of the landscape area, which is not planted with the aforementioned stock, shall be in well-kept lawn. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance.
- (b) All planting plans shall be first submitted to the building inspector for approval as to suitability of planting materials and arrangement thereof in accordance with the provisions of subsection (a) of this section and requirements of section 90-159.
- (c) Where required landscaping is not sufficiently and properly maintained, the city manager may, after five days' notice has been given to the property owner as shown on the latest assessment roll, order whatever steps are necessary to suitably maintain the landscaped area and charge all of the costs plus a \$5.00 fee to the property owner.

(Code 1980, § 5.168; Ord. No. 336, § I, 11-18-02)

Sec. 90-329. Lighting.

Where lighting facilities are provided, they shall be so arranged as to reflect the light away from all residentially zoned properties which are adjacent to the P-1 district, and shall be in accordance with section 90-159(3).

(Code 1980, § 5.169; Ord. No. 336, § I, 11-18-02)

Sec. 90-330. Approval.

All plans for the development of any P-1 district must first be approved by the building inspector before construction is started, after site plan approval by the city planning commission.

(Code 1980, § 5.170; Ord. No. 336, § I, 11-18-02)

Sec. 90-331. Modifications of requirements.

The board of zoning appeals upon application by the property owner of the parking area may modify the yard, wall and ingress and egress requirements where in unusual circumstances, undue hardship would be suffered or no good purpose would be served in compliance with the requirements of this division. In all cases where such a protective wall extends to an alley which is a means of ingress or egress to a parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area and better visibility.

(Code 1980, § 5.171; Ord. No. 336, § I, 11-18-02)

Sec. 90-332. Parking structures.

Notwithstanding requirements set forth in section 90-320(4) and section 90-319 for uses permitted under special approval, parking structure may be permitted in the P-1 district subject to the following conditions: A site plan must be submitted per requirements at section 90-333. Specific design standards for the parking structure and appurtenances (e.g., signs) thereto follow:

- (1) When the parking structure is contiguous to side lot lines of a residentially zoned or used district, there shall be provided a minimum side yard of 15 feet between the side lot lines and the structure.
- (2) Permitted height of any parking structure shall not exceed 30 feet except as permitted at section 90-319(4). For every one foot the parking structure exceeds ten feet in height, the yard requirements shall be increased by one foot beyond the minimum 15-foot requirements in subsection (1) above.
- (3) When parking is permitted on the roof of a parking structure, an ornamental wall shall be provided around the perimeter of the roof. This wall shall be of suitable material and in harmony with the architecture of the parking structure and sufficiently opaque as to substantially conceal parked cars.
- (4) All exterior lighting, especially that which may be provided on the roof, shall be glare-free and so arranged as to reflect away from all residentially zoned or used properties affected by the parking structure. There shall be no lighting of elevations or a parking structure facing any residentially used or zoned property.
- (5) Signs shall be in accordance with all related city ordinances.

(Code 1980, § 5.172; Ord. No. 336, § I, 11-18-02)

Sec. 90-333. Site plan review.

For all new construction, renovation consisting of exterior modifications, new use, or expansion of existing use in a P-1 district, a site plan must be submitted to the city planning commission showing all buildings, parking areas and landscaping at a scale sufficient to permit study of all elements of the plan. Typical elevations (with color renderings and a material board) and floor plans of the building must also be provided. All plans must be reviewed and reports submitted thereon by the director of public safety, city engineer, city planner and building inspector. If the plans meet the required standards and design and indicate no adverse effects which, in the opinion of the city planning commission, cause injury to adjoining property or the city as a whole, the city planning commission shall determine whether the required standards have been met and then may approve or disapprove the plans. Plans so approved shall regulate the development on the premises unless modified in the same manner as the plans were originally approved.

(Ord. No. 336, § I, 11-18-02)

Sec. 90-334. Area, height, bulk and placement requirements.

The area, height, bulk and placement requirements for P-1 districts shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Ord. No. 336, § I, 11-18-02)

DIVISION 10. T-1 MIXED USE TRANSITION-1

Sec. 90-335. Statement of purpose.

The T-1, transition-1 district is designed and intended to provide a transition from the higher intensity mixed-use core of the central business district (CBD) and the edges of the village. While there are a wider range of uses permitted in this district, it is still intended to promote the development of a pedestrian oriented and accessible, mixed-use district in which a variety of retail, commercial, office, service, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the district and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other city services.

The T-1 mixed-use district is further designed and intended to:

- (1) Maintain and enhance a viable mix of complimentary uses and discourage domination of the village by any single category of use.
- (2) Provide a physical transition from the larger buildings anticipated in the core of the village to the lower buildings anticipated at the edges of the village.
- (3) Preserve and enhance the village as a community asset that contributes positively to property values, community identity, and a sense of place.
- (4) Support the central business district for the citizens of the community to shop in a safe and enjoyable environment.
- (5) Create a mix of businesses that encourages an active pedestrian environment and promotes both convenience and destination shopping activities while providing opportunities for other uses including office and service uses.
- (6) Extend greater opportunities for traditional community living, working, housing and recreation to citizens and residents of the city.
- (7) Discourage the development of separate off-street parking facilities for each individual use, and to encourage the development of off-street parking facilities designed to accommodate the needs of several individual uses with access from side streets only.
- (8) Promote the creation of urban places such as plazas which are oriented to the pedestrian thereby promoting citizen security and social interaction.
- (9) Promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of traditional urban design and architectural design elements. Such elements shall relate to the design characteristics of an individual structure or development based on usage of traditional early American and late 1800 to early 1900 architectural style influences, ranging from Colonial styles of Georgian and Williamsburg; Victorian styles of Italianate, Gothic and Queen Anne; and later Romanticized styles of Tudor and French Country, used in a harmonious manner, resulting in coherent overall development patterns and streetscape for the downtown as well as surrounding areas.

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- (10) Discourage commercial and business uses that create objectionable noise, glare or odors.
 - (11) Promote uses that support and compliment the retail focus of the village, such as office and residential uses.

(Ord. No. 389, § VII, 10-19-09)

Sec. 90-336. Permitted uses.

In the T-1 district the following uses are permitted provided that the use occupies 5,000 square feet of gross floor area or less. The following uses are permitted because they are considered to support and contribute to a vibrant and viable downtown environment.

- (1) Advertising signs subject to the requirements set forth in chapter 58.
- (2) Antique and consignment shops.
- (3) Art galleries.
- (4) Bake shops, providing that at least 75 percent of all baked goods produced on the premises are sold on the premises at retail and further provided that floor area used for bakery production shall be limited to 500 square feet per establishment.
- (5) Banks, savings and loan, credit union or other type of financial institutions.
- (6) Barbershop or beauty shop.
- (7) Clothing or costume rental establishments.
- (8) Department stores.
- (9) Fitness centers or dance studios.
- (10) Furniture stores.
- (11) Interior decorating establishments including bath and kitchen design, with a showroom.
- (12) Offices, either business professional, medical, or governmental, including stockbroker, real estate, insurance offices, and travel agencies.
- (13) Office supply store.
- (14) Off-street parking and loading in accordance with article V.
- (15) Outdoor cafés, and outdoor eating areas subject to the following provisions:
 - a. Such eating areas shall be defined by planters, posts with ropes, or other decorative, removable enclosures.
 - b. The outdoor seating shall in no way impair the use and enjoyment of adjacent or nearby properties.
 - c. Outdoor seating shall be subject to applicable city, county and state requirements.
 - d. A site plan shall specify the plans for storage of tables, chairs, and equipment during the months when the outdoor seating is not in use.
 - e. The outdoor eating area shall be kept clean and void of litter at all times.
 - f. Outdoor eating areas shall not be operated between the hours of 11:00 p.m. and 7:00 a.m.

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- g. The capacity of the outdoor seating area shall be provided by the applicant and verified by the building official.
 - h. Additional signs associated with the outdoor eating area are prohibited.
 - i. Details regarding the hours and type of entertainment, music, speakers, or similar devices used in outdoor eating areas must be identified at the time of special use/site plan review.
 - j. Preparation of food and beverages shall be prohibited in any outdoor eating area. The sale and consumption of alcohol are governed by the Michigan Liquor Control Act and local ordinance.
 - k. In addition to the standards listed above, outdoor sidewalk cafés shall also be subject to the following standards:
 - (i) To allow for pedestrian circulation, a minimum of five feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. If the sidewalk is not wide enough to allow for a five-foot wide clearance for circulation, the café should not be permitted.
 - (ii) Pedestrian circulation and access to store entrances should not be impaired. Thus, a boundary (maximum encroachment width and length) into the public sidewalk should be established, with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of the National Americans with Disabilities Act (ADA) and Michigan barrier-free requirements.
 - (iii) Tables, chairs, planters, trash receptacles, and other elements of street furniture should be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they should complement building colors.
 - (iv) Liability issues for use of the public sidewalk should be addressed and reviewed by the city attorney.
- (12) Photographic establishments.
- (13) Residential uses above the first floor of a building subject to the following provisions:
- a. Residential uses shall only be located on the 2nd story of a building or above.
 - b. Residential uses shall be intergraded into the design of a larger mixed-use development.
 - c. No dwelling unit shall be located on the same floor as a business use (excluding a home occupation), and no floor may be utilized for business or office purpose which is located above a floor used for residential purposes.
 - d. Adequate provisions for off-street parking for any use above the second floor must be demonstrated to the satisfaction of the city planning commission.
 - e. Parking for residential uses shall be located in a parking structure connected to or designed as an integral part of the proposed development.
- (14) Terrace dwellings and apartment houses.
- (15) Restaurants except those having a drive-in or drive-through facility.
- (16) Generally recognized retail sales businesses, within an enclosed building, that supplies commodities on the premises for use or consumption off the premises, such as, but not limited to: Groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.
- (17) Uses similar to the uses listed above as determined by the city manager or his designee. Such determination shall be based on a finding of fact:

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- a. That the proposed use(s) will contribute to the viable mix of uses in the village;
 - b. Is compatible with the uses permitted in the village; and
 - (c) Will not adversely impact the retail oriented environment of the village.

(Ord. No. 389, § VII, 10-19-09)

Sec. 90-337. Permitted uses after special approval.

In the T-1 district the following special approval uses are permitted, subject to the approval of the city planning commission after public hearing and notice pursuant to the requirements of the Michigan Zoning Enabling Act, and to site plan review as provided under section 90-302. The following uses are considered to be supporting and compatible with those uses listed in section 90-336 provided they comply with the general criteria identified in section 90-300.

- (1) Uses permitted in section 90-297 that exceed 5,000 square feet.
- (2) Buildings and facilities for furnishing utility services, including heat, light, water and power.
- (3) Hotel subject to the following standards:
 - a. Adequate parking, as determined by the city, for hotel guests and visitor shall be located in a parking structure connected to or designed as an integral part of the hotel.
 - b. Drop-off or pick-up areas shall be located in that portion of the building directly opposite of the Kercheval Avenue frontage.
 - c. The area located on the ground floor between the exterior wall of a building facing Kercheval Avenue or any intersecting side street and a line parallel to the exterior wall, setback 20 feet, with the exception of the hotel entrance, shall be occupied with a use permitted under section 90-297 or section 90-298 subject to all applicable conditions. Exceptions to this condition may be granted by the city planning commission provided the applicant can demonstrate that the proposal will be consistent with the intent of the T-1 district to provide a pedestrian oriented environment.
- (4) Interior decorating establishments including bath and kitchen design, without a showroom.
- (5) Theaters.

(Ord. No. 389, § VII, 10-19-09)

Sec. 90-338. General criteria for uses permitted after special approval in the T-1 district.

In addition to specific site plan standards which the city planning commission may apply to the use, the standards contained in section 90-300 shall serve the city planning commission as the basis for decisions involving special land uses.

(Ord. No. 389, § VII, 10-19-09)

Sec. 90-339. Rezoning area requirements.

No district shall be zoned as a T-1 district unless the zone shall contain several or all of the uses in section 90-336 and satisfies the objectives of section 90-335. Any expansion of the T-1 district must be consistent with the city's master plan.

(Supp. No. 27)

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(Ord. No. 389, § VII, 10-19-09)

Sec. 90-340. Site plan review.

For all new construction, renovation consisting of exterior modifications, new use, or expansion of existing use in a T-1 district, a site plan must be submitted to the city planning commission showing all buildings, parking areas and landscaping at a scale sufficient to permit study of all elements of the plan. Typical elevations (with color renderings and a material board) and floor plans of the building must also be provided. Plans must be prepared by a duly licensed or certified design professional.

If the plans meet the required standards and design and indicate no adverse effects which, in the opinion of the city planning commission, cause injury to adjoining property or the city as a whole, the city planning commission shall determine whether the required standards have been met and then may approve or disapprove the plans. Plans so approved shall regulate the development on the premises unless modified in the same manner as the plans were originally approved.

(Ord. No. 389, § VII, 10-19-09)

Sec. 90-341. Protective screening.

Protective screening for T-1 districts that directly abut residential districts shall be in compliance with the regulations set forth in section 90-39. In addition, any parking visible from a public street must be screened from the street with a continuous row of evergreen shrubs a minimum of 30 inches high at the time of planting, or a 30-inch decorative masonry wall constructed of brick or stone.

(Ord. No. 389, § VII, 10-19-09)

Sec. 90-342. Area, height, bulk and placement requirements.

The area, height, bulk and placement requirements for T-1 district shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Ord. No. 389, § VII, 10-19-09)

Sec. 90-343. Development standards.

The development standards for the T-1 district shall be in accordance with the standards in section 90-305.

(Ord. No. 389, § VII, 10-19-09)

Sec. 90-344. Specifically prohibited uses.

In order to clarify the type of permitted uses in the T-1 district, the following uses, among others, are specifically prohibited:

- (a) Pawn shops.
- (b) Currency exchanges.
- (c) Payday loan stores.
- (d) Resale shops.

(Supp. No. 27)

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DIVISION 11. T-2 MIXED USE TRANSITION-2⁷

Sec. 90-345. Statement of purpose.

The T-2, Transition-2 district is designed and intended to provide a transition from the higher intensity mixed-use core of the central business district (CBD) and the edges of the village. While there are a wider range of uses permitted in this district, it is still intended to promote the development of a pedestrian oriented and accessible, mixed-use district in which a variety of retail, commercial, office, service, civic and residential uses are permitted. Each use shall be complementary to the stated function and purpose of the district and shall not have adverse impact upon adjacent street capacity and safety, utilities, and other city services.

The T-2 mixed-use district is further designed and intended to:

- (1) Maintain and enhance a viable mix of complimentary uses and discourage domination of the village by any single category of use.
- (2) Provide a physical transition from the larger buildings anticipated in the core of the village to the lower buildings anticipated at the edges of the village.
- (3) Preserve and enhance the village as a community asset that contributes positively to property values, community identity, and a sense of place.
- (4) Support the central business district for the citizens of the community to shop in a safe and enjoyable environment.
- (5) Create a mix of businesses that encourages an active pedestrian environment and promotes both convenience and destination shopping activities while providing opportunities for other uses including office and service uses.
- (6) Extend greater opportunities for traditional community living, working, housing and recreation to citizens and residents of the city.
- (7) Discourage the development of separate off-street parking facilities for each individual use, and to encourage the development of off-street parking facilities designed to accommodate the needs of several individual uses with access from side streets only.
- (8) Promote the creation of urban places such as plazas which are oriented to the pedestrian thereby promoting citizen security and social interaction.
- (9) Promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of traditional urban design and architectural design elements. Such elements shall relate to the design characteristics of an individual structure or development based on usage of traditional early American and late 1800 to early 1900 architectural style influences, ranging from Colonial styles of Georgian and Williamsburg; Victorian styles of Italianate, Gothic and Queen Anne; and later Romanticized styles of Tudor and French Country, used in a harmonious

⁷Editor's note(s)—Ord. No. 389, § VIII, adopted October 19, 2009, set out provisions intended for use as §§ 90-335A—343A. For purposes of clarity, and at the editor's discretion, these provisions have been included as §§ 90-345—90-350.3.

manner, resulting in coherent overall development patterns and streetscape for the downtown as well as surrounding areas.

- (10) Discourage commercial and business uses that create objectionable noise, glare or odors.
- (11) Promote uses that support and compliment the retail focus of the village, such as office and residential uses.

(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-346. Permitted uses.

In the T-2 district the following uses are permitted provided that the use occupies 5,000 square feet of gross floor area or less. The following uses are permitted because they are considered to support and contribute to a vibrant and viable downtown environment.

- (1) Advertising signs subject to the requirements set forth in chapter 58.
- (2) Antique and consignment shops.
- (3) Art galleries.
- (4) Bake shops, providing that at least 75 percent of all baked goods produced on the premises are sold on the premises at retail and further provided that floor area used for bakery production shall be limited to 500 square feet per establishment.
- (5) Banks, savings and loan, credit union or other type of financial institutions.
- (6) Barbershop or beauty shop.
- (7) Clothing or costume rental establishments.
- (8) Department stores.
- (9) Fitness centers or dance studios.
- (10) Furniture stores.
- (11) Interior decorating establishments including bath and kitchen design, with a showroom.
- (12) Offices, either business professional, medical, or governmental, including stockbroker, real estate, insurance offices, and travel agencies.
- (13) Office supply store.
- (14) Off-street parking and loading in accordance with article V.
- (15) Outdoor cafés, and outdoor eating areas subject to the following provisions:
 - a. Such eating areas shall be defined by planters, posts with ropes, or other decorative, removable enclosures.
 - b. The outdoor seating shall in no way impair the use and enjoyment of adjacent or nearby properties.
 - c. Outdoor seating shall be subject to applicable city, county and state requirements.
 - d. A site plan shall specify the plans for storage of tables, chairs, and equipment during the months when the outdoor seating is not in use.
 - e. The outdoor eating area shall be kept clean and void of litter at all times.

(Supp. No. 27)

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- f. Outdoor eating areas shall not be operated between the hours of 11:00 p.m. and 7:00 a.m.
 - g. The capacity of the outdoor seating area shall be provided by the applicant and verified by the building official.
 - h. Additional signs associated with the outdoor eating area are prohibited.
 - i. Details regarding the hours and type of entertainment, music, speakers, or similar devices used in outdoor eating areas must be identified at the time of special use/site plan review.
 - j. Preparation of food and beverages shall be prohibited in any outdoor eating area. The sale and consumption of alcohol are governed by the Michigan Liquor Control Act and local ordinance.
 - k. In addition to the standards listed above, outdoor sidewalk cafés shall also be subject to the following standards:
 - (i) To allow for pedestrian circulation, a minimum of five feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables and other encumbrances. If the sidewalk is not wide enough to allow for a five-foot wide clearance for circulation, the café should not be permitted.
 - (ii) Pedestrian circulation and access to store entrances should not be impaired. Thus, a boundary (maximum encroachment width and length) into the public sidewalk should be established, with an accessible aisle being maintained between this line and the curb, in accordance with the provisions of the National Americans with Disabilities Act (ADA) and Michigan barrier-free requirements.
 - (iii) Tables, chairs, planters, trash receptacles, and other elements of street furniture should be compatible with the architectural character of the adjacent buildings. If table umbrellas will be used, they should complement building colors.
 - (iv) Liability issues for use of the public sidewalk should be addressed and reviewed by the city attorney.
- (16) Photographic establishments.
- (17) Residential use subject to the following provisions:
- a. Residential uses shall only be located on the 2nd story of a building or above.
 - b. Residential uses shall be intergraded into the design of a larger mixed-use development.
 - c. No dwelling unit shall be located on the same floor as a business use (excluding a home occupation), and no floor may be utilized for business or office purpose which is located above a floor used for residential purposes.
 - d. Adequate provisions for off-street parking for any use above the second floor must be demonstrated to the satisfaction of the city planning commission.
 - e. Parking for residential uses shall be located in a parking structure connected to or designed as an integral part of the proposed development.
- (18) Restaurants except those having a drive-in or drive-through facility.
- (19) Generally recognized retail sales businesses, within an enclosed building, that supplies commodities on the premises for use or consumption off the premises, such as, but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.
- (20) Uses similar to the uses listed above as determined by the city manager or his designee. Such determination shall be based on a finding of fact:

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- a. That the proposed use(s) will contribute to the viable mix of uses in the village;
 - b. Is compatible with the uses permitted in the village; and
 - c. Will not adversely impact the retail oriented environment of the village.

(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-347. Permitted uses after special approval.

In the T-2 district the following special approval uses are permitted, subject to the approval of the city planning commission after public hearing and notice pursuant to the requirements of the Michigan Zoning Enabling Act, and to site plan review as provided under section 90-302. The following uses are considered to be supporting and compatible with those uses listed in section 90-336 provided they comply with the general criteria identified in section 90-300.

- (1) Uses permitted in section 90-297 that exceed 5,000 square feet.
- (2) Buildings and facilities for furnishing utility services, including heat, light, water and power.
- (3) Hotel subject to the following standards:
 - a. Adequate parking, as determined by the city, for hotel guests and visitor shall be located in a parking structure connected to or designed as an integral part of the hotel.
 - b. Drop-off or pick-up areas shall be located in that portion of the building directly opposite of the Kercheval Avenue frontage.
 - c. The area located on the ground floor between the exterior wall of a building facing Kercheval Avenue or any intersecting side street and a line parallel to the exterior wall, setback 20 feet, with the exception of the hotel entrance, shall be occupied with a use permitted under section 90-297 or section 90-298 subject to all applicable conditions. Exceptions to this condition may be granted by the city planning commission provided the applicant can demonstrate that the proposal will be consistent with the intent of the C-2 district to provide a pedestrian oriented environment.
- (4) Interior decorating establishments including bath and kitchen design, without a showroom.
- (5) Theaters.

(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-348. General criteria for uses permitted after special approval in the T-2 district.

In addition to specific site plan standards which the city planning commission may apply to the use, the standards contained in section 90-300 shall serve the city planning commission as the basis for decisions involving special land uses.

(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-349. Zoning area requirements.

No district shall be zoned as a T-2 district unless the zone shall contain several or all of the uses in section 90-336 and satisfies the objectives of section 90-335. Any expansion of the T-2 district must be consistent with the city's master plan.

(Supp. No. 27)

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(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-350. Site plan review.

For all new construction, renovation consisting of exterior modifications, new use, or expansion of existing use in a T-2 district, a site plan must be submitted to the city planning commission showing all buildings, parking areas and landscaping at a scale sufficient to permit study of all elements of the plan. Typical elevations (with color renderings and a material board) and floor plans of the building must also be provided. Plans must be prepared by a duly licensed or certified design professional.

If the plans meet the required standards and design and indicate no adverse effects which, in the opinion of the city planning commission, cause injury to adjoining property or the city as a whole, the city planning commission shall determine whether the required standards have been met and then may approve or disapprove the plans. Plans so approved shall regulate the development on the premises unless modified in the same manner as the plans were originally approved.

(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-350.1. Protective screening.

Protective screening for T-2 districts that directly abut residential districts shall be in compliance with the regulations set forth in section 90-39. In addition, any parking visible from a public street must be screened from the street with a continuous row of evergreen shrubs a minimum of 30 inches high at the time of planting, or a 30-inch decorative masonry wall constructed of brick or stone.

(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-350.2. Area, height, bulk and placement requirements.

The area, height, bulk and placement requirements for T-2 district shall be in accordance with the schedule of regulations in section 90-351 et seq.

(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-350.3. Development standards.

The development standards for the T-2 district shall be in accordance with the standards in section 90-305.

(Ord. No. 389, § VIII, 10-19-09)

Sec. 90-350.4. Specifically prohibited uses.

In order to clarify the type of permitted uses in the T-2 district, the following uses, among others, are specifically prohibited:

- (a) Pawn shops.
- (b) Currency exchanges.
- (c) Payday loan stores.
- (d) Resale shops.

(Supp. No. 27)

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(Ord. No. 389, § IX, 10-19-09)

Editor's note(s)—Ord. No. 389, § IX, adopted October 19, 2009, set out provisions intended for use as § 90-344A. For purposes of clarity, and at the editor's discretion, these provisions have been included as § 90-350.4.

Secs. 90-350.5—90-350.99. Reserved.

DIVISION 12. T TRANSITION

Sec. 90-350.100. Statement of purpose.

The T transition district is designed and intended to provide a transition from the vehicular parking district (P-1) on the outside of the mixed-use core of the central business district (C-2) and the surrounding residential areas. This district is intended to accommodate a range of residential uses to serve as a transition between the activities of the village and the surrounding single-family residential land uses. Various types and sizes of residential accommodations would thereby be provided in this district to meet the needs of different age and family groups without over-taxing existing community facilities, utilities, or services. This district shall be pedestrian-oriented, and its residential uses shall be complementary to residential uses both within and adjacent to the T district.

(Ord. No. 407, § VIII, 7-15-13)

Sec. 90-350.101. Permitted uses.

In the T district the following uses are permitted:

- (1) Apartment houses.
- (2) Hotel subject to the following conditions:
 - a. Adequate parking, as determined by the city, for hotel guests and visitors shall be provided.
- (3) Housing for elderly, independent.
- (4) Housing for elderly, assisted.
- (5) Public parking facilities.
- (6) One- and two-family homes existing at the time of establishment of the T district.
- (7) Uses similar to the uses listed above as determined by the city manager, or his designee.

Such determination shall be based on finding of fact:

- a. That the proposed uses(s) will contribute to the viable mix of uses in the village;
- b. Is compatible with the uses permitted in the village; and
- c. Will not adversely impact the retail oriented environment of the village.

(Ord. No. 407, § VIII, 7-15-13)

Sec. 90-350.102. Permitted uses after special approval.

In the T district the following special approval uses are permitted, subject to the approval of the city planning commission after public hearing and notice pursuant to the requirements of the Michigan Zoning Enabling Act, and to site plan review as provided under section 90-74. The following uses are considered to be supporting and compatible with those uses listed in section 90-350.101 provided they comply with the standards identified in section 90-75(g).

- (1) Commercial antenna.

(Ord. No. 407, § VIII, 7-15-13)

Sec. 90-350.103. Zoning area requirements.

No district shall be zoned as a T district unless the zone shall contain several or all of the uses in section 90-350.101 and satisfies the objectives of section 90-350.100. Any expansion of the T district must be consistent with the city's master plan.

(Ord. No. 407, § VIII, 7-15-13)

Sec. 90-350.104. Site plan review.

For all uses permitted in a T district, a site plan must be submitted to the planning commission pursuant to section 90-74.

(Ord. No. 407, § VIII, 7-15-13)

Sec. 90-350.105. Protective screening.

Protective screening for T districts that directly abut residential districts shall be in compliance with the regulations set forth in section 90-39. In addition, any parking visible from a public street must be screened from the street with a continuous row of evergreen shrubs a minimum of 30 inches high at the time of planting, or a 30-inch decorative masonry wall constructed of brick or stone as determined by the planning commission.

(Ord. No. 407, § VIII, 7-15-13)

Sec. 90-350.106. Area, height, bulk, and placement requirements.

The area, height, bulk, and replacement requirements for the T district shall be in accordance with the schedule of regulations in section 30-351.

(Ord. No. 407, § VIII, 7-15-13)

Sec. 90-350.107. Development standards.

Hotels and other uses with accessory commercial or service uses on the first floor shall comply with the development standards in section 90-305.

Residential uses shall comply with the following development standards:

- (1) *Site design standards.*

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- a. *Parking.*
- (i) All parking spaces, including those in garages, shall be located behind the front building wall of the principal building closest to the front street. Exception: Portions of driveway spaces for residential dwelling units may be located in a front yard provided that the driveways pace has a minimum depth of 18 feet measured from the front property line.
 - (ii) Driveways should access side streets for sites with side street access. Driveways may not access front streets when a site has side street access. The driveway standards may be modified to permit driveways that access front streets when side street access is available if there is no reasonable alternative.
- b. *Front yard landscaping.* The area between the building and the front street shall be landscaped except where vehicle or pedestrian circulation areas are located.
- c. *Encroachments.* Front stoops attached to a dwelling may project up to six feet into a required front yard, but in no case may project into a right-of-way or similar easement.
- d. *Garages.*
- (i) Garage doors may not be facing a public street.
- e. *Building materials.*
- (i) *Combination of materials.* Building materials may be combined on a building facade horizontally, with the heavier material below the lighter material.
 - (ii) *Primary building materials.* Primary building materials shall be used on a minimum of 60 percent of the facade area of the building (excluding the area of doors and windows).

Durable natural or natural-appearing building materials such as brick, stone, exposed logs or timber, cementitious siding, split face block, or other similar materials are preferred primary building materials. Durable synthetic building materials that convincingly match the appearance of natural building materials may be used as a primary building material.
 - (iii) *Accent building materials.* Accent materials may be used on up to 40 percent of the facade area of the building (excluding the area of doors and windows).

Acceptable accent materials include decorative precast concrete block, metal, and glass. Non-durable building materials such as EIFS may be used as an accent building material on up to ten percent of the total wall area of any facade, but may not be used on the base level of a building.
- f. *Base, middle, cap standards.*
- (i) *Base.*
 - (A) The base of the building shall have a minimum height of ten feet.
 - (B) A horizontal molding or cornice shall be provided at the roofline for a one-story building, between the first and second floor for multiple story buildings with two to four stories, or between the first and second floor or second and third floor for five or more story buildings. This molding or cornice adds visual interest and visually separates the base of the building from upper stories. The molding or cornice shall have a minimum height of four inches and a projection of at least two inches.
 - (ii) *Middle.* The middle area of the building includes upper stories, and is visually defined by the molding or cornice that defines the base of the building and a cornice or eaves line that

defines the cap of the building. There are no specific requirements for the middle of the building. Building material transitions may take place between the base and the middle portions of the facade, or within the middle portion of the facade for buildings four stories or greater where the design intent is to create a more substantial appearing base.

- (iii) *Cap.* Pitched roofs shall be sloped no less than 5:12, except that roofs for porches and attached sheds may be no less than 2:12. Flat roofs shall be enclosed by parapets a minimum of 30 inches high, or higher if required to conceal mechanical equipment from view from the front street or from any single family residential property. Flat roofs shall include a cornice to define the top of the building.

g. *Building transparency.*

- (i) *Minimum first floor transparency.* The minimum transparency on the first floor front facade shall be 35 percent for buildings with residential first floor uses.
- (ii) *Maximum upper floor transparency.* The maximum transparency on upper stories shall not exceed 50 percent.
- (iii) *Proportion of openings.* Building openings, including doors and windows, shall be square or vertical in proportion except on the first floor front facade, where windows may have a horizontal proportion. Individual windows with a vertical proportion may be grouped together even if the group of windows will have an overall horizontal proportion.

h. Buildings wider than 75 feet shall incorporate vertical elements in the principal façade to mimic smaller-scale development.

i. *Encroachments.* Balconies on upper stories may project up to six feet from the face of the building, and may encroach into setback areas.

j. *Mechanical equipment and service areas.*

- (i) Service areas, including utility access, loading areas, and dumpsters shall be located in side or rear yards and shall be screened from view from any street and any residentially used property.
- (ii) Mechanical and utility equipment, such as gas or electrical meters, telephone boxes, utility cabinets, HVAC equipment, and other similar utility devices (whether ground, wall, or roof mounted) shall be screened from view from a point eight feet above grade level at the centerline of any abutting roads and along any parcel line abutting a residentially used property. The applicant shall submit a line of sight drawing demonstrating that the equipment will not be visible from the above locations. Exterior screening materials shall be the same as the predominant materials of the principal building.
- (iii) *Modification of building design standards.* In the interest of architectural diversity, the building design standards may be modified to permit alternate materials or design. Any approved modification must result in a building that is equal to or exceeds the quality and design of a building that complies with the building design standards.

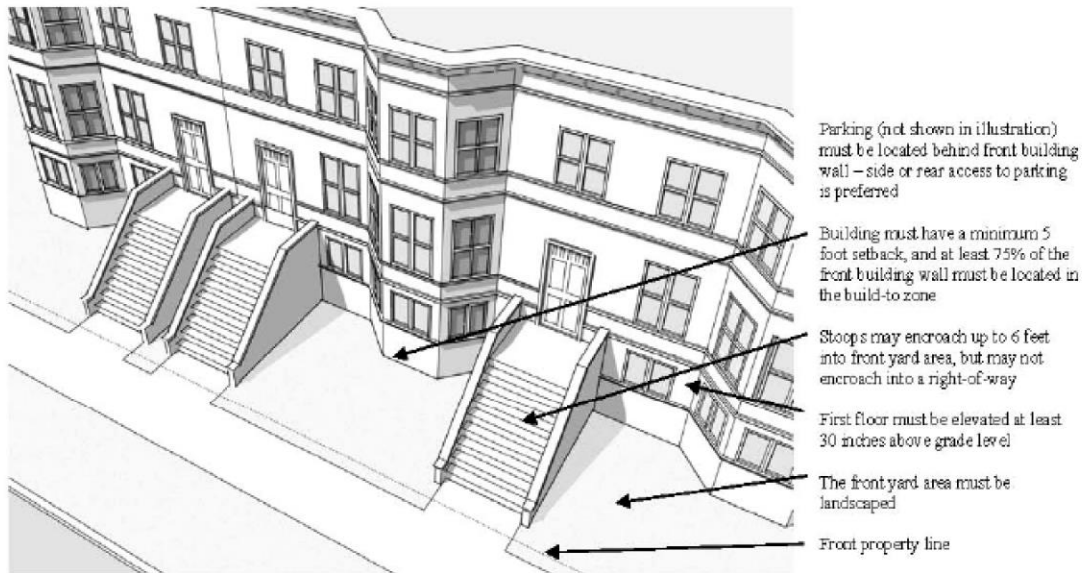
(2) *Stoop building design standards.*

- a. *Design features.* Any street-facing façade that is visible from a public right-of-way or private road easement shall include features such as, but not limited to columns, cornices, pediments, articulated bases, and fluted masonry covering a minimum of ten percent of the exterior wall area.

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- b. *Front porch or stoop required.* Each dwelling unit or building subdivision shall have a minimum 30 square feet unenclosed porch or stoop. The porch or stoop shall be raised at least 18 inches above sidewalk grade.

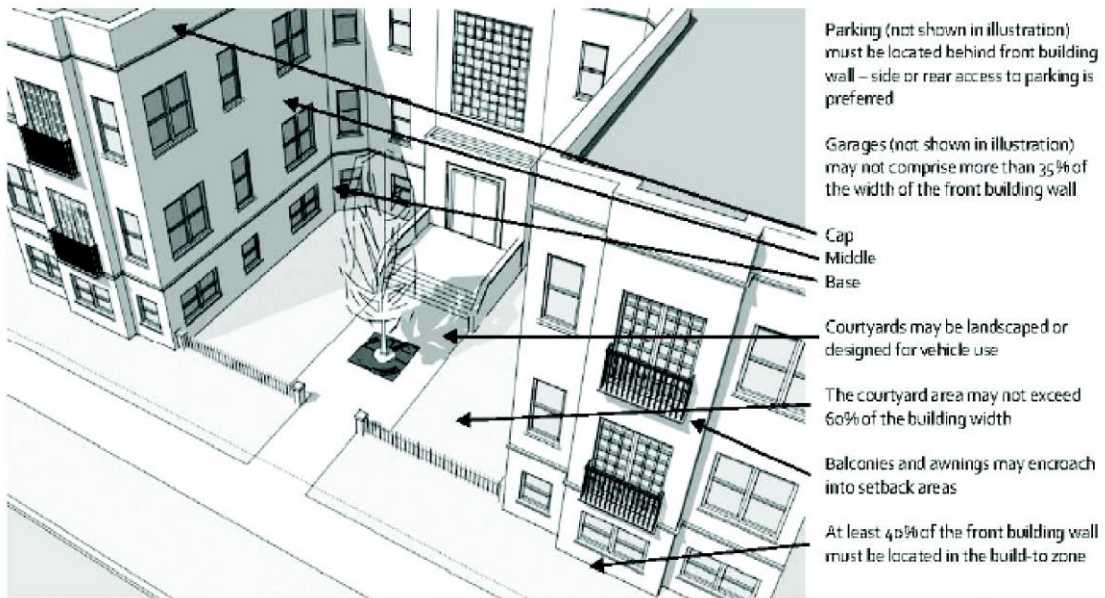
The porch or stoop may be covered so long as the area between the surface of the top surface of the stoop and the underside of the canopy covering the stoop is at least 75 percent open. For the purpose of calculating the enclosure requirement, the vertical area of any surface or building element intended to enclose the stoop, including screens, shall be subtracted from the total vertical area of the stoop between the floor and the canopy.
 - c. *Elevated first floor.* In order to provide privacy for first floor rooms, the first floor of the building shall be elevated a minimum of 30 inches above the level of the sidewalk adjacent to the front property line.
 - d. *Entrances.* A minimum of 75 percent of all units within a stoop building shall have their principal entrance on the front facade of the building.
- (3) *Courtyard building design standards.*
- a. *Courtyard width.* The courtyard shall not exceed 60 percent of the width of the lot.
 - b. *Ground story design.*
 - (i) *Entrances.* All buildings shall have their principal entrance on the front façade of the building. Entrances may be recessed up to six feet from the front building wall of the building.
 - (ii) *Ground story height.* A minimum clear height of 12 feet shall be provided for the ground story in a courtyard building.
 - (iii) *Bulkhead below first floor windows.* First floor windows may not extend down to grade level. A bulkhead or kickplate with a minimum height of one foot shall be provided below first floor windows. The bulkhead should use primary materials, and the chosen material should appear heavier visually than the material used for the walls.
 - c. *Modification of building design standards.* In the interest of architectural diversity, the building design standards may be modified. Any approved modification must result in a building that is equal to or exceeds the quality and design of a building that complies with the building design standards.

Figure 1. Stoop Private Frontage Illustrative Example



The above **Figure 1** shows one example of development that complies with the requirements of this Section, and is for illustrative purposes only. The above figure is not a binding regulation. Refer to the following text for applicable regulations.

Figure 2. Courtyard Private Frontage Illustrative Example



The above **Figure 2** shows one example of development that complies with the requirements of this Section, and is for illustrative purposes only. The above figure is not a binding regulation. Refer to the following text for applicable regulations.

(Ord. No. 407, § VIII, 7-15-13)

ARTICLE VII. AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS

Sec. 90-351. Schedule.

							Minimum yard setbacks in feet (unobstructed) ^a						
							Maximum height of buildings		Sides				
Zoning district	Maximum lot coverage (percent)	Area per dwelling unit in sq. ft.	Width in feet	In stories	In feet ^l	Front ^a	At least one	Total of two	Side yard adjacent to a street	Rear	Minimum floor area per dwelling unit ^l in sq. ft.	Minimum floor area on first floor per dwelling unit	
(1)	E-R	25	20,000	150	3	35	40 ^{b, k}	c, n, o	c, n, o	22 ^{c, j}	30 ^c		
(2)	R-1A	30	15,000	100	2½	35	35 ^{b, k}	c, n, o	c, n, o	22 ^{c, j}	30 ^c	1,800	1,200
(3)	R-1B	30	(p, q)	(r, s)	2½ ^m	35 ^m	30 ^b	(c, n, o, p)	(c, n, o, p)	20 ^{c, j}	25 ^c	1,200	1,000
(4)	R-T _{g, h}	35	4,000	150	2½	35	25 ^d	c, n, o	c, n, o	12 ^{c, d}	25 ^{c, d}	1,200	
(5)	RO-1	40	4,000	70	2½	35	30 ^c	e, f	e, f		e, f		
(6)	C-1	—			3	42	f	f	f		f	Studio: 500 1-BR: 600 2-BR: 700 3-BR+: 900	
(7)	C-2				f	f	f	f	f	f	f	Studio: 500 1BR: 600 2-BR: 700 3-BR+: 900	
(8)	P-1 ^j												
(9)	T-1				2 1/2	35	10	f	f	f	f	Studio: 500 1BR: 600 2-BR: 700 3-BR+: 900 Terrace dwelling: 1,200	
(10)	T-2				4	42	f	f	f	f	f	Studio: 500 1BR: 600 2-BR: 700 3-BR+: 900	
(11)	T				3 f(5)	42 f(5)	f(6)	5	5	20 ^c	25 ^{c, d}	Studio: 500 1BR: 600 2-BR: 700 3-BR: 900	
(12)	HF	See section 90-309											
(13)	NC	—	4,000	—	2	35	^t	—	—	^t	^t	—	

Notes:

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- a. 50-foot setback for all buildings in any zoning district is required for all yards abutting on Jefferson Avenue.
 - b. For a lot occupied by any permitted building in the E-R, R-1A, R-1B and R-T districts, other than solely for residential purposes, the required front yard setback shall be 50 feet. However, where 50 percent or more of the lots in any one block (an area between two adjacent streets) has been built upon, the minimum front yard shall be established by using the average depth of the front yards of the built lots.
 - c. In E-R, R-1A, R-1B and R-T districts on a lot occupied by any building which is permitted in the districts other than solely for residential purposes, the width of each side or rear yard shall be not less than 25 feet.
 - d. The distance between buildings, or between any building and the nearest lot line shall not be less than the height of the building, nor less than 20 feet, whichever is greater. No more than ten percent of the required distance may be used for off-street parking area.
 - e. No front, side or rear yard required where 50 percent or more of block is built up with structures not providing any front, side or rear yards.
 - f. For all RO-1, C-1, C-2, and T-2 districts, the following yard requirements shall apply:
 - (1) On the side or rear of a lot which abuts property located in any residential zone, a setback of not less than 20 feet in width shall be provided.
 - (2) In all cases where a building has a wall not of fireproof construction or a fireproof wall pierced with windows or other openings, the building shall be accessible on at least two sides by public street or alley or by a passageway, open aboveground, not less than ten feet wide, measured to the lot line, extending to a public street or alley.
 - (3) All buildings must be built to the predominant building line established along the block face between the two closest intersecting streets in an effort to maintain a continuity of storefronts. Exceptions from this requirement may be permitted provided there are plazas or other public amenities incorporated into the area of the proposed setback.
 - (4) The following requirements shall apply to those uses located in the C-2 district:
 - (a) Buildings located within 300 feet of the Neff Street right-of-way shall be limited to two and one-half stories in height, or 35'-0".
 - (b) Buildings located between 300 feet of the Neff Street right-of-way and St. Clair Avenue shall be limited to three stories in height, or 42'-0".
 - (c) Buildings located within 240 feet of the Cadieux Road right-of-way shall be limited to two and one-half stories in height, or 35'-0".
 - (d) Buildings located between 240 feet of the Cadieux Road right-of-way and Notre Dame Avenue shall be limited to three stories in height, or 42'-0".
 - (e) Buildings located between St. Clair and Notre Dame shall be limited to four stories or 54'-0" provided, the fourth story shall be enclosed in a mansard roof or setback 15 feet from the building facade of the third story and contain only residential uses as permitted under Section 298.
 - (f) No off-street parking area, located at grade, may be located within 100 feet of the right-of-way of Kercheval Avenue.
 - (g) No use, permitted or permitted after special approval, shall have a drive-up facility allowing transactions without leaving a vehicle within 250 feet of the right-of-way of Kercheval Avenue.
 - (5) The following requirements shall apply to those uses located in the T-1 district:
 - (a) The setback from Notre Dame shall be 10'-0".
 - (b) The setback from Waterloo shall be no less than 10'-0"-, and no more than 25'-0".
 - (c) The setback from St. Clair shall be no more than 10'-0".
 - (d) Buildings or portions of buildings located more than 100'-0" from the Waterloo right-of-way shall be limited to three stories in height, or 42'-0".
 - (6) The following requirements shall apply to those uses located in the T district:
 - (a) Buildings in this area may include an additional story subject to special use approval and further provided that the fourth story shall be enclosed in a mansard roof or setback 15 feet from the building facade of the third story.
 - (b) The setback from St. Clair shall be 10'-0" for a hotel.
 - (c) The setback from St. Clair shall be no less than 15'-0" and no more than 20'-0" for permitted residential uses.

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- (d) The setback from St. Paul shall be no less than 30'-0".
- g. Required lot area, lot width and other regulations for single-family residences in an R-T district shall be the same as required for the single-family district abutting on the R-T district at the nearest distance from the lot or lots in question.
- h. Attached single-family dwellings or terraces may be erected and rented or sold as individual units regardless of the side yard, lot area and lot width requirements of the residential zone classifications, subject to the following provisions:
- (1) The building containing the attached houses must meet all use, height, yard and parking provisions of its zone district.
 - (2) The sale of any individual unit must include rights to a common open space for access to a common required parking area, unless the individual unit has a built-in garage in connection therewith.
 - (3) No terrace shall contain more than six such attached dwelling units unless provided with other courts of at least 20 feet in two directions.
 - (4) Each unit shall have utility services.
 - (5) If units in terraces have private ownership, site must be subdivided in accordance with all applicable state, county and city laws.
- i. The minimum floor area per dwelling unit shall be calculated based on usable floor area, as defined in section 90-3, Definitions.
- j. For detailed regulations for this district see article V.
- k. For lots fronting or adjacent to Lake St. Clair, the front yard for purposes of determining setback shall be that yard which faces the lake and the rear yard shall be that yard which is opposite the lake side and which faces Jefferson Avenue. The front yard setback for all buildings, structures, accessory buildings thereto, and fences or walls in excess of four feet in height shall be 75 feet. Modification of the setback requirement may be approved by the board of zoning appeals to a depth equal the setback of the building on the adjacent lot having the greatest setback from the lake, but the maximum depth need not be required to exceed 75 feet.
- l. For height limitations on aerials and antennas see section 90-44 (commercial antennas), section 90-14 (domestic aerials) and section 90-43 (satellite dish antennas).
- m. For lots with a width of less than 40 feet the maximum height is one and one-half stories (28 feet).
- n. For lots in the E-R, R-1A, R-1B and R-T Districts, the following side yard setback requirements shall apply:
- (1) For lots with a lot width of 50 feet or less: Nine feet (at least one side), 15 feet total of two sides.
 - (2) For lots with a lot width of 51 to 100 feet: Nine feet (at least one side), 20 feet total of two sides.
 - (3) For lots with a lot width of 101 feet or greater: Nine feet (at least one side), 30 feet total of two sides.
- o. No two adjacent properties shall have buildings erected with less than a nine-foot separation between them.
- p. Any existing lot created prior to January 01, 2005 shall be considered a buildable lot in the R-1B district provided the lot area is greater than 3,000 square feet.
- q. Any lot created after must conform to the predominant lot size of the lots on the same side of the street between two closest intersecting streets or 7,500.
- r. Any existing lot created prior to January 01, 2005 shall be considered a buildable lot in the R-1B district provided the lot width is a minimum of 30 feet.
- s. Any lot created after must conform to the predominant lot width of the lots on the same side of the street between the two closest intersecting streets or 50 feet, whichever is less.
- t. For the NC district, the following area, height, bulk, and placement requirements shall apply:
- (1) The City Council may allow a building height of up to 40 feet subject to permitted use after special approval.
 - (2) Special architectural features will be allowed to exceed the above height if:
 - (a) The feature is located at a corner.
 - (b) The feature is deemed necessary to the type, use, or style of the building in question.
 - (c) Special architectural features such as pediments, turrets, or other elements compatible with the architecture of the building, shall not exceed the height of the remainder of the building by more than ten feet.
 - (3) Front Building Setbacks. All buildings must be built to the predominant building line established along the block face between the two closest intersecting streets. Exceptions from this requirement include:

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- (a) Plazas or other public amenities incorporated into the area of the proposed setbacks.
 - (b) A gallery may extend a maximum of ten feet into the predominant setback area.
 - (c) Expression zone. Architectural features such as bay windows or other projections not exceeding 25 percent (in aggregate) of the building frontage may project up to five feet beyond the predominant building line.
- (4) Rear building setbacks. All buildings must be setback a minimum of 20 feet from the rear property line. This shall not prohibit buildings that do not comply with this standard as of the date of effect of this ordinance from being rebuilt in the case of destruction or damage (beyond 50 percent of state equalized value), expanded, or otherwise improved.
- u. For the C-1 district, the city council may allow building height of up to four stories or 50 feet, subject to the following:
- (1) Off-street parking. At least 80 percent of the required parking for the site must be accommodated on-site.
 - (2) Transit alternatives. The proposal includes at least two transit alternatives, including but not limited to: bike parking, electric vehicle (EV) charging stations, bus station improvements, micro-mobility stations, or car share.

(Ord. No. 276, § 2(5.176, 5.177), 9-21-92; Ord. No. 298, § 1, 3-18-96; Ord. No. 348, § I, 5-17-04; Ord. No. 358, § V, 12-12-05; Ord. No. 374, § I, 8-20-07; Ord. No. 389, § X, 10-19-09; Ord. No. 407, § IX, 7-15-13; Ord. No. 412, § II, 2-24-14; Ord. No. 414, §§ II, III, 6-16-14; Ord. No. 443, §§ I, II, 11-16-20; Ord. No. 445, §§ X—XII, 5-17-21)

Secs. 90-352—90-399. Reserved.

ARTICLE VIII. FENCES AND LIVING SCREENS

Sec. 90-400. Intent.

The intent of this article is to promote the public health, safety and welfare by regulating the construction, location, and appearance of fences, privacy screen walls, hedges, and other types of protective barriers in the City of Grosse Pointe.

(Ord. No. 343, § II, 10-20-03)

Sec. 90-401. Definitions.

For the purpose of this article the following definitions apply.

"Construction site barrier" means a temporary fence erected to protect a construction site from vandalism and unauthorized entry. Construction site barriers do not require a permit unless the barrier will be in place for more than one year or if the intended fence is requested to be placed on the public right-of-way.

"Fence" means a structure erected to act as a boundary marker, or erected for the purpose of restricting access to or from a lot or parcel of land, whether enclosing all or part of said lot or parcel. A fence requires a building permit.

"Fence owner" means the person or entity that owns the property upon which a fence is erected.

"Front building line" means the line established by the main wall of the front of the primary building, extending to each side of the lot line.

"Front lot line" means in the case of a lot abutting upon one public or private street the line separating such lot from such street right-of-way. In the case of any other lot, the owner shall, for the purpose of this ordinance, have the privilege of electing any street lot line as the front lot line, providing that such choice, in the opinion of the building inspector, will not be injurious to the existing, or the desirable future, development of adjacent properties.

"Front yard" means for the purpose of this article a yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and five feet behind the front building line.

"Hedge" means any bush, shrub, or any living green fence of any nature encircling, either wholly or any portion of any given area. A hedge must be maintained one foot behind the sidewalk.

"Landscape retaining walls" means a non-sight obscuring decorative structure used to enhance, accent, support or protect the landscaping of the site (e.g. boulders, timbers, pre-cast concrete, etc.). A landscape retaining wall must be maintained two feet behind the sidewalk. Landscape retaining walls where the grade on each side of the barrier differs by greater than 24 inches require a building permit.

"Ornamental fence" means a fence, including but not limited to a fence, gate, or arbor designed in such a manner and of such materials that it is erected for purposes other than the practical one of preventing persons or domestic animals from passing through it. Ornamental fences require a building permit.

"Privacy fence" means a fence of opaque material having such qualities as to constitute a visual barrier. A visual barrier is provided if less than 50 percent of the vertical service of the fence is open to the free passage of air and the distance or open space between boards, slats, rails, stanchions, or balusters is less than or equal to three inches when viewed and measured at 90 degrees to the fence line.

"Privacy screen" means a vertical sight-obscuring structure, erected adjacent to or around, but not limited to, a patio, deck, courtyard area, swimming pool, or outdoor hot tub designed to screen, but not enclose, the area behind it or within its confines. Privacy screens shall not exceed six feet in height.

"Rear building line" means the line established by the main wall of the rear of the primary building, extending to each side lot line.

"Rear yard" means the portion of the yard between the rear building line and the rear lot line.

"Side lot line" means any lot lines other than the front lot line and rear lot line.

"Side yard (exterior)" means the portion of the yard between the residential home and side right-of-way for corner lot properties beginning at the front building line and extending to the rear building line.

"Side yard (interior)" means the portion of the yard between the residential home and side property line, beginning five feet back from the front building line and extending to the rear building line.

"Protective screening wall" means a masonry wall erected to screen a residential district from a C-1, C-2 or P-1 zoning district. Screen walls require a permit.

(Ord. No. 343, § II, 10-20-03)

Sec. 90-402. Permit.

The erection, construction or substantial rebuilding or any fence or screen shall be performed within all municipal codes and shall require a building permit. Substantial rebuilding is reconstruction of 50 percent or more of the structure, a change in the height of the structure, or a change from the existing material within a 12-month period. Systematic replacement to circumvent the ordinance is prohibited. Painting, cleaning, replacement of like materials, or other actions commonly considered, as general maintenance shall not be defined as "substantial rebuilding."

(Ord. No. 343, § II, 10-20-03)

Sec. 90-403. Application process.

Any person desiring to construct, or cause to be constructed, any fence, screen or wall for which a permit is required as defined in this article, shall first apply to the city building inspector for a permit. A permit fee shall be required as prescribed by resolution of the city council. The application for the permit shall include any and all information requested by the building inspector to determine whether or not the construction of such fence, wall or screen will violate any portion of this article.

(Ord. No. 343, § II, 10-20-03)

Sec. 90-404. General requirements.

- (1) Whenever a non-conforming fence shall fall into a state requiring substantial rebuilding the replacement shall conform to the requirements of this article.
- (2) No fence or screen shall have barbed wire, razor wire, electrical current, concertina wire or other similar material.
- (3) The supporting framework and or unfinished side of any fence or screen shall not face adjacent properties or streets.
- (4) No fence shall be erected adjacent to another fence.
- (5) It is the responsibility of the person installing the fence to ensure such fence is placed on or within his or her property line.
- (6) The owner of any fence or screen shall maintain the fence or screen in accordance with property maintenance codes as adopted by the City of Grosse Pointe.
- (7) All fences and screens shall be maintained plumb and true with adequate support in a safe manner. The owner of a fence or screen shall remove or repair a fence that is dangerous, dilapidated, or otherwise in violation of the Code of Ordinances.
- (8) Any person who owns property upon which a previous owner has constructed a fence shall be responsible for the care, upkeep and maintenance of the fence.
- (9) Slats of any material shall not be permitted in a chain link fence.
- (10) Fences, which enclose public institutions or public playgrounds, shall not exceed eight feet above grade.
- (11) Commercial grade gates are prohibited.

(Ord. No. 343, § II, 10-20-03)

Sec. 90-405. Residential fences.

- (1) *Front yard fences.* When located within the front yard, fences shall have a minimum height of 24 inches and a maximum height of 36 inches measured from the finished grade at the property line and shall be setback a minimum two feet from the sidewalk.

When located within the front yard, fences shall be of an ornamental nature including picket, split rail, or wrought iron type fencing. Front yard fences must have a minimum 50 percent open space between horizontal or vertical pickets with minimum openings of three inches when viewing the fence perpendicularly. Chain link and solid wood fencing is prohibited in front yards.

Fences located within the front yard are not exempt from section 90-21, corner visibility.

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- (2) *Exterior side yard.* Fences located between the rear building line and the rear property line and located adjacent to a road may not exceed six feet in height and must be set back a minimum two feet from the sidewalk.

Residential properties adjacent to the county right-of-way are permitted to replace the existing side yard fence (on the county right-of-way side) to meet existing characteristics such as: height, style, length, material (excluding stockade) with the approval of the building inspector.

- (3) *Interior side yard.* When located in an interior side yard between the front building line and the rear building line, fences must be setback five feet from the front building line and may not exceed six feet in height.
- (4) *Rear yard.*
- (i) *Non-through lot.* A fence may be located on the rear property line not to exceed six feet in height.
 - (ii) *Through lot.* When located within a rear yard on a through lot where all of the lots located on the same side of the street between two intersecting side streets are through lots, fences may not exceed six feet in height and must be setback a minimum of two feet from the property line.

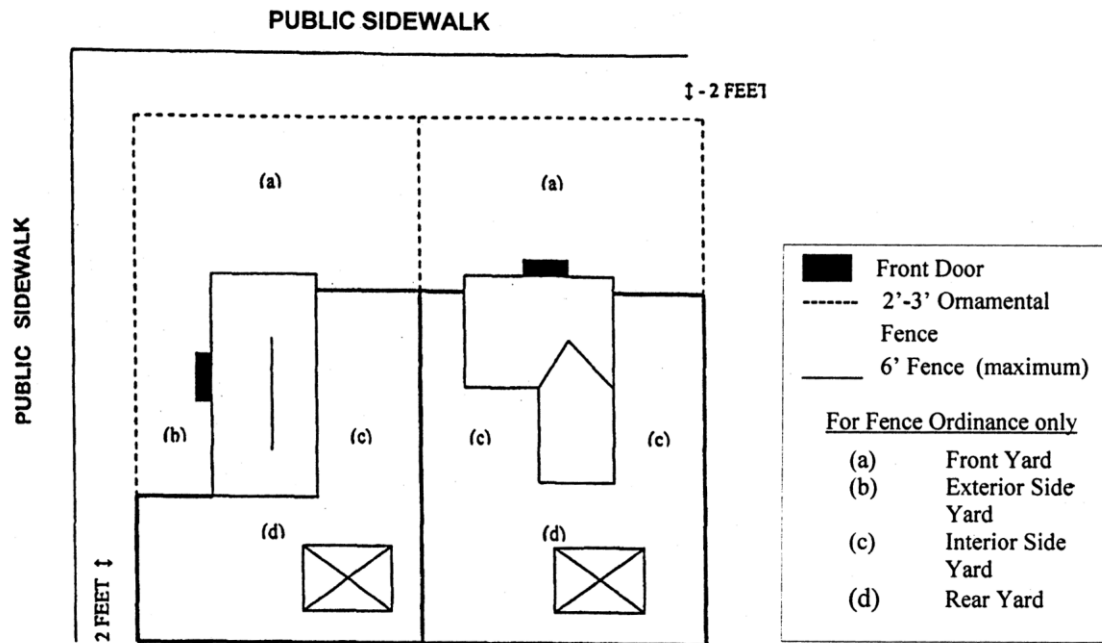


Diagram 1

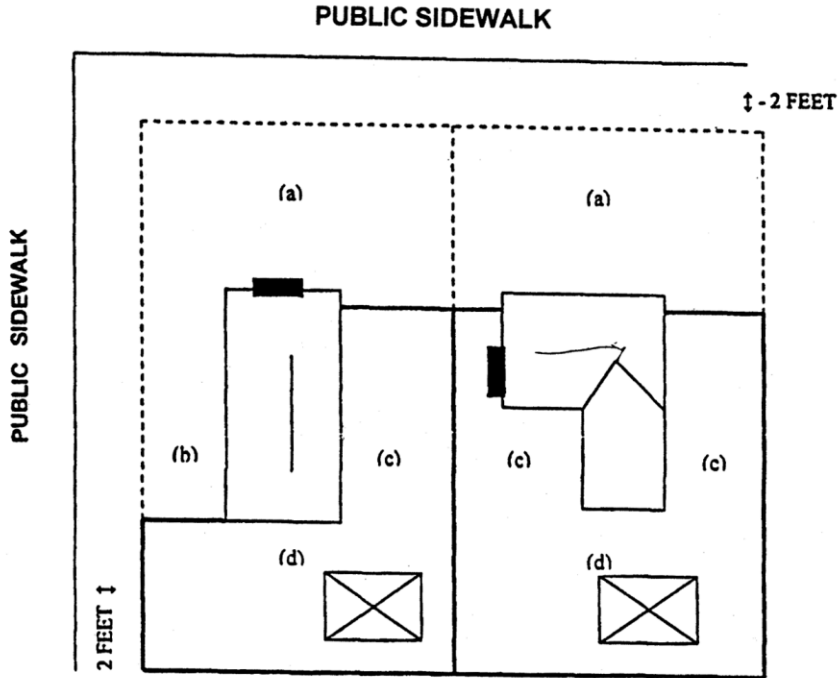


Diagram 2

(Ord. No. 343, § II, 10-20-03)

Sec. 90-406. Variances.

Upon application in writing by any person directly or adversely affected, the board of zoning appeals may, after a hearing in accordance with the established procedures of that board, in its sound discretion and in the interest of the public health, safety and welfare of the inhabitants of the community, reduce or remit the requirements of this article in individual cases coming before such board.

(Ord. No. 343, § II, 10-20-03)

Secs. 90-407—90-449. Reserved.

ARTICLE IX. STORMWATER MANAGEMENT

Sec. 90-450. Purpose.

Prevention of pollution from stormwater runoff and the protection of the quality of the waters of the state of Michigan is of utmost importance to the city. It is the purpose of this article and any rules promulgated pursuant to this article:

- (a) To protect the environment against pollution and other effects from stormwater runoff, and to protect the public health and safety;

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- (b) To provide for the implementation of a stormwater management program in the City to manage and prevent flooding, pollution, and other effects from stormwater runoff;
 - (c) To establish standards and criteria for the design and construction of stormwater management systems subject to the requirements of this article;
 - (d) To establish best management practices for the design, construction, maintenance, and operation of stormwater management systems subject to the requirements of this article;
 - (e) To provide for the issuance of stormwater construction approvals for construction activities subject to the requirements of this article;
 - (f) To provide for the long-term preservation and maintenance of stormwater management systems subject to the requirements of the Ordinance;
 - (g) To authorize the inspection of stormwater management systems subject to the requirements of this article; and
 - (h) To provide for the administration, implementation and enforcement of this article.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-451. Incorporation by reference.

Rules, regulations, other regulatory standards or statutory provisions incorporated or adopted by reference in this article or any rules promulgated pursuant to this article shall have the same force and effect given to any provision of this article.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-452. Definitions.

As used in this article, the following terms have the following meanings:

Applicant means a person responsible for regulated construction activity on a development site who is seeking to obtain stormwater construction approval.

Construction activity means a human-made activity, including without limitation, clearing, grading, excavating, construction and paving, that results in an earth change or disturbance in the existing cover or topography of land, including any modification or alteration of a site or the "footprint" of a building that results in an earth change or disturbance in the existing cover or topography of land.

Conveyance means any structure or other means of safely conveying stormwater and stormwater runoff within a stormwater management system, including without limitation a watercourse, closed conduit, culvert, or bridge.

City means the City of Grosse Pointe.

Development site means the property on which regulated construction activity will occur or is occurring or has occurred.

Person means a natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, city, county, municipality, district, or other political subdivision, department, bureau, agency or instrumentality of federal, state, or local government, or other entity recognized by law as the subject of rights and duties.

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Regulated construction activity means construction activity that is subject to the provisions of this article or a rule promulgated pursuant to this article.

Stormwater means water resulting from precipitation, including without limitation rain, snow, and snowmelt.

Stormwater construction approval means an approval issued pursuant to this article and rules promulgated pursuant to this article.

Stormwater management program consists of ordinances, orders, rules, regulations, and other mechanisms that provide for the management of stormwater and stormwater runoff to prevent flooding and to ensure the restoration and/or protection of waters in the city.

Stormwater management system means any structure, feature or appurtenance subject to this article or a rule promulgated pursuant to this article that is designed to collect, detain, retain, treat, or convey stormwater or stormwater runoff, including without limitation buffer strips, swales, gutters, catch basins, closed conduits, detention systems, pretreatment systems, wetlands, pavement, unpaved surfaces, structures, watercourses, or surface waters. With respect to the city, stormwater management program consists of the requirements of this article, and activities mandated by the certificate of coverage issued by the Michigan Department of Environmental Quality to the city pursuant to the General Permit "Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) Subject to Watershed Plan Requirements" (General Permit No. 610316).

Stormwater runoff means the excess portion of precipitation that does not infiltrate the ground, but "runs off" and reaches a conveyance, surface water, or watercourse.

Surface water means a body of water, including without limitation seasonal and intermittent waters, in which the surface of the water is exposed to the atmosphere, including without limitation lakes, open detention basins, forebays, watercourses, bioretention areas, retention basins, wetlands, and impoundments.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-453. Applicability.

This article and rules promulgated pursuant to this article shall apply to all of the following:

- (a) Construction activity that impacts stormwater runoff into or around new or existing road rights-of-way within the jurisdiction of the city;
- (b) Construction activity that impacts stormwater runoff into or around city drains;
- (c) Construction activity that impacts stormwater runoff in projects that are subject to the requirements of Act 288 of 1967 (Subdivision Control Act), MCL 560.101 et seq., as amended;
- (d) Construction activity that impacts stormwater runoff into, on, or through property owned by the city;
- (e) Construction activity that impacts new or existing storm sewer systems owned, operated, or controlled by the city.
- (f) Construction activity that occurs within and impacts or may impact water quality or water resources in watersheds or sub-watersheds included in the Certificate of Coverage issued by the Michigan Department of Environmental Quality to the city pursuant to the General Permit "Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s) Subject to Watershed Plan Requirements" (General Permit No. 610316).

(Ord. No. 375, § I, 3-17-08)

Sec. 90-454. General requirements.

It shall be a violation of this article to engage in regulated construction activity except in accordance with this article and rules promulgated pursuant to this article, and pursuant to a valid stormwater construction approval issued by the city. A stormwater construction approval shall be issued in a form and manner approved by the city, and may be incorporated into a construction permit or other approval issued under or required by another ordinance, statute or regulation.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-455. Application for stormwater construction approval.

- (a) Applicants shall submit a written application for a stormwater construction approval to the city. The application shall be made in a form and manner approved by the city, and shall include all information and documentation required by the city pursuant to this article or rules promulgated pursuant to this article.
- (b) All proposed modifications to a stormwater management system that has received a stormwater construction approval issued by the city shall be submitted to the city in writing, together with all information and all supporting documentation required by the city pursuant to this article or rules promulgated pursuant to this article to support the proposed modification. A person shall not commence regulated construction activity associated with a proposed modification without the approval of the city.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-456. Financial assurance for regulated construction activity.

- (a) The city may require an applicant to provide financial assurance for regulated construction activity.
- (b) Financial assurance provided pursuant to this section shall be in the form of a performance bond, cash deposit, or unconditional irrevocable letter of credit. The city may accept, with prior approval, an equivalent instrument as financial assurance for regulated construction activity.
- (c) The city may establish the form and amount of financial assurance to be provided; the events, circumstances, or occurrences that will cause the city to release the financial assurance mechanism; and other requirements for financial assurance to satisfy the purposes of this article.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-457. General design and construction requirements.

- (a) Except as provided below, stormwater management systems shall be designed in accordance with the minimum requirements for performance and design that are set forth in this article and in rules promulgated pursuant to this article.
- (b) The city encourages the development and use of innovative stormwater management system designs and construction techniques, including without limitation the use of non-structural practices to reduce stormwater runoff and/or its water quality impacts, to achieve the flood control and water quality objectives of this article and the rules promulgated hereunder.
- (c) Notwithstanding any provision in this article or a rule promulgated pursuant to this article, the city may require stormwater management systems to satisfy performance and/or design standards more stringent than the minimum requirements for performance and design set forth in this article and in rules

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promulgated pursuant to this article when necessary to address unique flood control or water resources protection issues at a development site, on adjacent properties, or downstream of a development site.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-458. Applicant design responsibilities.

- (a) Selecting and designing stormwater management systems to meet the requirements of this article and the rules promulgated pursuant to this article shall be the responsibility of the applicant or its designee, subject to the approval of the city pursuant to this article and rules promulgated pursuant to this article. The city may deny a stormwater construction approval for a system design that is not in compliance with these requirements.
- (b) In designing a stormwater management system, the applicant shall consider all relevant and appropriate factors, including without limitation the following:
 - (1) The public health, safety, welfare, and the environment;
 - (2) The inconvenience caused by stormwater runoff on the subject property;
 - (3) The long-term impact of regulated construction activity on stormwater runoff on, from, and beyond the property;
 - (4) The natural drainage pattern of the land;
 - (5) The impact of the regulated construction activity on the affected watershed(s);
 - (6) The effect of complete upstream development on the subject property as determined by applicable master plans and/or stormwater plans; and
 - (7) The extent of downstream improvements necessary for proper stormwater drainage.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-459. Fees for stormwater construction approvals.

The city council will adopt a written schedule from time to time establishing a fee system for administering and implementing the stormwater management program. The fee system may include fees for application submittal and review, project overview, compliance inspections, and any other task or service performed by the city to administer or implement the requirements of this article or rules promulgated hereunder. Fees may include charges for time and materials utilized by the city in implementing and administering the requirements of this article or rules promulgated pursuant to this article.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-460. Demonstration of long-term maintenance.

The applicant for a stormwater construction approval shall demonstrate to the city in the application or during the application review process, as determined appropriate by the city, that the stormwater management system shall be maintained in perpetuity. This demonstration shall be made in the manner specified in rules promulgated pursuant to this article.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-461. Scope of long-term maintenance.

For purposes of this article and rules promulgated pursuant to this article, long-term maintenance shall include site monitoring and preventative maintenance activities necessary to ensure that a stormwater management system functions 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 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 this article and rules promulgated pursuant to this article; and such other actions as maybe set forth in rules promulgated hereto.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-462. Authority.

Upon presentation of proper credentials and identification, and after stating the authority and purpose of the inspection, city inspectors shall be promptly permitted to enter and inspect a development site. The inspection shall be for the purpose of investigating the development site stormwater management systems, or components of stormwater management systems, to determine compliance or noncompliance with this article, rules or regulations promulgated pursuant to this article, and/or stormwater construction approvals issued pursuant to this article.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-463. Investigations, informal conferences, and voluntary agreements.

- (a) If the city believes that a violation of this article, a rule promulgated pursuant to this article, or a stormwater construction approval issued hereunder may have occurred or exists, the city shall make a prompt investigation. If, after this investigation, the city determines that a violation has occurred or exists, the city shall attempt to enter into a voluntary agreement to resolve or correct the violation. An informal conference may be requested by the city or by any other person to facilitate a voluntary agreement.
- (b) If a voluntary agreement cannot be reached, the city shall take appropriate enforcement action pursuant to this article and other applicable provisions of law.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-464. Notification of violation.

- (a) If a voluntary agreement pursuant to section 90-463 cannot be reached, the city shall issue written notice of a violation to the person or persons alleged to have caused or contributed to a violation of this article, a rule promulgated pursuant to this article, and/or an approval issued hereunder. A written notice of violation shall include a statement of facts upon which the violation is based.
- (b) Within 14 days of the receipt of a written notice of violation, the alleged violator shall submit to the city an explanation of the violation and a plan for correcting the violation to comply with this article, rules promulgated pursuant to this article, and/or stormwater construction approvals issued hereunder. Submission of this plan in no way relieves the alleged violator of liability for any previous violation not addressed by the plan or future violation.
- (c) Within 14 days of the receipt of a written response to a notice of violation, the city shall determine whether the response resolves and/or corrects the alleged violation. If the city determines that the response resolves

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and/or corrects the violation, then the plan for correcting the violation shall be incorporated into a consent agreement pursuant to section 90-465.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-465. Consent agreement.

- (a) A consent agreement may be entered into at any time by and between the city and the person or persons alleged to have caused or contributed to a violation. The consent agreement shall be mutually acceptable to both the city and the recipient(s) and shall reflect the recipient's agreement to assume responsibility for and correct violations of this article, rules promulgated pursuant to this article, and approvals issued hereunder.
- (b) The consent agreement shall contain a short statement of facts, describe the actions necessary to correct the noncompliance, contain a compliance schedule, and be signed by all parties. The agreement may contain a monetary or other relief as agreed to by the parties for the noncompliance, including without limitation, amounts necessary to compensate the city for costs incurred investigating, administering and/or enforcing this article or rules promulgated hereto.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-466. Administrative compliance orders.

- (a) If the city determines that a violation of this article, a rule promulgated pursuant to this article, or a stormwater construction approval issued hereunder has occurred or exists, the city may issue an administrative compliance order pursuant to this section 90-466.
- (b) Except as provided in section 90-467, the city may issue an administrative compliance order in the following circumstances:
 - (1) The city determines that a person has violated a consent agreement entered into with the city; or
 - (2) a. The city determines that a person has violated or continues to violate this article, a rule promulgated pursuant to this article, or a stormwater construction approval issued hereunder, and
 - b. The city has attempted to resolve the violation pursuant to sections 90-463 and 90-464 but no voluntary agreement or consent agreement has been entered into.
- (c) The administrative compliance order shall contain a statement of facts upon which the order is based, a description of the actions that must be taken to correct the noncompliance, a compliance schedule, and other requirements as might be reasonably necessary to address the noncompliance. Administrative compliance orders also may contain administrative fines and penalties, and such other monetary relief for the noncompliance, including without limitation amounts necessary to compensate the city for costs incurred investigating, administering, and enforcing this article or rules promulgated hereto.
- (d) Within 28 days of being issued an administrative compliance order, the person or persons receiving the order may appeal the issuance of the order pursuant to section 90-470 of this article.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-467. Imminent and substantial injury orders.

- (a) The city may issue an administrative order without attempting to resolve a violation by using the enforcement procedures described in sections 90-463 and 90-464 if the city finds that a violation of this article, a rule promulgated pursuant to this article, or a stormwater construction approval issued hereunder

constitutes or causes, or will constitute or cause, a substantial injury to the public health, safety, welfare, or the environment, and it is prejudicial to the interests of the people of the city to delay action.

- (b) Administrative orders issued pursuant to this section 90-467 shall contain a statement of facts upon which the order is based, and notification to the person that it must immediately take action to discontinue, abate, correct, or otherwise address the imminent and substantial injury caused or likely to be caused by the noncompliance.
- (c) Within seven days, the city shall provide the person an opportunity to be heard and to present any proof that the noncompliance does not or will not constitute imminent and substantial injury to the public health, safety, welfare or the environment.
- (d) An order issued pursuant to this section 90-467 is effective on issuance and shall remain in effect for a period of not more than seven days, unless the city brings an action to restrain the alleged non-compliance pursuant to section 90-468 before the expiration of that period. If the city brings such an action within the seven-day period, the order issued by the city shall remain in effect for an additional seven days or such other period as is authorized by the court in which the action is brought.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-468. Municipal civil infractions.

A person who violates any provision of this article or rules promulgated hereunder, including without limitation any notice, order, stormwater construction approval, agreement, decision, or determination promulgated, issued, made, or entered by the city under this article or rules promulgated hereunder, is responsible for a municipal civil infraction, subject to payment of a civil fine of not more than \$500.00 per day, plus costs, abatement of the violation and other sanctions.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-469. Separate offenses.

Each act of violation, and each day or portion of a day that a violation of this article, rules or regulations promulgated pursuant to this article, stormwater construction approval, order, notice, or determination issued, made or entered into under this article is permitted to exist or occur, constitutes a separate offense and shall be punishable as provided by this article.

(Ord. No. 375, § I, 3-17-08)

Sec. 90-470. Appeal.

Any person whose legal rights, duties, or privileges are determined by the city pursuant to this article or a rule promulgated pursuant to this article, and who is aggrieved by the city's determination, may appeal to the zoning board of appeals for relief of that grievance.

(Ord. No. 375, § I, 3-17-08)

Secs. 90-471—90-499. Reserved.

ARTICLE X. PERMITTED WITH APPROVAL USES

Sec. 90-500. Intent.

In the development and enactment of this article, it is recognized that there are some uses which, because of their nature, are recognized as having serious objectionable operational, particularly when several of them are concentrated into limited areas of the city, thereby having a deleterious effect upon the adjacent areas. Such concentration tends to detract from the aesthetics of the neighborhood; cause annoyance or disturbance to the citizens and residents who live, work in, or pass through the neighborhood; attract an undesirable quantity of transients; adversely affect property values; cause an increase in crime; and encourage residents and other businesses to move elsewhere. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. This control or regulation is for the purpose of preventing a concentration of these uses in any one area. Uses subject to these controls shall be permitted only upon approval of the planning commission. Uses subject to these controls, referred to as "permitted with approval uses," are as follows.

(Ord. No. 418, § II, 4-20-15)

Sec. 90-501. Definitions.

For the purposes of this article, the following definitions of specific permitted with approval uses shall have the meanings respectively ascribed to them in this text, except where the context clearly indicates a different meaning:

Adult bookstore means an establishment having as a substantial or significant portion of its stock in trade for sale, barter, or rental, books, magazines, other periodicals, films, posters, video tapes, or other materials or means for the recording or reproduction of a visual display on a video screen or other display device which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), or an establishment with a segment or section devoted to the sale or display of such material.

Adult mini motion picture theater means an enclosed building with a capacity for less than 50 person used for presenting for on-premises viewing, by use of motion picture devices or any coin-operated means, material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for observation by patrons therein.

Adult motel means a motel which presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for entertainment of its patrons.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons used for presenting for on-premises viewing, by use of motion picture devices or any coin-operated means, material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined below), for observation by patrons therein.

Adult personal service business means a business whose activities include a person, while nude or partially nude, providing personal services for another person on an individual basis in a closed room. It includes, but is not limited to, the following activities and services: modeling studios, photographic studios, wrestling studios, individual theatrical performances, body painting studios, and massage studios.

Cabaret means an establishment which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

Check cashing/personal loan establishment means a person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper

servicing the same purpose. "Check cashing/personal loan establishment" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check cashing/personal loan establishment" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cashes checks or issues money orders for a minimum flat fee not exceeding \$2.00 as a service that is incidental to its main purpose or business.

Fortune telling and similar uses shall mean and include telling fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty or force, including, but not limited to clairvoyance, clairaudience cartomancy, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mind-reading telepathy, or other craft, art, cards, talisman, charm, potion, magnetism, magnetized article or substance, crystal gazing, or magic, of any kind or nature.

Gaming establishment means an establishment where patrons wager money on the outcome of a game, including but not limited to a card game or a slot machine.

Hookah lounge means an establishment where patrons partake in the use of flavored tobacco and/or cigars, packaged tobacco, e-cigarettes, from a hookah, similar type water pipe, and/or smoking device, while seated at a table or bar.

Massage parlor or massage establishment means a place where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone using mechanical, therapeutic, or bathing devices or techniques, other than the following: a duly licensed physician, osteopath, or chiropractor; a registered or practical nurse operating under a physician's directions; or, registered physical or occupational therapists or speech pathologists who treat patients referred by a licensed physician and operate only under such physician's direction. A massage establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. Massage establishments, as defined herein, shall not include properly-licensed hospitals, medical clinics, or nursing homes, or beauty salons or barber shops in which massages are administered by certified massage therapists.

Partially nude means a person having any or all of the following body parts exposed: buttocks, genitals, pubic area or female breasts.

Pawn shop/pawn broker means any business that loans money on the security of pledges of personal property, or deposits or conditionally sells personal property, or purchases or sells personal property.

Permitted with approval use means any or all of the following uses: adult bookstores, adult mini motion picture theaters, adult motion picture theaters, adult motels, adult personal service businesses, adult supply stores, cabarets, check cashing/personal loan establishments, fortune telling/palm reading and similar uses, gaming establishments (including non-profit bingo, poker), hookah lounges, massage parlors, pawn shops/pawn brokers or collateral loan or exchange establishments, pool or billiard halls, smoke shops, e-cigarette shops, cigar lounges, e-cigarette lounges, and tattoo/body piercing parlors.

Pool/billiard hall means a building or portion thereof having within its premises three or more pool tables or billiard tables, or combination thereof, regardless of size, and whether activated manually or by the insertion of a coin, token, or other mechanical device.

Smoke/e-cigarette shop means a retail establishment where 50 percent or more of the retail area, defined as wall to wall, is used for the display, promotion, sale or use of products listed below; or an establishment where the sale of products listed below constitutes greater than 50 percent of the establishment's merchandise:

- (1) Cigarettes, e-cigarettes, cigars and packaged tobacco;
- (2) Tobacco smoking and e-cigarette paraphernalia products including, but not limited to: pipes for smoking tobacco, cigarette holders and cigarette rolling papers; and

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- (3) Promotional merchandise including, but not limited to the following; posters, shirts, jackets, and hats advertising tobacco and e-cigarette products.

Specified anatomical areas means:

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

Specified sexual activities means:

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

Tattoo/body piercing parlor means any business having as its principal activity:

- (1) The application or placing, by any method permanent or semi-permanent, designs, letters, scrolls, figures, symbols, or any other marks upon or under the human skin within or any substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin; or
- (2) Providing external body modifications through the application of a tattoo, body-piercing, or branding.

(Ord. No. 419, § II, 4-20-15)

Sec. 90-502. Permitted with approval uses.

Uses subject to the controls contained herein shall be referred to as permitted with approval uses. These uses shall include the following:

- (1) Adult bookstore;
- (2) Adult mini motion picture theater;
- (3) Adult motel;
- (4) Adult motion picture theater;
- (5) Adult personal service business;
- (6) Adult supply store;
- (7) Cabaret;
- (8) Check cashing/personal loan establishment;
- (9) Fortune telling/palm reading and similar uses;
- (10) Gaming establishments (including non-profit-bingo, poker);
- (11) Hookah lounge;
- (12) Massage parlor;
- (13) Pawn shop/pawn broker or collateral loan or exchange establishments;
- (14) Pool or billiard hall;
- (15) Smoke shop, e-cigarette shop, cigar lounge, e-cigarette lounge; and

(16) Tattoo/body piercing parlor.

(Ord. No. 419, § II, 4-20-15)

Sec. 90-503. Procedure.

It shall be unlawful to establish any permitted with approval use except as hereinafter provided:

(1) *Planning commission approval.*

- a. Any person owning or having an interest in the subject property may file an application for a license to use such property for one or more permitted with approval uses provided for in this article. Such application shall be filed with the planning commission.

The application for a license shall be upon a form provided by the city clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers and directors of a corporate applicant and all stockholders including more than five percent of the stock of a corporate applicant, or any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- i. Name and address, including all aliases.
 - ii. Written proof that the individual is at least 18 years of age.
 - iii. All residential addresses of the applicant for the past three years.
 - iv. The applicant's height, weight, color of eyes and hair.
 - v. The business, occupation or employment of the applicant for five years immediately preceding the date of application.
 - vi. Whether the applicant previously operated in this or any other county, city, or state under an establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
 - vii. All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
 - viii. Fingerprints and two portrait photographs at least two inches by two inches of the applicant.
 - ix. The address of the establishment to be operated by the applicant.
 - x. If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than five percent of the stock in said corporation and all officers and directors of the corporation.
- b. Any applicant for a permitted with approval use must fully comply with section 90-283 of the Grosse Pointe Code requiring site plan review, and with all other applicable provisions of the Code and this article.
- c. Upon receiving an application for a permitted with approval use, the planning commission shall conduct necessary field inspections, surveys and investigations; prepare maps, charts or other pictorial materials; hold necessary hearings; and otherwise process said application.

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- d. The planning commission shall give due notice of receipt of the application for permitted with approval use in such manner as is prescribed by the provisions of Act No. 110 of the Public Acts of 2006, as amended.
 - e. Subsequent to the deadline for response to the notice of application, a decision shall be made by the planning commission to either approve, approve with conditions, or deny the application in accordance with the standards set forth in subsection (2) of this section.
 - f. Upon approval or approval with conditions of the application by the planning commission, a license shall be granted for the permitted with approval use. Said license shall be a nontransferable license for the life of the use, and shall be issued upon payment by the applicant of a license fee to be determined by resolution of the city council.
- (2) *Approval standards.*
- a. No permitted with approval use shall be established in any zoning district other than a C-1 zoning district.
 - b. No Permitted with approval use shall be established within 1,000 feet of any other permitted with approval use. Measurement shall be made from front door to front door along the street line.
 - c. No permitted with approval use shall be established within 1,000 feet of a pre-existing school or place of worship, whether or not that school or place of worship is located in the City of Grosse Pointe. Measurement shall be made from the front door of the proposed permitted with approval use to any door of the preexisting school or place of worship along the street line.
 - d. No permitted with approval use shall be approved by the planning commission unless all of the following findings are made:
 - i. That the establishment, maintenance, location and operation of the permitted with approval use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
 - ii. That the permitted with approval use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted nor substantially diminish or impair property values within the neighborhood;
 - iii. That the establishment of the permitted with approval use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in that district;
 - iv. That the permitted with approval use will not be conducted in any manner that permits the observation of any materials depicting or describing "specified sexual activities" or "specified anatomical areas," from any public way or from any other property. This provision shall apply to any display, decoration, sign show window, or other opening;
 - v. That adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided;
 - vi. That adequate measures have been or will be taken to provide ingress and egress designed so as to minimize traffic congestion in the public streets; and
 - vii. That the permitted with approval use will in all other aspects conform to the applicable requirements of the zoning district in which it is located.
 - e. Prior to granting any permitted with approval use, the planning commission may modify any existing requirements or may impose any additional conditions or limitations upon the

establishment, location, construction, maintenance or operation of the permitted with approval use as may in its judgment be necessary for the protection of the public interest and to secure compliance with the standards specified above. The planning commission may require such evidence and guarantees as it deems necessary as proof that the conditions stipulated in connection therewith are being, and will be, fulfilled.

- f. In any case where a permitted with approval use has not been established within six months after the granting of a license therefore, then without further action by the planning commission, the permitted with approval use license shall be null and void.
- (3) *Revocation of license.* The planning commission shall revoke a license or permit for any of the following reasons:
- a. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - b. The operator or any employee of the operator, violates any provision of this article or any rule or regulation adopted by the council pursuant to this article; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the planning commission shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
 - c. The operator becomes ineligible to obtain a license or permit or the operator is convicted of any felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature.
 - d. Any cost or fee required to be paid under the City Code or council resolution is not paid.
 - e. Any intoxicating liquor or cereal malt beverage is served or consumed on the premises.
- (4) *Transfer of license.* The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (5) *Eligibility of license.* Any operator whose license is revoked shall not be liable to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as permitted with approval establishment for six months from the date of revocation of the license.

(Ord. No. 419, § II, 4-20-15)

Sec. 90-504. Appeal.

An appeal may be taken to the circuit court from any decision of the planning commission on an application for a permitted with approval use.

No application for a permitted with approval use which has been denied wholly or in part by the planning commission shall be resubmitted for a period of one year from the date of said order or denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the planning commission.

(Ord. No. 419, § II, 4-20-15)