Chapter 50 ZONING[1]

ARTICLE I. IN GENERAL

Sec. 50-1. Definitions.

Words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number. The word "building" includes the word "structure." The word "shall" is always mandatory and not merely directory. For the purposes of this chapter, the following definitions shall apply to the words as indicated. See the diagrams following this section for illustrations.

Alley means a way open to public travel intended for secondary access to premises and less than 30 feet wide.

Alterations, structural and*alterations, occupancy,* mean any change in the location or use of a building, or any change or modification in the supporting members of a building, such as bearing walls, columns, beams, hoists, girders and similar components, or any substantial changes in the roof or exterior walls, or any change in the type of occupancy, the consummated act of which may also be referred to in this chapter as "altered" or "reconstructed."

Architectural features means the features of a building including cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Automobile wash establishment means a building, or portion thereof, where automobiles or other vehicles are washed with or without the use of a chain conveyor and blower and having, as optional equipment, steam cleaning devices, and where a charge is made or intended to be made for the washing of the vehicle or the use of the facility.

Basement means that portion of a building which is wholly or partly below the average grade of the ground level adjoining the building is a basement when the height from the grade up to the first floor tier of floor beams or joists is less than the height from the grade level down to the floor; provided, however, that, if the height from the grade level to the first tier of floor beams or joists is five feet or more, such basement shall be considered a story.

Billboard means any display sign that contains a message unrelated to or not advertising a business transacted or goods sold or produced on the premises on which the sign is located.

Block means that property abutting on one side of a street and lying between the two nearest intersecting streets.

Board of appeals means the city board of appeals as designated in article II, division 5 of this chapter.

Boat means any vessel or craft designed for or intended to be used upon water for the conveyance of persons or freight.

Boat trailer means any wheeled conveyance, not self-propelled, designed for or used to transport any boat.

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[1]State law reference(s)—Michigan Zoning Enabling Act, MCL 125.3101 et seq.; municipal planning, MCL 125.31 et seq.

Building means a structure, temporary or permanent, having a roof supported by columns or walls, intended or used for shelter or enclosure of persons or personal property of any kind. If any portion of a building is completely separated from every other portion of the building by division walls without any openings, each portion shall be deemed a separate building. The term "building" includes the phrase "structure or any part of a structure."

Building, accessory, means a detached building that is not intended for human habitation, but the use of which is subordinate and incidental to the principal use and is located on the same lot, including but not limited to garages, carports, storage buildings and sheds, gazebos, pool houses and similar structures.

Building inspector means the building inspector of the city or the building inspector's authorized representative.

Building line means the line formed at the outer surface of a building or structure or enclosure wall with the finish grade or surface ground level.

Building, main and *building, principal,* mean a building in which is conducted the principal use of the lot upon which it is situated.

Building permit means the written authority issued by the building inspector permitting the construction, removal, moving, alteration or use of a building in conformity with the provisions of this Code.

Camper means any equipment designed for temporary living quarters and constructed so as to be capable of being carried upon or towed by any motor vehicle.

Carryout restaurant means any establishment the principal business of which is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state, and the design or method of operation which includes both the following characteristics:

(1) Foods, frozen desserts or beverages are usually served in edible containers, or in paper, plastic or other disposable containers.

(2) The consumption of foods, frozen desserts or beverages within the restaurant building, within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.

Commercial vehicle means any truck used for commercial purposes, any stake truck, dump truck, highway tractor-trailer truck, semitrailer, utility trailer, storage container, construction vehicle or equipment or other vehicle with mounted outside brackets or holders for ladders, tools, pipes, plows or other similar equipment. A pickup truck, car, van, or SUV type vehicle is also deemed a commercial vehicle if such vehicle exhibits one of the following characteristics:

(1) Commercial license plates (see section 50-521).

(2) An advertising sign or lettering, business logo, business address, telephone number, or internet address on the exterior of the vehicle or mounted or placed inside the vehicle so as to be plainly visible from the exterior thereof in such fashion as to convey or attempt to convey an advertising message to the public.

(3) Substantial exterior commercial advertising such as "wrapped" vehicles.

Commission and *planning commission* mean the city planning commission.

Convalescent home and*nursing home* mean a home for the care of the aged or the infirm, or a place of rest for those suffering serious bodily disorders, wherein three or more persons are cared for. A convalescent or nursing home shall also conform to and qualify for license under applicable state laws, even though state law may provide for different size regulations.

Court means an open unoccupied space other than a yard, 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.

District means a portion of the city within which certain uses of land and buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

Drive-thru facility means the use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or window or automated machine, to persons remaining in motor vehicles that are in a designated stacking lane. A drive-thru facility may be permitted only as an accessory use in combination with a bank or financial institution.

Dwelling means any house, building, structure, tent, shelter, trailer or vehicle, a portion thereof, which is occupied in whole or in part as the home, residence, living or sleeping place of one or more human beings, either permanently or transiently. In case of mixed occupancy, where a building is occupied in part as a dwelling, that part so occupied shall be deemed a dwelling for the purpose of this chapter and shall comply with the provisions relative to dwellings. Garage space, whether in an attached garage or in a detached garage, shall not be deemed a part of a dwelling.

Dwelling, multiple, means a building used for and as a residence for three or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses and apartment hotels.

Dwelling, one-family, means a dwelling occupied by one family, and so designed and arranged as to provide cooking and kitchen accommodations for one family only.

Dwelling, two-family, means a dwelling occupied by two families, and so designed and arranged so as to provide cooking and kitchen accommodations for two families only.

Dwelling, two-family income, means a private dwelling, 1½ stories or more in height, having one heating plant, a single entrance and the appearance of a single dwelling, but containing separate living apartments for two families.

Dwelling unit means any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in no case shall a travel trailer, mobile home, motor home, automobile chassis, tent or other portable building be considered a dwelling in single-family, two-family or multiple-family residential areas. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the provisions thereof relative to dwellings.

(1) *One-bedroom unit* means a dwelling unit consisting of not more than two rooms in addition to kitchen, dining and necessary sanitary facilities.

(2) *Two-bedroom unit* means a dwelling unit consisting of not more than three rooms in addition to kitchen, dining and necessary sanitary facilities.

(3) *Three- or more bedroom unit* means a dwelling unit consisting of four or more rooms in addition to kitchen, dining and necessary sanitary facilities.

(4) *Efficiency unit* means a dwelling unit consisting of one room, exclusive of any bathroom, kitchen, hallway, closets or dining alcove directly off the principal room.

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 or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes,

police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare.

Family means both a domestic family or a functional family defined as follows:

(1) *Domestic family* means an individual or group of two or more persons related by blood, marriage or adoption, with not more than one additional unrelated person who are domiciled together as a single, domestic, housekeeping unit; or

(2) *Functional family* means the functional equivalent of a domestic family shall be composed of persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render a domestic family a cohesive unit. A functional family shall not include any society, club, fraternity, sorority, association, lodge, organization, or group where the common living arrangement or the basis for the establishment of the functional family is likely or contemplated to exist for a limited or temporary duration.

There shall be a rebuttable presumption enforceable by the building official that the number of persons who may reside as a functional family shall be limited to four persons. In addition, any person desiring to qualify as a functional family must first provide information to the building official and obtain a permit showing compliance with the requirements to qualify as a functional family.

Fast food restaurant means any establishment the principal business of which is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carryout with consumption off the premises, and the design or principal method of operation which includes both of the following characteristics:

(1) Foods, frozen desserts or beverages are usually served in edible containers, or in paper, plastic or other disposable containers.

(2) The consumption of foods, frozen desserts or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.

Floor area, gross, means the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of a building, which is what this normally is referred to as, shall include the basement floor area when more than one-half of the basement height is above the established curb level or finished lot grade, whichever is higher. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements, utility rooms, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.

Floor area, usable, means that portion of the floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients or patients, including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas used or intended to be used for utility or mechanical equipment rooms or sanitary facilities. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four feet or more.

Garage, private, means an accessory building, or a portion of a principal building, designated or used primarily by the occupants of the principal building for storage of motor vehicles, boats, trailers, bicycles, lawn equipment and similar personal property.

Garage, public, means a space or structure, other than a private or community garage, for the storage, care, repair, refinishing or servicing of motor vehicles, except that a structure or room used solely for the display and sale of such vehicles, in which they are not operated under their own power, and in connection with which there is

no repair, maintenance, servicing, refinishing or storage of vehicles other than those displayed, shall not be considered a garage.

Greenbelt means an area of land which is planted and maintained in accordance with section 50-532.

Gross leasable area (GLA) means the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

Height of building means the vertical distance from the finished grade level adjoining the building to the highest point on the ridge of the roof.

Home occupation means any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, including use of a single-family residence to give instruction in a craft or fine art, not involving employees other than members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which does not endanger the health, safety and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, profession or hobby; provided that no article or services are sold or offered for sale on the premises, and that such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage or signs not customarily in residential areas.

Hotel means a building occupied as a temporary abiding place for individuals, who are lodged with or without meals in rooms, in which provision is not made for cooking on any individual plan and in which there are more than ten sleeping rooms.

House trailer and *travel trailer* mean any wheeled vehicle, not self-propelled, designed for or used as temporary living quarters, including a folding structure designed for travel or vacation use.

Impervious surface means any material which prevents, impedes or slows infiltration or absorption of stormwater directly into the ground at the rate of absorption of vegetation bearing soils, including asphalt, concrete, gravel, stone, and other surfaces.

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

Lot means a piece or parcel of land occupied or to be occupied by a building and its accessory buildings, or by any use other than a building permitted in this chapter, and including the open spaces required. A lot of record is a lot the dimensions of which are shown on a plat on file with the county register of deeds, and which actually exists as so shown, or any part of such lot held in ownership of record separate from the remainder thereof. Where one lot and a part of a lot of record are adjacent and held in one ownership, they shall be considered to be a single lot of record.

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

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

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

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

Lot, double-frontage, means a lot other than a corner lot having frontage on two, more or less, parallel streets. In the case of a row of double-frontage lots, one street will be designated as the front street for all lots in

the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where the majority of the buildings presently front.

Lot, interior, means a lot other than a corner lot with only one lot line fronting on a street.

Lot lines.

(1) *Front lot line,* in the case of a lot abutting upon only one street, means the line separating such lot from such street. In the case of any other lot, one such line shall be elected to be the front lot line for the purposes of this chapter, provided it is so designated on the application for a certificate of compliance.

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

(3) *Side lot line* means any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lot of record means a lot, the dimension and configuration of which are shown on a map recorded in the office of the register of deeds for the county, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a professional engineer or land surveyor, so registered and licensed in the state, and likewise so recorded on a file with the county.

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

Mixed use means a use that allows a combination of different compatible uses, such as commercial, office, retail and residential, in a single building or group of buildings.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

Motel means a series of attached, semidetached or detached temporary rental units having a separate entrance and containing bedroom, bathroom and closet space. Such unit without kitchenette or kitchen shall contain not less than 350 square feet of floor space, and each unit with permitted kitchens or kitchenettes shall contain not less than a total of 450 square feet of floor space in each rental unit.

Nonconforming building means a building or portion thereof lawfully existing at the effective date of the ordinance from which this chapter is derived, or the effective date of amendments to this chapter, and which does not conform to the provisions (e.g., setbacks, height, lot coverage or parking) of this chapter in the zoning district in which it is located.

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

Occupied includes arranged, designed, built, altered, converted to, rented, leased or intended to be inhabited; not necessarily for dwelling purposes.

Open porch means a structure attached to a dwelling when it meets the following specifications:

(1) There shall be no enclosing walls above railing height other than the wall of the dwelling to which the structure is attached.

(2) The space between the top of the railing and the bottom of the roof beam of the structure shall be open and unobstructed, except that insect screening may be provided in such open area.

(3) There shall not be any insulation installed, mounted or placed on any wall of the structure except the wall of the dwelling to which such structure is attached.

(4) There shall be no vertical framing in the structure other than supporting columns and screen frames.

(5) The height of any railing shall be limited to a maximum of 36 inches from the floor of the structure.

(6) There shall be no connection to the internal heating system of the dwelling to which the structure is attached and no installation of space heating units in the structure, including the wall of the dwelling to which the structure is attached, so as to provide heat to any area of the structure.

Owner means any person or entity, other than the lienholder, who has any property interest in or title to any vehicle, boat, boat trailer, commercial vehicle, utility trailer, travel trailer, house trailer, pickup camper or recreational vehicle.

Parking space means a permanently surfaced area, enclosed or unenclosed, sufficient in size to store one motor vehicle, but not less than nine feet by 19 feet, together with a permanently surfaced driveway connecting the parking space with a street or alley permitting ingress and egress of a motor vehicle. If the structure for which the parking space is required is situated on a lot that is 40 feet or less in width, the area of the lot required for driveway purposes may be utilized for parking spaces without regard to providing a driveway for ingress and egress.

Private school means any school other than a public school.

Property owner means any person who has the possession of or title to real property located in the city. In the case of corporations, any director or officer of such corporations shall be a responsible person under the terms of this division.

Public utility means any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing, under municipal or other governmental regulation, to the public, electricity, gas, steam, water, communication or transportation.

Recreational vehicle means any self-propelled motor vehicle containing temporary living quarters, sleeping accommodations or equipment.

Separate ownership means ownership of a parcel of property wherein the owner does not own adjoining vacant property. Ownership of a property may include dual or multiple ownership by a partnership, corporation or other group. The owner of any number of contiguous lots of record may designate such lots as a single lot of record for the purpose of this chapter, and in such case the outside perimeter of the group of lots of record shall constitute the front, rear and side lot lines thereof.

Setback means the minimum horizontal distance required to exist between the front line of the building, excluding steps or unenclosed porches, and the front lot line. The required setback area is that area encompassed by the respective lot lines and setback lines.

Solar energy system means an accessory to a main structure, or accessory structure, or use, which is comprised of a combination of solar collector(s) and ancillary solar equipment used to generate electricity primarily for consumption on the property on which the system is located. A solar energy system can include a photovoltaic or solar thermal system that uses the sun's energy to produce electricity or heat.

Solar panel means a grouping, module, or array of photovoltaic cells that produce electricity from sunlight.

State licensed residential facilities means structures constructed for residential purposes that are licensed by the state under the Adult Foster Care Facility Licensing Act, Public Act No. 218 of 1979 (MCL 400.701 et seq.), or Public Act No. 116 of 1973 (MCL 722.111 et seq.), and provides residential services to six or fewer persons under 24-hour supervised care.

Storage container means any container, whether wheeled or not, designed for storage of any materials, product, merchandise, or other personal or business property.

Stored and *storage* mean the keeping or standing in any particular place or area, not within a fully enclosed garage, within the city limits, for a period of time exceeding 72 hours.

Story means is construed as being no more than ten feet in height using a vertical line extending from floor to ceiling. A half-story shall be construed as an area for finished or unfinished rooms under a sloping roof that does not exceed one-half of the floor area of the story immediately below. That portion of any structure below the ground, in whole or in part, in which living or sleeping quarters are provided, shall be considered to be a story in determining the height of the structure.

Street means any thoroughfare or way, other than a public alley, dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or terrace, or by any similar designation.

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

Swimming pool means any structure or container located above or below grade designed to hold water to a depth of greater than 24 inches, intended for swimming or bathing.

Tent means a shelter of canvas or similar material or the like, supported by air pressure or by poles and fastened by cords or pegs driven into the ground.

Travel trailer means a nonmotorized towable vehicle primarily designed for travel or recreational usage, which may also contain facilities for overnight lodging. This term also includes folding campers and truck-mounted campers.

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

Use, accessory, means a use normally incidental to and subordinate to the principal use of the premises.

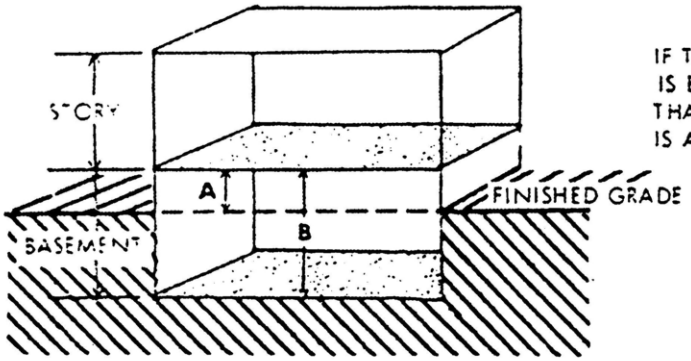
Utility trailer means any wheeled conveyance, not self-propelled, designed for use by being towed by a motor vehicle.

Yard means an open space at grade line between a building and the adjoining lot lines, unoccupied and unobstructed from the ground upward, except for the certain architectural features specified in section 50-233. Yard measurements shall be the minimum horizontal distance between a lot line and the nearest line of the main building.

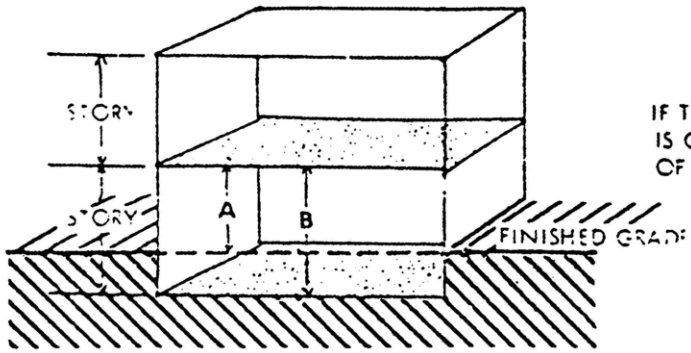
Yard, front, means a yard extending across the full width of the lot, between the front lot line and the nearest line of the main building.

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

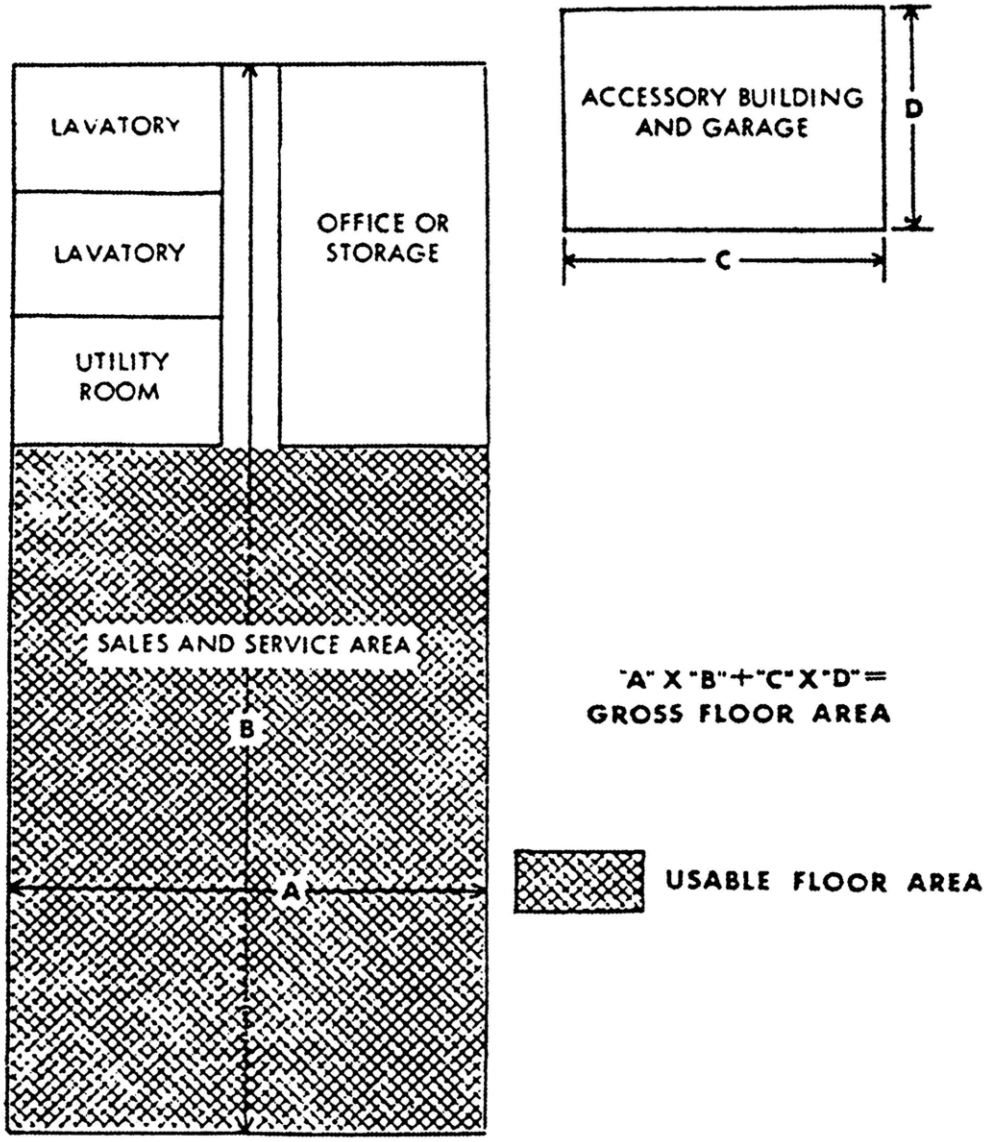
Yard, side, means a yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building or of an accessory building attached thereto.

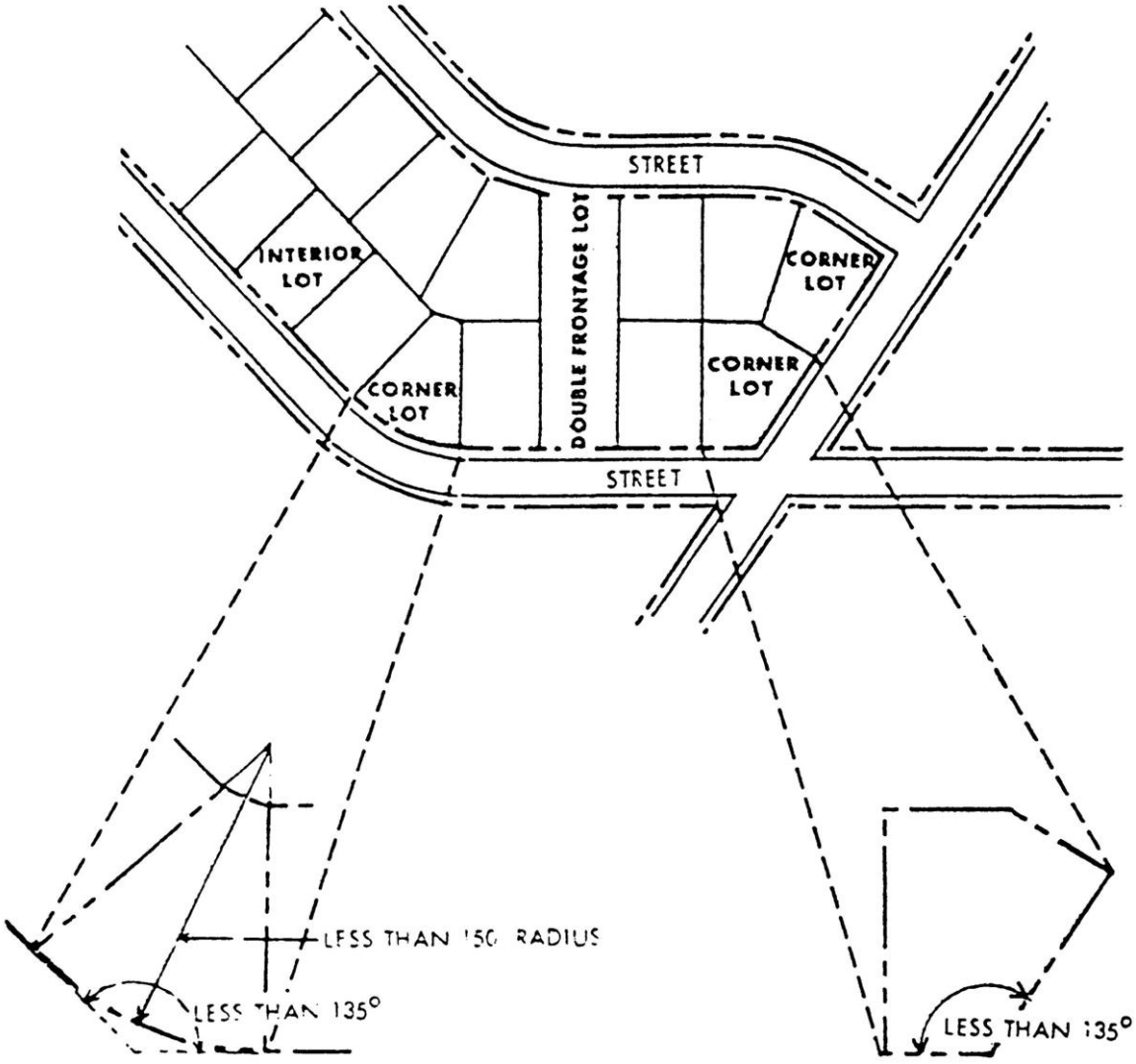


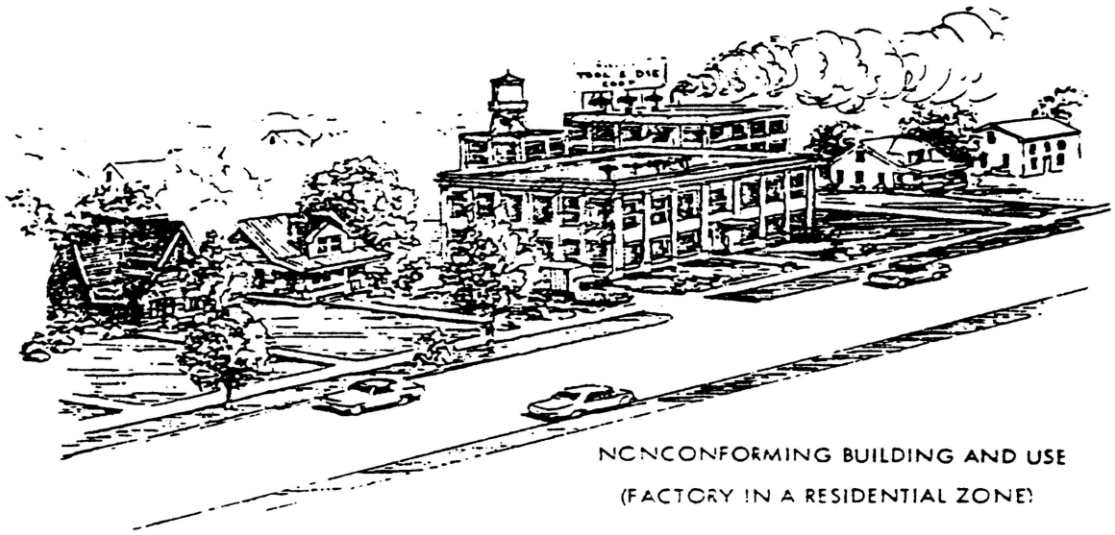
IF THE AVERAGE OF "A" IS EQUAL TO OR LESS THAN 1/2 OF "B" THIS IS A BASEMENT.



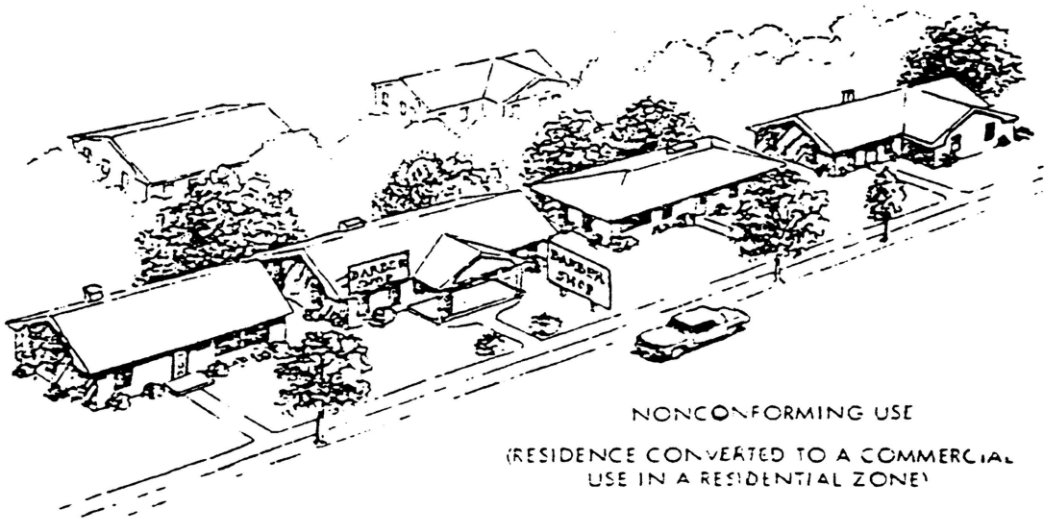
IF THE AVERAGE OF "A" IS GREATER THAN 1/2 OF "B" THIS IS A STORY


LAVATORY
LAVATORY
UTILITY ROOM
OFFICE OR STORAGE
SALES AND SERVICE AREA
B
A
ACCESSORY BUILDING AND GARAGE
D
C
"A" X "B" + "C" X "D" = GROSS FLOOR AREA
USABLE FLOOR AREA

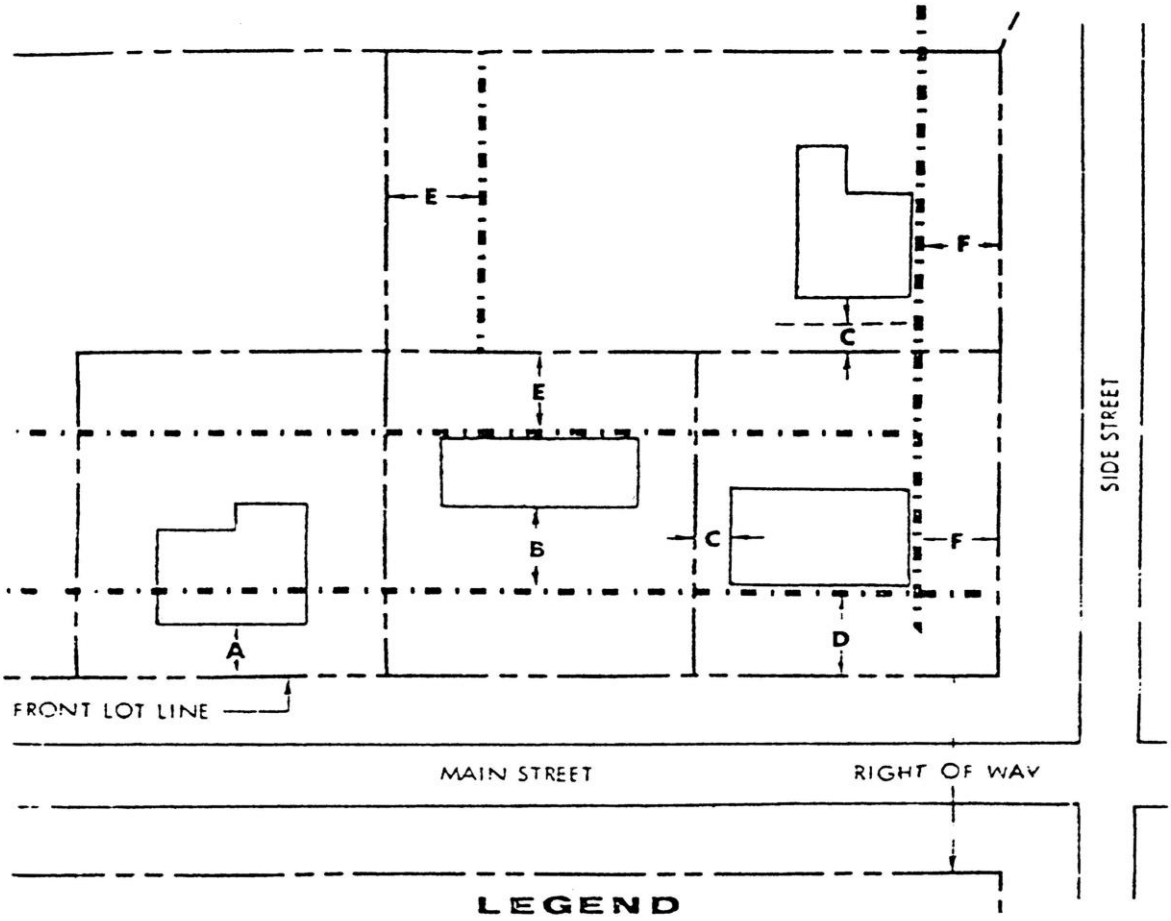

STREET
INTERIOR LOT
DOUBLE FRONTAGE LOT
CORNER LOT
CORNER LOT
CORNER LOT
STREET
LESS THAN 150' RADIUS
LESS THAN 135°
LESS THAN 135°

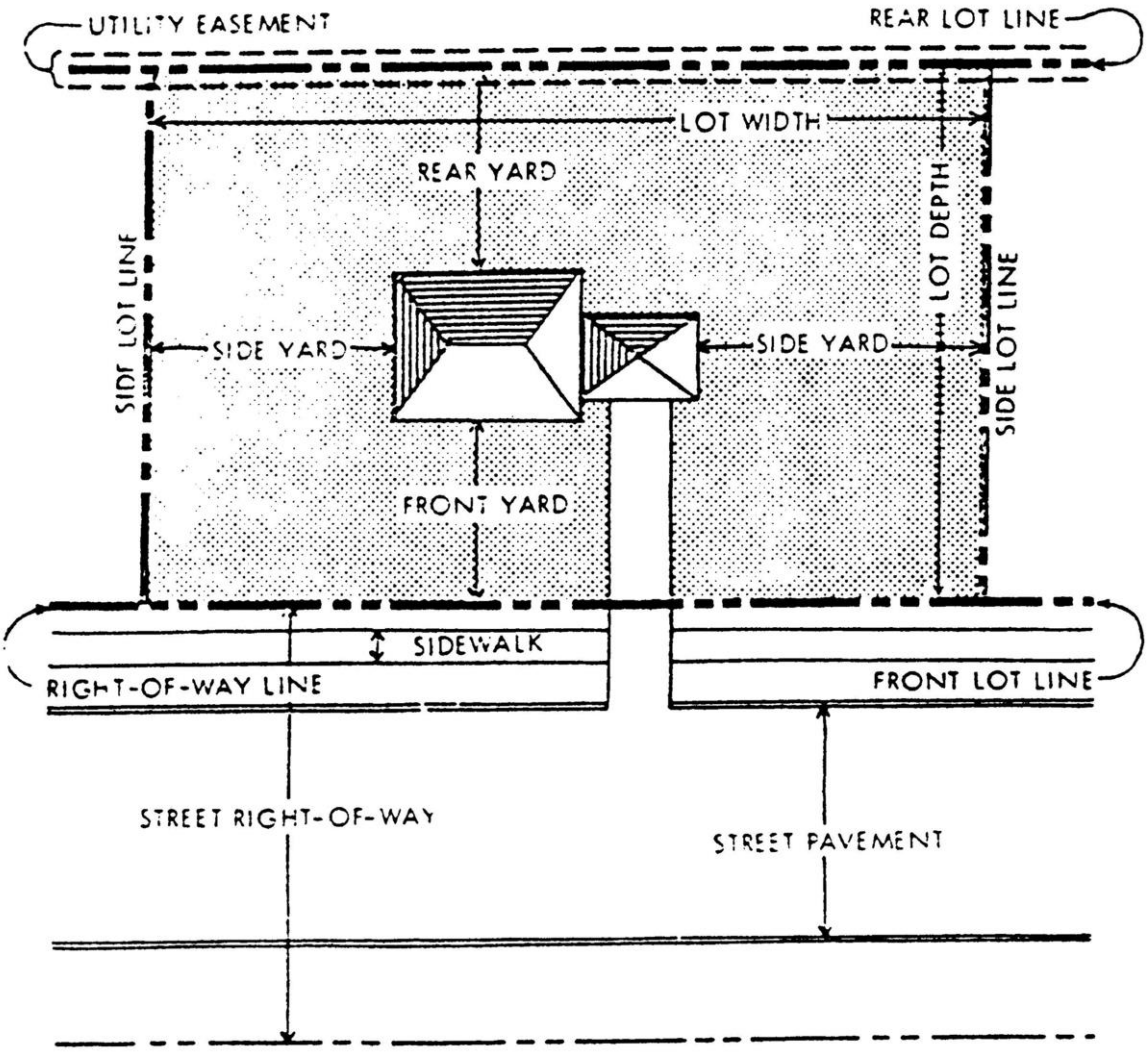


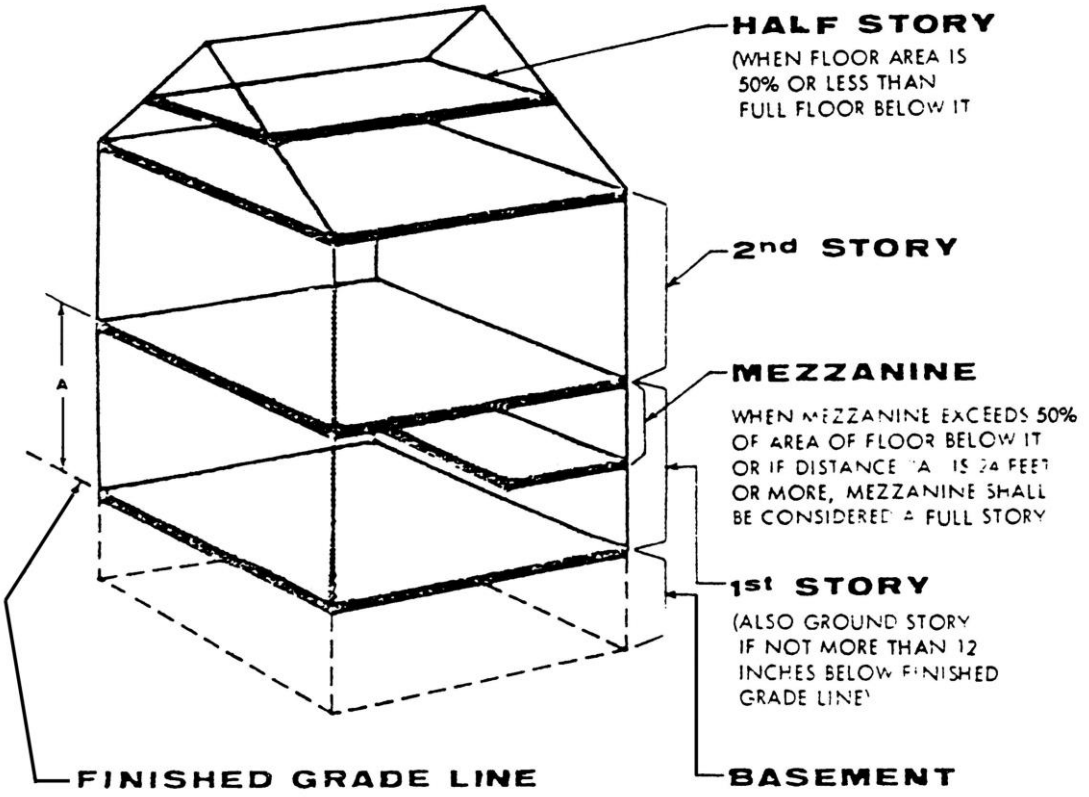
NONCONFORMING BUILDING AND USE
(FACTORY IN A RESIDENTIAL ZONE)



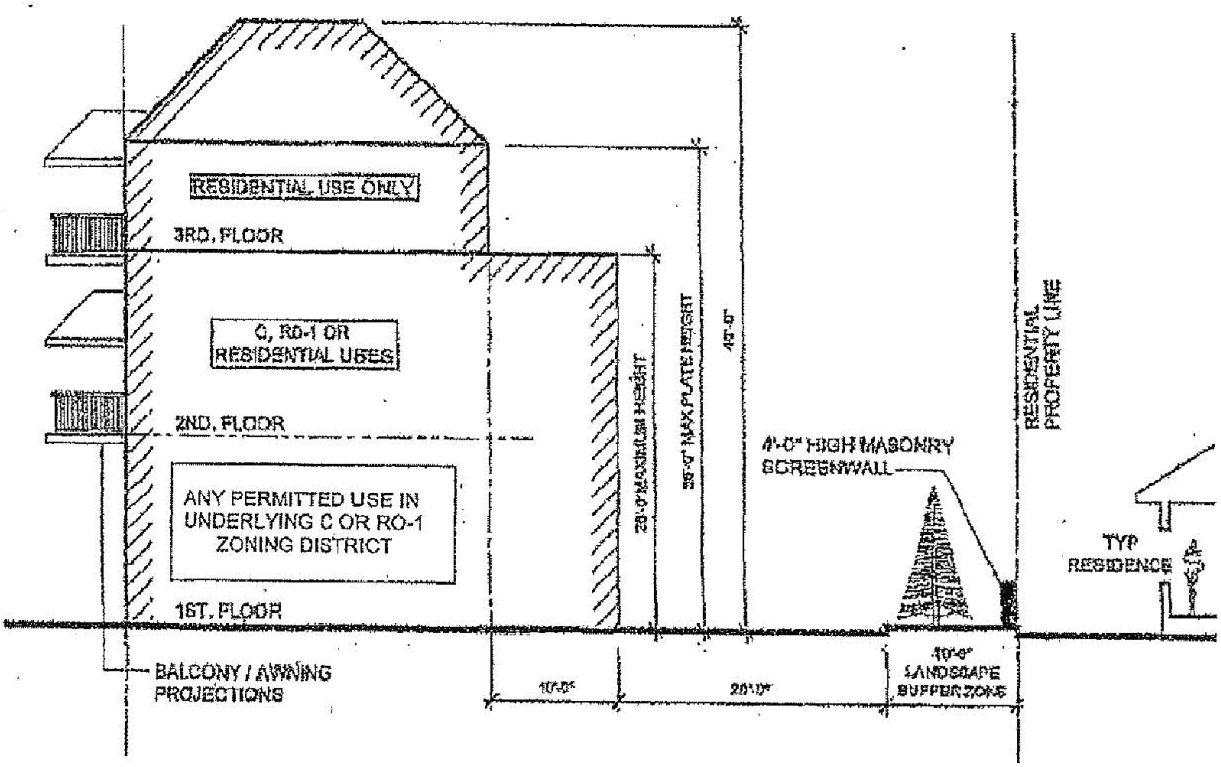
NONCONFORMING USE
(RESIDENCE CONVERTED TO A COMMERCIAL USE IN A RESIDENTIAL ZONE)


E
F
C
E
B
C
F
D
A
SIDE STREET
FRONT LOT LINE
MAIN STREET
RIGHT OF WAY
LEGEND
A —— SUFFICIENT 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
F —— MINIMUM YARD REQUIRED ON SIDE STREET WHEREON HOMES FRONT


UTILITY EASEMENT
REAR LOT LINE
LOT WIDTH
REAR YARD
LOT DEPTH
SIDE LOT LINE
SIDE YARD
SIDE YARD
SIDE LOT LINE
FRONT YARD
SIDEWALK
RIGHT-OF-WAY LINE
FRONT LOT LINE
STREET RIGHT-OF-WAY
STREET PAVEMENT


HALF STORY
(WHEN FLOOR AREA IS 50% OR LESS THAN FULL FLOOR BELOW IT
2nd STORY
MEZZANINE
WHEN MEZZANINE EXCEEDS 50% OF AREA OF FLOOR BELOW IT OR IF DISTANCE "A" IS 24 FEET OR MORE, MEZZANINE SHALL BE CONSIDERED A FULL STORY
1st STORY
(ALSO GROUND STORY IF NOT MORE THAN 12 INCHES BELOW FINISHED GRADE LINE)
A
FINISHED GRADE LINE
BASEMENT

MIXED USE HEIGHT AND SETBACK ILLUSTRATION



(Code 1975, § 5-1-1; Code 1997, § 98-1; Ord. No. 768, § 1, 5-21-2001; Ord. No. 769, § 1, 5-21-2001; Ord. No. 787, § 1, 7-7-2003; Ord. No. 814, § 98-1, 4-2-2007; Ord. No. 833, 8-16-2010; Ord. No. 850, 12-17-2012; Ord. No. 856, 7-15-2013)

Sec. 50-2. Compliance with chapter.

Except as otherwise provided in this chapter, no building or land, or part thereof, shall be used, altered, constructed or reconstructed except in conformity with the provisions of this chapter.

(Code 1975, § 5-3-1; Code 1997, § 98-2)

Secs. 50-3—50-22. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 50-23. Building permit required; approval.

(a) No building or structure shall hereafter be erected or altered and no land shall be used until a permit shall have been obtained by the owner of the building or land from the building inspector or administrative official. No such permit shall be issued to erect or alter a building or structure, or to make a use of land or make any changes of use thereof, unless the building or land is in conformity with the provisions of this chapter.

(b) In C districts, no permit shall be issued for a new building, for alteration of an old building, or changes in use, until the plans have formally been approved by the planning commission.

(Code 1975, § 5-15-1; Code 1997, § 98-431)

Sec. 50-24. Application for building permit; existing permits.

(a) All applications for building permits shall be accompanied by a plot plan and plans in duplicate, drawn to scale, showing the actual dimensions or survey of the lot to be built upon, the size of the building to be erected and such other information as the building inspector shall find necessary for the proper administration and enforcement of this chapter.

(b) Satisfactory evidence of ownership of the entire lot shall accompany all applications for permits under the provisions of this chapter. A careful record of such applications and plats shall be kept in the office of the building inspector. Nothing contained in this section shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued, or for which plans are on file at the time of passage of the ordinance from which this chapter is derived and for the erection for which a permit is issued within one month after the passage of the ordinance from which this chapter is derived and prosecuted within three months following the date of the issuance of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within six months following the date of the issuance of such permit, and which entire building shall have been completed according to such plans, as filed as provided in this subsection, within one year from the date of the passage of the ordinance from which this chapter is derived. If work under a permit is not started within six months of the date of the permit, the permit shall be voided.

(Code 1975, § 5-15-2; Code 1997, § 98-432)

Sec. 50-25. Fee for building permit.

Before any building permit shall be issued, an inspection fee shall be paid in an amount fixed by a schedule established by resolution of the council.

(Code 1975, § 5-15-3; Code 1997, § 98-433)

Sec. 50-26. Inspections.

It shall be the duty of the holder of every building permit to notify the building inspector, in writing, of the time when such building will be ready for inspection. Two such inspections shall be requested on all buildings. The first of these inspections shall be requested when excavation for foundations has been completed, and the second inspection shall be requested when the building is completed. In the case of sheds and garages having an area of less than 800 square feet, only one inspection by the building inspector shall be required, which inspection shall be requested as soon as wall studs are in place. Failure to notify the building inspector of the time for such inspection shall automatically cancel the permit, and before reissuing such permit the building inspector may require the payment of a second fee. A notice calling the attention of the holders of permits to the requirements of this section shall be printed on all permits issued. The building inspector shall inspect the downspouts to determine that they are disconnected from the sewer system and are in compliance with section 44-230.

(Code 1975, § 5-15-4; Code 1997, § 98-434; Ord. No. 763, § 1, 11-20-2000)

Sec. 50-27. Certificate of occupancy and compliance required.

No land or building hereafter erected or altered shall be occupied, used or changed in use until a certificate of occupancy and compliance shall have been issued by the building inspector stating that the land or building, or proposed use of a building or land, complies with all the building and health laws and the provisions of this chapter.

(Code 1975, § 5-15-5; Code 1997, § 98-435)

Sec. 50-28. Application for certificate of occupancy and compliance; issuance.

Certificates of occupancy and compliance 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 or the use of land shall have been completed in conformity with the provisions of this chapter. A record of all such certificates shall be kept on file in the office of the building inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. No fee shall be charged for an original certificate applied for coincident with the application for a permit for all other certificates. For copies of any original certificates, there shall be a charge as currently established or as hereafter adopted by resolution of the city council from time to time. No permit for the excavation for or the alteration of any building, or for any use of land, shall be issued before application has been made for a certificate of occupancy and compliance.

(Code 1975, § 5-15-6; Code 1997, § 98-436)

Sec. 50-29. Certificate of occupancy for nonconforming use of buildings.

A certificate of occupancy shall be required for each nonconforming use of buildings existing prior to the time of passage of the ordinance from which this chapter is derived. Application for such certificate of occupancy for nonconforming uses shall be filed with the building inspector by the owner or lessee of the building occupied by such nonconforming use within one year from the effective date of the ordinance from which this chapter is derived. It shall be the duty of the building inspector to issue a certificate of occupancy for such nonconforming use upon such application.

(Code 1975, § 5-15-7; Code 1997, § 98-437)

Sec. 50-30. Responsibility for administration and enforcement.

The provisions of this chapter shall be administered and enforced by a building inspector or administrative official.

(Code 1975, § 5-15-8; Code 1997, § 98-438)

Sec. 50-31. Performance guarantees.

Where, in this chapter, there is delegated to the city council the board of appeals or the city planning commission the function of establishing certain physical site improvements as a contingency to securing a zoning amendment, special approval or variance, the city council, board of appeals or planning commission may, to ensure strict compliance with any regulation contained or required as a condition of the issuance of a permit, require the permittee to furnish a cash deposit, certified check, irrevocable bank letter of credit, or surety bond to be deposited with the city clerk, in an amount determined by the city council, board of appeals or planning commission to be reasonably necessary to ensure compliance under this chapter; provided, however, that in fixing the amount of such cash deposit, certified check, irrevocable bank letter of credit, or surety bond, the city council, board of appeals or planning commission shall take into account the size and scope of the proposed improvement project, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The city may not require the deposit of the performance guarantee before the date on which the city is prepared to issue the permit. The city shall establish procedures under which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Public Act No. 288 of 1967 (MCL 560.101 et seq.).

(Code 1975, § 5-15-9; Code 1997, § 98-439)

State law reference(s)—Performance guarantee, MCL 125.3505.

Sec. 50-32. Special land use approval.

Special land uses shall be approved in accordance with the following procedures:

(1) *Filing of application.* The owner of any interest in land for which special land use approval is sought, or the designated agent of the owner, shall file the application for special land use with the administrative official designated under the terms of section 50-30.

(2) *Approval required prior to issuance of building permit.* The city council shall approve all special land use applications in accordance with the procedures and standards set forth in this section before a building permit is issued.

(3) *Application forms and documentation.* The application for special land use approval shall be made on such forms as shall be provided by the city council and provided by the administrative official designated under the terms of section 50-30 and shall be accompanied by the necessary fees and documents as provided in this chapter.

(4) *Review and report by administrative official.* The application for special land use approval shall be submitted to the administrative official, who shall prepare a report on whether the proposal meets all

applicable requirements of this chapter and any additional requirements recommended by the administrative official based on the standards set forth in this chapter. The administrative official shall forward the report, together with the application, within 45 days of receiving the completed application.

(5) *Notice of planning commission hearing.* The planning commission shall set a date for a public hearing on the special land use within 45 days of receiving the completed application, and shall provide notice of such date in accordance with the notice requirements in this chapter.

(6) *Planning commission recommendation.* The planning commission shall, within a reasonable time following the date at which the application for special land use approval was considered, pass a resolution setting forth its findings regarding the standards set forth in this chapter, and shall recommend to the city council approval, approval with conditions or disapproval, with its reasons.

(7) *Review of recommendations and public hearing by council.* The city council shall review the application for special land use approval, together with the administrative official's report and planning commission's recommendations thereon. If a variance is also requested in conjunction with a special land use application, the planning commission shall first issue its recommendation on the special land use application only. The zoning board of appeals shall then address the variance request. The city council will then address the special land use application. The city council shall hear any person wishing to express an opinion on the application for special land use approval at its next regular meeting following the city council's formal receipt of the application from the planning commission, provided such regular meeting provides adequate time to notify adjacent property owners and publish a notice of public hearing pursuant to requirements for such notice as set forth in this section. (See MCL 125.3502)

(8) *Determination by council; modifications; issuance of building permit.*

a. The city council shall make the final determination on the application for special land use approval. Such determination shall be based solely on the requirements and standards of this chapter. Approval, approval with conditions, or disapproval shall be made by resolution setting forth the city council's findings regarding the pertinent requirements and standards.

b. If the special land use is approved by the city council, the applicant may then submit the written approval to the building inspector, who will then issue a building permit if all other requirements have been met. If approval is denied, the city council may by resolution require that a revised special land use application be resubmitted for review and approval in accordance with the process outlined in this section. If, in the judgment of the city council, the special land use application can be approved if minor modifications are made, the city council may by resolution issue a conditional approval in writing and provide for resubmission of a revised special land use application to the building inspector, who shall issue a building permit upon determination that all appropriate modifications have been made in accordance with city council stipulations, and that all other requirements have been met.

(9) *Record of actions and notification of applicant.* Each action taken with reference to special land use review and approval shall be duly recorded in the minutes of the planning commission and city council, and the grounds for the action taken upon each special land use submitted for review and approval shall also be recorded in the minutes and transmitted in writing to the applicant.

(10) *Maintenance of site design.* It shall be the responsibility of the owner of a property for which special land use approval is required to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations based upon which the special land use approval was granted, or until a new special land use approval has been obtained as a basis for modifying the use of site design. Any property owner who fails to so maintain a special land use as approved shall be deemed in violation of the use provisions of this

chapter and shall be subject to the same penalties appropriate to such a use violation. All plans, specifications and statements submitted with the application for a special land use approval shall become, with any changes ordered by the city council, a part of the conditions of any approval issued by the city council pursuant thereto.

(Code 1975, § 5-15-10; Code 1997, § 98-440)

Sec. 50-33. Hearing fee for proposed construction in R-3 or C.F. district or special land use applications.

All applicants for proposed construction in a planned multiple-family residential development district or a community facilities district and applicants for special land uses shall pay to the city a hearing notice fee as currently established or as hereafter adopted by resolution of the city council from time to time for the notice of publication for such hearing. Payment shall be made at the time the application for such hearing is made.

(Code 1975, § 5-3-20; Code 1997, § 98-21)

Sec. 50-34. Site plan review required; exceptions.

Site plan review is required for special land use applications, and for new construction and remodeling of or additions to existing structures within the city, except for development, renovation, or construction of a single family home or a two family duplex on a single lot. If required, a site plan shall be filed with the building official and approved in accordance with the provisions of this section and sections 50-35—50-42 prior to issuance of a building permit. All site plans shall be reviewed by the planning commission. In addition, site plans are subject to review by the city council or zoning board of appeals if the site plan involves:

(1) Use within a community facility district;

(2) A request for a special land use;

(3) A request for a variance;

(4) Or as otherwise required as a condition of approval by chapter 50, zoning.

(Ord. No. 810, § 98-442, 8-7-2006)

Sec. 50-35. Application for review.

The owner or designated agent of the owner shall file an application for the site plan review with the building official on forms provided by the city. The application shall be accompanied by the required plans, documents, fees and costs.

(Code 1975, § 5-21-2; Ord. No. 810, § 98-443, 8-7-2006)

Sec. 50-36. Submission of plans; approval by the building official.

(a) *Preapplication procedure.* Prior to submission of a formal application, the applicant shall meet with the building official to determine the project's complexity. The project's complexity will determine the level of information required on the application. A major project requires completion of a full application with all information required by this article. A minor project requires completion of a partial application including information as required by the building official. The building official has discretion to determine whether the application involves a major or minor project, based on the standards and requirements set forth in this

article. The building official's determination on this issue is appealable to the planning commission. The planning commission may still require additional information for minor projects in its discretion.

(b) *Application review.* The application for site plan approval, plus 14 copies of the site plan, shall be submitted to the building official in accordance with the requirements in this article at least 14 days prior to the next scheduled planning commission meeting. The building official shall review the site plan and supporting documents and, if the application is complete, place the item on the planning commission agenda. The building official shall furnish a written report and recommendation concerning the proposed site plan to the planning commission.

(Code 1975, § 5-21-3; Ord. No. 810, § 98-444, 8-7-2006)

Sec. 50-37. Review by planning commission.

The planning commission shall review the site plan together with the supporting documents and the report from the building official at a regularly scheduled planning commission meeting to be held within 45 days of receiving the completed application. The planning commission shall then adopt a resolution or vote on a motion setting forth its findings based upon the requirements for such project as contained in this Code. If further review is required by the city council or zoning board of appeals as provided for in this chapter, the planning commission shall recommend approval, approval with conditions, or disapproval with its reasons.

(Code 1975, § 5-21-4; Ord. No. 810, § 98-445, 8-7-2006; Ord. No. 829, 7-6-2009)

Sec. 50-38. Review and determination by council.

If required by this chapter, the city council or zoning board of appeals, after the planning commission review, shall review the application for site plan approval together with the report of the building official and the planning commission's recommendations, and shall make a final determination on the application for site plan approval. By resolution, the city council may grant approval, grant approval with conditions, or disapprove the site plan. The resolution shall set forth the findings of the city council.

(Code 1975, § 5-21-5; Ord. No. 810, § 98-446, 8-7-2006)

Sec. 50-39. Issuance of building permit; time limit for commencement of construction.

Upon final approval of the site plan, a building permit may be obtained, subject to the review and approval of the engineering and construction plans and payment of the applicable fees. It shall be the responsibility of the applicant to obtain all other city, state or federal permits prior to the issuance of a building permit. If construction is not commenced within one year of the site plan approval, construction may not begin until the site plan is again reviewed by the planning commission. The applicant may apply for and obtain a 60-day extension of the one-year limitation from the planning commission by providing reasonable evidence as to the cause of delay and that such project is likely to be able to proceed within the additional 60-day extension period.

(Code 1975, § 5-21-6; Ord. No. 810, § 98-447, 8-7-2006)

Sec. 50-40. Preparation and contents of site plan.

Each site plan application shall contain the following information:

(1) *Preparation; preparer's seal.* The site plan shall be prepared by, and carry the seal of, a registered architect or professional engineer who prepared the plan, in the event the proposed costs of the project exceeds $10,000.00.

(2) *Legal description, address and zoning information.* The site plan shall contain the legal description of the property, the property address, the property owner's name, and the zoning classification of the particular site and all adjacent properties.

(3) *Title block.* The site plan shall also contain a title block that includes the applicant's name, the project name, the preparer's name, the drawing scale and the date of the original drawing and any revisions.

(4) *Scale; general location map.* The site plan shall be drawn to a minimum scale of one inch equals ten feet for sites of less than five acres, and one inch equals 100 feet for sites of five acres of more, and shall contain a north arrow and size in acres. A general location map at a scale of four inches equals one mile, giving the site location, is also required.

(5) *Existing and proposed topography.* Existing and proposed topography drawn to at least two-foot contour intervals shall be shown on plans for sites of one acre or more. Topography on the site plan and within 100 feet of the site shall be included, referenced to a USGS benchmark.

(6) *Existing and proposed vegetation.* Indications of trees and shrubs shall be used on the site plan where the trees and shrubs exist or where such vegetation will be planted. All such trees and shrubs shall be labeled as to size and whether existing or proposed.

(7) *Material samples.* The application shall include a list of primary materials (ex., brick, stone, roofing, paint chips) to be used on the projects exterior and the applicant shall bring representative material samples to the planning commission meeting.

(8) *Additional dimensional information.* The following additional information shall be required (all dimensional) for all site plans:

a. Dimensioned floor plans.

b. A survey showing existing lot lines, structures, parking areas and other improvements on the site and within 100 feet of the site.

c. Dimensions and centerline of existing and proposed roads and right-of-ways.

d. Acceleration, deceleration and passing lanes, where required.

e. Proposed location of access drives and on-site driveways.

f. Loading and unloading areas.

g. Location of existing and proposed interior sidewalks and sidewalks in the right-of-way.

h. Exterior lighting locations, and light pole detail and specifications; provided that the building official or planning commission may also require a more detailed lighting plan and/or photometric studies to assure adequate protection of surrounding properties.

i. All utilities serving the area located on the site.

j. Trash receptacle location and method of screening, including information detailing specific material samples that compliment the proposed construction.

k. Transformer pad locations, mechanical equipment location, and method of screening.

l. Location of front, side and rear setbacks, height restriction, and yard dimensions.

m. Dimensioned parking spaces and parking coverage, preliminary drainage plan, drives and method of paving, and cross sections and details of all curbs and ramps.

n. Location of lawns and landmark trees, hardscape and landscape areas, including specific plant materials proposed. A landmark tree is any tree that has a trunk over 12 inches in diameter as measured from 4½ feet from the average ground level.

o. Greenbelt, wall or berm locations and cross sections.

p. All existing and proposed easements.

q. Designation of fire lanes and fire hydrant locations.

r. Building elevations including location, height and outside dimensions of all proposed buildings and structures, including color renderings.

s. Location, size, height and lighting of all proposed signs.

t. Swimming pool fencing details, including height and type of fence, if applicable.

(Code 1975, § 5-21-7; Ord. No. 810, § 98-448, 8-7-2006)

Sec. 50-41. Standards for approval.

The planning commission shall approve a site plan if the site plan meets all applicable standards set forth in this Code. If such site plan does not comply with such provisions, the plan may be approved by the zoning board of appeals by granting a waiver or variance of such deficiency and upon a finding by the zoning board of appeals or the city council that the site design will be in compliance with the standards found in the zoning enabling act and this section. The planning commission may, as a basis for making such findings, require whatever site plan modifications it deems necessary, including the provision of additional site design amenities not specifically required by this Code, in order to protect natural resources and the health, safety and welfare and the social and economic well-being of the people. In addition, the planning commission shall use the following criteria in evaluating the site plan:

(1) *Adequacy of information.* The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.

(2) *Site design characteristics.* All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of the adjoining property and the type and size of buildings. The site plan shall be so developed so as not to impede the normal and orderly development or improvement of surrounding property for the uses permitted.

(3) *Preservation of natural areas.* The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Appropriate provisions shall be made for either the preservation of landmark trees or alternative measures to assure future plantings within the city.

(4) *Privacy.* The site design shall provide reasonable visual and sound privacy for dwelling units located within the project and adjacent to the project. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of its occupants.

(5) *Emergency vehicle access.* All buildings or groups of buildings shall be so arranged as to permit emergency vehicles access by some practicable means to all sides.

(6) *Ingress and egress.* Every structure or dwelling unit shall be provided with adequate and safe means of ingress and egress via public streets and walkways.

(7) *Separation of vehicle and pedestrian circulation.* The site plan shall provide a pedestrian circulation system which is insulated as completely as is reasonably possible from the vehicular circulation system.

(8) *Arrangement of streets and pedestrian ways.*

a. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. The width of streets and drives shall be appropriate for the volume of traffic they will carry.

b. In order to achieve adequate and safe traffic circulation, the planning commission may recommend and the city council may require dedication of a public right-of-way through the site, prior to site plan approval. The planning commission may also recommend and the city council may require that marginal access drives be constructed to serve adjacent buildings, parking areas and loading zones, and thereby reduce the number of outlets onto major thoroughfares or roads. If such marginal access drive is required, the city council may require the deposit of a performance guarantee with the city clerk to ensure completion of the drive.

(9) *Drainage.* Appropriate measures shall be taken to ensure that the removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made for the construction of sewer facilities, including grading, gutters, piping and treatment of turf to handle stormwater and prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in paved areas.

(10) *Exterior lighting.* Exterior lighting shall be designed so that it is shielded from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

(11) *Public services.* The scale and design of the proposed development shall facilitate the adequate provision of services currently furnished or as may be required of the city, including fire and police protection, stormwater removal, sanitary sewage removal and treatment, traffic control and administrative services.

(12) *Landscaping, fences and walls.* The site plan shall provide for landscaping consistent with the quality and character of landscaping on nearby properties. Visually unattractive structures (ex., transformers, generators, utility cabinets, mechanical equipment and similar structures or equipment) shall be screened with either landscaping, fencing or walls. The planning commission may require additional landscaping fences or walls in accordance with the standards and intent of this article.

(13) *Exterior building treatment.* The exterior building materials and treatment shall be of finished quality, consistent with the quality of exterior treatment on surrounding buildings and the design standards ordinance. Examples of finished quality exterior materials include brick, wood siding and glass. Examples of materials not considered finished quality in commercial office and residential areas include painted cement block.

(14) *Trash receptacles.* Any trash receptacles shall be appropriately screened and utilize quality materials that complement the proposed site and adjacent properties.

(Code 1975, § 5-21-8; Ord. No. 810, § 98-449, 8-7-2006)

Sec. 50-42. Fees, recoverable costs; lien.

(a) *Application fee.* The applicant shall pay a nonrefundable $350.00 fee at the time the application is submitted.

(b) *Cost recovery.* This section only applies if the preapplication process determines that review costs to the city are likely to involve outside consultant fees and costs. Fees for review of site plans, applications for special land use approval, and for certificates issued under the provisions of this chapter shall be collected by the city 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 by resolution, 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 approval of a site plan or a special land use permit shall be accompanied by a nonrefundable 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.

(2) The term "recoverable costs" means the costs incurred by the city in processing an application for a 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 administrator 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 costs);

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, made before any engineering review, the building inspector will obtain a nonbinding estimate of the city's consulting engineers' or community planners' fees. During the review and process, the applicant's deposit pursuant to subsection (a) 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 a special use permit or for approval of site plan shall be considered complete unless 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.

(Ord. No. 810, § 98-450, 8-7-2006)

Sec. 50-43. Notice requirements.

(a) When public notice is required by this chapter, before a public hearing or other decision, a notice shall be provided as follows:

(1) *Publication.* Notice shall be published in a newspaper of general circulation in the city not less than 15 days prior to the public hearing.

(2) *Mail/personal delivery.* 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 regardless of whether the property or occupant is located in the city. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four 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 given not less than 15 days prior to the date of the public hearing schedule.

(3) *Contents.* 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. A statement of when and where written comments will be received, and where the request is available for inspection.

(b) If the nature of the proposed amendment is to rezone an individual property or several adjacent properties, then notice shall be provided as described above. However, if 11 or more adjacent properties are proposed for rezoning, then notice shall be provided under MCL 125.3202(3).

Secs. 50-44—50-54. Reserved.

DIVISION 2. VIOLATIONS

Sec. 50-55. Violations by architects or contractors.

It shall be the duty of all architects, contractors, subcontractors, builders and other persons having charge of the establishment of any use of land or the erecting, altering changing or remodeling of any building or structure, including tents and trailer coaches, before beginning or undertaking any such work, to see that a proper permit has been granted therefor and that such work does not conflict with and is not in violation of the terms of this chapter. Any such architect, builder, contractor, subcontractor or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling without such a permit having been issued, or in violation of or in conflict with the terms of this chapter, shall be deemed guilty of violation of this chapter in the same manner and to the same extent as the owner of the premises or the person for whom such buildings are erected, repaired,

altered, changed or remodeled or the use of land established in violation of this chapter and shall be subject to the penalties prescribed in this chapter for such violation.

(Code 1975, § 5-16-1; Code 1997, § 98-471)

Sec. 50-56. Penalty.

Any person who violates any of this chapter shall be responsible for a municipal civil infraction. Each day that a violation is permitted to exist shall constitute a separate offense.

(Code 1975, § 5-16-2; Code 1997, § 98-472)

Secs. 50-57—50-85. Reserved.

DIVISION 3. INTERPRETATION AND APPLICATION

Sec. 50-86. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the protection of the public health, safety and general welfare. Whenever the requirements of this chapter impose requirements of lower heights of buildings or a less percentage of lot that may be occupied or require wider or larger courts or deeper yards than are imposed or required by existing provisions of law or ordinance, the provisions of this chapter shall govern. Where, however, the provisions of the state housing code or other ordinances or regulations of the city impose requirements for lower heights of buildings or less percentage of lot that may be occupied or require wider or larger courts or deeper yards than are required by this chapter, the provisions of the state housing code or other ordinances or regulations shall govern.

(Code 1975, § 5-17-1; Code 1997, § 98-491)

Sec. 50-87. Easements, covenants and similar agreements.

It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this chapter imposes a greater restriction upon the use of buildings or premises, the provisions of this chapter shall control.

(Code 1975, § 5-17-2; Code 1997, § 98-492)

Sec. 50-88. Conditional zoning approval.

(a) The city council shall have the authority when acting upon a petitioner's request to rezone property to require that the petitioner meet conditions precedent to such final rezoning, which conditions shall be designed to protect natural resources and the health, safety, welfare and social and economic well-being of those who will use the land under consideration and the landowners immediately adjacent to the proposed parcel under consideration for rezoning and the community as a whole.

(b) Prior to the city council granting a petition to conditionally rezone any property, the following conditions shall have been met:

(1) *Submission of site plan.* The petitioner shall have submitted to the planning commission a site plan in accordance with sections 50-34—50-42.

(2) *Submission of environmental impact statement.* The petitioner shall also submit to the planning commission as part of the request for conditional rezoning an environmental impact statement addressing the impact of expected changes in motor vehicle traffic patterns associated with the proposed development, and any expected impact upon city services, including water, sewer, fire and police factors.

(3) *Hearing by planning commission.* The planning commission shall hold a public hearing upon the request for conditional rezoning after providing notice of public hearing as required by this chapter. The petitioner shall pay to the city a hearing fee of $165.00. This fee may be modified by a resolution of the city council as adopted from time to time.

(4) *Report by planning commission.* The city planning commission, after conducting a public hearing on the request for conditional rezoning, shall report its findings to the city council. Such report may contain recommendations or conditions to be incorporated in any approval of the proposed development granted to the petitioner so as to ensure that the proposed development will meet the intent of the zoning regulations.

(5) *Posting of bond.* The city council, as a precondition to approval of conditional rezoning, may require the posting of a surety bond, either cash, a letter of credit, or a commercial surety bond, in the minimum amount of ten percent of the costs of the project as estimated by the city engineer, exclusive of land acquisition costs, as recommended by the planning commission. Such bond shall remain in effect for one year after the completion of the project. It shall be a condition of such bond that the petitioner shall complete such project in accordance with the site plan approval submitted to obtain the conditional rezoning of the property. No building permit shall be issued for the project until the bond is posted, if required by the city council.

(6) *Issuance of building permit; release of bond.* Each such action taken by the city council in granting conditional rezoning shall be recorded in the minutes of the city council. Upon the issuance of a building permit for such proposed project, the property shall be deemed to have been rezoned. Should the petitioner fail to obtain a building permit for such project within 12 months from the date of the approval of the conditional rezoning, the rezoning shall be deemed void and of no effect. Upon the department of public safety advising the city administrator that the project has been substantially completed within a period of 12 months in accordance with the approved site plans and conditions for such project, the city administrator shall cause the surety bond to be released and returned to the petitioner.

(7) *Extension of time for obtaining building permit.* Should the petitioner fail to obtain a building permit for such project within 12 months of receiving approval for the conditional rezoning, the city council, upon application of the petitioner and the conducting of a public hearing with notice as required by this chapter, may extend such time for periods not to exceed six months each.

(Code 1975, § 5-17-3; Ord. No. 810, § 98-493, 8-7-2006)

Secs. 50-89—50-119. Reserved.

DIVISION 4. AMENDMENTS[2]

[2]State law reference(s)—Ordinance adoption procedure, MCL 125.3401 et seq.

Sec. 50-120. Authority of council; procedure; protests.

The council may, from time to time, on its own motion or on petition, after public notice and hearing as provided by law and after report by the planning commission, amend, supplement or change the boundaries or regulations established in this chapter or subsequently established. If a protest against a proposed amendment, supplement or change is presented, duly signed by the owners of 20 percent of the area of land included in the proposed change, or by the owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change, not counting publicly owned land, such amendment shall not be passed except by the favorable vote of five members of the council, regardless of how many members are present at the time the vote is taken.

(Code 1975, § 5-18-1; Code 1997, § 98-511; Ord. No. 829, 7-6-2009)

Sec. 50-121. Hearing fee for rezoning requests.

A fee as currently established or as hereafter adopted by resolution of the city council from time to time shall be paid to the city by the petitioner at the time any request for rezoning of property is filed with the planning commission. Such fee shall be used to pay the costs of legal publication required and is only refundable if such petition for rezoning is withdrawn prior to publication costs being incurred by the city.

(Code 1975, § 5-15-11; Code 1997, § 98-441)

Secs. 50-122—50-140. Reserved.

DIVISION 5. BOARD OF APPEALS[3]

Sec. 50-141. Created.

There is hereby established a board of appeals on zoning, which shall perform its duties and exercise its powers as provided by law in such a way that the objectives of this chapter shall be observed, public safety secured and substantial justice done. The term "board", as used in this division, shall mean the board of appeals.

(Code 1975, § 5-14-1; Code 1997, § 98-401)

Sec. 50-142. Membership.

The council shall be the board of appeals on zoning.

(Code 1975, § 5-14-2; Code 1997, § 98-402)

Sec. 50-143. Secretary.

The clerk shall be the secretary of the board of appeals. The mayor shall be the chairperson of the board of appeals, and in the mayor's absence the mayor pro tem shall act as such.

[3]State law reference(s)—Zoning board of appeals, MCL 125.3601 et seq.

(Code 1975, § 5-14-3; Code 1997, § 98-403)

Sec. 50-144. Meetings and records.

Meetings of the board of appeals shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or, in the chairperson's absence, the vice-chairperson, may administer oaths and compel the attendance of witnesses. 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 upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the clerk and shall be a public record.

(Code 1975, § 5-14-4; Code 1997, § 98-404)

Sec. 50-145. Appeals generally.

(a) The board of appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of the provisions of this chapter. The board shall also hear and decide all matters referred to the board or upon which the board is required to pass under the provisions of this chapter. The concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirement, decision or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the board is required to pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of two-thirds of the members of the board shall be necessary to grant a variance from uses of land permitted in an ordinance.

(b) Appeals to the board may be taken by any person aggrieved by a decision of the building inspector or administrative official charged with the enforcement of this chapter. Such appeal shall be taken by filing with the building inspector and with the board, not later than ten days after the date of the decision that is appealed from a written notice of appeal specifying the grounds thereof. The building inspector shall forthwith transmit to the board all papers constituting the records upon which the action appealed from is taken.

(c) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals, after the notice of appeal shall have been filed with such officer, that, by reason of facts stated in the certificate, a stay would, in the officer's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of appeals or by a court of record on application or notice to the officer from whom the appeal is taken and on good cause shown.

(Code 1975, § 5-14-5; Code 1997, § 98-405; Ord. No. 727, § 1, 8-3-1998)

Sec. 50-146. Appeal hearings.

Upon receipt of an appeal to the board of appeals and the payment to the city of the required appeal fee, the city clerk shall establish a date for a public hearing on such appeal at the next regular city council meeting. The clerk shall give notice in accordance with the notice requirements found in this chapter.

(Code 1975, § 5-14-6; Code 1997, § 98-406)

Sec. 50-147. Fees for appeals.

(a) A fee as currently established or as hereafter adopted by resolution of the city council from time to time shall be paid to the city at the time the notice of appeal is filed for all board of appeals hearings.

(b) Such appeal fee may be waived by the board of appeals upon request of a petitioner and the filing of an affidavit showing that the petitioner meets the standard of a low income person or family as established by the federal government.

(Code 1975, § 5-14-7; Code 1997, § 98-407)

Sec. 50-148. Powers.

(a) The board of appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made, subject to the conditions and limitations of this section, and to that end shall have all the powers of the officer from whom the appeal is taken.

(b) The decision of such board shall not become final until the expiration of five days from the date of entry of such order, unless the board shall find that the effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

(c) The board of appeals may, in specific cases and subject to appropriate conditions and safeguards, determine and vary the application of the regulations established in this chapter in harmony with their general purpose and intent, as follows:

(1) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several zoning districts accompanying and made a part of this chapter, in those cases where the street layout actually on the ground varies from the street layout as shown on the map.

(2) In those cases where a district boundary line divides a lot of record, permit the extension of a use permitted on the less restricted portion of such lot to that portion of the lot which lies in the more restricted district, provided that such extension shall be made for a distance not to exceed 50 feet beyond the district boundary line in any case.

(3) Permit variation in the use and location of buildings on any lot abutting a different zoning district, provided that the use or location shall not have an undesirable effect upon the more restricted district, and provided further that the yard requirement may not be less than the average of the requirements for the two districts, and provided further that the variation shall not extend more than 50 feet into the more restricted district.

(4) Permit, upon application and proper showing, a variance so as to authorize the use of property for a gasoline service station which is situated a lesser distance than 1,000 feet from an existing gasoline service station, only when such action will not prejudice the public health, welfare and safety of the city.

(5) Permit variations in the requirements for outer courts in dwellings, and permit such variation or modification of yard, lot area, and percentage of lot coverage requirements of this chapter as may be necessary to secure an appropriate improvement of a parcel of land which is of such size, shape or dimension, or which has such peculiar or exceptional geographical or topographical conditions, that it cannot be appropriately improved without such variation or modification, provided that the purpose and spirit of this chapter shall be observed, public safety secured and substantial justice done.

(6) 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 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 district.

(7) Permit the erection of a building to its full height or use, as originally planned, when foundations and structural members are designed to carry such buildings higher.

(8) Permit a partial or complete exception to the loading space provisions of section 50-529 where, after investigation by the board, it is found that the volume of vehicular service will not require compliance with such provisions and will not cause undue interference with the public use of the streets or alleys or imperil the public safety, and where such modification or exception will not be inconsistent with the purpose and spirit of this chapter.

(9) Permit a variation or modification in the required location of off-street parking facilities or in the amount of off-street parking facilities required, or both, if after investigation by the board it is found that such variation is necessary to secure an appropriate development of a specific parcel of land which has such peculiar or exceptional geographical conditions, or is of such size, shape or dimension, that it cannot be reasonably developed in accordance with the provisions of section 50-530, and that any variation will not be inconsistent with the spirit and purpose of this chapter, with public safety and with substantial justice.

(10) Permit a variation, modification or exception in the required regulations specified in article V of this chapter 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.

(11) Permit additional garage space for buildings having ten rooms or more when evidence is presented proving need for the additional space.

(12) Permit open parking lots in R-1 and R-2 districts for the periodic storage of self-propelled passenger vehicles for periods less than one day, when the space used for parking is adjacent to business and further complies with article V of this chapter and such use is not injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this chapter.

(13) The board of appeals may, in specific cases and subject to appropriate conditions and safeguards, determine and vary the application of the regulations established in this chapter upon written application when unnecessary hardship or practical difficulty is found by a majority of the board of appeals, as defined in section 50-149.

(14) Permit a variation and modification of front and rear yard minimum requirements where the plat of any subdivision provides for lots of 100 feet or less in depth and where the architectural design and layout of the building structures require such variation and modification to preserve the architectural appointments, design and development of the subdivision, provided that the area of the lot shall be not less than 6,000 square feet and that the area of the dwelling and accessory buildings shall not exceed 25 percent of the lot area. Before any building permit is issued the planning commission shall approve the plot plan therefor or shall have approved a general plan of the subdivision development and building locations thereon.

(Code 1975, § 5-14-8; Code 1997, § 98-408; Ord. No. 695, § 1, 2-12-1996; Ord. No. 829, 7-6-2009)

Sec. 50-149. Variance standards.

(a) *Dimensional or nonuse variances.* The zoning board of appeals may grant a dimensional or nonuse variance only upon a finding that compliance with the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create a practical difficulty. A finding of practical difficulty, based on competent, material, and substantial evidence on the record, shall require the petitioner to demonstrate that all of the following conditions are met:

(1) That strict compliance with the restrictions governing area, setbacks, frontage, height, bulk, density, and other similar items would unreasonably prevent the petitioner from using the property for a permitted purpose or would render conformity with said restrictions unnecessarily burdensome.

(2) That a variance would do substantial justice to the petitioner as well as to other petitioners in the zoning district; or whether a lesser relaxation of the restrictions would give substantial relief to the petitioner and be more consistent with justice to others (i.e., are there other more reasonable alternatives);

(3) That the plight of the petitioner is due to unique circumstances of the property;

(4) That the petitioner's problem is not self-created.

(5) That the spirit of this chapter will be observed, public safety and welfare secured, and substantial justice done.

(b) *Use variances.* The zoning board of appeals may grant a use variance only upon a finding that there is an unnecessary hardship in the way of carrying out the requirements of this chapter. A finding of unnecessary hardship, based on competent, material, and substantial evidence on the record, shall require the petitioner to demonstrate that all of the following conditions are met:

(1) The property cannot reasonably be used in a manner consistent with existing zoning;

(2) That the plight of the petitioner is due to unique circumstances peculiar to the property and not to general neighborhood conditions;

(3) That the use to be authorized by the variance will not alter the essential character of the area and locality;

(4) That the problem is not self-created;

(5) That the spirit of this chapter will be observed, public safety and welfare secured, and substantial justice done.

(c) The zoning board of appeals may consider evidence from a variety of sources in making its determination.

(Ord. No. 829, 7-6-2009)

Secs. 50-150—50-179. Reserved.

ARTICLE III. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 50-180. Districts enumerated.

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

R-1	(A through E) One-Family Residential Districts
R-2	Two-Family Residential District
R-3	Planned Multiple-Family Residential Development District
R-4	High Density Multiple Dwelling District
C.F.	Community Facilities District
C	Commercial Business District
C-2	High Intensity City Center District
RO-1	Restricted Office District
P-1	Vehicular Parking District

(Code 1975, § 5-2-1; Code 1997, § 98-51)

Sec. 50-181. Boundaries of districts established.

The boundaries of the districts enumerated in section 50-180, shown upon the map attached to the ordinance from which this chapter is derived, as revised, and on file in the office of the city clerk, and made a part of this chapter, are hereby established, such map being designated as the zoning map, and such map and all notations, references and other information shown thereon shall be as much a part of this chapter as if the matter and information set forth by the map were all fully described in this chapter.

(Code 1975, § 5-2-2; Code 1997, § 98-52)

Sec. 50-182. Minimum size of dwellings.

No dwelling shall hereafter be erected or altered having a ground floor area of less than the minimum provided in this section.

(1) No dwelling shall be erected or altered on lots or parcels of record having a width of less than 40 feet.

(2) For dwellings erected or altered on lots having a width of between 40 feet and 49 feet, the ground floor area for a one-story or a one and one-half-story building shall not be less than 840 square feet; and, if two stories in height, the ground floor area shall be not less than 575 square feet and the floor area shall not be less than 1,150 square feet.

(3) Two-family dwellings shall have a minimum floor area for each living quarter of not less than 1,000 square feet.

The ground floor area of any dwelling shall not include the area of breezeways, utility rooms, unenclosed porches or attached garages.

(Code 1975, § 5-2-3; Code 1997, § 98-53)

Sec. 50-183. Residential building heights.

In all new residential home construction and additions to existing residential homes, the building height shall not exceed 30 feet as measured from the finished grade level adjoining the building to the highest point on the ridge of the roof and 24 feet to the eave measured from the finished grade level adjoining the building.

(Code 1997, § 98-54; Ord. No. 771, § 1, 5-21-2001)

Sec. 50-184. Zoning districts of vacated streets or alleys.

Whenever the city council vacates an alley or street within the city, such vacated parcel of real estate shall be deemed to fall within the zoning district or districts of the real property to which the vacated street or alley accrues by reason of being vacated.

(Code 1997, § 98-532; Ord. No. 677, § 1, 9-12-1994)

Sec. 50-185. Prohibited uses.

Each district, as created in this article, shall be subject to the regulations contained in this article and chapter 50 Zoning. Uses in each of the enumerated districts that are contrary to federal, state or local laws or ordinances of Grosse Pointe Woods, are prohibited.

(Ord. No. 846, 5-7-2012)

Sec. 50-186. Prohibited uses—Marijuana establishments.

Pursuant to section 6.1 of the Michigan Regulation and Taxation of Marihuana Act (the Act), the city elects to completely prohibit all marijuana establishments as defined by the Act, in all zoning districts in the city.

(Ord. No. 881, 2-25-2019)

Secs. 50-187—50-206. Reserved.

DIVISION 2. R-1 ONE-FAMILY RESIDENTIAL DISTRICT

Sec. 50-207. Purpose.

The R-1 (A through E) one-family residential district is established as a district in which the principal use of land is for single-family dwellings and related educational, cultural and religious uses where found appropriate and harmonious with the residential environment. For this single-family residential district, in promoting the general purpose of this chapter, the specific intent of this division is to:

(1) Encourage the construction of and the continued use of the land for single-family dwellings.

(2) Prohibit business, commercial or industrial use of the land, and prohibit any other use which would substantially interfere with development or maintenance of single-family dwellings in the district.

(3) Encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this article.

(4) Discourage any land use that would generate traffic on minor or local streets, other than normal traffic to serve the residences on those streets.

(5) Discourage any use which, because of its character or size, would create requirements and 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.

(Code 1975, § 5-4-1; Code 1997, § 98-71)

Sec. 50-208. Permitted uses.

In all R-1 (A through E) districts, no building or land, except as otherwise provided in this division, shall be erected or used except for one or more of the following specified uses:

(1) One-family detached dwellings.

(2) Municipally owned and operated libraries, parks, parkways and recreational facilities.

(3) The following special uses, which may be permitted upon approval of the planning commission after a public hearing with notice and review as required by this chapter, and upon a determination that such use is necessary for the public convenience, safety and public welfare and in accord with the spirit and purpose of this chapter. In giving such approval, the planning commission may, in addition to other conditions allowable by law, impose any reasonable restrictions or requirements so as to ensure that the contiguous residential areas will be adequately protected, and also may require the dedication of lands for street and alley purposes which in the commission's opinion is necessary to provide adequately for vehicular traffic movement and off-street parking.

a. Municipal buildings and uses, including pumping stations, sewage treatment plants and other such pertinent facilities.

b. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations when operating requirements necessitate their location within the district in order to serve the immediate vicinity.

(4) Temporary buildings. Temporary buildings, for use incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

(5) Accessory buildings. Accessory buildings and uses are permitted as provided for in this chapter and section 50-526 (accessory buildings). Accessory buildings shall not be used for a temporary or permanent dwelling, lodging or sleeping unless expressly permitted by this chapter or this Code, and shall not be used for any business, profession, trade or occupation.

(6) Off-street parking. Off-street parking facilities, which shall be provided as specified in section 50-530 and article V of this chapter.

(7) Mixed occupancy. In residential homes on lots abutting Mack Avenue, a mixed occupancy shall be permitted involving the use of the property as a residence and one of the following uses by the resident occupant: a physician's office, a dentist's office, a lawyer's office or a real estate broker's office, provided that parking requirements for such mixed occupancy shall comply with section 50-530.

(8) Storage of boats, recreational vehicles, trailers. Storage of boats, boat trailers, recreational vehicles, mobile homes, campers, travel trailers, house trailers, and noncommercial utility trailers are only permitted if such vehicles or equipment are unoccupied and parked in a fully enclosed garage and comply with subsection (5) of this section. Overnight parking, other than in a fully enclosed garage, of unoccupied boats, boat trailers, recreational vehicles, mobile homes, campers, travel trailers, house

trailers, and noncommercial utility trailers are permitted for temporary periods not to exceed 72 hours, provided notification is provided to the public safety department as follows:

The owner or representative of the vehicles or equipment must apply for and receive a temporary permit from the public safety department by telephone or in person, so that the public safety department has notice of when the 72 hour period begins. No more than three temporary permits are allowed per owner per calendar year. In addition to the three temporary permits allowed for all owners, owners of recreational vehicles, mobile homes, campers, travel trailers, and house trailers are permitted to load and unload their vehicles or trailers for periods not to exceed 24 hours ("24 hour provisioning period") provided that at least 48 hours elapse between the loading and unloading of the vehicles or trailers.

(9) Covering of automobiles and other vehicles. Any automobile or other vehicle that is fully or partially covered by a tarp, car cover, or similar material, whether licensed or unlicensed, is prohibited, unless parked in a fully enclosed garage.

(10) Nonconforming uses. Storage of property as listed in subsections (8) and (9) of this section, which existed prior to the effective date of the ordinance from which this section is derived is rendered nonconforming by the provisions of this chapter, and any storage which is rendered nonconforming as a result of subsequent amendments to this chapter, shall be subject to the regulations set forth in this chapter. However, any resident holding a current and valid license or permit for the storage of property covered under subsection (8) of this section, which was issued prior to the effective date of the ordinance from which this section is derived and which relates to the specific property listed on the license shall have until one year from the effective date of the ordinance from which this section is derived to comply with the terms of this chapter.

(Code 1975, § 5-4-2; Code 1997, § 98-72; Ord. No. 788, § 1, 7-21-2003; Ord. No. 814, § 98-72, 4-2-2007)

Sec. 50-209. Lot and building regulations.

(a) *Measurement of lot width.* For purposes of this section, the lot width shall represent a width measured at the front building setback line. The lot width requirement shall not apply to any lot, which is narrower in width or lesser in area than the specifications provided in this section if such lot was of record at the time of adoption of the ordinance from which this chapter is derived.

(b) *Increased front yard required for certain lots.* Where at the time of passage of the ordinance from which this chapter is derived, or at the time of passage of amendments thereto, more than 50 percent of the lots on one side of a street, between two intersecting streets within any R-1 (A through E) district, are occupied by dwellings having a front yard of greater depth than required in the schedule of regulations in subsection (f) of this section, any building thereafter erected on any one of such lots shall have a front yard at least equal in depth to the average front yard of such existing dwellings, but this shall not require a greater depth than 60 feet or more than one-third the depth of the lot. Dwelling units, excepting in the instance of R-1E districts, may penetrate into the minimum front yard a distance of three feet; provided, however, that not more than one-third of the dwellings in any one block shall so penetrate, and in no instance shall two adjacent dwelling units so penetrate.

(c) *Side yard for corner lots.* In all residential use districts, the width of the side yard abutting upon a side street or major thoroughfare shall not be less than the total of the two required side yards of the district. The opposite side yard of such corner lot shall not be less than the least side yard requirement of the applicable district.

(d) *Exception to rear yard requirement.* In those instances where the lot is 105 feet or less in depth due to the street patterns established by the master thoroughfare plan, the rear yard may be decreased to a 24-foot depth.

(e) *Minimum floor area.* The minimum floor area shall be as provided in the schedule of regulations in subsection (f) of this section. (See also section 50-182.)

(f) *Schedule of regulations.*

SCHEDULE OF REGULATIONS LIMITING HEIGHT AND BULK OF

BUILDINGS, LAND USE AND AREA FOR RESIDENTIAL PURPOSES

Minimum Size Lot per Unit			*Maximum Height of Building*		*Minimum Yard Setback(feet)*					
Use District	*Area (square feet)*	*Width (feet) (a)*	*In Stories*	*In Feet*	*Front (b)*	*Least One*	*Total of Two*	*Rear (d)*	*1 Story Minimum Floor Area per Unit (square feet) (e)*	*1½ and 2-Story Total Minimum Area, 2 Floors per Unit (square feet) (e-1)*
R-1A	13,000	90	2½	30	40	10	25	28	1,400	1,960
R-1B	8,500	75	2½	30	30	8	20	28	1,300	1,820
R-1C	7,200	60	2	30	30	6	16	28	1,200	1,680
R-1D	6,200	55	2	30	30	6	16	28	1,100	1,150
R-1E	5,000	50	2	30	25	5	15	28	1,000	1,150

The maximum percentage of lot coverage permissible in all residential districts shall be 35 percent.

(g) *Exception to lot coverage requirement.* On lots of record having less than 4,000 square feet in area, the allowable percentage of lot coverage shall be increased by one percent for each 100 square feet by which the area of a lot is less than 4,000 square feet, with a maximum coverage in any such case not in excess of 45 percent.

(h) *Attached garages.* For purposes of this section, an attached garage shall be considered a part of the dwelling for yard purposes, but shall not be considered a part of the dwelling in computing the minimum floor area per unit.

(i) *Impervious surfaces.* Impervious surfaces, excluding structures, shall not exceed 30 percent coverage of a lot's surface.

(Code 1975, § 5-4-3; Code 1997, § 98-73; Ord. No. 744, § 1, 3-20-2000; Ord. No. 766, § 1, 5-21-2001; Ord. No. 770, § 1, 5-21-2001)

Sec. 50-210. Reduction of side yard for certain lots.

Notwithstanding anything to the contrary provided in this division, where more than 50 percent of the lots on one side of a street, between two intersecting streets within any R-1 (A through E) district, are occupied by dwellings having side yards of lesser width than required in the schedule of regulations in section 50-209(f), any building thereafter erected on any one of such lots may have side yards equal in width to the average side yards of such existing dwellings. These reduced side yards shall be arrived at by averaging the total side yards of each existing dwelling, provided that in no instance shall the smaller side yard of any such dwelling be less than four feet, nor shall the sum of both side yards be less than 12 feet.

(Code 1975, § 5-4-4; Code 1997, § 98-74)

Sec. 50-211. Municipal and public utility uses.

Land use and area for building structures that are permitted uses when approved by the planning commission under the provisions of section 50-208(3) are as follows:

(1) *Height of buildings.* No such building hereafter erected or altered shall exceed 35 feet in height, except as provided for in article V of this chapter.

(2) *Front yard.* A minimum front yard of 75 feet shall be provided between the front property line and the furthermost front part of the building or any projection.

(3) *Side yard; minimum distance between buildings.* A minimum side yard shall be provided. In all cases of buildings erected for the purpose of public assembly (municipal buildings and other similar or like structures where numerous persons assemble and meet), including those located upon corner lots or parcels of property adjacent to two or more streets, there shall be on each side of every building site a side yard, the minimum width of which shall be 75 feet. All pumping stations, sewage treatment plants and other pertinent facilities, public utility buildings, electric transformer stations and substations and gas regulator stations, when operating requirements necessitate their location within the district in order to serve the immediate vicinity, which are not classified as buildings for public assembly shall have a side yard on each side of every building site of a minimum width of 35 feet. If there is more than one building structure erected or proposed to be erected upon the building site owned, leased or occupied by a common owner, lessee or occupant, a minimum space of 20 feet shall be provided between building structures. No building structure, or addition or alteration thereto, shall be permitted to encroach upon the minimum front, side or rear yard requirements provided for in this section.

(4) *Rear yard.* A minimum rear yard of 75 feet shall be provided.

(5) *Measurement of yards.* The minimum yard space as required in this section shall be measured from the property lines, as shown on the plot plan, to the wall of the building structure, which shall be deemed and considered, for the purpose of this chapter, to include all porches, projections, roof extensions or other similar or like structures which are incorporated in and made a part of the building structure.

(Code 1975, § 5-4-5; Code 1997, § 98-75)

Sec. 50-212. Exception to rear yard requirement.

Notwithstanding anything to the contrary contained in this chapter, construction upon lots #189, #204, #205, #232, #223 and #222, all of which face on Fairford Road, and lots #227 and #228 facing Ballantyne Court, all in Fairholme #4, a subdivision of part of Private Claims 393 and 621, shall be permitted within 24 feet of the rear line of such lots.

(Code 1975, § 5-4-6; Code 1997, § 98-76)

Secs. 50-213—50-232. Reserved.

DIVISION 3. R-2 TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 50-233. Purpose.

The R-2 two-family residential district is established as a district in which the principal use of land is for single-family and two-family dwellings based upon a plan to make the most appropriate use of land within neighborhoods or on major thoroughfares. The specific intent of this division is to ensure that only such residential uses as can be properly designed and built will be allowed in this district so as not to overcrowd the land, cause parking or traffic congestion, or have injurious effects on adjacent single-family residential dwellings. The intent of this division is to:

(1) Encourage the construction of and the continued use of the land for single-family and two-family dwellings.

(2) Prohibit business, commercial or industrial use of the land, and prohibit any other use which would substantially interfere with development or maintenance of single-family and two-family dwellings in the district.

(3) Encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this division.

(4) Discourage any land use that would generate traffic on minor or local streets, other than normal traffic to serve the residences on those streets.

(5) Discourage any use which, because of its character or size, would create requirements and 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 and two-family dwellings.

(Code 1975, § 5-5-1; Code 1997, § 98-101)

Sec. 50-234. Permitted uses.

In all R-2 districts, no building or land, except as otherwise provided in this chapter, shall be erected or used except for one or more of the following specified uses:

(1) All uses permitted in R-1 districts.

(2) Two-family dwellings.

(3) Two-family income dwellings.

(4) Buildings and uses customarily incidental to the uses permitted in this section.

(5) One nonilluminated sign pertaining to the sale, lease or use of a lot or building upon which the sign is situated or placed, provided that such sign shall not exceed six square feet in area.

(Code 1975, § 5-5-2; Code 1997, § 98-102)

Sec. 50-235. Building height.

No building hereafter erected or altered in R-2 districts shall exceed 35 feet in height or 1½ stories, except as provided in sections 50-534 and 50-535.

(Code 1975, § 5-5-3; Code 1997, § 98-103)

Sec. 50-236. Lot area and width.

Two-family dwellings or two-family income dwellings in R-2 districts, together with accessory buildings, hereafter erected, shall be located only on lots having not less than 5,000 square feet of area and with an average width of not less than 50 feet; provided, however, that any lot of record prior to the adoption date of the ordinance from which this chapter is derived with less area than specified in this section may be used for a one-family dwelling.

(Code 1975, § 5-5-4; Code 1997, § 98-104)

Sec. 50-237. Lot coverage.

In R-2 districts, each one-family or two-family dwelling, together with its accessory buildings, hereafter erected on any lot, shall not cover more than 30 percent of the area of such lot; provided, however, that for lots less than 4,000 square feet in area, used for a one-family dwelling, the allowable percentage of lot coverage shall be increased by one percent for each 100 square feet by which the area of a lot is less than 4,000 square feet, with a maximum coverage in any case not in excess of 45 percent.

(Code 1975, § 5-5-5; Code 1997, § 98-105)

Sec. 50-238. Front yard.

Each lot in R-2 districts shall have a front yard not less than 30 feet in depth.

(Code 1975, § 5-5-6; Code 1997, § 98-106)

Sec. 50-239. Side yards.

In R-2 districts, each building site or plot shall be provided with a total side yard space of not less than 16 feet, with a minimum of five feet for any one side yard, provided that in no event shall any building structure in this zone be erected nearer than 16 feet to any existing building structure. Side yards so provided shall be without obstructions of any kind from the front lot line to the extreme rear portion of the dwelling. In no event shall the minimum side yard requirement provided in this section be used in common or in connection with the side yard provisions made for an adjoining structure.

(Code 1975, § 5-5-7; Code 1997, § 98-107)

Sec. 50-240. Rear yard.

In R-2 districts, there shall be on every lot a rear yard the minimum depth of which shall not be less than one-third the total of the depth of the lot figured from the extreme rear portion of the dwelling.

(Code 1975, § 5-5-8; Code 1997, § 98-108)

Sec. 50-241. Off-street parking facilities.

Off-street parking facilities shall be provided in the R-2 district as specified in section 50-530.

(Code 1975, § 5-5-9; Code 1997, § 98-109)

Sec. 50-242. Change in exterior appearance of duplexes and condominiums.

Any proposed repair, remodeling, renovating or repainting of a duplex housing unit or condominium unit which would result in a contrasting appearance of the exterior of such unit shall not be permitted. Any proposed repair, remodeling, renovating or repainting of a duplex housing unit or condominium unit shall be submitted to the city building inspector for approval of such repair, remodeling or repainting. For purposes of this section, the term "duplex" shall mean any building containing two residential units separated by a common wall.

(Code 1975, § 5-5-10; Code 1997, § 98-110)

Sec. 50-243. Minimum floor area of dwelling units.

Each dwelling unit erected or altered in an R-2 district shall contain not less than 1,000 square feet of usable floor area as defined in this chapter.

(Code 1975, § 5-5-11; Code 1997, § 98-111)

Secs. 50-244—50-264. Reserved.

DIVISION 4. R-3 PLANNED MULTIPLE-FAMILY RESIDENTIAL DEVELOPMENT DISTRICT

Sec. 50-265. Purpose.

The R-3 planned multiple-family residential development district is designed to permit residential use of land with various 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 causing excessive demands on existing community facilities, utilities or services.

(Code 1975, § 5-6-1; Code 1997, § 98-131)

Sec. 50-266. Character of district.

For purposes of this division, planned multiple-family residential development is defined as a residential development consisting of one or more buildings, each of which is so designed and arranged so as to provide a minimum of three single-family residential dwelling units therein. Such development may also provide for accessory buildings, structures, facilities and appurtenances which are necessary for the operation and maintenance of such development, and available for the use, benefit and enjoyment of all the occupants of the residential dwelling units comprising the development.

(Code 1975, § 5-6-2; Code 1997, § 98-132)

Sec. 50-267. Boundaries.

The location of R-3 districts shall be as shown on the city zoning map. See section 50-181.

(Code 1975, § 5-6-3; Code 1997, § 98-133)

Sec. 50-268. Permitted uses.

No building shall be erected or land used in the R-3 district except for the following purposes and uses, unless otherwise provided in this division:

(1) Planned multiple-family residential development consisting of buildings used for residential purposes.

(2) Accessory buildings, structures, facilities and appurtenances which are necessary for operation and maintenance and used for the enjoyment of such planned multiple-family residential development.

(3) Required off-street parking facilities.

(Code 1975, § 5-6-4; Code 1997, § 98-134)

Sec. 50-269. Building height; maximum total floor space.

No specific building height limits exist for the R-3 district. However, total floor space of multiple-dwelling buildings on a lot or parcel shall not exceed 40 percent of the total lot or parcel area, less all dedicated public rights-of-way (e.g., a floor area ratio of 0.4).

(Code 1975, § 5-6-5; Code 1997, § 98-135)

Sec. 50-270. Total lot area.

Each and every lot or parcel of land in an R-3 district shall contain a minimum of 2½ acres of land area. In computing a minimum lot area in accordance with this section, contiguous land located beyond the city boundary may be included in such computation.

(Code 1975, § 5-6-6; Code 1997, § 98-136)

Sec. 50-271. Minimum lot area per dwelling unit.

The following minimum lot area per dwelling unit type shall be required in all R-3 districts:

	Area in square feet	
Dwelling Unit Type	*Apartment*	*Townhouse*
One-bedroom unit or efficiency unit	3,000	—
Two-bedroom unit	3,600	5,000
Three- or more bedroom unit	3,000	6,000
Efficiency unit	3,000	—

All dwelling units shall have at least one living room and one bedroom in addition to kitchen, dining and necessary sanitary facilities. Plans presented showing one-, two- or three-bedroom units and including a den, library or other extra room shall count such extra room as a bedroom for the purpose of computing density.

(Code 1975, § 5-6-7; Code 1997, § 98-137)

Sec. 50-272. Lot coverage.

In an R-3 district, no building or structure hereafter erected or altered, together with any accessory building, shall cover more than 25 percent of the lot area or parcel of land area.

(Code 1975, § 5-6-8; Code 1997, § 98-138)

Sec. 50-273. Other lot requirements.

Planned multiple-family residential development buildings or structures in an R-3 district shall only be erected upon a land area complying with the provisions of this chapter, and the property to be used for such purpose shall have at least one property line abutting upon either Vernier Road or Mack Avenue. The building site shall be planned, laid out and designed so that ingress and egress thereto shall be directly from or to such street.

(Code 1975, § 5-6-9; Code 1997, § 98-139)

Sec. 50-274. Minimum floor area of dwelling units.

Minimum usable floor area for each multiple dwelling permitted in the R-3 district shall be as follows:

	Area in square feet	
Dwelling Unit Type	*Apartment*	*Townhouse*
One-bedroom unit	750	—
Two-bedroom unit	950	1,600
Three- or more bedroom unit	1,150	1,800

(Code 1975, § 5-6-10; Code 1997, § 98-140)

Sec. 50-275. Basement living units prohibited.

No living units shall be permitted in a planned multiple-family residential development where the floors thereof are below the property grade.

(Code 1975, § 5-6-11; Code 1997, § 98-141)

Sec. 50-276. Yards.

The minimum front, side and rear yard setback from any property lines in the R-3 district shall be not less than the height of the building, provided that no yard setback shall be less than 50 feet. No off-street parking shall be permitted in any required front, side or rear yard space. Access aisles leading from parking areas and entrances to buildings may be located in required yard spaces providing they are located at least 20 feet from any adjacent residentially zoned or used property. All required yard spaces not used for necessary access aisles shall be

maintained as landscaped open space unoccupied and unobstructed by any sign, building, paving or any other use or activity incompatible with the single-family residential uses.

(Code 1975, § 5-6-12; Code 1997, § 98-142)

Sec. 50-277. Off-street parking facilities.

In an R-3 district, two off-street parking spaces are required for each one-bedroom dwelling unit, and one parking space is required for each additional bedroom, two of which must be within an enclosed garage structure (see also section 50-530(8)a.2. of the table.

(Code 1975, § 5-6-13; Code 1997, § 98-143)

Sec. 50-278. Accessory buildings and uses.

The entire area of the site in an R-3 district shall be treated so as to service the needs of the residents occupying the planned multiple-family residential development. Any accessory buildings, uses or services shall be developed solely for the use of residents therein. Uses considered as accessory uses for purposes of this division include but are not necessarily limited to the following: swimming pools, cabanas, garden and patio areas, pavilions, recreation areas and other similar uses.

(Code 1975, § 5-6-14; Code 1997, § 98-144)

Sec. 50-279. Minimum distance between buildings.

Where more than one residential building or structure is to be erected as part of the planned multiple-family residential development upon any building site, there shall be a minimum distance between any two structures of 50 feet plus one foot for each two feet, or part thereof, of the total combined height of the two structures.

(Code 1975, § 5-6-15; Code 1997, § 98-145)

Sec. 50-280. Screening wall.

Those sides of the R-3 district which abut upon other residential zoning or use districts along a common boundary or area or side yard or rear yard shall have constructed along such common boundary or area or side yard or rear yard a solid ornamental brick wall of a minimum height of five feet, and to a greater height, but not to exceed eight feet, when authorized by the council. Any wall constructed as provided in this section shall be considered an exception to the requirements of other provisions of this chapter, and such provisions shall not be deemed applicable to any such wall so constructed under this section.

(Code 1975, § 5-6-16; Code 1997, § 98-146)

Sec. 50-281. Approval by planning commission.

(a) No recommendation for approval of an application for the construction of a planned multiple-family residential development in an R-3 district shall be authorized unless it has been found by the planning commission, after a review of the site plan and exterior elevations of the proposed buildings and structures, that the following conditions have been met:

    (1) Exterior architectural elevations of the proposed buildings and structures shall be designed so as to not be at variance with the architectural style of any adjacent residential buildings. The planning

commission, in reviewing exterior elevations, shall be concerned with the following details in establishing similarity with adjacent residential buildings:

a. Height of structure.

b. Building material.

c. Adherence to the design standards ordinance.

d. Front, side and rear elevations.

e. Architectural treatment of off-street parking facilities and accessory buildings and uses.

(2) The application shall be accompanied by a complete set of plans and specifications for the construction, together with a plot plan showing the location of all buildings and structures with reference to the side, front and all rear property lines of the property involved. Such plot plan shall have measurements deemed necessary and indicated thereon.

(3) A detailed plan for the landscaping of the front, side and rear yards shall be filed with the application.

(b) More specifically, the planning commission shall determine that:

(1) The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment.

(2) Pedestrian walkway systems shall be provided to connect the areas of the site, and to connect, as needed, the site with schools and shopping areas and other public gathering areas. Pedestrian walkways shall be provided as deemed necessary by the planning commission for separating pedestrian and vehicular traffic.

(3) Recreation and open space areas shall be provided as appropriate.

(4) The site plan shall comply with district requirements for minimum floor space, height of building, lot size, yard space, maximum lot coverage and all other requirements as set forth in the regulations for the R-3 district classification.

(5) The requirements for greenbelt, fencing, walls and other protective barriers shall be complied with as provided in section 50-532 and article V of this chapter.

(6) The site plan shall provide for adequate storage space for the use therein, including, where necessary, storage space for recreational vehicles.

(c) The planning commission shall examine the application for the construction of a planned multiple-family residential development and accompanying documents and, if need be, require alterations and changes therein in order to ensure that the use of the property will not be injurious or detrimental to the surrounding neighborhood and that there is compliance with this chapter.

(Code 1975, § 5-6-17; Code 1997, § 98-147)

Sec. 50-282. Approval by council.

(a) No building permit for any building or structure in an R-3 district shall be authorized unless it has been approved by the city council, after holding a public hearing thereon, notice of the time and place of which shall be given in compliance with section 502 of Public Act No. 110 of 2006 (MCL 125.3502), as being essential or desirable to the public convenience or welfare, not injurious to the surrounding neighborhood, and not contrary to the spirit and purpose of this chapter.

(b) Prior to the approval by the council, a detailed prospectus containing the methods of financing the project and the provisions of the master deed pertaining to the ownership, operation, control and management of the proposed planned multiple-family residential development shall be filed with the application.

(c) The filing of a good and sufficient surety bond in an amount to be determined by the council shall also be filed with the application. Such bond shall guarantee the construction and completion of the project in accordance with the plans and specifications and plot plan, as filed with and approved by the planning commission and in accordance with the requirements of this chapter. (See also section 50-31, pertaining to performance guarantees.)

(d) Any applicant seeking a hearing under the provisions of this section shall pay to the city a hearing notice fee as currently established or as hereafter adopted by resolution of the city council from time to time. Payment shall be made at the time application for a hearing is made. The hearing notice shall be sent as required by this chapter.

(Code 1975, § 5-6-18; Code 1997, § 98-148)

Secs. 50-283—50-312. Reserved.

DIVISION 5. R-4 HIGH DENSITY MULTIPLE DWELLING DISTRICT

Sec. 50-313. Purpose.

The R-4 high density multiple dwelling district is intended to be that district permitting primarily multiple dwellings and mixed use buildings. In order to promote such development insofar as it is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic, or late hours of operation. Due to the traffic volume generated by such residential development, this district shall abut upon a major thoroughfare and have adequate area for suitable setbacks from adjacent single-family residential districts.

(Code 1975, § 5-10-1; Code 1997, § 98-271)

Sec. 50-314. Permitted uses.

In all R-4 districts, no building or land, except as otherwise provided in this article, shall be erected or used except for one or more of the following specified uses:

(1) All uses permitted in R-1 (A through E) and R-2 districts.

(2) Multiple dwellings.

(Code 1975, § 5-10-2; Code 1997, § 98-272)

Sec. 50-315. Regulations for types of uses permitted in R-1 or R-2 district.

(a) *Uses permitted in R-1 districts.* A land use in R-4 districts of a type regulated by the provisions of article III of this chapter, pertaining to R-1A through R-1E one-family residential districts, must comply with all the regulations and requirements of article III, division 2 of this chapter.

(b) *Uses permitted in R-2 district.* A land use in R-4 districts of a type regulated by the provisions of article III of this chapter, pertaining to the R-2 two-family residential district, must comply with all of the regulations and requirements of article III, division 3 of this chapter.

(Code 1975, § 5-10-3; Code 1997, § 98-273)

Sec. 50-316. Multiple dwellings generally.

(a) *Definition.* For purposes of this section, a multiple dwelling shall be deemed to mean a residential building structure which is designed, arranged and laid out for not less than three or more than 12 household units, each of which shall be provided with its own individual bathroom and kitchen facilities, and to be occupied by one family as permanent occupants, as distinguished from transient or temporary occupants.

(b) *Height.* A multiple dwelling shall not exceed two stories in height, with a maximum height of 35 feet.

(c) *Front yard.* A front yard with a minimum depth of 25 feet, measured from the front main building wall, including enclosed porches or vestibules, to the front lot line, shall be provided.

(d) *Side yards.* Side yards of combined minimum width of 27 feet shall be provided, measured from the side lot line to the side wall of the building, exclusive of projections, one of which side yards shall be not less than 12 feet in width.

(e) *Rear yard.* A rear yard of a minimum depth of 15 feet between the rear wall of the building, including porches or other projections, and the rear property line, must be provided. Where the rear yard abuts upon a public alley for the entire length of the rear yard, the rear yard depth may be reduced by not more than five feet.

(f) *Off-street parking.*

(1) Off-street parking facilities shall be provided on or in the immediate vicinity of the building site when approved by the planning commission, which shall make available to the occupants of the multiple dwelling parking spaces of a number not less than 1½ parking spaces for each dwelling unit of the multiple dwelling. The rear yard space required in this section may be used for such off-street parking facilities.

(2) The property owner shall be required to submit a plot plan of the parking area at the time of filing the application for the building permit, which plot plan must have previously received the approval of the planning commission. Where an off-street parking lot is to be provided for the use of the occupants of any multiple dwelling and the parking lot is not a part of the building site but is situated in the vicinity of the building site, the property owner shall be required to execute and record a good and sufficient conveyance restricting the use of such property so designated as an off-site parking lot, as described in such conveyance, for the sole and only purpose of providing parking for the occupants of such multiple dwelling so long as such multiple dwelling shall be occupied for such purposes.

(3) The planning commission may permit a portion of the front yard or the side yards to be used if, upon application, the planning commission shall determine that such use will not be injurious to the occupants of the multiple dwelling building or to the surrounding neighborhood.

(g) *Lot coverage.* Not more than 30 percent of the lot area shall be occupied by any multiple building structure.

(h) *Minimum floor area.* A minimum of 572 square feet of floor area, exclusive of entrance halls, shall be provided for a one-bedroom unit, and a minimum of 748 square feet of floor area, exclusive of entrance halls, shall be provided for a two-bedroom unit.

(i) *Basement living units prohibited.* No living units shall be permitted in a multiple dwelling where the floors thereof are below the property grade.

(j) *Accessory uses.* The following accessory uses, which are integral to the operation of the multiple dwelling, are permitted:

(1) Garden and patio areas.

(2) Other related uses provided for the comfort and accommodation of the occupants of the multiple dwelling, other than garages or carports for housing motor vehicles.

(k) *Design standards.* Multiple dwellings shall conform to the design standards ordinance.

(Code 1975, § 5-10-4; Code 1997, § 98-274)

Sec. 50-317. High-rise multiple dwellings and mixed uses.

The following shall apply to high-rise multiple dwellings and mixed uses in the R-4 district:

(1) *Building height.* Building height shall be regulated by a floor area ratio of one.

(2) *Yards; minimum distance between buildings.* The minimum front, side and rear yard setback from any property line shall be not less than 1½ times the height of the building, provided that no yard setback shall be less than 50 feet. The area within setbacks greater than 50 feet, when adjacent to a public street, may be used for off-street parking and vehicle access drives, provided that setbacks which abut a single-family residential district and setbacks not used for off-street parking and vehicle access drives shall be maintained as landscaped open space unoccupied and unobstructed by any sign, building, paving or any other use or activity incompatible with the single-family residential uses. Where two or more multiple-family structures are erected on the same lot or parcel, the minimum distance between any two structures shall be 50 feet plus one foot for each two feet or part thereof of the total combined height of the two structures.

(3) *Off-street parking.* Outdoor or indoor off-street parking shall be provided in accordance with the standards in section 50-530(8)a.2.

(4) *Lot coverage.* Not more than 40 percent of the lot area shall be occupied by any multiple dwelling or mixed use structure.

(5) *Minimum floor area of dwelling units.* The minimum usable floor area for each multiple dwelling unit in the R-4 district shall be as follows:

a. Efficiency and one-bedroom unit: 750 square feet.

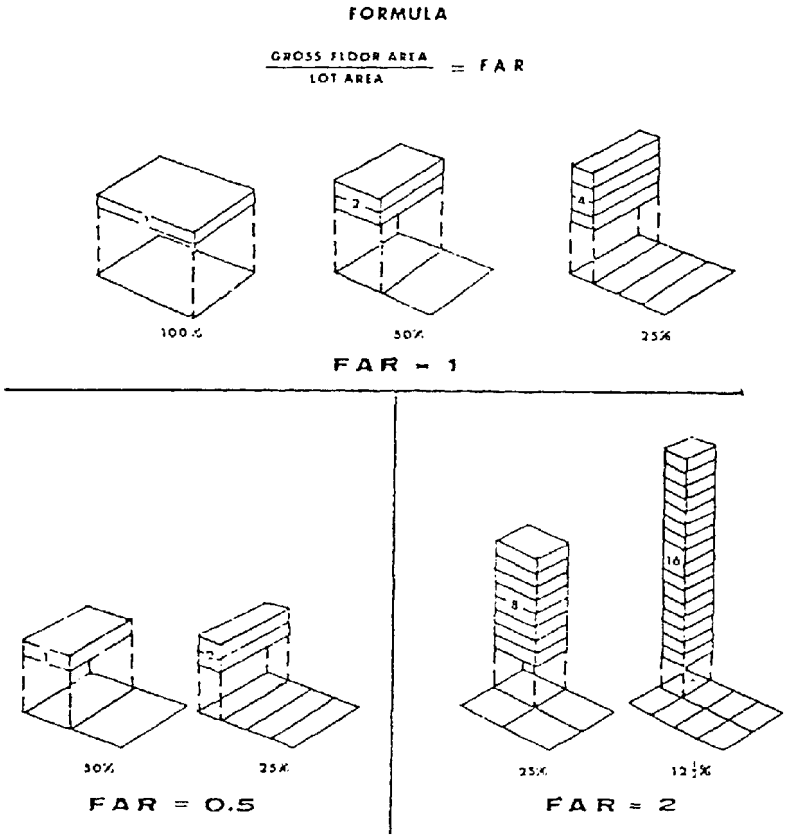
b. Two-bedroom unit: 950 square feet.

c. Three- or more bedroom unit: 1,150 square feet.

(6) *Commercial uses.* Commercial uses are permitted on the first or second floors of a multistoried multiple dwelling residential building as are permitted in the C district.

(7) *Design standards.* High-rise multiple dwellings shall conform to the design standards ordinance.

(8) *Floor area illustrations.*



(Code 1975, § 5-10-5; Code 1997, § 98-275)

Secs. 50-318—50-337. Reserved.

DIVISION 6. C.F. COMMUNITY FACILITIES DISTRICT[4]

Sec. 50-338. Purpose.

The C.F. community facilities district as established in this division is intended to provide suitable locations for desirable and necessary public activities, schools, continuing care retirement community, and public and private nonprofit recreational areas which serve the residents of the city, and to limit the location, size and

[4]Editor's note(s)—Ord. No. 835, adopted Oct. 4, 2010, amended div. 6 in its entirety to read as herein set out. Former div. 6, §§ 50-338—50-340, pertained to similar subject matter, and derived from: Code 1975, §§ 5-7-1—5-7-3; Code 1997, §§ 98-171—98-173.

character of such uses so that the activity which they generate does not become a nuisance and will not overburden the facilities of the city.

(Ord. No. 835, 10-4-2010)

Sec. 50-339. Permitted uses.

In all community facilities districts, no building, structure or premises shall be used and no building or structure shall be erected or altered which is arranged, intended or designed to be used for other than one or more of the following purposes:

(1) All uses permitted in R-1 (A through E) districts are permitted.

(2) Upon approval of the planning commission, after a public hearing with notice and site plan review as required by this chapter, any of the following existing uses may be expanded by the erection of additions to existing structures or by the erection of additional structures upon properties situated in community facilities districts as described in the zoning map as amended by this chapter and in accordance with the metes and bounds descriptions on file in the office of the division of safety inspection, and upon compliance with the provisions of this chapter. In giving such approval, the planning commission may impose, in addition to other conditions allowable by law, any reasonable restrictions or requirements so as to ensure that the contiguous residential areas will be adequately protected, and also may require the dedication of lands for street and alley purposes which, in the commission's opinion, is necessary to provide adequately for vehicular traffic movement and off-street parking.

   a. Churches and parish homes.

   b. Public, parochial and other private elementary, intermediate or high schools offering courses in general education, not operated for profit.

   c. Nonprofit religious, educational, private, fraternal or philanthropic institutions.

   d. Private noncommercial recreational areas, and institutional or community recreation centers.

(Ord. No. 835, 10-4-2010)

Sec. 50-340. Special land uses.

The following uses shall be permitted as special land uses in the community facilities district subject to the standards set forth for each use and in accordance with the procedures set forth in section 50-32. In the event any of the standards in this section conflict with other sections of the zoning ordinance, these standards shall prevail:

(1) Continuing Care Retirement Community (CCRC) subject to the following specific standards:

   a. For the purpose of this section the following definitions shall apply:

      1. *Accessory services.* A program of resident services primarily for the benefit of the eligible residents of the CCRC.

      2. *Congregate care.* A noninstitutional independent group living environment that combines private living quarters with centralized dining services, shared living spaces, and access to social and recreational activities.

      3. *Continuing Care Retirement Community* (sometimes referred to herein as "CCRC"). Means a campus, or comparable coordinated complex which combines residential accommodations, with health facilities and services with the intention of allowing elderly persons and/or

eligible residents to receive the appropriate care across a continuum, from independent living to licensed assisted living, licensed skilled nursing, memory care and hospice as their needs change, without having to leave the retirement community, and consisting at a minimum of independent living units, licensed assisted living facilities, and licensed skilled nursing care facilities, but may also include all normal and necessary support facilities associated therewith, including but not limited to, congregate dining provisions, recreational opportunities, personal care needs, the sale of accessory retail goods and services within the complex, nursing and other health care services, living accommodations for support staff, and other environmental settings and enhancements to meet all other reasonable needs of the residents.

4. *CCRC resident.* Any person who is either an elderly person or an eligible resident.

5. *Coordinated units.* A building or group of buildings under common or coordinated management or ownership which provide housing and associated services which assist the CCRC in providing independent lifestyles and services and living accommodations to eligible residents.

6. *Elderly person.* Any person having reached the age of 55 years.

7. *Elderly household.* Any household having at least one person 55 years or older.

8. *Eligible resident.* Any person other than an elderly person who requires or is in need of the facilities and/or services provided by a CCRC.

9. *Mixed use building.* A building containing any mix of services and accessory uses.

b. *Building types permitted.* A CCRC shall contain the following building types according to the following allocation based on a percentage of buildable area:

Building Type	Minimum	Maximum
Detached residential buildings	20%	50%
Attached residential buildings	10%	50%
Mixed-use buildings	10%	50%

c. *Level of care provided.* A CCRC shall contain the following levels of care according to the following allocations:

Level of Care	Minimum	Maximum
Independent Living	20%	75%
Assisted Living	10%	50%
Skilled Nursing	10%	50%

d. *Accessory uses.* A CCRC may contain any or all of the following accessory uses individually or in any combination, or in combination with other services offered within the CCRC, located in a mixed use building or as a separate structure:

1. Living quarters for support staff;

2. Dining rooms, coffee shops and related kitchen areas and facilities;

3. Living rooms, libraries, music rooms, auditoriums, greenhouses;

4. Lounges, card rooms, meeting rooms, chapel, and other social and recreational areas;
5. Administrative offices and educational uses;
6. Mail rooms and gift shops;
7. Medical and dental offices, diagnostic and treatment centers, wellness centers, exercise areas, swimming pool, spa, home health care centers;
8. Barbers, hairdressers, beauty salons;
9. ATM banking machines;
10. Home health care;
11. Adult and child care services;
12. Cleaning services;
13. Other uses, services and activities incidental to the operation of a CCRC.

e. *Site plan objectives.*

1. Site plan design that blends the proposed development into the existing fabric of Grosse Pointe Woods by using consistent street design standards, building placement and landscaping;
2. Minimization of traffic impacts and safe design of all ways, vehicular and pedestrian;
3. Site design that results in useable open spaces for residents;
4. Structure and site designs which meet the specific needs of the CCRC residents;
5. Site plan design which visually emphasizes building design, landscaped areas and minimizes the visual impact of parking areas;
6. Site and structure design shall provide suitable means of access and egress to dwellings for disabled persons;
7. Structures and landscaping shall be located on the site so as to provide for the reasonable privacy of residents adjacent to the CCRC.

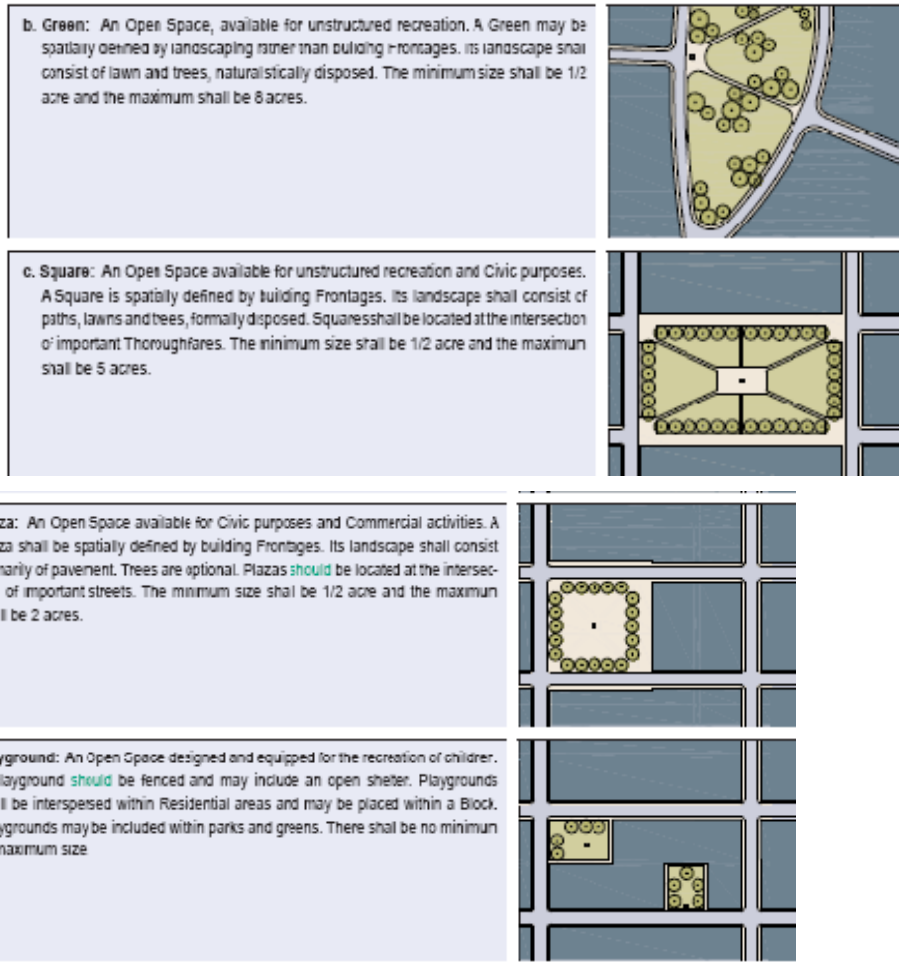
f. *Minimum project area.* The minimum project area for a CCRC shall be 14.0 contiguous acres.

g. *Yards.* The following yards shall apply to buildings within a CCRC:

Building Type	Front	Interior Side	Exterior Side	Rear
Mixed Use	25 feet	20 feet	25 feet	30 feet
Attached Residential	10 feet	10 feet	10 feet	30 feet
Detached Residential	25 feet	10 feet	25 feet	30 feet
Accessory	NA	5 feet	10 feet	5 feet
Other	5 feet	5 feet	5 feet	30
No mixed use building may be located within 100 feet of the property line of an adjacent residential use.				

h. *Open space.* The following open spaces shall be provided within a CCRC:

1. A minimum of 25 percent of the site area exclusive of buildings, yards, roads or parking areas.
2. Open spaces shall be provided in well defined areas a minimum of 0.5 acres in area.
3. Open spaces may consist of greens, squares, plazas or playgrounds.



i. *Lot coverage.* All buildings or structures, together with any accessory buildings or structures, in a CCRC shall cover no more than 50 percent of the gross project area.

j. *Interior roads.* All roads within a CCRC shall be constructed of asphalt, concrete, brick or stone. Concrete curbing is required on all roads unless it can be demonstrated that eliminating curbs will improve the stormwater management. In addition, all roads within a CCRC shall comply with the following standards:

Street Type	Road Width	Parkway[1]	Sidewalk	Parking lanes[2]
Two-way no parking	20 feet	9 feet both sides	5 feet both sides	NA
Two-way parking one side	20 feet	9 feet both sides	5 feet both sides	8 feet one side
Two-way parking two sides	20 feet			8 feet two sides
Two-way lane	18 feet	NA	NA	NA

One-way no parking	10 feet	9 feet both sides	5 feet both sides	NA
One-way parking one side	20 feet	9 feet both sides	5 feet both sides	8 feet one side
One-way parking two sides	20 feet	9 feet both sides	5 feet both sides	

[1] Parkway is that landscape area between the sidewalk and the street.

[2] Parking lane is a lane dedicated to on-street parking.

k. *Parking and loading.*

1. Parking for a CCRC shall be provided according to the following table:

Use/Service	Spaces	Unit
Single Family Residence	2	1 Dwelling unit
Independent Living - Attached	1	1 Dwelling Unit
Assisted Living	1	1 Unit
Skilled Nursing	0.50	1 Bed
Accessory	1	2 Employees on the largest shift

2. The planning commission may waive the construction of parking until it is demonstrated that it is actually needed. Parking areas shall be designated as either to be constructed at the time of building construction or at a future date when it is demonstrated that it is needed.

3. Parking lots shall be located in side and rear yards where ever possible.

4. Parking lots located in front yards shall be screened with dense landscaping or architectural elements consistent with the architecture of the facility, a minimum of three feet in height. Landscaping or architectural elements used to screen parking shall not obstruct the vision of pedestrians or drivers.

5. All parking areas shall be screened from view of adjacent residential uses with a continuous landscaping or architectural feature no less than four feet in height.

6. Interior landscaping areas equivalent to five percent of the vehicle use area shall be required in all parking lots of 20 spaces or more. One deciduous shade tree shall be required for each 150 square feet of required interior landscape area. The vehicle use area includes all areas used for vehicular circulation and parking.

7. Terminal landscape islands shall be provided at the end of each row of parking spaces to separate parking from adjacent drive aisles. Terminal islands shall be curbed, and shall be at least 144 square feet in area and 18 feet long for each single row of parking spaces. Each landscape island shall have a minimum of one shade tree. The planning commission may waive the requirement for terminal landscape islands in the interest of meeting barrier free requirements.

8. Interior landscape islands shall have a minimum area of 160 square feet and a minimum width of eight feet (measured from the back of curb). Each landscape island shall have a minimum of one deciduous shade tree.

9. Parking lot divider medians with a minimum width of eight feet (measured from the back of curb) may be used to meet interior landscape requirements and shall form a continuous strip between abutting rows of parking. One shade tree or two ornamental trees shall be required for each 25 lineal feet of divider median or fraction thereof. Shrubs may be planted to form a continuous hedge the full length of divider medians which separate parking areas from access drives. The use of bio retention areas is encouraged.

10. Two feet of interior landscape areas (except parking lot divider medians) may be part of each parking space required under this section. Wheel stops or curbing shall be installed to prevent vehicles from encroaching more than two feet into any interior landscaped area. If a landscape area is used for parking overhang, at least two feet of clear area planted with lawn or covered with mulch shall be provided where cars will overhang the curb to protect landscape plantings from damage.

11. Vehicle use areas, including service and loading areas shall be shown on the site plan, the adequacy and locations of such areas shall be approved by the planning commission, be screened from adjacent residential areas and from the public right-of-way. Such screening may be accomplished by a masonry wall, building wing wall, or densely planted landscape buffer, or other means acceptable to the planning commission.

l. *Design standards.*

1. *Building height.* The following maximum building heights shall apply to buildings within a CCRC:

Building Type	Max. Height (Ft[1] /Stories)
Mixed Use	The exterior wall height shall not exceed 36' from grade to the "top plate" The total exterior height of the building shall not exceed 45 feet from grade to the top of the ridge or highest point of the building. The total number of stories shall not exceed three (3)
Attached Residential	30/ 2
Detached Residential	30/ 2
Accessory	15/1

2. *Minimum unit size.* The following minimum unit sizes shall apply to units within a CCRC:

Unit Type	Minimum Unit size
Independent Living - Detached	1,000 s.f.
Independent Living - Attached Apartment	525 s.f.
Efficiency/Studio Apartment	400 s.f.
Assisted Living	200 s.f.
Nursing Home	200 s.f.

3. *Massing and style.* Building massing and style must be distinctively residential in character, drawing on the historical design elements that are contextually consistent with Early American or Colonial architecture. Historical and traditional design elements are encouraged.

4. *Roofs.* Preference shall be given to roof pitches consistent with single-family, residential design. Early American or Colonial styles are preferred. Material must be consistent with the architecture of the building. Composition shingle material is acceptable, providing that it is of high quality and provides architectural definition to the tab shingle to emulate traditional wood shingle styles. Tile, slate, or metal roofing is permitted, provided it is consistent with the architectural style of the building. The installation of chimneys on the roofs of all buildings is encouraged to convey the look and feel of residential use.

5. *Facade element.* Design of the facade shall be highly detailed and articulated to be compatible with the scale and sensitivity to the residential uses of the project. Facades should have a well defined foundation, a modulated wall element, and pitched roof or articulated cornice which defines the character of the building, and provides relation to the human scale of typical family residences.

6. *Entrances.* Building entrances must comply with all current accessibility regulations; however the use of ramps and lifts is discouraged. Buildings should be designed with entrances that are barrier-free for the intended uses. The use of sloping entry walks, covered entryways, porticos, arcades, and covered porches is encouraged. Where grade separation of an entrance is required because of site topography, accommodation should be provided in the architectural detail of the entry to allow barrier-free use by building residents and visitors.

7. *Door and window openings.* Doors and windows form the transition from public to private space, and should reflect residential detailing in design and placement. The use of cornices, architectural moldings, side lights, transom lights, and raised panels in doors is encouraged. Window openings should vary between buildings, but should not be unbroken and continuous in any circumstance. The use of opening sash windows with true divided lights, or detailing to convey the character of divided lights is encouraged. The use of shutters consistent with the architecture of a building is encouraged. A wide range of material for doors and windows is acceptable, except that the use of commercial, anodized or painted aluminum or steel storefront assemblies is discouraged.

8. *Materials and design elements.* Material chosen for exterior elements should be consistent with the intent and use of materials traditionally found in residential design in Early Colonial America. Siding materials such as clapboard and shingle are preferred, and the use of new materials which reduce maintenance, but emulate the look and feel of traditional materials is encouraged. The use of a variety of trim material to provide detail at the eaves, corners, gables, pediments, lintels, sills, quoins, and balustrades are encouraged. The use of bays, towers, cupolas, reverse gables, and dormers to provide unique character to a building and provide articulation of the facade is encouraged. The color palette chosen for any building should be consistent with traditional colonial colors.

9. *Garages.* Detached garages or carports may not be located within a front yard. Any structure with a front loaded attached garage including structures on culs-de-sac shall have the front yard setback lines staggered to achieve a differentiation with a minimum between adjacent buildings of three feet and a maximum of eight feet, no front yard shall be less than the minimum specified in this section. The attached garage may not occupy more than 60 percent of the length of the total building frontage.

10. *Exterior lighting.* The lighting of buildings and site areas shall be designed so the light does not directly shine onto adjoining properties or cause glare for motorists. The design and selection of light fixtures shall compliment the overall design of the campus and not cause the property to be overly lit. Lighting shall be coordinated with landscaping designs so trees

and shrubs will not interfere with lighting as they grow, creating dark areas. The use of "green" technology is encouraged.

11. *Signs.* One externally illuminated ground sign is permitted at each entry to the campus provided that, the signs design is consistent to the overall design of the development, does not exceed 32 square feet in area and is no higher than seven feet above grade. The lettering and colors of the signs are subject to the requirements of section 32-29 of the Sign Code. Directory or directional signs are subject to the conditions of chapter 32 or the City Code.

m. *Landscaping.*

1. *Front yards.* Within front yards, the use of residential scaled features such as boxwood hedges, evergreen hedges, traditional style picket fences, stone walls, or iron picket fences and pilasters is encouraged. Fences or hedges shall not exceed three feet in height at the fronts of buildings. Fences and landscaping to screen service areas may exceed this height, consistent with the intent and use of the space.

2. *Foundation plantings.* Foundation plantings shall be provided along the front or sides of any buildings which face a public road and/or are adjacent to a parking lot or other area which provides access to the building(s) by the general public. Foundation planting areas shall be integrated into the sidewalk system (between the front and sides of the building and the parking area and/or associated driveways) adjacent to the building. Foundation planting areas shall contain a minimum of one ornamental tree and six shrubs per 30 lineal feet of applicable building frontage. Individual planting areas shall be a minimum of six feet in width. At the discretion of the planning commission, the minimum width requirements may be reduced.

3. *Site landscaping.* Inclusive of any landscape greenbelt and/or off-street parking area landscaping required by this section, at least ten percent of the site area, excluding existing public rights-of-way, shall be landscaped. Such site area landscaping may include a combination of the preservation of existing tree cover, planting of new trees and plant material, landscape plazas, gardens and building foundation planting beds. Site area landscaping shall be provided to screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air conditioning units, storage, trash and loading areas. Sod/seed is permitted for balance of groundcover.

n. *Regulatory flexibility.* The planning commission may modify any of the standards of this section upon a finding that a modified standard is consistent with the intent of the ordinance and will protect the public health, safety and general welfare.

(Ord. No. 835, 10-4-2010)

Sec. 50-341. Lot and building regulations.

(a) *Height of buildings.* No building hereafter erected or altered in the community facilities district shall exceed 35 feet in height, except as provided for in article V of this chapter except as permitted in section 50-340.

(b) *Front yard.* In all community facilities districts, a minimum front yard of 75 feet shall be provided between the front property line and the furthermost front part of the building or any projection.

(c) *Side yards; minimum distance between buildings.*

(1) A minimum side yard shall be provided.

(2) In all cases of buildings erected for the purpose of public assembly (churches, public, parochial or other private elementary, intermediate or high schools, community recreation centers, municipal buildings, and other similar or like structures where numerous persons assemble and meet), including those located upon corner lots or parcels of property adjacent to two or more streets, there shall be on each side of every building site a side yard, the minimum width of which shall be 75 feet. All pumping stations, sewage treatment plants and other pertinent facilities, public utility buildings, electric transformer stations and substations, and gas regulator stations, when operating requirements necessitate their location within the district in order to serve the immediate vicinity, which are not classified as buildings for public assembly shall have a side yard on each side of every building site of a minimum width of 35 feet.

(3) If there is more than one building structure erected or proposed to be erected upon the building site owned, leased or occupied by a common owner, lessee or occupant, a minimum space of 20 feet shall be provided between building structures. No building structure, or addition or alteration thereto, shall be permitted to encroach upon the minimum front, side or rear yard requirements provided for in this section.

(d) *Rear yard.* A minimum rear yard of 75 feet shall be provided.

(e) *Measurement of yards.* The minimum yard space, as required in this section, shall be measured from the property lines, as shown on the plot plan, to the wall of the building structure, which shall be deemed and considered, for the purposes of this division, to include all porches, projections, roof extensions or other similar or like structures which are incorporated in and made a part of the building structure.

(Ord. No. 835, 10-4-2010)

Secs. 50-342—50-368. Reserved.

DIVISION 7. C COMMERCIAL BUSINESS DISTRICT

Sec. 50-369. Purpose.

The C commercial business district is intended to be that permitting retail business and service uses which are needed to serve the nearby residential areas. In order to promote such business development insofar as it is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic or late hours of operation. The intent of this district is also to encourage the concentration of local business areas to the mutual advantage of both the consumers and merchants and thereby promote the best use of land at certain strategic locations and avoid the continuance of encouraging marginal strip business development along major streets.

(Code 1975, § 5-8-1; Code 1997, § 98-201)

Sec. 50-370. Permitted uses.

In all C districts, no building, structure or premises shall be used and no building or structure shall be erected or altered which is arranged, intended or designed to be used for other than one or more of the following purposes:

(1) All uses permitted in R-1 and R-2 districts; provided, however, that there shall be no residential or living quarters erected, constructed, arranged or used as part of any building or structure erected, altered, arranged or designed for commercial purposes.

(2) Retail business for local or neighborhood needs to the following limited extent:

a. The sale and manufacture of baked goods, or the sale of confectionery, dairy products, delicatessen, fruits, vegetables, groceries, meats or food products; provided that the provisions of this subsection shall not be construed so as to permit the housing of live poultry or animals on the premises which are to be sold therefrom or which are to be slaughtered or processed into food or food products thereon.

b. The sale of dry goods and variety merchandise.

c. The sale of men's and boy's furnishings, shoes and hats, and women's ready-to-wear, furs, millinery, apparel and accessories.

d. The sale of china, floor coverings, hardware, household appliances, radios, paint, wallpaper, materials and objects for interior decorating, or furniture.

e. The sale of books, magazines, newspapers, cigars, drugs, flowers, gifts, music, photographic goods, sporting goods or stationery.

f. Restaurants, lunchrooms and cafeterias and places for the sale of soft drinks, juices, ice cream and nonalcoholic liquors, but excluding drive-thru facilities and places or businesses providing dancing or entertainment and places where food or beverages are dispensed to or served in automobiles parking on private property adjacent to and in connection with such establishments or are dispensed or served from an outside counter. A drive-thru facility may be permitted only as an accessory use in combination with a bank or financial institution.

g. Service establishments, barbershops, beauty shops, custom tailor shops, laundry agencies, self-service laundries or cleaning establishments, shoe repair, dry cleaning, and pressing and tailor shops in which only nonexplosive and nonflammable solvents are used and where no work is done on the premises for retail outlets elsewhere.

h. Medical clinics and centers, provided that the provisions of this subsection shall not be interpreted so as to permit sanitariums, hospitals, convalescent homes, resthomes, nursing homes or rooming houses or the like in C districts.

The provisions of this subsection (2) shall not be construed or interpreted so as to permit the operation of a pawnshop, or of a business wherein the purchase, exchange or sale of used or secondhand clothing, wearing apparel or personal effects, or used or secondhand furniture or household effects, is conducted. This provision shall apply with like effect where such articles are handled upon consignment, or as the agent for the owner thereof. The prohibition relating to selling used or secondhand goods, clothes and materials shall not apply to antique stores or businesses selling no more than 25 percent of such goods.

(3) Business offices as follows: Real estate, insurance and other similar offices and the offices of the architectural, clerical, engineering, legal, dental, medical or other established recognized professions in which only such personnel are employed as are customarily required for the practice of such business or profession.

(4) Funeral homes or mortuaries.

(5) Automotive services as follows: Automobile sales and service buildings owned and operated by a duly authorized and franchised dealer in new automobiles, together with a space provided for the outside storage of used cars which have been acquired in connection with the operation of such automobile sales business, which outside storage space shall be immediately adjacent to the property used for automobile sales and service and shall be limited in area to a space not exceeding 50 percent of the ground floor area of the building structure used for automobile sales and services, but in no event shall such space exceed 50 percent of the Mack Avenue frontage occupied by such automobile sales and

service business. Where public safety shall require, barriers shall be erected as may be directed by the department of public safety, and such property so used shall be properly graded, drained and surfaced with concrete or asphalt. No lighting system shall be permitted whereby overhead wires equipped with lighting fixtures or bulbs are strung over or across such property. No advertising of price or the like shall be placed upon any used car stored on such area, but one sign of not more than ten square feet in area shall be permitted to advertise the sale of used cars, provided that nothing in the provisions of this section shall be interpreted to permit or allow the operation of used car sales lots as such.

(6) Advertising billboards and poster boards designed to advertise the sale or lease of property upon which such sign shall be located, provided that not more than one such sign shall be permitted on any one parcel of property; and signboards attached to, erected upon or painted upon any building advertising the business conducted in such building or structure; provided that such advertising billboards, poster boards and signboards shall conform in size, location, structure requirements and other regulations and restrictions as contained in chapter 32, pertaining to signs, the provisions of which shall control.

(7) Miscellaneous business establishments as follows: Businesses which are not obnoxious or offensive to the locality by reason of the emission of odor, fumes, dust, smoke, waste, vibration or noise; provided that there is not in connection therewith any manufacturing, repairing, converting, altering, finishing or assembling except that which is incidental to such retail business for local or neighborhood service, and upon which not more than five mechanics or workers are customarily engaged. The limitation on the number of mechanics or workers employed shall not apply to auto salesrooms or service stations, it being the intent of this subsection to prohibit light or heavy manufacturing or industries of any description in C district. The provisions of this subsection shall not be interpreted so as to permit pool and billiard rooms, dancehalls, ice skating or roller rinks, or amusement enterprises.

(8) Material and supply businesses, providing the materials and supplies handled in the operation of the business are kept and stored within the building structure used for such business.

(9) Lodge rooms, club rooms, etc., where their use is primarily by the members of the organization owning the lodge room or club room; provided the premises shall not be leased or rented to private parties, groups or organizations where wrestling, boxing or other sport activities are to be engaged in or where intoxicating liquors and beverages are to be dispensed or consumed upon the premises in conjunction with such lease or rental. The provisions of this subsection shall not be interpreted so as to permit privately owned or operated community buildings, structures or premises primarily used for shortterm leasing or renting to private parties, groups or organizations for the purpose of conducting dances, entertainment or sports events.

(10) Equipment storage, provided that all equipment shall be placed and stored within the building structure used in connection with the business.

(11) Display of goods, provided that there shall be no display of goods in front of the building setback line except newspaper sales racks.

(12) Other main uses as follows: Any other neighborhood store, shop or service similar to the uses listed in this section in type of goods or services sold, in business hours, in the number of persons or cars to be attracted to the premises, and in effect upon the adjoining residence districts.

(13) Accessory uses, only to the extent necessary and normally accessory to the limited types of neighborhood service use permitted under this section.

(14) Outdoor patio areas for the sale and service of food and beverages; provided, however, that the sale and service of alcoholic liquors shall be in conformance with the rules of the state liquor control commission (LCC), and provided further, that such patio area shall be subject to site plan approval by the planning commission. In granting such site plan approval, the planning commission may require the

installation of a fence or a greenbelt around the patio area, lighting, and compliance with the design standards ordinance. Tables, chairs, benches and umbrellas used or to be used in the patio area shall conform to such design criteria and shall be subject to the prior approval of the planning commission. The department of public safety shall review such site plan for traffic and pedestrian safety concerns and report to the planning commission prior to any approval of such plan being granted by the planning commission. The planning commission may reject any site plan found to be located close to residential property where sound levels may be intrusive. Rooftop patio areas shall not be permitted.

(15) Massage establishments.

(16) Two-story mixed use buildings.

(Code 1975, § 5-8-2; Code 1997, § 98-202; Ord. No. 674, § 1, 6-6-1994; Ord. No. 731, § 1, 3-15-1999; Ord. No. 833, 8-16-2010; Ord. No. 856, 7-15-2013)

Sec. 50-371. Special land uses.

The following uses shall be permitted as special land uses in the commercial business district subject to the standards set forth for each use and in accordance with the procedures set forth in section 50-32:

(1) Fast-food restaurants and carry-out restaurants provided that:

a. A five-foot-high ornamental brick wall on both sides shall be erected between such restaurant site and any adjacent residential zone, provided that if separated from the residential zone by a public alley the wall shall be located along the alley line nearest the restaurant, and provided further that no wall shall be required where the restaurant structure abuts the rear lot line or public alley.

b. Lighting shall be installed in a manner which will not create a driving hazard on abutting streets, and which will not cause direct illumination on adjacent residential properties.

c. Entrances and exits to the restaurant shall be at least 50 feet from the intersection of any street right-of-way.

d. A license shall be obtained pursuant to section 10-465.

(2) Bowling alleys, subject to compliance with requirements of article III of chapter 10 as regards bowling activities.

(3) Gasoline service stations whereby such service stations also shall be permitted to do minor automotive repairs and installation, including installation of mufflers, provided that:

a. The provisions of this subsection shall not be construed so as to permit outside storage of automobiles or auto wash establishments, or muffler installations where such is the primary business activity.

b. A gasoline 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.

c. A gasoline service station building housing an office or facilities for servicing, greasing or washing motor vehicles shall be located not less than 25 feet from any side or rear lot line adjoining a residentially zoned district.

d. All driveways providing ingress to or egress from a gasoline 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 gasoline service station.

e. A raised curb six inches in height shall be erected along all street lot lines, except for driveway openings.

f. The entire lot, excluding the area occupied by a building, shall be hard-surfaced 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.

g. 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.

h. Lighting shall be installed in a manner which will not create a driving hazard on abutting streets, and which will not cause direct illumination on adjacent residential properties.

i. Compliance with chapter 20, article III, division 3, pertaining to outside parking of motor vehicles at gasoline service stations and all other city codes, is required.

(4) Taverns where spirituous liquors and beverages are sold and served for consumption on the premises; provided that no dancing, or entertainment other than musical instruments, is permitted in the operation thereof.

(5) Businesses where packaged liquor or alcoholic liquors are sold for consumption off the premises, being SDD (specially designated distributor) and SDM (specially designated merchant) licenses issued by the state. No SDD or SDM use shall be approved within the commercial business district if such proposed use or establishment is within a 500-foot distance from an existing SDD or SDM establishment or within a 500-foot distance from a church or an elementary, junior or senior high school site. The distance required in this subsection shall be calculated in accordance with the applicable rules of the state liquor control commission.

(6) Residential or living quarters in conjunction with a physician's, dentist's or realtor's office or funeral home when such building meets the same yard requirements as required in R-1 districts, provided that parking requirements for such mixed occupancy shall comply with section 50-530.

(7) Three-story mixed use buildings provided that:

a. Where a three-story building abuts a residential use, or abuts an alley abutting a residential use, then the following setbacks are required for only that portion of the building that abuts those uses as illustrated in section 50-1.

1. For that portion of the building 28 feet or less in height, a 30-foot setback is required, as measured from the nearest lot line used as a residence.

2. For that portion of the building above 28 feet in height, a 40-foot setback is required, as measured from the nearest lot line used as a residence to any vertical portion of the building above 28 feet.

3. The width of any alley or landscape buffer shall be included in measuring any setback.

b. A ten-foot wide buffer is provided as illustrated in section 50-1, subject to:

1. Plantings at least six feet high, comprised of at least 50 percent evergreen, consistent with section 50-532, greenbelts.

2. The planning commission may also require a four-foot masonry wall.

3. The location of the buffer, and the location of the wall (if required) shall conform to illustration in section 50-1, unless the planning commission determines during site plan review that the purposes of this division would be better served by modification of this requirement.

c. All residential components of a mixed use building shall comply with the following minimum square footage requirements:

1. For a studio apartment: 750 square feet.
2. For a one bedroom: 1,000 square feet.
3. For a two bedroom: 1,200 square feet.
4. For a three bedroom: 1,350 square feet.

d. The minimum off-street parking and loading requirements for any use or building in a mixed use area shall be calculated from, and not be reduced below, that required in the property's underlying use as set forth in section 50-530, off-street parking requirements, except as follows:

Mixed Use Residences	
Studio (minimum 750 square feet)	1 space per dwelling unit
1 bedroom (minimum 1,000 square feet)	1.50 spaces per dwelling unit
2 bedrooms (minimum 1,200 square feet)	1.75 spaces per dwelling unit
3 bedrooms (minimum 1,350 square feet)	2 spaces per dwelling unit

The planning commission may consider and recommend, and the city council may approve, a total reduction of off-street parking, if a parking study, which details the combined uses and the customary operation of those uses, demonstrates that adequate parking is available.

e. Mixed use applications are subject to section 50-372 review of architectural plan and site plan and section 50-373 (design standards).

f. Mixed use buildings in the C commercial district require the ground floor to be nonresidential use and require any third story to be residential use.

(Code 1975, § 5-8-3; Code 1997, § 98-203; Ord. No. 833, 8-16-2010)

Sec. 50-372. Review of architectural plan and site plan.

Any person seeking approval of the issuance of a building permit for new construction in the C commercial district shall furnish to the building inspector a preliminary sketch drawn to architectural sale, showing the front, side and rear elevations, which sketch shall show the location and appearance of all roof-mounted air conditioning, heat and blower units. A site plan in accordance with sections 50-34—50-42 shall also be furnished. The building inspector shall review such sketch and site plan and refer them to the planning commission with the inspector's recommendation, prior to the approval and issuance of a building permit.

(Code 1975, § 5-8-4; Code 1997, § 98-204; Ord. No. 810, § 98-204, 8-7-2006)

Sec. 50-373. Design standards.

(a) *General.*

(1) New construction, renovations, remodeling or exterior building alterations within all C commercial, C-2 high intensity city center, and RO-1 restricted office zoning districts shall be designed in conformance with approved design standards found in this section and on file with the building department. The purpose of these design standards is to promote a coordinated and complimentary use of design elements that result in a theme oriented, harmonious appearance and image for the commercial and high intensity residential areas of the city.

(2) To be in compliance with these standards, all designs as governed by this section shall contain a dominant use of assorted architectural design elements generally described as "Colonial," "Williamsburg Colonial," "Georgian Colonial," "Early American," "Classic" or "Traditional." Specific definitions and examples of these elements are included within this section, and in the "design standards" guidelines on file with the building department. The guidelines may be modified by planning commission resolution.

(b) *Design components.*

(1) The words "Colonial," "Williamsburg Colonial," "Georgian Colonial," "Early American," "Classic" or "Traditional" shall collectively refer to use of a pallet of materials, trim, shapes, forms, colors and details most commonly associated with the dominant architectural styles utilized during the early development of the east coast American towns and cities. Some examples of where these designs are commonly found and featured include Williamsburg, Virginia, Cape Cod, New England and Philadelphia.

(2) To more specifically define the assorted components that can be utilized to achieve this design style, the design standards guidelines include graphic examples of design elements, all of which are considered by definition of this section to be acceptable when collectively used within a total design. These elements shall be utilized in appropriate proportions and quantity to form an overall total design consistent with the requirements of this section.

(3) Colors utilized in all design components shall be consistent with the approved color chart on file with the building department and shall be utilized to produce a balanced, coordinated and complimentary total design solution.

(Code 1975, § 5-8-5; Code 1997, § 98-205)

Sec. 50-374. Change of appearance of building exterior in C, RO-1 or C-2 district.

(a) *Approval required.* All plans for new construction, renovations, remodeling or exterior building alterations within all C commercial district, the RO-1 restricted office district, and the C-2 high intensity city center district shall be submitted to the building inspector for approval prior to the issuance of any building, sign, or awning permit and any new certificate of occupancy as may be required. All plans will be submitted to the planning commission for review consistent with the design standards ordinance, unless otherwise exempt under subsection (b) of this section.

(b) *Repair or maintenance.* The following repairs or maintenance to the exterior appearance of any building or structure are examples of changes not requiring planning commission review if complaint with other provisions of this Code including the design standards ordinance and approved colors:

(1) Replacement of windows or doors.

(2) Painting or repainting of building exterior.

(3) Repaving or repairs of driveways, sidewalks or parking lots.

(4) Repair or replacement of damaged or worn building elements.

(5) Signs in compliance with chapter 32.

(6) Awnings or canopies in compliance with chapter 32.

(7) Replacement or addition of gutters or downspouts.

(8) Emergency repairs or replacement requiring immediate attention.

(9) Exterior building lighting fixtures.

(10) Reshingling or replacement of mansard roof covering or other roof covering.

(Code 1975, § 5-8-6; Code 1997, § 98-206)

Sec. 50-375. Denial of approval of exterior design.

If, in the opinion of the planning commission, the architectural appeal, finished exterior or functional design of the building or structure front shall be of extreme variance with the provisions of section 50-373, or with that of existing buildings or structures already constructed, which would result in a substantial depreciation of property or aesthetic values of the immediate and adjacent vicinity, the planning commission shall recommend the denial of any building permit or certificate of occupancy.

(Code 1975, § 5-8-7; Code 1997, § 98-207)

Sec. 50-376. Appeals.

Any person affected by the decision of the planning commission under this article shall have the right to file a claim with the board of appeals within ten days after the decision of the planning commission has been rendered.

(Code 1975, § 5-8-8; Code 1997, § 98-208)

Sec. 50-377. Building height.

No commercial or mercantile building in C districts shall be erected, reconstructed or remodeled so as to exceed two stories in height, with a maximum height of 28 feet, except as provided in sections 50-534 and 50-535. All one-story commercial or mercantile buildings shall have a minimum height of 16 feet at the front elevation, such height to be measured at the top of the coping.

(Code 1975, § 5-8-9; Code 1997, § 98-209)

Sec. 50-378. Front yard.

In C districts, no front yard shall be permitted where the property use is for the purposes specified in subsections 50-370(2), (3) or (6). Where the use of the property is for residential purposes, the regulations of article III, division 2 of this chapter shall control. Where the use of the property is such that a front yard is required for the proper use thereof, the owner thereof may make application, in writing, to the planning commission for permission to provide such a front yard and the planning commission shall have the authority to grant such permission, specifying the extent of such front yard so permitted and the limitations on the use thereof.

(Code 1975, § 5-8-10; Code 1997, § 98-210)

Sec. 50-379. Side yard on interior lot line.

In C districts, side yards are not required along interior side lot lines if all walls abutting or facing such lot lines are of fireproof construction and wholly without windows or other openings; but if the side wall is not of fireproof construction a side yard shall be provided, and if of fireproof construction, but containing windows or other openings (other than emergency exits or vents), either a side yard or an outer court as specified in section 50-383 shall be provided. Where a side yard is provided, it shall have a width as prescribed for outer courts in section 50-384.

(Code 1975, § 5-8-11; Code 1997, § 98-211)

Sec. 50-380. Side yard on street side of corner lot.

In C districts, no side yard is required on the street side of corner lots.

(Code 1975, § 5-8-12; Code 1997, § 98-212)

Sec. 50-381. Rear yard on interior rear lot line.

In C districts, rear yards are not required along interior rear lot lines for buildings or parts of buildings not used as dwellings, if all walls abutting or facing such lot lines are of fireproof construction and wholly without windows or other openings; provided that in all cases where the rear wall is not of fireproof construction a rear yard shall be provided, and provided further that, in all cases where the rear wall is of fireproof construction and contains windows or other openings (other than emergency exits or vents), either a rear yard or an outer court as specified in section 50-383 shall be provided. Where a rear yard is provided it shall have a depth equal to the width required for outer courts in section 50-384.

(Code 1975, § 5-8-13; Code 1997, § 98-213)

Sec. 50-382. Rear yard abutting street.

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

(Code 1975, § 5-8-14; Code 1997, § 98-214)

Sec. 50-383. Outer courts generally.

When a side yard is not provided along an interior side lot line or a rear yard is not provided along an interior rear lot line in C districts, an outer court shall be provided opposite any windows or other openings (other than emergency exits or vents) which face such side or rear lot lines, extending from such opening outward to the front, rear or side of the building, and extending upward unobstructed from the lowest point of such window or other opening.

(Code 1975, § 5-8-15; Code 1997, § 98-215)

Sec. 50-384. Width of outer courts.

In C districts, the width of an outer court, measured to the lot line, shall be in proportion to the number of stories through which it extends, and shall be not less than five feet for one story, and eight feet for two stories, and two feet additional for each story in excess of two stories. Where such court serves a building or part of a building used as a dwelling, the full width prescribed in this section shall be provided at the lowest story used as a dwelling. The width of an outer court shall be measured to the lot line, except that, in the case of lots the side or rear lines of which abut a public alley, the established centerline of such alley may be taken as the point of measurement instead of the corresponding lot line.

(Code 1975, § 5-8-16; Code 1997, § 98-216)

Sec. 50-385. Inner courts.

In C districts, where inner courts are provided, they shall conform to the requirements of the housing law of the state, Public Act No. 167 of 1917 (MCL 125.401 et seq.).

(Code 1975, § 5-8-17; Code 1997, § 98-217)

Sec. 50-386. Corner clearance for business uses.

In C districts, no business building or structure may be erected between the property lines of intersecting streets or highways and a line joining points on such lines six feet distant from their point of intersection, or in the case of a rounded corner the point of intersection of their tangents.

(Code 1975, § 5-8-18; Code 1997, § 98-218)

Sec. 50-387. Off-street parking facilities.

Off-street parking facilities shall be provided in the C district specified in section 50-530.

(Code 1975, § 5-8-19; Code 1997, § 98-219)

Secs. 50-388—50-417. Reserved.

DIVISION 8. C-2 HIGH INTENSITY CITY CENTER DISTRICT

Sec. 50-418. Purpose.

The C-2 high intensity city center district is intended to provide for and encourage high intensity planned development which integrates in one building or in a complex of buildings commercial and office and residential uses to create a strong community focal point and to promote public welfare by enhancing the city's tax base. Pursuant to these purposes, C-2 district regulations permit high intensity commercial, office and residential land uses and prohibit, or restrict in area, low intensity uses. Because the purpose of the C-2 district is to encourage high intensity development, area, height and bulk regulations are limited to those which are absolutely necessary to protect adjacent single-family residential development. In order to further protect adjacent residential development, wall and plant material screens are required.

(Code 1975, § 5-9-1; Code 1997, § 98-241)

Sec. 50-419. Permitted uses.

The following uses shall be permitted by right in the C-2 high intensity city center district:

(1) *Retail businesses.* Retail businesses are permitted as follows:

a. The sale and manufacture of baked goods, and the sale of confectionery, dairy products, delicatessen, fruits, vegetables, groceries, meats and food products; provided that the provisions of this subsection shall not be construed so as to permit the housing of live poultry or animals on the premises which are to be sold therefrom or which are to be slaughtered or processed into food or food products thereon.

b. The sale of dry goods and variety merchandise.

c. The sale of men's and boy's furnishings, shoes and hats; and women's ready-to-wear, furs, millinery, apparel and accessories.

d. The sale of china, floor covering, hardware, household appliances, radios, paint, wallpaper, materials and objects for interior decorating, or furniture.

e. The sale of books, magazines, newspapers, cigars, drugs, flowers, gifts, music, photographic goods, sporting goods or stationery.

f. Restaurants, lunchrooms and cafeterias and places for the sale of soft drinks, juices, ice cream and nonalcoholic liquors, but excluding drive-thru facilities and places or businesses providing dancing or entertainment and places where food or beverages are dispensed to or served in automobiles parking on private property adjacent to and in connection with such establishments or are dispensed or served from an outside counter. A drive-thru facility may be permitted only as an accessory use in combination with a bank or financial institution.

g. Establishments that sell alcoholic beverages for consumption on the premises, provided a liquor license has been approved by the city and granted by the liquor control commission. No dancing is allowed unless the establishment receives approval for a dance permit from the city pursuant to section 4-31, and the liquor control commission. This subsection does not prohibit singing, piano playing or the playing of other types of musical instruments.

h. Businesses where packaged liquors or alcoholic liquors are sold for consumption off the premises, being SDD (specially designated distributor) and SDM (specially designated merchant) licenses issued by the state, shall be deemed to be a special use within the C-2 high intensity city center district and shall require approval of the planning commission of the city, after a public hearing. The planning commission shall not approve any SDD or SDM use within the C-2 high intensity city center district if such proposed use or establishment is within a 500-foot distance from an existing SDD or SDM establishment or within a 500-foot distance from a church or an elementary, junior or senior high school site. The distances required in this subsection shall be calculated in accordance with the applicable rules of the state liquor control commission (LCC).

i. Service establishments as follows: Barbershops, beauty shops, custom tailor shops, laundry agencies, self-service laundries or cleaning establishments, shoe repair, dry cleaning, and pressing and tailor shops in which only nonexplosive and nonflammable solvents are used and where no work is done on the premises for retail outlets elsewhere.

j. Medical clinics and centers, provided that the provisions of this subsection shall not be interpreted so as to permit sanitariums, hospitals, convalescent homes, resthomes, nursing homes or roominghouses or the like in the C-2 district.

k. Facilities for child care and preschool learning centers or similar facilities devoted to the training, care or the education of children.

(2) *Business offices.* Real estate, insurance and other similar offices and the offices of the architectural, clerical, engineering, legal, dental, medical or other established recognized professions in which only such personnel are employed as are customarily required for the practice of such business or profession.

(Code 1975, § 5-9-2; Code 1997, § 98-242; Ord. No. 812, § 98-242, 2-26-2007; Ord. No. 856, 7-15-2013)

Sec. 50-420. Permitted special land uses.

The following uses shall be permitted as special land uses in the C-2 high intensity city center district subject to the standards set forth in section 50-421 and in accordance with the procedures set forth in section 50-422:

(1) High-rise residential structures, provided that:

a. Each dwelling unit shall have a private balcony of at least 100 square feet in area or ten percent of the entire floor area of the unit, whichever is less.

b. The minimum usable floor area of each multiple dwelling shall be:

1. Efficiency and one-bedroom unit: 750 square feet.

2. Two-bedroom unit: 950 square feet.

3. Three- or more bedroom unit: 1,150 square feet.

(2) Hotels and motels and uses accessory thereto.

(3) Motion picture theaters and uses accessory thereto.

(4) Hospitals and uses accessory thereto.

(5) Parking structures to serve uses permitted by right and special land uses.

(6) Transit facilities, including regional transit pickup stations and parking facilities for persons using regional transit services, but excluding maintenance garages and similar facilities.

(Code 1975, § 5-9-3; Code 1997, § 98-243)

Sec. 50-421. Standards for approval of special land uses.

Special land uses in the C-2 district shall be approved pursuant to requirements set forth in section 50-32 only upon a finding by the city council that:

(1) The site plan for the proposed special land use conforms to all the requirements of this chapter, including the site plan standards set forth in sections 50-34—50-42; and

(2) The proposed special land use will be part of an overall project which includes substantial retail business or office development, and which conforms to the statement of purpose set forth in section 50-418. A necessary but not sufficient condition for a finding of conformity with the statement of purpose shall be a city council determination, based on facts presented by the applicant, that the applicant's proposed special land use will not result in or be likely to result in more than 15 percent of the replacement value of all nonmunicipal improvements in the C-2 district being exempt from property taxes. In making such a determination, the city council shall consider existing improvements and proposed improvements, which, in the judgment of the council, have a high possibility of being completed.

(Code 1975, § 5-9-4; Ord. No. 810, § 98-244, 8-7-2006)

Sec. 50-422. Site plan approval standards.

Site plans for C-2 high intensity city center district uses shall conform to the standards set forth in sections 50-34—50-42.

(Code 1975, § 5-9-5; Code 1997, § 98-245; Ord. No. 810, § 98-245, 8-7-2006)

Sec. 50-423. Building height and setbacks.

(a) No structure in the C-2 district shall exceed in height the lower of the following:

(1) One hundred feet.

(2) Twenty feet plus one foot for each foot of building setback from a single-family residential property line.

(b) No structure shall be of a height or location which would permit it to cast its shadow on any existing single-family residential structure for more than two hours on December 21.

(Code 1975, § 5-9-6; Code 1997, § 98-246)

Sec. 50-424. Corner clearance for business uses.

In the C-2 high intensity city center district, no business building or structure may be erected between the property lines of intersecting streets or highways and a line joining points on such lines six feet distant from their point of intersection, or, in the case of a rounded corner, the point of intersection of their tangents.

(Code 1975, § 5-9-7; Code 1997, § 98-247)

Secs. 50-425—50-446. Reserved.

DIVISION 9. RO-1 RESTRICTED OFFICE DISTRICT

Sec. 50-447. 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; 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 city's land use plan.

(Code 1975, § 5-11-1; Code 1997, § 98-3013; Ord. No. 833, 8-16-2010)

Sec. 50-448. Permitted uses.

In all RO-1 districts, no building or land, except as otherwise provided in this chapter, shall be erected or used except for one or more of the following specified uses:

(1) Uses resulting from any of the following occupations: Executive, administrative, professional, accounting, banking, clerical, stenographic and drafting. This list of uses shall not be construed to eliminate offices of recognized manufacturers' agents; provided that no display shall be in an exterior show window, and that 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 further that there shall be no outdoor storage of goods or material, irrespective of whether or not they are for sale; 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 permitted office type uses listed in this subsection.

(2) Medical or dental centers, not including veterinary hospitals, but including veterinary practice limited to felines and not including any type of medical facility permitting overnight patients.

(3) Professional office of a medical doctor, osteopath, chiropractor, dentist, architect, lawyer, professional engineer, land surveyor, landscape architect or community planner.

(4) Publicly owned buildings and public utility offices, transformer stations and substations, but not including outside storage or warehouse yards.

(5) Two-story mixed use buildings.

(6) Three-story mixed use buildings as special land uses under section 50-465.

(Code 1975, § 5-11-2; Code 1997, § 98-302; Ord. No. 718, § 1, 10-20-1997; Ord. No. 833, 8-16-2010)

Sec. 50-449. Review of architectural plans and site plan.

Any person seeking approval of the issuance of a building permit for new construction in an RO-1 restricted office district shall furnish to the building inspector a preliminary sketch drawn to architectural scale, showing the front, side and rear elevations and architectural features, which sketch shall show the location and appearance of all roof-mounted air conditioning, heating and blower units. A site plan shall also be furnished in accordance with sections 50-34—50-42. The building inspector shall review such sketch and site plan and refer them to the planning commission with the inspector's recommendation, prior to the approval and issuance of a building permit.

(Code 1975, § 5-11-3; Ord. No. 810, § 98-303, 8-7-2006; Ord. No. 833, 8-16-2010)

Sec. 50-450. Design of building exteriors.

All exterior elevations of buildings or structures in the RO-1 district shall comply with section 50-373 (design standards ordinance) and section 50-374 (change in appearance of building exterior).

(Code 1975, § 5-11-4; Code 1997, § 98-304; Ord. No. 833, 8-16-2010)

Sec. 50-451. Denial of approval of exterior design.

If, in the opinion of the planning commission, the architectural appeal, finished exterior or functional design of the building or structure front shall be at extreme variance with the provisions of section 50-450, or with that of existing buildings or structures already constructed, which would result in a substantial depreciation of property or aesthetic values of the immediate and adjacent vicinity, the planning commission shall recommend the denial of any building permit or certificate of occupancy.

(Code 1975, § 5-11-6; Code 1997, § 98-306; Ord. No. 833, 8-16-2010)

Sec. 50-452. Appeals.

Any person affected by the decision of the planning commission under this division shall have the right to file a claim with the board of appeals within ten days after the decision of the planning commission has been rendered.

(Code 1975, § 5-11-7; Code 1997, § 98-307; Ord. No. 833, 8-16-2010)

Sec. 50-453. Building height.

No commercial or mercantile building in RO-1 districts shall be erected, reconstructed or remodeled so as to exceed two stories in height, with a minimum height of 28 feet, except as provided in sections 50-534 and 50-535. All one-story commercial or mercantile buildings shall have a minimum height of 16 feet at the front elevation, such height to be measured at the top of the coping.

(Code 1975, § 5-11-8; Code 1997, § 98-308; Ord. No. 833, 8-16-2010)

Sec. 50-454. Front yard.

In RO-1 districts, no front yard is required. Where the use of the property is such that a front yard is desirable for the proper use of the site, the owner thereof may make application to the building inspector for permission to provide such a front yard.

(Code 1975, § 5-11-9; Code 1997, § 98-309; Ord. No. 833, 8-16-2010)

Sec. 50-455. Side yard on interior lot line.

In RO-1 districts, side yards are not required along interior side lot lines if all walls abutting or facing such lot lines are of fire-proof construction and wholly without windows or other openings; but if the side wall is not of fire-proof construction, a side yard shall be provided, and if of fire-proof construction, but containing windows or other openings (other than emergency exits or vents), either a side yard or an outer court as specified in section 50-460 shall be provided. Where a side yard is provided, it shall have a width as prescribed for outer courts in section 50-461.

(Code 1975, § 5-11-10; Code 1997, § 98-310; Ord. No. 833, 8-16-2010)

Sec. 50-456. Side yard on street side of corner lot.

In RO-1 districts, no side yard is required on the street side of corner lots.

(Code 1975, § 5-11-11; Code 1997, § 98-311; Ord. No. 833, 8-16-2010)

Sec. 50-457. Rear yard on interior rear lot line.

In RO-1 districts, rear yards are not required along interior rear lot lines for buildings or parts of buildings not used as dwellings, if all walls abutting or facing such lot lines are of fire-proof construction and wholly without windows or other openings; provided that, in all cases where the rear wall is not of fire-proof construction and

contains windows or other openings (other than emergency exits or vents), either a rear yard or an outer court as specified in section 50-460 shall be provided. Where a rear yard is provided it shall have a depth equal to the width required for outer courts in section 50-461.

(Code 1975, § 5-11-12; Code 1997, § 98-312; Ord. No. 833, 8-16-2010)

Sec. 50-458. Rear yard abutting street.

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

(Code 1975, § 5-11-13; Code 1997, § 98-313; Ord. No. 833, 8-16-2010)

Sec. 50-459. Outer courts generally.

When a side yard is not provided along an interior side lot line or a rear yard is not provided along an interior rear lot line in RO-1 districts, an outer court shall be provided opposite any windows or other openings (other than emergency exits or vents) which face such side or rear lot lines, extending from such opening outward to the front, rear or side of the building, and extending upward unobstructed from the lowest point of such window or other opening.

(Code 1975, § 5-11-14; Code 1997, § 98-314; Ord. No. 833, 8-16-2010)

Sec. 50-460. Width of outer courts.

In RO-1 districts, the width of outer courts, measured to the lot line, shall be in proportion to the number of stories through which it extends, and shall be not less than five feet for one story, and eight feet for two stories, and two feet additional for each story in excess of two stories. Where such court serves a building or part of a building used as a dwelling, the full width prescribed in this section shall be provided at the lowest story used as a dwelling. The width of an outer court shall be measured to the lot line, except that, in the case of lots whose side or rear lines abut a public alley, the established centerline of such alley may be taken as the point of measurement instead of the corresponding lot line.

(Code 1975, § 5-11-15; Code 1997, § 98-315; Ord. No. 833, 8-16-2010)

Sec. 50-461. Inner courts.

In RO-1 districts where inner courts are provided, they shall conform to the requirements of the housing law of the state, Public Act No. 167 of 1917 (MCL 125.401 et seq.).

(Code 1975, § 5-11-16; Code 1997, § 98-316; Ord. No. 833, 8-16-2010)

Sec. 50-462. Corner clearance for business uses.

In RO-1 districts, no business building or structure may be erected between the property lines of intersecting streets or highways and a line joining points on such lines six feet distant from their point of intersection, or, in the case of a rounded corner, the point of intersection of their tangents.

(Code 1975, § 5-11-17; Code 1997, § 98-317; Ord. No. 833, 8-16-2010)

Sec. 50-463. Maximum lot coverage.

The maximum lot coverage of a lot or parcel of land by a building in an RO-1 district shall be 40 percent.

(Code 1975, § 5-11-18; Code 1997, § 98-318; Ord. No. 833, 8-16-2010)

Sec. 50-464. Off-street parking facilities.

Off-street facilities shall be provided in the RO-1 district as specified in section 50-530.

(Code 1975, § 5-11-19; Code 1997, § 98-319; Ord. No. 833, 8-16-2010)

Sec. 50-465. Special land uses.

Three-story mixed use buildings are permitted provided that:

(1) Where a three-story building abuts a residential use, or abuts an alley abutting a residential use, then the following setbacks are required for only that portion of the building that abuts those uses as illustrated in section 50-1.

a. For that portion of the building 28 feet or less in height, a 30-foot setback is required, as measured from the nearest lot line used as a residence.

b. For that portion of the building above 28 feet in height, a 40-foot setback is required, as measured from the nearest lot line used as a residence to any vertical portion of the building above 28 feet.

c. The width of any alley or landscape buffer shall be included in measuring any setback.

(2) A ten-foot wide buffer is provided as illustrated in section 50-1.

a. Plantings at least six feet high, comprised of at least 50 percent evergreen, consistent with section 50-532, greenbelts.

b. The planning commission may also require a four-foot masonry wall.

c. The location of the buffer, and the location of the wall (if required) shall conform to illustration in section 50-1 unless the planning commission determines during site plan review that the purposes of this division would be better served by modification of this requirement.

(3) All residential components of a mixed use building shall comply with the following minimum square footage requirements:

a. For a studio apartment: 750 square feet.

b. For a one bedroom: 1,000 square feet.

c. For a two bedroom: 1,200 square feet.

d. For a three bedroom: 1,350 square feet.

(4) The minimum off-street parking and loading requirements for any use or building in a mixed use area shall be calculated from, and not be reduced below, that required in the property's underlying use as set forth in section 50-530, off-street parking requirements, except as follows:

Mixed Use Residences	
Studio (minimum 750 square feet)	1 space per dwelling unit

1 bedroom (minimum 1,000 square feet)	1.50 spaces per dwelling unit
2 bedrooms (minimum 1,200 square feet)	1.75 spaces per dwelling unit
3 bedrooms (minimum 1,350 square feet)	2 spaces per dwelling unit

The planning commission may consider and recommend, and the city council may approve, a total reduction of off-street parking, if a parking study, which details the combined uses and the customary operation of those uses, demonstrates that adequate parking is available.

(5) Mixed use applications are subject to section 50-372 review of architectural plan and site plan and section 50-373 design standards.

(6) Mixed uses in the RO-1 district requires that the ground floor be a permitted nonresident use and the third floor be a residential use.

(Ord. No. 833, 8-16-2010)

Secs. 50-466—50-483. Reserved.

DIVISION 10. P-1 VEHICULAR PARKING DISTRICT

Sec. 50-484. Purpose.

The P-1 vehicular parking district is intended to permit the establishment of areas to be used for off-street vehicular parking of private cars, so as to serve business and commercial areas. This district is also designed to afford maximum protection to 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 commercial and residential areas, thereby permitting private developers as well as public agencies to provide needed off-street parking.

(Code 1975, § 5-12-1; Code 1997, § 98-341)

Sec. 50-485. Permitted uses.

In all P-1 districts, no property may be used for other than vehicular parking, subject to the requirements in section 50-485.

(Code 1975, § 5-12-2; Code 1997, § 98-342)

Sec. 50-486. Operation of parking areas.

The following regulations shall apply in the P-1 district:

(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 without or with charge.

(3) No business involving repair of or service to vehicles, trailers, mobile homes, travel trailers, boats or boat trailers, or sale, display or storage of vehicles, trailers, mobile homes, travel trailers, boats or boat trailers, 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 50-574. 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 and such buildings shall not exceed 15 feet in height.

(5) No advertising signs shall be erected on the premises, except that not more than one directional sign at each point of ingress or egress may be erected, which may also bear the name of the operator of the lot and the enterprise it is intended to serve. Such signs shall not exceed six feet in area, shall not extend more than ten feet in height above the nearest curb, and shall be entirely upon the parking area.

(Code 1975, § 5-12-3; Code 1997, § 98-343)

Sec. 50-487. Location.

All P-1 districts shall be contiguous to a C-2, C or RO-1 district. In all cases, lots which are used for parking shall be the adjacent successive lots from the business or commercial property.

(Code 1975, § 5-12-4; Code 1997, § 98-344)

Sec. 50-488. Modification of requirements.

The board of appeals, upon application by the property owner of the parking area, may modify the yard, wall, ingress and egress requirements of this division where, in unusual circumstances, undue hardship would be suffered or no good purpose would be served by compliance with the requirements of this division. In all cases where 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 1975, § 5-12-14; Code 1997, § 98-354)

Secs. 50-489—50-514. Reserved.

ARTICLE IV. SUPPLEMENTAL REGULATIONS

Sec. 50-515. Existing building permits.

Nothing in this chapter shall require any change in the plans, construction or intended use of a building for which a building permit has been issued prior to the time of passage of the ordinance from which this chapter is derived and the construction of which shall have been diligently prosecuted within six months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within such six months and which entire building shall be completed according to such plans as filed within two years from the date of the adoption of the ordinance from which this chapter is derived.

(Code 1975, § 5-3-2; Code 1997, § 98-3)

Sec. 50-516. Prior height permits.

Nothing contained in this chapter shall prevent the ultimate erection to its full height as originally planned of a building constructed to a less height prior to the adoption of the ordinance from which this chapter is derived, but with its foundations and structural members designed to carry the higher building.

(Code 1975, § 5-3-3; Code 1997, § 98-4)

Sec. 50-517. Multiple use of yards.

No yard, court or other open space provided about any building for the purpose of complying with the provisions of this chapter shall again be used as a yard, court or other open space for another building existing or intended to exist at the same time, it being the intention of this chapter to prevent the erection of buildings closer together than is intended by this chapter through the device of selling off a strip of land already used as a yard in procuring the building permit for one building so that the same strip of land can be shown as the required land for an adjoining building.

(Code 1975, § 5-3-4; Code 1997, § 98-5)

Sec. 50-518. Measurement of depth for rear yard abutting alley.

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

(Code 1975, § 5-3-5; Code 1997, § 98-6)

Sec. 50-519. Street frontage and access requirements for dwellings.

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, such private street or easement to have a width throughout of not less than ten feet for each lot fronting upon it, but this shall not require a width for such private street or easement of more than 40 feet where less than ten lots front upon it, or of more than 60 feet in any case.

(Code 1975, § 5-3-6; Code 1997, § 98-7)

Sec. 50-520. Yard depth and width along district boundaries.

Along any boundary line between two different kinds of districts, any side yard, rear yard or lot line court required in the less restricted districts shall be increased in minimum width and depth to the average of the required minimum widths and depths for such yards and courts in the two kinds of districts.

(Code 1975, § 5-3-7; Code 1997, § 98-8)

Sec. 50-521. Parking or storage of commercial vehicles in residential districts.

(a) No commercial vehicle shall be parked or stored upon any residential property or the public streets and alleys, except for the period actually required in connection with the delivery of merchandise or materials, the rendering of any services or performance of any building construction; except, that no more than one

commercial vehicle of a rated capacity of three-fourths ton or less may be parked or stored upon any residential property when entirely within a suitable garage.

(b) For purposes of this section, the term "commercial vehicle," also defined in section 50-1, shall include any truck used for commercial purposes, any stake truck, dump truck, highway tractor-trailer truck, semi-truck trailer, utility-type trailer, storage container, construction vehicle or equipment, or other vehicle with mounted outside brackets or holders for ladders, tools, pipes, plows, or other similar equipment. A pickup truck, van, or SUV type vehicle, is also deemed a commercial vehicle if such vehicle exhibits one of the following characteristics:

(1) Commercial license plates.

(2) An advertising sign or lettering, business logo, business address, telephone number, or internet address on the exterior of the vehicle or mounted or placed inside the vehicle so as to be plainly visible from the exterior thereof in such fashion as to convey or attempt to convey an advertising message to the public.

(Code 1975, § 5-3-8; Code 1997, § 98-9; Ord. No. 786, § 1, 7-7-2003)

Sec. 50-522. Parking or storage of commercial and recreational vehicles in nonresidential districts.

No commercial vehicle, boat, boat trailer, recreational vehicle, mobile home, camper, storage container, or trailer shall be parked or stored upon any nonresidential property, or the public streets and alleys, except for the period actually required in connection with the delivery of merchandise or materials, or the rendering of any services, or performance of any building construction. However, one commercial vehicle (other than a storage container) of a rated capacity of three-fourths ton or less may be parked overnight in a commercial district if it is parked in a legal parking spot specifically dedicated to that commercial vehicle, or if it is parked in a fully enclosed garage.

(Code 1997, § 98-9.5; Ord. No. 786, § 1, 7-7-2003)

Sec. 50-523. Projections on buildings.

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues, vestibules, attached garages and other projections shall be considered as part of the building and not as a part of the yards or courts or unoccupied spaces; provided that the building inspector may permit encroachments or extensions into the front or rear yard provided such structures do not extend more than 30 inches from the main wall of the building, do not in the aggregate occupy more than 20 percent of the length of such wall, and do not interfere with the light or ventilation of any room used as a dwelling. This section shall not apply to unenclosed outside porches not exceeding one story in height which do not extend into the required front yard farther than eight feet or into the rear yard farther than 12 feet, or to one such unenclosed porch which does not extend into the side yard nearer than four feet to the side lot line or exceed 12 feet in width from the side wall of the building, or to cornices not exceeding 18 inches in width. Where at the time of the passage of the ordinance from which this chapter is derived there exist subdivision lots of 35 feet in width or less, such porches may extend to within three feet of the side lot line.

(Code 1975, § 5-3-9; Code 1997, § 98-10)

Sec. 50-524. 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. For purposes of this section, the building grade line, sometimes referred to as the finish grade or finish grade line, shall mean the elevation of the ground adjoining the building on all four sides. The first floor elevation shall mean the height that the first floor extends above the building grade. A sloping earth grade beginning at the sidewalk level shall be maintained and established from the center of the front lot line to the finish grade line at the front of the building and from the rear wall of the building to the rear lot line. The height of the finish grade line of any dwelling shall not be less than 12 inches or more than 18 inches above the average front sidewalk elevation; provided that, if a different grade shall be required by reason of the depth of the public sewer, the board of appeals shall have the power and authority to permit a deviation from the regulations imposed in this section. The first floor elevation shall be not less than six inches or more than 26 inches above the finish grade line of the building.

(b) When a new building is being constructed on a vacant lot between two existing buildings or adjacent to an existing building, the existing established grade shall have priority over 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. Grades shall be approved by the building inspector or the city engineer.

(Code 1975, § 5-3-10; Code 1997, § 98-11)

Sec. 50-525. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances, it being the intention of this section to except such essential services from the application of this chapter.

(Code 1975, § 5-3-11; Code 1997, § 98-12)

Sec. 50-526. Accessory buildings.

The purpose of this section is to regulate the number, size, location and appearance of all accessory buildings. These regulations shall apply to all detached structures, including but not limited to garages, carports, storage buildings and sheds, gazebos, pool houses and similar structures. In any zoning district, all accessory buildings are subject to the conditions of this section. Unless specifically stated to the contrary, all of the requirements pertaining to accessory buildings included in this section shall apply to all zoning districts.

(1) *General requirements.*

a. No accessory building shall be located in whole or in part on or over an easement for utilities, drainage, access, communications, or related purposes.

b. No accessory building shall be permitted unless the principal building has been previously erected or is being erected simultaneously.

c. When erected as an integral part of the permitted principal building, a structure shall comply in all respects with the requirements of this chapter applicable to the permitted principal building.

d. The architectural character, design and the construction materials of all accessory buildings shall be compatible with the architectural character of the principal building.

e. In the R-1A, R-1B, R-1C, R-1D, R-1E and R-2 zoning districts accessory buildings are only permitted in rear yards.

f. Accessory buildings shall not be used for temporary or permanent dwelling, lodging or sleeping.

g. Accessory buildings not exceeding 200 square feet require a zoning compliance permit issued by the building inspector, shall be placed on a four-inch concrete slab over four inches of compacted sand, and shall have a four-inch by 24-inch concrete rat wall below existing grade.

h. Accessory buildings in excess of 200 square feet require a building permit issued by the building inspector, shall have a four-inch by 24-inch rat wall, and shall have a four-inch concrete slab or a frost protected foundation as required by state building code, as amended.

(2) *Height and area limitations.*

a. *Lot coverage.* The combined lot coverage of all detached accessory buildings located within a rear yard shall not occupy more than 40 percent of the required rear yard. The combined lot coverage of all principal buildings and accessory buildings on the lot shall be in conformance with the maximum permitted lot coverage for the applicable zoning district as defined by this chapter and, in no instance shall the total area of permitted accessory buildings exceed the lesser of the area of the first floor of the principal building, or 1,000 square feet in area maximum. A maximum of two accessory buildings are permitted per property, only one of which may be used as a private garage.

b. *Height.* Accessory buildings are subject to the following height restrictions:

1. One story with a maximum wall height of ten feet measured from the finished grade level to the bottom of the eaves.

2. Maximum height shall be determined by measuring the vertical distance from the finished grade level adjoining the building to the highest point on the ridge of the roof.

3. In no instance shall an accessory building be constructed higher than the principal structure on the property.

4. In the R-1A zoning district, the maximum height of accessory buildings and structures shall be 22 feet.

5. In all other residential districts, the maximum height of accessory buildings and structures shall be 18 feet.

(3) *Placement and setbacks.*

a. If such accessory building is erected within ten feet of any residence building or structure on the same lot or parcel of property, then the accessory building shall not be constructed closer than four feet to the side lot line and six feet to the rear lot line, subject to the easement requirements of this section.

b. If an accessory building is erected within 20 feet, but not closer than ten feet, to any residence building or structure on the same lot or parcel of property, then the accessory building shall not be constructed closer than three feet to the side lot line, and six feet to the rear lot line, subject to the easement requirements of this section.

c. If an accessory building is erected not closer than 20 feet to any residence building or structure on the same lot or parcel of property, then the accessory building shall not be constructed closer than two feet to the side lot line, and six feet to the rear lot line, subject to the easement requirements of this section.

d. An accessory building shall not be constructed within four feet of any existing building or structure situated upon the same lot or an adjoining lot.

e. The side yard setback for accessory buildings and structures located on corner lots shall be determined by the lesser of the total of the two required side yards of the applicable district or the established prevailing setback existing on the remaining three developed corner lots.

f. For purpose of this section, lots that abut or are adjacent to an alley are not considered corner lots, and the side yard setbacks shall be determined by the provisions of this subsection (3).

(Code 1975, § 5-3-12; Code 1997, § 98-13; Ord. No. 791, 7-21-2003; Ord. No. 814, § 98-13, 4-2-2007; Ord. No. 867, 12-21-2015)

Sec. 50-527. Interpretation of district boundaries.

Unless otherwise shown, the district boundaries are street lines, alley lines or the subdividing or boundary lines of recorded plats, or the extensions thereof, and, where the districts designated on the zoning map and made a part of this chapter are approximately bounded by street lines, alley lines or subdividing or boundary lines of recorded plats, such lines or the extension thereof shall be considered to be the district boundaries.

(Code 1975, § 5-3-13; Code 1997, § 98-14)

Sec. 50-528. Nonconforming uses.

(a) Any lawful nonconforming use consisting of a building, existing at the time of the effective date of the ordinance from which this chapter is derived, may be continued, except as prohibited or restricted in this chapter, provided that the building or use thereof shall not be structurally changed, altered or enlarged unless such altered or enlarged building or use shall conform to the provisions of this chapter for the district in which it is located. No nonconforming use, if changed to a use permitted in the district in which it is located, shall be resumed or changed back to a nonconforming use. Failure to continue to use any land, building or structure, or part thereof, which use is a nonconforming use under this chapter, for a period of one year or more, shall be held to be conclusive proof of an intention to legally abandon any such nonconforming use.

(b) Nothing in this chapter shall prevent the restoration, repairing or rebuilding of any nonconforming building or structure damaged to the extent of 60 percent or less of its assessed value, exclusive of the foundation, at the time the damage occurred, by fire, explosion, act of God or any act of the public enemy subsequent to the effective date of the ordinance from which this chapter is derived, or shall prevent the continuance of the use of such building, or part thereof, as such use existed at the time of such impairment of such building or part thereof, provided that such building or structure is rebuilt or rehabilitated or such use shall be resumed within one year from the date of the impairment or destruction of such building, structure or part thereof.

(c) Nothing in this chapter shall prevent the repair, reinforcement or reconstruction of nonbearing walls, fixtures, wiring or plumbing of a nonconforming building, structure or part thereof existing at the effective date of the ordinance from which this chapter is derived, rendered necessary by wear and tear, deterioration or depreciation, provided the cost of such work shall not exceed 30 percent of the assessed valuation of such building or structure at the time such work is done, nor shall any provisions of this chapter prevent compliance with the provisions of any building code in effect in this city or the housing law of the state relative to the maintenance of buildings or structures.

(d) Nothing in this chapter shall prohibit alteration, improvement or rehabilitation of nonbearing walls, fixtures, wiring or plumbing of a nonconforming building or structure existing at the effective date of the ordinance

from which this chapter is derived, provided such alteration, improvement or rehabilitation does not involve any increase in height, area or bulk, or change in use.

(e) Nothing in this chapter shall prevent the strengthening or restoration of any building or wall declared unsafe by the building inspector.

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

(g) The planning commission may from time to time recommend to the city council the acquisition of such private property as does not conform in use or structure to the regulations and restrictions of the various districts defined in this chapter and the removal of such use or structure pursuant to the provisions of state law.

(Code 1975, § 5-3-14; Code 1997, § 98-15)

State law reference(s)—Nonconforming uses or structures, MCL 125.3208.

Sec. 50-529. Off-street loading requirements.

(a) On the same premises with every building, structure or part thereof erected and occupied for storage, goods display, department stores, markets, mortuaries, hospitals, laundries, 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.

(b) Such loading and unloading space, unless otherwise adequately provided for, shall be an area 12 feet by 50 feet, with a 14-foot height clearance, according to the following schedule:

Gross Floor Area (square feet)	Loading and Unloading Spaces Required
0—2,000	None
2,000—5,000	one space
5,000—20,000	one space plus one space for each 5,000 square feet in excess of 5,000 square feet.
20,000—100,000	four spaces plus one space for each 20,000 square feet in excess of 20,000 square feet.
100,000—500,000	five spaces plus one space for each 40,000 square feet in excess of 100,000 square feet.
Over 500,000	15 spaces plus one space for each 80,000 square feet in excess of 500,000 square feet.

(Code 1975, § 5-3-15; Code 1997, § 98-16)

Sec. 50-530. Off-street parking requirements.

In all zoning districts, off-street parking facilities for the storage or parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of the ordinance from which this chapter is derived shall be provided and maintained as prescribed in this section.

(1) *Loading space not to be counted as parking space.* Loading space as required in section 50-529 shall not be construed as supplying off-street parking space.

(2) *Calculations resulting in fractional space.* When units or measurements determining the number of required parking spaces result in a 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) *Increase in floor area of existing use.* Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of the ordinance from which this chapter is derived, additional parking space for the additional floor area shall be provided and maintained in the amount specified in this section for that use.

(4) *Gross floor area of office, merchandising and service uses.* For the purpose of this section, gross floor area, in the case of office, merchandising or service types of uses, shall mean the number of square feet contained in such structure, which figure shall be obtained by multiplying the outside dimensions of the structure, inclusive of any basement. (See the definitions of the terms "gross floor area" and "basement" in section 50-1.)

(5) *Location of parking facilities.* Off-street parking facilities for one-family homes, two-family homes and multiple-family dwellings, including high-rise structures, shall be located on the same lot or plot of ground as the building they are intended to serve. For one-family homes and two-family houses, two of the required parking spaces per dwelling unit shall be in an enclosed garage structure served by a paved driveway from the garage to the access street or alley. For multiple-family dwellings, including high-rise dwellings, two of the required parking spaces shall be provided within an enclosed garage structure. The off-street parking facilities required for all other uses shall be located on the lot or on property in the city within 300 feet of the permitted use requiring such off-street parking. Such distance shall be measured along lines of public access to the property between the nearest point of the parking facility and the building to be served, provided that the off-street parking facility shall not be separated from the building to be served by a major thoroughfare.

(6) *Uses not specifically listed.* 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 such use is similar, shall apply.

(7) *Collective facilities.* Nothing in this section shall be construed to prevent collective provision of off-street parking facilities for two or more buildings or uses, provided that, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table.

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

Use			Minimum Number of Parking Spaces
a.	*Residential uses:*		
	1.	One-family and two-family residential	Four for each dwelling unit.
	2.	Multiple-family residential	Two for each efficiency or one-bedroom dwelling unit, and three for each two-bedroom dwelling unit, and one parking space for each bedroom over two.
b.	*Institutional uses:*		
	1.	Churches, temples or synagogues	One for each four seats in the main place of assembly or worship.
	2.	Hospitals	One per each patient bed, plus one additional space for every three employees during that eight-hour shift in which the greatest number of employees are on duty, plus one space for every ten doctors on the hospital staff.
	3.	Elementary and junior high schools	One for each teacher and administrator, plus sufficient off-street space for the safe and convenient loading and unloading of students.
	4.	Senior high schools (public, parochial and private)	One for each employee and one for each four students.
	5.	Private clubs, civic clubs or lodge halls	One for each employee on the largest shift, plus one for every three persons allowed within the maximum occupancy load as established by city, county or state fire, building or health codes.
	6.	Tennis clubs or other similar uses	Six for each court, plus one for each employee. Should a spectator area be provided, one space for each three seats shall be required.
	7.	Places of outdoor assembly	One for every three seats or six feet of benches.
	8.	Theaters and auditoriums (indoor)	One for each four seats, plus one for each employee.
c.	*Business and commercial uses:*		
	1.	Planned shopping centers (as approved by the planning commission)	5.5 for each 1,000 square feet of gross leasable floor area.
	2.	Automobile carwash establishments	Eight spaces for each establishment, plus 25 waiting spaces for each washing stall, plus a drying lane 50 feet long at the exit of each washing stall.
	3.	Beauty parlors and barbershops	Three spaces for each of the first two beauty or barber chairs, and 1.5 spaces for each additional chair.
	4.	Bowling alleys	One for each employee, plus five for each bowling lane.
	5.	Dancehalls, pool or billiard parlors, roller or ice skating rinks, exhibition halls and assembly halls without fixed seats	One for each 100 square feet of gross floor area (note: McCann Ice Skating Arena would be subject to these requirements).
	6.	Establishments for sale and consumption on the premises of beverages, food or refreshments	One for each 200 square feet of gross floor area, plus one for each employee on the premises during the peak employment shift.

	7.	Establishments for sale and consumption off the premises of beverages, food or refreshments involving delivery services	One for each employee on the premises during the peak employment shift, plus one for each motorized delivery vehicle used in delivering goods sold.
	8.	Establishments for sale and consumption on and off the premises of beverages, food and refreshments involving delivery service	One for each 200 square feet of gross floor area, plus one for each employee on the premises during the peak employment shift, plus one for each motorized delivery vehicle used in delivering goods sold.
	9.	Furniture and appliance, household equipment or repair shops, showrooms, or a plumber, decorator, electrician or similar trade, shoe repair and other similar uses	One for each 500 square feet of gross floor area. For that floor area used in processing, one additional space shall be provided for each employee.
	10.	Automobile service stations	One for each employee, plus one for the owner and manager, plus two for each grease rack or stall for servicing automobiles or wash rack.
	11.	Laundromats and coin-operated dry cleaners	One for each 100 square feet of gross floor area.
	12.	Mortuary or funeral home establishments	One for each 50 square feet of space in the slumber room, parlors or individual funeral service rooms.
	13.	Motels, hotels and other commercial lodging establishments	One for each occupancy unit, plus one for each employee, plus extra spaces for dining rooms, ballrooms or meeting rooms as required in this section.
	14.	Motor vehicle sales and service establishments, and trailer sales and rental	One for each 400 square feet of gross floor area of salesroom.
	15.	Retail stores except as otherwise specified in this section	One for each 200 square feet of gross floor area.
	16.	Fitness and training centers	Three-street parking spaces for each of the first two pieces of equipment, and 1.5 spaces for each additional piece of equipment, in addition to one for each two persons allowed within the maximum occupancy load as established by the building code.
d.	*Offices:*		
	1.	Banks	One for each 200 square feet of gross floor area, plus one for each office or each staff member and employee, whichever is the greater. Where drive-up windows are provided, waiting space equivalent to 12 spaces for each drive-up window shall be provided.
	2.	Business offices or professional offices except as indicated in subsection d.3 of this table	One for each 300 square feet of gross floor area.
	3.	Medical or dental centers or clinics, and professional offices of doctors, dentists or similar professions	One for each 200 square feet of gross floor area.

On all changes of occupancy where a new tenant occupies the building, whether the new tenant continues the same use or not, in structures existing prior to the adoption of the ordinance from which this subsection

is derived, the off-street parking requirements shall conform to at least 50 percent of the requirements specified in this subsection, provided that the total area of the original structure remain unchanged. If the total area of an existing building is changed, the building must conform to the requirements specified in this subsection. Any and all buildings constructed after the adoption of the ordinance from which this chapter is derived must conform to the requirements of this subsection.

(9) *Reduction of parking facilities.* Off-street parking existing on the effective date of the ordinance from which this chapter is derived, which serves an existing building or use, shall not be reduced in size less than required under the terms of this section.

(10) *Establishment of parking facilities by city.* The council, in consultation with the city planning commission, shall make studies of various areas in the city for the purpose of determining areas within which there is need for the establishment of off-street parking facilities to be provided by the city and to be financed in whole or in part by a special assessment district, or by other means, where such need is found. This study and report shall include recommendations on the site, location and other pertinent features of the proposed off-street parking facilities and the areas they should be intended to serve. Wherever, pursuant to this procedure, the city shall establish off-street parking facilities by means of a special assessment district, or by any other means, the council may determine, upon completion and acceptance of such off-street parking facilities by the council, that all existing buildings and uses and all buildings erected or uses established thereafter within the special assessment district shall be exempt from the requirements of this section for privately supplied off-street parking facilities.

(11) *Size of parking spaces.* A parking space shall be nine feet by 19 feet.

(Code 1975, § 5-3-16; Code 1997, § 98-17)

Sec. 50-531. Residential parking and semicircular drives.

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

Curb means the edge of the pavement of any street, whether or not such edge of the pavement is raised above the grade of the pavement.

Front setback line means the line formed at the outer surface of a residential building where the building wall meets the surface ground level, and such line shall extend the width of such residential lot parallel to the front lot line.

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

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 or pulled by a self-propelled vehicle (for example a trailer, boat, personal watercraft, etc.).

Paved driveways and*paved parking area* mean that portion of a residential lot located between the curb and the front setback line which is paved other than walkways for pedestrian traffic. Impervious strips as is permitted by subsection (d) of this section (for example ribbon driveways) in the driveway or parking area shall not be allowed.

Semicircular driveway means any paved parking area and/or driveway which includes a circular design.

Storage means the keeping or standing in any particular place or area, not within a garage or similar structure, within the city limits, for a period of time exceeding 72 hours in any seven-day period.

(b) *Semicircular driveways.*

(1) Semicircular driveways shall be permitted on any residential lot that has a minimum of 75 feet of frontage onto a single public street.

(2) The semicircular drive shall be so constructed that the measured distance from the front property line to the inside edge of the semicircular drive (defined as that edge closest to the road at the point which is farthest from the front property line) shall be a minimum distance of 12 feet. See semicircular driveway illustration at the end of this section.

(3) The hard surface width for a semicircular drive shall be no less than nine feet nor more than 12 feet in width. As provided in subsection (g) of this section paved driveway and parking areas, including semicircular driveways for any residential lot, shall not exceed 30 percent in coverage of the front yard.

(4) In no instance shall semicircular driveways be used for the storage of motor vehicles. Semicircular driveways shall not be counted in determining off-street parking, etc., as required by subsection (f) of this section.

(5) Semicircular driveways shall be approved by the building official.

(6) Parallel parking of motor vehicles side-by-side on semicircular driveways and parking areas shall be prohibited.

(c) *Curb cuts for residential property.*

(1) Curb cuts shall not be constructed beyond the property lines of adjacent lots.

(2) Curb cuts shall be the width of the driveway at the front lot line plus two feet.

(3) In no instance shall the total curb cuts for one lot or parcel exceed 46 feet. Curb cuts shall be approved by the building official.

(d) *Parking and driveway surfaces.* Paved driveway and parking areas shall be made of concrete, asphalt, brick, slate or other solid impervious surfaces as approved by the building official. The pavement system shall be designed to resist the elements, frost, erosion, rutting, blowing dirt or dust and the ponding of water.

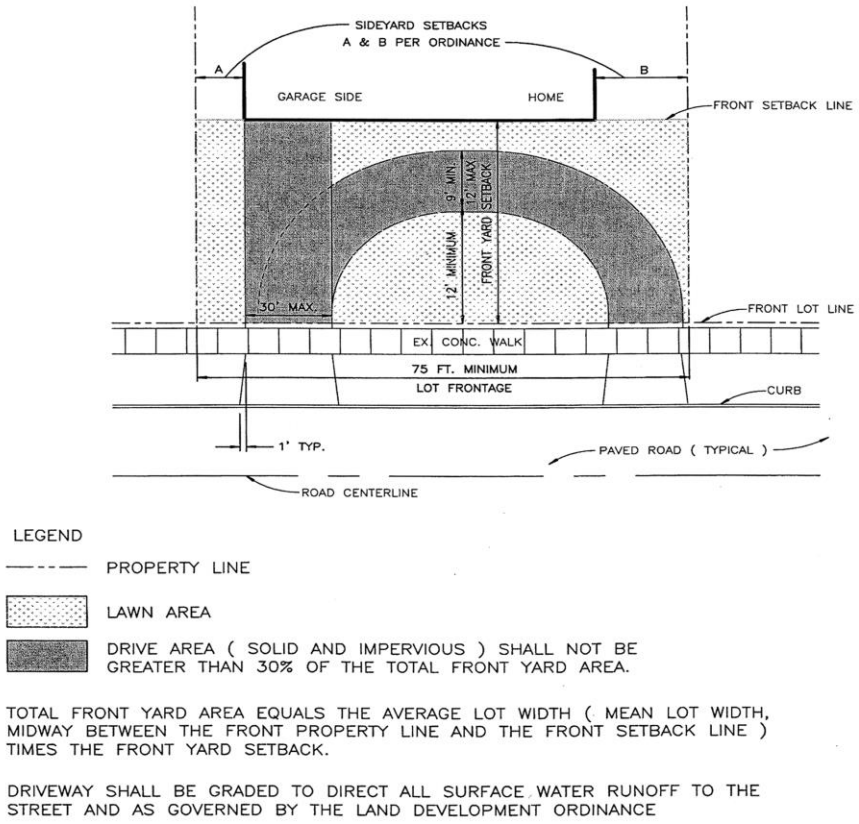
(e) *Parking on private property.* It shall be unlawful for any person to park any motor vehicle on any private property without the express or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of such property. Complaints for the violation of this section shall be made by the owner, lessee, agent or trustee of such property.

(f) *Restricted to paved parking area.* It shall be unlawful for the registered owner of any motor vehicle or for any owner or tenant of any residential property located within the city to allow or permit the parking of any motor vehicle in the area between the curb and the front setback line of any residential lot except upon the paved driveways and parking area thereof.

(g) *Parking area and driveway prohibitions.* Paved driveways and parking areas on any residential lot of more than 45 feet in width shall not exceed 30 feet in width and shall not exceed 30 percent in coverage of the front yard. Paved driveways and parking areas on any residential lot of 45 feet or less in width shall not exceed 12 feet in width. The width of any paved driveway and parking area on any residential lot shall be measured at the widest point of the paved driveway and parking area based on a straight line running parallel to the front lot line, starting at the edge of the paved driveway and parking area closest to the side lot line and ending at the opposite edge of the paved driveway and parking area. (See illustration at the end of this section.)

(h) *Lot and building regulations generally.* The provisions of this zoning chapter shall be applicable.

SEMICIRCULAR DRIVEWAY ILLUSTRATION



(Code 1997, §§ 82-206, 98-18; Ord. No. 775, § 1, 2-25-2002; Ord. No. 777, § 2, 2-25-2002)

Sec. 50-532. Greenbelts.

(a) *Suitable plant materials.* Whenever a greenbelt is required in this chapter, it shall be completed prior to the issuance of any permanent certificate of occupancy and shall thereafter be maintained with permanent plant materials, as set forth in this subsection, to provide a screen to abutting properties. Such greenbelts shall be planted and maintained with suitable materials equal in characteristics to the following plant materials:

Evergreen trees:

Juniper

Fir

Spruce

Hemlock

Pine

Douglas Fir

Narrow evergreens:

Column Hinoke Cypress

Blue Columnar Chinese Juniper

Pyramidal Red Cedar

Pyramidal White Pine

Swiss Stone Pine

Irish Yew

Douglas Arbor-Vitae

Columnar Giant Arbor-Vitae

Tree-like shrubs:

Flowering Crab

Mountain Ash

Redbud

Hornbeam

Magnolia

Russian Olive

Dogwood

Rose of Sharon

Hawthorn

Large deciduous shrubs:

Honeysuckle

Mock-Orange

Lilac

Cotoneaster

Euonymus

Buckthorn

Viburnum

Forsythia

Ninebark

Hazelnut

Privet

Sumac

Large deciduous trees:

Oak

Hackberry

Planetree (Sycamore)

Ginkgo

Sweet-Gum

Linden

Hard Maple

Birch

Beech

Honeylocust

Hop Hornbeam

(b) *Spacing of plants; minimum height.* The spacing of plant materials shall conform to the following requirements:

(1) Plant materials shall not be placed closer than four feet to the fence line or property line.

(2) Where plant materials are placed in two or more rows, plantings shall be staggered in rows.

(3) Evergreen trees shall be planted not more than 30 feet on centers, and shall not be less than three feet in height.

(4) Narrow evergreens shall be planted not more than six feet on centers, and shall not be less than three feet in height.

(5) Tree-like shrubs shall be planted not more than ten feet on centers, and shall not be less than four feet in height.

(6) Large deciduous shrubs shall be planted not more than four feet on centers, and shall not be less than eight feet in height.

(c) *Prohibited trees.* The following trees are not permitted:

Box Elder

Soft Maples (Red or Silver)

Elms

Poplars

Willows

Horse Chestnut (nut bearing)

Tree of Heaven

Catalpa

(d) *Lawn areas; maintenance.* The remainder of the greenbelt area which is not planted with the stock listed in this section shall be kept in lawn. All lawn and plant materials shall be maintained in a healthy growing condition and in a neat and orderly appearance.

(e) *Approval of plans.* All greenbelt plans shall be submitted to the city planning commission for site plan review where required under chapter 40 or this chapter, or, if no such plan review is required, to the building inspector for approval as to suitability of planting materials and arrangement thereof in accordance with the provisions of this section. Design and specifications for fences, walls and other protective barriers, where required, will be indicated on the greenbelt plan.

(f) *Amendment by council resolution.* The list of suitable plant materials may be amended by council resolution.

(Code 1975, § 5-3-18; Code 1997, § 98-19)

Sec. 50-533. Lot splits.

The following shall apply to lot splits:

(1) The developer or petitioner shall submit the following to the city clerk:

a. Twenty-one copies of an application and drawing for the lot split shall be submitted at least 30 days prior to the public hearing to be held by the city council.

b. The drawing of the proposed lot split shall be prepared by a registered civil engineer or surveyor and drawn to a reasonable and legible scale.

c. The lot split drawing shall contain the following information:

1. Names and addresses of the owner, subdivider or petitioner, and engineer or surveyor.

2. Date, north arrow and scale, written and graphic.

3. Street names, right-of-way and roadway widths of all existing and proposed streets within and adjacent to the proposed lot split.

4. Proposed and existing storm and sanitary sewers and water mains, including location and size.

5. All existing structures and other physical features that would influence the layout and design of the lot split.

6. Location, width and purpose of easements.

7. Lot lines and lot numbers.

(2) The city clerk shall transmit a copy of the proposed lot split to the city engineer, department of public services, building inspector and city assessor for review and recommendation.

(3) The city planning commission shall review the proposed lot split for conformance with all ordinances, administrative rules and regulations and the land use plan for the city, and shall prepare recommendations to be submitted to the city council prior to the council public hearing.

(4) The petitioner or developer shall pay to the city a hearing notice fee as currently established or as hereafter adopted by resolution of the city council from time to time for the notice of public hearing. Payment shall be made at the time the application for council hearing is made.

(5) The city clerk shall notify all property owners within 300 feet of the proposed lot split, as found in the records of the city assessor, of the council public hearing to be held. A notice of hearing and drawing of the proposed lot split shall be sent to the county drain commission, Michigan Bell Telephone Company,

Detroit Edison Company and Michigan Consolidated Gas Company. All notices shall be sent at least 15 days prior to the public hearing date as established by the city clerk.

(6) On receipt of the recommendation of the city planning commission, the city clerk shall establish a date for a public hearing before the city council for consideration of the proposed lot split. If the city council approves the lot split, it shall adopt a resolution effectuating the lot split and shall transmit the resolution to the city clerk for recording.

(Code 1975, § 5-3-19; Code 1997, § 98-20; Ord. No. 685, § 1, 4-3-1995)

State law reference(s)—Further partition or division of property, MCL 560.263.

Sec. 50-534. Public and semipublic buildings, churches and schools.

The height of public or semipublic buildings, churches or schools shall not in any case exceed 55 feet. If the height of any such building exceeds the height allowed in the district concerned, then any such building shall be set back from all lot lines not less than one foot in addition to the required yard dimensions for each foot such building exceeds the height allowed in the district concerned.

(Code 1975, § 5-13-1; Code 1997, § 98-381)

Sec. 50-535. Chimneys, towers and similar structures.

Chimneys, fire towers, tanks, water towers, pumping towers, church towers and steeples, monuments and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located shall not be included in calculating the height of the principal structure.

(Code 1975, § 5-13-2; Code 1997, § 98-382)

Sec. 50-536. State-licensed residential facilities.

Notwithstanding any other section in this chapter, a state-licensed residential facility shall be considered a residential use of property and a permitted use in all residential zones, including those zoned for single-family dwellings, when required by the Michigan zoning enabling act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

Sec. 50-537. Portable storage units.

Personal storage units ("PSU" also commercially known as "pods") are prohibited in all zoning districts unless all of the following conditions are met:

(1) A permit must first be obtained from the building official. Only one 30 day permit shall be granted for each property owner per calendar year. The permit may be issued for 30 consecutive or nonconsecutive days. In the event the permit is granted, a $25.00 fee shall be charged. The fee amount is subject to amendment by council resolution.

(2) The location will be determined by the building official. The building official will first determine whether it is possible for the PSU to be located in the backyard of the property or behind the front setback. In making such determination, the building official will take into consideration access to the property for residential, construction and emergency vehicles and other criteria. If the building official makes a determination that a location behind the front yard setback is not feasible, then the PSU may be placed on the driveway or in front of the home.

(3) The PSU shall not contain any hazardous waste, flammable materials, or other materials which in the opinion of the building official or fire marshal are likely to constitute a hazard. Acceptance of the permit on behalf of the property owner constitutes consent to search the PSU at any time.

Sec. 50-538. Outdoor cafe permit.

It shall be unlawful for any person to operate an outdoor cafe on any sidewalk or public right-of-way without a permit as provided by this article. An outdoor cafe is defined as an outdoor dining area located on or adjacent to a sidewalk which abuts a commercial establishment serving food or beverages. Outdoor cafes shall be permitted only within the C and C-2 zoning districts. An outdoor cafe permit shall be a license to use the permitted area and shall not grant any person any property right or interest in the permitted area. The city may require any permittee to restore the cafe area to its original condition.

(1) *Scope, procedure and fee.*

a. This section applies to intended uses on sidewalks and those areas adjacent to commercial buildings between the sidewalk and roadway curb. Outdoor dining entirely on private property continues to be regulated under subsection 50-370(14).

b. Each permit shall be effective for one year from May 1 until November 1, and must be annually renewed with the approval of the city. Applications in compliance with this section may be approved by the building official. Applications involving a structure are reviewed by the planning commission for approval of the structure under section 50-34, site plan review. Subsequent approvals may be renewed annually by administration provided that the standards and conditions set forth in this section continue to exist.

c. The annual permit fee for an outdoor cafe shall be established by city council resolution.

(2) *Outdoor cafe permit application.*

a. An application for an outdoor cafe permit shall be made to the building official. The building official will submit the application to the city administrator, the clerk, director of public safety and director of public works for review and comment. The application shall include the following information:

1. Name, address and telephone number of the applicant.

2. Name and address of the business establishment.

3. A drawing (drawn to scale) showing the layout and dimensions of the sidewalk, outdoor cafe area and adjacent private property, proposed location, size and number of tables, chairs, steps, umbrellas, awnings, canopies, location of doorways, trees, parking meters, sidewalk benches, trash receptacles, railings, decorative chains and any other fixture, structure or obstruction either existing or proposed within the outdoor cafe.

4. Photographs, drawings or manufacturers' brochures fully describing the appearance of all proposed tables, chairs, umbrellas, awnings or other fixtures related to the outdoor cafe.

5. If any table, railing, awning or any other fixture is to be temporarily or permanently anchored, such information must be shown on the drawing.

6. Capacity of existing establishment.

7. If alcohol will be served.

8. If the applicant does not own the property, the application shall include written authorization from the property owner.

9. Exterior lighting plans, if any.

(3) *Standards and criteria for application review.* The following standards and criteria shall be used in reviewing the application:

a. The permitted area shall allow a minimum of four feet of sidewalk clearance to allow safe pedestrian movement and four feet clearance from any curb. Use may not create a hazard, obstruct motor vehicles or unduly impede sidewalk use.

b. Permits shall be issued only to persons who hold a valid business license and who wish to provide tables and chairs on the permitted area abutting such establishment for use by the general public.

c. Outdoor cafes are restricted to the frontage of the abutting business establishment to which a permit has been issued.

d. The perimeter around the outdoor cafe area may be delineated using nonpermanent fixtures such as railing, potted plants, decorative chains, or other approved fixtures. The permanent anchoring of tables, chairs, umbrellas, awnings, railings or other fixtures may be approved by the building department provided such anchoring meets all city and county requirements.

e. Tables, chairs, umbrellas, awnings and any other fixtures shall be of uniform design and shall be made of quality materials and workmanship to ensure the safety and convenience of users and to enhance the visual quality of the urban environment. Bollards should be consistent in size and appearance throughout the city. Design, materials and colors must be compatible with the abutting building and otherwise comply with the Code.

f. The application must meet all other terms and conditions of this section.

(4) *Liability and insurance.*

a. The permittee agrees to indemnify, defend and hold harmless the city, its officers, agents and employees from any and all claims, liability, lawsuits, damages and causes of action which may arise out of use of a permit. The permittee shall enter into a written agreement with the city to evidence this indemnification.

b. The permittee shall acquire and keep in full force and effect, at its own expense, the following insurance requirements for the entire permit period:

1. *No alcohol permit.* Commercial general liability insurance in the amount of $1,000,000.00 per occurrence for bodily injury and property damage. The city must be named as an additional insured on this policy and an endorsement must be issued as part of the policy evidencing compliance with this requirement.

2. *Alcohol permit.* Commercial general liability insurance in the amount of $2,000,000.00 per occurrence for bodily injury and property damage. The city must be named as an additional insured on this policy and an endorsement must be issued as part of the policy evidencing compliance with this requirement.

(5) *Conditions of outdoor cafe permit.* Outdoor cafes permitted under this article shall be subject to the following conditions:

a. The permit issued shall be personal to the permittee and shall be transferable only with the written approval of the city administrator.

b. The city may require the temporary removal of outdoor cafes by the permittee when street, sidewalk or utility repairs necessitate such action or when it is necessary to clear or repair sidewalks. The permittee shall be responsible for removing all outdoor cafe fixtures at least two

days prior to the date identified in writing by the city. The permittee shall not be entitled to any refund for such removal. The city shall not be responsible for any costs associated with the removal or the return and installation of any outdoor cafe fixtures.

c. The use shall be specifically limited to the outdoor cafe area shown in the application.

d. The permittee shall insure that the outdoor cafe does not interfere with or limit the free unobstructed passage of sidewalk users in the approved pedestrian path. In the event the cafe utilizes a portion of the sidewalk, then the seating must be adjacent to the building.

e. Tables, chairs, umbrellas, awnings and any other fixtures used in connection with an outdoor cafe shall be maintained with a clean and attractive appearance and shall be in good repair at all times.

f. No tables, chairs or any other fixtures used in connection with an outdoor cafe shall be attached, chained or in any manner affixed to any tree, post or sign.

g. No additional outdoor seating authorized herein shall be used for calculating eating requirements pertaining to the location of, applications for, or issuance of a liquor license for any establishment, nor shall the additional seats be used to claim any exemption from any other requirements of any city, county or state codes, ordinances and/or laws.

h. The opening and closing hours of the outdoor cafe shall not extend beyond the hours of operation for the business establishment holding the outdoor cafe permit, and in any event shall not extend later than 2:00 a.m.

i. The use shall not unduly impact nearby residential or commercial properties.

j. The permittee is responsible for repair of any damage to the sidewalk caused by the outdoor cafe.

k. No signs shall be permitted within the outdoor cafe area.

l. Permittee shall meet all other city, Wayne County and state regulations, laws or ordinances, and requirements before a permit is issued.

m. For applications involving alcohol sales: No permit will be issued until LCC approval is provided to the city.

n. No music, television or similar entertainment is allowed within the outdoor cafe area.

o. In the event the application involves use of the right-of-way between the sidewalk and the curb, the city shall require improvement of that area by construction of an approved surface such as brick pavers, exposed aggregate, stamped concrete, tiles or other decorative hard surface subject to Wayne County approval. Asphalt and standard concrete are not considered approved surfaces.

p. Except as otherwise provided in subsection 50-538(6), the permittee shall have until November 8th to remove all objects relating to the outdoor cafe, except any existing decorative hard surface.

(6) *Denial, revocation or suspension of permit.*

a. The building official may deny, revoke or suspend a permit for any outdoor cafe for any reason and without penalty upon giving 30 days' written notice.

b. The building official may also deny, revoke or suspend a permit immediately and without notice if it is found that:

1. Any required business, health, LCC or other permit/license for the outdoor cafe, or the abutting business establishment has expired or been suspended, revoked or canceled.

2. The permittee does not have insurance in effect which complies with the minimum amounts and requirements described in this article.

3. Conditions have changed regarding pedestrian or vehicular traffic causing congestion or safety concerns. Such decision shall be based upon findings of the building official that the minimum four-foot pedestrian path is insufficient under existing circumstances and represents a danger to the health, safety or general welfare of pedestrians or vehicular traffic.

4. The permittee has failed to correct violations of the Grosse Pointe Woods City Code, Wayne County requirements, or conditions of the permit within three days of receipt of the city's notice delivered in writing to the permittee.

c. In the event the permittee fails to remove any tables, chairs, awnings or other fixtures or objects related to the outdoor cafe before the date set forth in the city's notice of denial, revocation or suspension, the city may remove such fixtures or objects. The permittee shall be responsible for all expenses incurred by the city for the removal and storage of such fixtures or objects.

d. Violation of this section constitutes a municipal civil infraction in addition to the sanctions available under this section.

(7) *Appeals and variances.*

a. The decision of the building department to deny, revoke or suspend a permit may be appealed to the zoning board of appeals by an aggrieved party.

b. Variances to the requirements of this section may be granted by the zoning board of appeals if the request meets the criteria for obtaining a variance from the board.

(Ord. No. 824, 11-3-2008)

Sec. 50-539. Solar energy systems.

A solar energy system is permitted in any city zoning district. However, it shall be unlawful for any person to install or operate a solar energy system unless all of the following conditions are met:

(1) A building permit and any necessary mechanical, plumbing and electrical permits shall be secured prior to the start of the installation of an solar energy system. Dimensioned plans are required with the building permit application.

(2) Only rooftop solar energy systems are permitted. Freestanding or wall-mounted solar energy systems are not permitted.

(3) The solar energy system installation shall be configured to the degree practicable to have a minimal visual impact as seen from the street. Systems that are visible from the street must be either composed of building-integrated components (such as solar shingles) that are not readily evident, or be designed and mounted to match the shape, proportions, and slope of the roof.

(4) Installation of solar energy system equipment, including the rails and panels, are subject to the height limitations of the specific zoning district where they are being installed.

(5) Solar panels shall not be located within four feet of any peak, eave or valley to maintain adequate accessibility.

(6) Solar panels shall not project more than one foot above the roof deck.

(7) The following additional design standards shall apply:

a. Solar panels shall be arranged so that the panels do not reflect sunlight or glare onto adjacent buildings, properties or roadways.

b. The system shall use materials and colors that blend into the existing roof or wall design.

c. The system shall include high quality mesh to enclose the space between the roof surface and the solar panels to deter animal nesting.

(8) If a system is defective or not in operation for a period of 12 months, the system shall be deemed a nuisance. The current owner of the property shall be required to either remove the system or repair it at the owner's expense.

(Ord. No. 850, 12-17-2012)

Secs. 50-540—50-565. Reserved.

ARTICLE V. OFF-STREET PARKING REQUIREMENTS

Sec. 50-566. Compliance required.

It shall be unlawful for any person to establish, lay out, operate or use a parking lot in the city contrary to the provisions of this article, or to permit another person to do so upon land owned or controlled by them.

(Code 1997, § 98-386)

Sec. 50-567. Definitions.

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

Charge for parking means parking may be with or without charge.

Motor vehicle means any automobile, truck, motor scooter, motorcycle or other self-propelled vehicle.

Municipally owned and operated off-street metered parking lot means such properties which are owned or leased by the city and designated by the council as metered off-street parking lots.

Parking lot means any structure, outdoor space or uncovered plot, piece or parcel of land, or any portion thereof, together with appurtenances, where motor vehicles are parked, stored or kept, but excluding land, parcels or lots zoned residential unless such land, parcel or lot adjoins and abuts a nonresidential zoning district, and which has been approved by the city for use as a parking area.

Service driveways means those portions of the parking lot set aside and intended to be used for means of ingress and egress to the parking lot and the parking spaces.

(Code 1997, § 98-387)

Sec. 50-568. Means of ingress and egress.

A parking lot shall be provided with adequate means of ingress and egress to public streets or alleys, which shall be of such size, number and location so as to minimize traffic congestion within and without the parking lot and will not create unnecessary hazards to pedestrian and vehicular traffic in the vicinity thereof.

(Code 1997, § 98-389)

Sec. 50-569. Requirements for barriers for parking lots adjacent to sidewalk.

(a) Where a parking lot regulated by the provisions of this article shall adjoin a public sidewalk, there shall be erected on such parking lot, to the extent that such parking lot adjoins the public sidewalk, a barrier so located as to prevent cars parked on such parking lot from extending over or encroaching upon such public sidewalk. Such barrier shall be not in excess of eight inches in height, nor less than six inches in height and shall be firmly attached or anchored to such parking lot; and such barrier shall be of such type as to prevent vehicles using such parking lot from interfering with or jeopardizing pedestrian traffic on such public sidewalk; provided that a fence complying with the governing chapter may be provided in lieu of the barrier as aforesaid.

(b) The provisions of this section shall not apply to authorized means of ingress and egress to the parking lot.

(c) Necessary curbs or other protection against damage to adjoining properties, streets and sidewalks shall be provided and maintained.

(Code 1997, § 98-390)

Sec. 50-570. Method of parking.

It shall be unlawful to park or stand any vehicle in a municipally owned and operated off-street metered parking lot in such a position that the vehicle is not entirely within the area so designated as a parking space by such lines or markings. All vehicles parked or stood in any parking space shall be parked in such a manner so that the front of such vehicle shall be facing the parking meter designated for the parking space so occupied.

(Code 1997, § 98-391)

Sec. 50-571. Drainage and surfacing.

Parking lots shall be surfaced with concrete, plant-mixed bituminous or other all-weather impervious, dust-free material of sufficient thickness so as to provide a suitable and proper dustproof, usable pavement and shall be properly graded and drained to dispose of surface water. Plans and specifications for drainage and surfacing of parking lots shall be submitted to the city engineer for approval. Means of ingress and egress to public streets shall be surfaced with concrete or plant-mixed bituminous materials.

(Code 1997, § 98-392)

Sec. 50-572. Off-street parking areas adjacent to residential property.

(a) *Setbacks; protective wall or landscape screening.* Side yards shall be maintained for a space of not less than ten feet between the side lot lines of adjoining residentially zoned or used property 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. It shall be unlawful to use the space between such setback line and the sidewalk for the parking of motor vehicles; provided that the barrier specified in subsection (b) of this section shall be located in the setback line as required in this subsection.

(b) *Ornamental wall.* Whenever a parking area adjoins residential property or a residential street, an ornamental masonry wall not less than two feet or more than four feet in height shall be erected and maintained

between the required yard space and area to be used for parking, except for such portions as are used for entrances and exits. On such other locations where a protective barrier is required, the use of a dense shrubbery screen meeting the standards of section 50-532 shall be as followed.

(c) *Maintenance.* All required walls or other landscape screening shall be properly maintained and kept free of debris, signs or any advertising whatsoever. Bumper guards, composed of either a curb at least six inches high or steel posts 24 inches to 30 inches high and not more than five feet apart set three feet in concrete, shall be provided to prevent vehicles from striking such wall or shrubbery.

(d) *Open lots.* Open off-street parking lots are allowed for the periodic storage of private passenger vehicles for periods of less than one day when the space used for parking is separated from all required yards and contiguous streets by an ornamental wall or fence four feet in height, and if all vehicular access to such lot is from the alley and not directly from any street, and such use is recommended for approval to the board of appeals by the planning commission as not being injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this chapter, provided such use complies with the noise requirements of section 50-567.

(e) *Landscaping.* Where required landscaping is not sufficiently and properly maintained, the city administrator 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 fee as currently established or as hereafter adopted by resolution of the city council from time to time to the property owner.

(f) *Variance from this section.* The city council may, after a public hearing and an affirmative vote of a majority of the council, grant a variance from the requirements of this section, which variance may permit the construction of a fence which will provide substantial protection for adjoining residential properties and such variance shall be subject to proper and reasonable conditions which may be imposed by the council.

(Code 1997, § 98-393)

Sec. 50-573. New construction.

No person shall construct a new parking lot without first having obtained site plan approval from the planning commission. Plans and specifications for the construction of a new parking lot shall be submitted to the city administrator and building official, who shall cause to be determined whether such plans and specifications comply with the provisions of this Code. If such plans and specifications are found to be in compliance with the provisions of this Code, the planning commission shall authorize the construction of such parking lot. If the application is rejected, the applicant shall be notified to that effect and shall be given an opportunity to be heard by the city council, either in person or by legal counsel, and to present such evidence pertinent to the application, after which the city council shall take final action upon the application and, as a prerequisite to granting such application, the council may impose reasonable conditions so as to preserve the character of the neighborhood.

(Code 1997, § 98-394)

Sec. 50-574. Parking structures in P-1 district.

(a) Notwithstanding the requirements set forth in subsection 50-486(4) and under special conditions, parking structures may be permitted in the P-1 district subject to the following conditions. A site plan must be submitted to the city planning commission showing the proposed parking structure, ingress and egress points, relationship to adjacent properties and to the building it is planned to serve, and landscaping, at a scale sufficient to permit study of all elements of the plan. Typical elevations of the structure shall also be provided so that the exterior building material and architectural style will be in harmony with the principal

buildings the parking structure is intended to serve and with the surrounding area. All plans must be reviewed and reports thereon submitted by the director of public safety, city engineer, city planner and building inspector. Such report shall be provided the city planning commission within 30 days of the request made to the city department heads. If the plans meet the required standards and design, and indicate no adverse effects which in the opinion of the city planning commission may cause injury to adjoining property or the city as a whole, the commission shall recommend approval to the city council, which body 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. Specific design standards for the parking structure and appurtenances thereto (e.g., signs) are as follows:

(1) When the parking structure is contiguous to side or rear lot line of a residentially zoned or used district, there shall be provided a minimum side yard of 20 feet between the side lot line an the structure.

(2) Permitted height of any parking structure shall not exceed 30 feet. For every one foot the parking structure exceeds ten feet in height, the yard requirements shall be increased by one foot beyond the minimum 20-foot requirement in subsection (a)(1) of this section.

(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 of a parking structure facing any residentially used or zoned property.

(5) Signs shall be in accordance with the requirements of chapter 32.

(6) Unless otherwise specified, parking structures shall observe all requirements of this article.

(b) The city council may, after a public hearing and an affirmative vote of a majority of the council, grant a variance from the requirements of this section, subject to proper and reasonable conditions which may be imposed by the council.

(Code 1997, § 98-395)

Sec. 50-575. Lighting.

Every parking lot which is operated during any hours of the night shall be provided with adequate lighting units to enable parking attendants to have a reasonable view of all portions of the parking facility at all times. Lights shall be shielded and directed away from residences and other adjacent property and from the public streets in such manner as to prevent a disturbing glare to occupants of adjacent property and to vehicular traffic using the public streets.

(Code 1997, § 98-396)

Sec. 50-576. Limitation on period of parking.

It shall be unlawful to permit or allow any motor vehicle to be parked, stored or kept in or upon any licensed parking lot for a continuous and uninterrupted period of more than 24 hours at any one time, it being the intent of the provisions of this section to prohibit the use of any such parking lot for the unlimited storage or parking of motor vehicles.

(Code 1997, § 98-397)

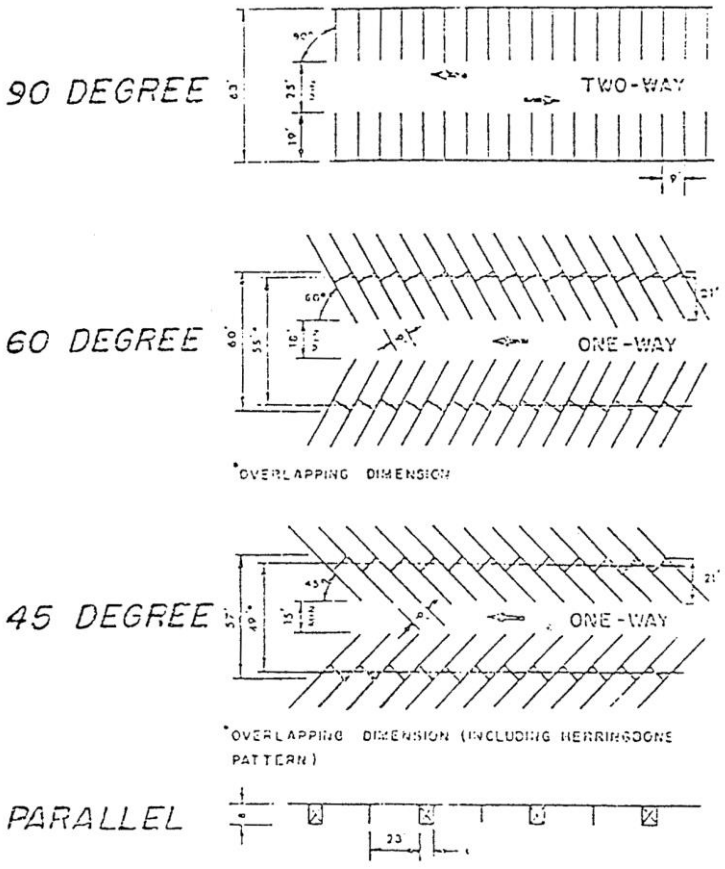
Sec. 50-577. Traffic lane markings.

The parking lot shall be provided with such markings as to indicate entrances and exits, traffic lanes for the safe and orderly movement of vehicles to and from parking spaces, and such other traffic safety controls which may be designated by the director of public safety.

(1) *Dimensional requirements.* Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

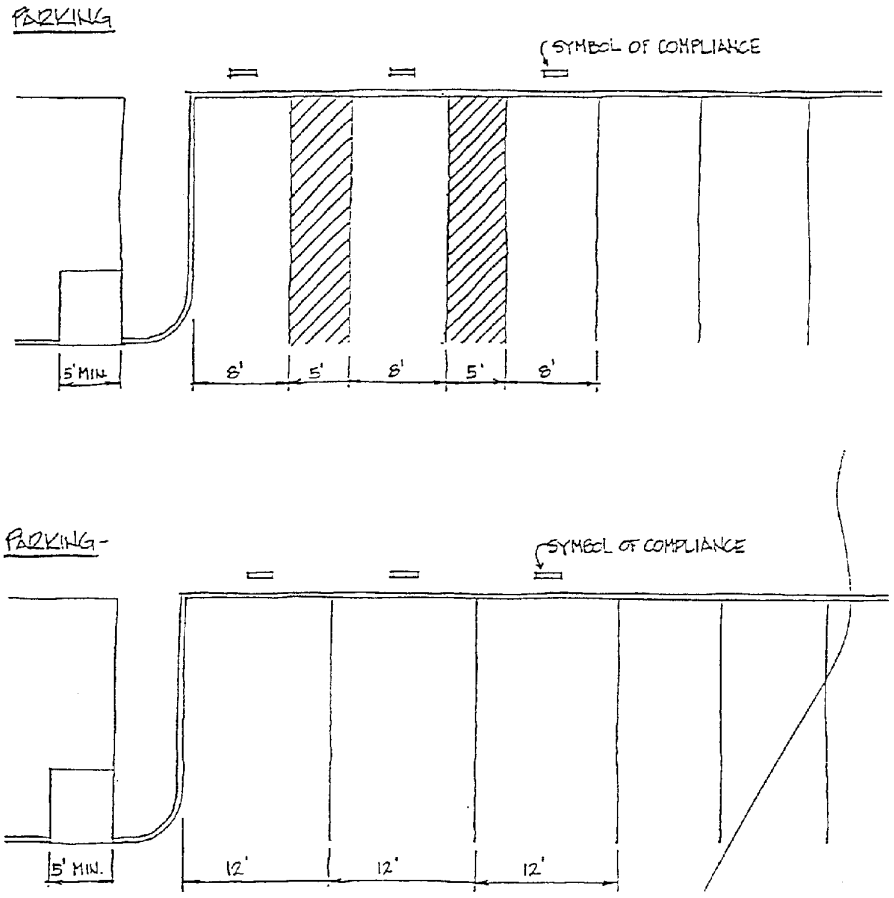
Parking Pattern	*Maneuvering Lane Width (feet)*	*Parking Space Width (feet)*	*Parking Space Length (feet)*	*Total Width of One Tier of Spaces Plus Maneuvering Lane (feet)*	*Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)*
0° (parallel parking)	15	9	23	23	31
30° to 53°	15	9	19	36	57
54° to 74°	18	9	19	37	60
75° to 90°	25	9	19	44	63

PARKING LAYOUTS



(2) *Handicapped parking spaces.* Parking spaces for handicappers shall be located as close as possible on the most direct route to barrier-free building entrances. Signs shall be provided to indicate the direction of travel to barrier-free building approaches when the barrier-free entrance is not visible from the accessible parking space or spaces. Each accessible parking space shall have not more than a nominal three percent grade and be not less than 12 feet wide or be not less than eight feet wide and be adjacent to an access aisle which is not less than five feet wide and which is not a traffic lane. The parking space surface shall be stable and firm. There shall be a barrier-free route of travel from accessible parking spaces to the nearest barrier-free building approach.

HANDICAPPED PARKING SPACES



(Code 1997, § 98-398)

Sec. 50-578. Attendants, private security guards; when required.

When in the opinion of the director of public safety a hazard to the welfare and safety of any person exists in or adjacent to any parking lot, the director of public safety shall certify such fact and reasons for such opinion to the city council. The city council acting upon such written certification of the director of public safety and after ten days' notice to the owner and/or operator of such parking lot shall hold a public hearing, at which time all parties interested shall be given an opportunity to be heard. Upon a finding by the city council that such a hazard in fact exists, the council may, as a condition for the continued use of such property as a parking lot, require the owner and/or operator to provide sufficient attendants and/or uniformed private security guards licensed under the laws of the state at such parking lot during the hours of operation of such parking lot, or any portion thereof. Upon a

failure of the owner and/or operator to furnish attendants or private security guards, if so required by the city council, such lot shall be closed to parking and the continued use thereof for parking shall be deemed a violation of this Code.

(Code 1997, § 98-399)

Sec. 50-579. Inspections; correction of defects.

All parking lots within the city shall be inspected from time to time as directed by the city administrator. Any failure to comply with the provisions of this article shall be reported in writing to the owner and/or operator of the parking lot to remedy such condition or make such correction. Failure to comply with any notice to remedy or correct any conditions of a parking lot may be the basis for the filing of a complaint against the owner and/or operator.

(Code 1997, § 98-400)

Sec. 50-580. Maintenance.

It shall be the duty of the owner and operator of any parking lot to maintain such lot and any greenbelt of shrubbery thereon, the barriers, entrances, exits, and surface and drainage system in a state of good repair at all times while operating such lot or permitting the use thereof.

(Code 1997, § 98-400.1)

Sec. 50-581. Noise.

The use of any loud noise-producing device or public address system shall be prohibited upon off-street parking lots permitted by this article.

(Code 1997, § 98-400.2)

Sec. 50-582. Prohibited uses.

No repairs, service to vehicles or display of vehicles for the purpose of sale shall be carried on or permitted upon such premises.

(Code 1997, § 98-400.3)

Sec. 50-583. Signs.

No sign shall be erected upon such parking lots, except not more than one sign at each entrance to indicate the operator, the purpose for which operated, and the parking rates. Such signs shall not exceed 15 square feet in area, shall not extend more than ten feet in height above the nearest curb, and shall be entirely upon the parking lots.

(Code 1997, § 98-400.4)

Secs. 50-584—50-614. Reserved.

ARTICLE VI. WIRELESS COMMUNICATIONS FACILITIES[5]

Sec. 50-615. Purpose.

(a) It is the general purpose and intent of the city to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems as may be required by law. However, it is the further purpose and intent of the city to provide for such authorization only in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this article, an attempt has been made to balance these potentially competing interests.

(b) Pursuant to the general purpose set forth in subsection (a) of this section, the goals of this article are to:

(1) Permit the location of wireless communications facilities (WCFs) in nonresidential areas and residential areas on nonresidential property;

(2) Protect residential areas and land uses from the potential adverse impact of WCFs;

(3) Strongly encourage the joint use of existing WCF sites, prominent buildings or structures as a primary location rather than construction of additional single or multiple use WCFs;

(4) Minimize the total number of WCFs throughout the community;

(5) Require users of WCFs to locate them in areas where the adverse impact on the community is minimal;

(6) Encourage users of WCFs to configure them (stealth technology) in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

(7) Consider the public health, safety and welfare as well as the safety aspect of WCFs;

(8) Enhance the ability of the providers of telecommunications services to provide services to the community quickly, effectively, and efficiently;

(9) Provide for the disclosure of adequate information about plans for wireless communication facilities in order to permit the city to effectively plan for the location of such facilities;

(10) Avoid potential damage to adjacent properties from WCF failure through engineering and careful siting of towers;

(11) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs;

(12) Minimize the adverse impacts of technological obsolescence of WCFs, including a requirement to remove unused and/or unnecessary WCFs in a timely manner as hereinafter set forth;

(13) Minimize the negative visual impact of WCFs on neighborhoods, community landmarks, historical sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as

[5]State law reference(s)—Michigan telecommunications act, MCL 484.2101 et seq.; metropolitan extension telecommunications rights-of-way oversight act, MCL 484.3101 et seq.; Michigan broadband development authority act, MCL 484.3201 et seq.

few structures as reasonably feasible; utilization of collocation wherever feasible; the use of towers which are designed for compatibility; the avoidance of lattice structures that are unsightly; and consideration of alternative means of providing service such a cable microcell network using multiple low-powered transmitters/receivers attached to existing wireline systems, fiber optic or similar systems which do not require a tower.

In furtherance of these goals, the city shall give due consideration to the city's zoning ordinance and map, existing land uses, and environmentally sensitive areas in considering sites for the location of WCFs.

(Code 1997, § 98-533; Ord. No. 778, 6-17-2002)

Sec. 50-616. Reservation of rights to require franchise.

The city is not at this time requiring a franchise for the siting of a wireless communications facilities (WCF) within the city. The city reserves the right, in accordance with applicable federal, state and local law, to require such a franchise in the future to the extent such a siting may be deemed to constitute the transacting of local business within the city. Neither issuance of a WCF authorization permit to locate a WCF under this article, nor the issuance of an annual WCF permit shall constitute a waiver of or otherwise adversely affect this reservation of rights. In addition, WCFs shall be regulated and permitted pursuant to this article and shall not be regulated or permitted as essential services, public utilities or private utilities.

(Code 1997, § 98-534; Ord. No. 778, 6-17-2002)

Sec. 50-617. Definitions.

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

Alternative tower structure (ATS) means manmade "trees," clock towers, buildings, bell steeples, flagpoles, light poles and similar alternative-design mounting structures that will help to camouflage or conceal the presence of antennas or towers and avoid their proliferation.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Applicant means a wireless communications provider who has applied for a WCF authorization permit or annual WCF permit pursuant to this article.

Attached wireless communications facilities means wireless communication facilities that are affixed to existing structures, such as existing towers or ATSs, existing buildings, water tanks, utility poles, and the like. A tower proposed to be newly established shall not be included within this definition.

Collocation means the location by two or more wireless communications providers of WCFs on a common tower, building, or other structure with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Preexisting towers and antennas means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the ordinance from which this article is derived, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Public rights-of-way means all public rights-of-way within the city which are owned by the city or county, either as an easement or in fee simple, including but not limited to the public rights-of-way used for streets, highways, sidewalks and alleys.

Telecommunications Act means the Telecommunications Act of 1996, 47 USC 151 et seq., as amended.

Towers means structures erected or modified to be used to support wireless communication antennas. Towers within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which support WCF materials. Buildings principally used for purposes other than supporting antennas shall not be considered towers.

Wireless communications facilities (WCF) means and includes all towers, antennas, alternate tower structures, other support structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, digital towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building and private and commercial mobile radio service facilities.

Wireless communications provider means any person, company, or entity providing or intending to provide wireless communication services of any kind in the city.

(Code 1997, § 98-535; Ord. No. 778, 6-17-2002)

Sec. 50-618. Applicability and location.

(a) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the application requirements of this article. However, preexisting towers and antennas not otherwise exempt from this article are still subject to the requirements of subsection (c) of this section, section 50-623, section 50-624, section 50-625 and the annual permit report requirements of this article.

(b) *New WCFs.* All new WCFs proposed to be located in the city shall be subject to these regulations, except as provided in subsection (d) of this section.

(c) *Modified WCFs.* Any modifications made to an existing WCF (including preexisting towers and preexisting antennas) shall be treated for purposes of this article as a new WCF, which requires the submission of a new application, new permitting procedure and compliance with this article as if the WCF was a new WCF, and the entire WCF, as modified, shall be subject to all of the provisions of this article.

(d) *Amateur radio station operators/receive-only antennas/municipal towers and antennas.* This article shall not govern any tower, or the installation of any antenna, that is under 20 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas, nor shall it govern any municipal tower or antenna utilized by the city in connection with performing its municipal functions.

(e) *Location.* WCFs are only permitted in the following zoning districts subject to certain additional conditions set forth in this article:

(1) C commercial business districts.

(2) Residential and community facility districts, but only if all of the following applies:

a. The application shows and the council is satisfied that the facility cannot be located in a C commercial business district.

b. The design involves a steeple, bell tower, other ATSs or tower harmonious with the site (e.g. church steeple, school tower).

c. The most recent use of property was nonresidential.

(Code 1997, § 98-536; Ord. No. 778, 6-17-2002)

Sec. 50-619. Approval process; application for permit.

(a) *Types of permits.*

(1) The following three separate permits are required:

a. A WCF authorization permit to proceed with installation, construction, operation, expansion, extension or modification of a WCF;

b. An annual WCF permit (section 50-625) to allow the applicant to continue to operate the WCF, which must be renewed annually. Each wireless communications provider using a WCF must submit a separate applications and be granted separate permits. Applicants receiving a WCF authorization permit are still required to obtain; and

c. A building permit as required by section 50-23, section 50-121 and article II of this chapter.

(2) If work under a WCF authorization permit is not started within six months of the date of the permit, the permit shall be void. Once work has started under a WCF authorization permit, no changes to this article (which would require revisions to the design of the WCF) which are made after the date work has started under the WCF authorization permit shall be effective as to the WCF if construction of the WCF is completed within one year of the date of the issuance of the WCF authorization permit.

(b) *Procedure for submission and review.* All applications for a new, renewed or amended WCF authorization permit to install, construct, operate, expand, extend or modify a WCF shall be submitted for review and consideration in accordance with section 50-32 and the following:

(1) A formal written application shall be submitted to the city building official. An application fee shall be submitted as established by the city council. The fee will be based on an amount necessary to adequately and thoroughly investigate and review the application for compliance with this article and in order that the city may have the application reviewed by technical consultants where necessary in order to ensure that all current technological considerations have been properly taken into account.

(2) Once the application has been received and the filing fee paid, the building official shall refer the application to the city administrator for a preliminary review. The city administrator shall determine, in conjunction with the building official, whether or not the application is complete in terms of providing all necessary information required under this article in order for the planning commission to begin its determination as to whether or not a WCF authorization permit should be recommended. The city administrator shall have the discretion to require any additional information felt appropriate and necessary for referring the matter to the planning commission for their review and consideration.

(3) Upon submission to the planning commission by the city administrator, the planning commission shall review the application at a regular or special meeting. If it is determined by the planning commission that the application is complete, then the planning commission shall schedule a public hearing pursuant to the special approval land use procedures (sections 50-32 and 50-121) of this chapter consistent with section 50-620(c) and the general notice requirements of this chapter. Consideration of the application shall be in accordance with section 50-32 (special land use approval) except that public notice will be provided to property owners within 1,000 feet as provided by subsection (b)(5) of this

section. The planning commission's recommendation shall be in writing. It shall thereafter be referred to the city council for action.

(4) The city council shall schedule the matter for a public hearing consistent with section 50-620(c).

(5) For purposes of this article, any special use request, variance request, or appeal of an administratively approved special use shall require public notice consistent with section 50-620(c) to all abutting property owners and all property owners of properties that are located within 1,000 feet of the property on which the proposed WCF is to be located.

(6) The city council shall review the planning commission's recommendation and make a determination as to whether or not to approve or deny the recommendation or take other appropriate action.

(7) If the application for a WCF authorization permit is approved, the city council shall make a determination as to the appropriate amount of a cash, irrevocable surety bond, or irrevocable letter of credit to be kept on file with the city which will ensure that adequate funds will be available to maintain, repair or remove or repair any WCF which might be abandoned or need repair as set forth in this article. It shall be a continuing requirement of any permission given to operate a WCF in the city that the applicant keep in force any such cash deposit, irrevocable surety bond, or irrevocable letter of credit as required by the city.

(c) *Required information in WCF application.* A WCF application shall include the following information:

(1) A site plan prepared by an architect and engineer, both licensed in the state, shall be prepared and submitted, showing the location, size, screening and design of all buildings and structures, including fences, signage, camouflage, lighting, appearance of facility, and outdoor equipment, all of which shall be designed to conform to applicable building codes and zoning ordinances.

(2) The site plan shall also include a detailed landscaping plan. The purpose of landscaping is to provide screening and aesthetic enhancement for the WCF base, accessory buildings and enclosure.

(3) The application shall include a signed certification by an engineer licensed in the state with regard to the manner in which the existing or proposed WCF would fall under the most catastrophic conditions. The engineer's notes, drawings, and actual calculations will be included with the signed certification. This certification will be utilized, along with other criteria, in determining the appropriate setback to be required for the tower and other buildings, structures, and facilities.

(4) The application shall include a description of security to be posted with the city at the time of receiving a WCF authorization permit for the WCF to ensure maintenance, repair and removal of the facility, as provided in this article. In this regard, the security shall, at the election of the city, be in the form of:

a. Cash;

b. Irrevocable surety bond;

c. Irrevocable letter of credit; or

d. At the city's option, an agreement in a form approved by the city attorney and recordable at the office of the register of deeds, establishing a promise of the applicant and property owner to maintain, repair or remove the WCF in a timely manner as required by this article, with the further provision that the applicant and property owner shall be responsible for the payment of any costs and attorneys fees incurred by the city in securing maintenance, repair or removal, and any costs and attorney fees shall become a lien against the property if not paid in full when due.

(5) The application shall also include the following information to demonstrate the need for the proposed WCF:

a. A map showing existing and known proposed WCFs within the city, and further showing existing and known proposed WCFs within areas surrounding the borders of the city, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the city, the applicant shall be required only to update as needed.

b. Factual evidence supporting the need for the WCF, including justification for its height and an evaluation of alternative designs which could result in lower heights or eliminate the need for the WCF or related structures.

c. Soil reports from a state-licensed geotechnical engineer if the application involves towers. The soil report shall include soil boring results and statements confirming the suitability of soil conditions for the proposed use.

d. A report certified by a state-licensed engineer describing the collocation capabilities of the proposed WCF.

e. A drawing detailing the setback distance from residential areas and showing compliance with the setback requirements of this article.

f. A description of the surrounding area and property uses within 1,000 feet of the proposed location.

g. Factual evidence detailing the impact of the facility on the location of future WCFs.

(6) A report of a state-licensed engineer, which certifies the tower constructionally accommodates the number of shared users proposed by the applicant.

(7) A maintenance plan and agreement as required by sections 50-620 and 50-623.

(8) A removal agreement signed by both the owner of the property and the applicant which states that they promise to be bound by the removal requirements of this article.

(9) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the WCF is on the premises.

(10) The application fee, as established by the city council, as well as the fee required by section 50-33.

(11) Proof of liability insurance of the type and amount as established by the city administrator.

(12) A copy of a signed agreement between the land owner and the applicant, giving the applicant the right to construct and operate the WCF, and to permit future collocation at the WCF as required by the city. The owner or duly authorized representative of all ownership interest in the land on which the WCF is proposed to be located shall sign the application and certify that the appropriate legally recordable property rights have been obtained by the applicant.

(13) A copy of all executed agreements between the owner of the WCF and the applicant which will use the WCF, and between the applicant and any other party that the applicant requires the permission of or a license from in order to operate or use the WCF, including such agreements as are required to permit future collocation at the proposed WCF, as required by the city.

(14) A collocation agreement executed by the owner of the proposed WCF and applicant permitting collocation at the proposed WCF, as required by the city, together with such other agreements as the city may deem necessary to permit future collocation, including those described in subsections (c)(11) and (12) of this section. Such agreement shall include an agreement to provide information about the WCF to persons interested in collocating on the WCF and to charge market rates for collocation on the WCF.

(15) A certification by the owner of the proposed WCF and applicant that the WCF complies with all federal, state statutes, regulations and rules, and all city article.

(16) A certification signed by the owners of the WCF and applicant that all franchises and licenses required by federal, state or local law for the construction and/or operation of a WCF in the city have been obtained and they shall file a copy of all required franchises and licenses with the planning commission.

(17) Evidence that no existing tower, structure or alternative technology is available which would otherwise accommodate the applicant's proposed need, as provided in section 50-621(6).

(18) Evidence of the noise levels to be emitted by the WCF when in operation. Levels above 70 decibels shall not be permitted.

(19) The application shall be signed by the owner of the proposed WCF and applicant.

(Code 1997, § 98-537; Ord. No. 778, 6-17-2002)

Sec. 50-620. Authorization as special land use.

(a) *Circumstances allowing special land use treatment.*

(1) Subject to all the standards and conditions set forth in this article, WCFs may be allowed as a special land use. In addition, though municipally owned land is exempt from the terms and conditions of this chapter, the city intends to apply these same terms and conditions (as well as any others that may be appropriate) when and if wireless communications providers request the opportunity to negotiate a lease for the siting of WCFs including towers, poles, antennas and other equipment on municipally owned land.

(2) In the following circumstances, a proposal to establish a new WCF shall be considered as a special land use:

a. If, at the time of the submittal, the applicant can demonstrate that there is no reasonable means of satisfying the service needs of the system through adaptation of or addition to facilities inside or outside the municipal boundaries of the city;

b. If there is no feasible alternative or other means of satisfying the service needs, such as a microcell cable link or utilization of other lines, cables, facilities, or systems that would have less visual impact or would obviate the necessity of installing a tower or ATS;

c. If any such WCF shall be of a design such as (without limitation) a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood and general area; and

d. If the WCF is capable of supporting collocation of other WCFs to the extent determined by the city council, and if appropriate agreements are in place to permit collocation.

(b) *Additional conditions for permit.* If the conditions of subsection (a) of this section are satisfied, then a WCF may be permitted in the city as a special land use, upon recommendation of the planning commission and approval by the city council following public hearing as set forth in subsection (c) of this section, subject to the conditions and procedures set forth elsewhere in this chapter, and also subject to the following:

(1) *General design and appearance.* The planning commission and city council shall, in their discretion, with respect to the design and appearance of a tower, ATS and all accessory buildings, require construction which creates harmony with the surrounding area, minimizes distraction, reduces visibility, maximizes aesthetic appearance, and ensures compatibility with surroundings.

(2) *Federal and state standards.* Any WCF shall comply with all applicable federal and state standards relative to the environmental and safety effects of radio frequency emissions, as confirmed by submission by the applicant of a certification of compliance from an engineer licensed in the state.

(3) *Accessory buildings.* Any accessory building must comply with section 50-526 (entitled "accessory buildings"), other applicable ordinances of the city (for example, design standards) and the following specific requirements:

a. The building must be limited to the maximum allowable height for accessory structures and shall be no larger than necessary to accommodate the equipment and accessories.

b. Any accessory building must be located underground unless:

1. The accessory building is contained totally inside an existing building;

2. The applicant demonstrates to the satisfaction of the building official that an underground location is not technically feasible; or

3. The building official allows the accessory building to be placed on a roof of a nonresidential building subject to other conditions and requirements of this article.

c. Any accessory building located on a roof must be architecturally compatible with the principal building as determined by the building official, and must not be visible from ground level.

d. All users of a WCF must use the same accessory building. Accordingly, any accessory building must be constructed to allow for expansion if necessary to assure that all operators use one accessory building in the event of collocation.

e. Accessory buildings located on the ground must be constructed of brick, with gabled roof and appropriate fencing and landscaping.

(4) *Access.* There shall be unobstructed access to the WCF, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as:

a. The location of adjacent thoroughfares and traffic and circulation within the site;

b. Utilities needed to service the WCF and any attendant facilities;

c. The location of buildings and parking facilities;

d. Proximity to residential districts and minimizing disturbance to the natural landscape; and

e. The type of equipment which will need to access the site.

(5) *Lot splits.* The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met. No existing utilities shall be disrupted or interfered with except temporarily as may be required during construction and only then if a written agreement has been procured from the city and the utility company.

(6) *Maintenance plan.* A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance to a reasonably prudent standard. At a minimum it will address anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, access plans, and traffic, noise and safety impacts of such maintenance.

(7) *Towers and antennas.* All towers and antennas included in the WCF must satisfy the requirements of section 50-621.

(8) *Signs.* No signs shall be allowed on any WCF, including any antenna or tower, except safety or warning signs approved by the city.

(9) *Transmission lines.* Transmission lines to any WCF shall be underground.

(10) *FAA, FCC and MAC requirements.* Any requirements of the Federal Aviation Administration, Federal Communications Commission, and Michigan Aeronautics Commission shall be complied with. WCFs, including any towers and/or antennas shall not be artificially lighted, unless specifically required by the FAA or other applicable authority. If lighting is required, the lighting alternatives, and design chosen shall cause the least disturbance to the surrounding views.

(c) *Procedures for scheduling public hearings.*

(1) *No variance required.* If the application as submitted does not require a variance, the following procedure shall be used for scheduling of public hearings:

a. The application will be submitted to the planning commission for a public hearing and recommendation.

b. The application shall be submitted to the city council for public hearing and either approval, approval with conditions, or denial.

(2) *Variance required.* If the application as submitted requires a variance, the following procedure will be used for scheduling of public hearings:

a. Submission to the planning commission for a recommendation.

b. Review by the zoning board of appeals for consideration of the variance request as specified in article II, division 5 of this chapter. If the zoning board of appeals denies the request for a variance, the application approval process is terminated. If the request for a variance is approved, then the process proceeds to subsection (c)(2)c of this section.

c. Review by the planning commission for recommendation.

d. Review by the city council for either approval, approval with conditions or denial.

(Code 1997, § 98-538; Ord. No. 778, 6-17-2002)

Sec. 50-621. Towers and antennas.

All towers and antennas shall comply with the following requirements:

(1) Towers shall be designed to blend into natural settings and surrounding buildings and, subject to any applicable FAA standards, shall be a neutral color approved by the city.

(2) Any support system, including the tower and ATS, shall be designed by a state-licensed structural design engineer, shall be constructed in accordance with all applicable building codes and shall include the submission of a soil report from a state licensed geotechnical engineer.

(3) Setback for towers. Any tower must be set back a sufficient distance from any property line to protect adjoining property from potential facility failure by being large enough to accommodate to complete failure on site. Additional setback requirements are as follows:

a. Setback from residential. The setback from a lot used for residential purposes will be measured from the base of the tower to the nearest lot line of any lot used for residential purposes. The setback from lots used for residential purposes must be at least 300 percent of the total height of the structure and in no event less than 200 feet.

b. Setback from public rights-of-way. The setback from public rights-of-way must be at least equal to the height of the tower.

c. Setback from nonresidential buildings. The setback from nonresidential buildings must be at least equal to the height of the tower as measured from the base of the tower to the affected building.

Additional reasonable setbacks may be required depending on the proposed site.

(4) Multiple towers shall not be permitted on a single site.

(5) State or federal requirements. All towers, antennas, and ATSs must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers, antennas, and support structures. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers, antennas, and ATSs into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower, antenna or ATS at the applicant's expense.

(6) No new tower, antenna, or ATS shall be permitted unless the applicant demonstrates to the city council after receipt of a recommendation from the planning commission that no existing tower, structure, or alternative technology is available which would otherwise accommodate the applicant's proposed antenna or need, or the city council, after receipt of a recommendation of the planning commission, determines that any collocation of the proposed antenna would have a greater impact on the community than the proposed new tower. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna or need may consist of the following:

a. No existing tower or structures are located within the geographic area which meet applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements and cannot be reasonably modified to accomplish same.

c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment, and cannot be reasonably modified to accomplish applicant's needs.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

e. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable, microcell network using multiple low-powered transmitters/receivers attached to a wireline system, etc., is unsuitable. Costs of alternative technology which exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(7) Towers shall be no higher than required for reasonable communication, but in no event greater than 100 feet.

(8) Towers shall be enclosed by security fencing when required by the city which shall be not less than six feet in height, nor more than eight feet in height, and shall otherwise comply with the city's articles regulating fences for the zoning district in which the tower is located.

(9) The tower shall be equipped with an appropriate anticlimbing device.

(10) The following requirement shall govern the landscaping surrounding a tower provided, however, that the planning commission may alter these requirements in such cases that would better serve the goals of this article:

a. The tower facility shall be landscaped with a buffer of plant materials that effectively screens the view of the tower base from adjacent properties and in no event shall be less than six feet in height.

b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

(11) Attached wireless communication facilities, antenna, and supporting electrical and mechanical equipment installed on an ATS must be of a neutral color that is identical to, or closely compatible with, the color of the ATS so as to make the antenna and related equipment as visually unobtrusive as possible.

(12) The antenna and other attachments on a WCF shall be designed and constructed to include the minimum attachments required to operate the facility as intended at the site, both in terms of number and size of such attachments, and shall be designed and constructed to maximize aesthetic quality.

(13) Separation. Towers may not be closer than 1,500 feet as measured from the base of each tower or ATS. Tower separation distances shall be calculated and applied to WCFs located in the city, as compared to a WCF located in the city or outside the city, irrespective of municipal and county jurisdictional boundaries.

(14) Any antenna which is attached to an ATS or other structure shall not extend above the highest point of the structure unless not visible from the ground and must comply with all applicable building code requirements.

(15) If the antenna is on the roof of a structure, it shall be set back from the edge of the roof by a distance at least equal to its height, measured from where it is attached to the roof to the highest point of the antenna.

(16) Attached WCFs and antenna installed on an ATS shall incorporate the vertical design elements of the structure to which they are attached or to the ATS and, if on the roof of any structure, shall match existing roof structures, such as air conditioning units, stairs and elevator support structures.

(Code 1997, § 98-539; Ord. No. 778, 6-17-2002)

Sec. 50-622. Collocation.

(a) *Statement of policy.* In order to minimize the proliferation of towers and the adverse visual impact associated with such proliferation and clustering, collocation of antennas on existing towers or attached WCF shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower.

(2) If additional height is required for collocation, then the tower shall be relocated to accommodate all setback requirements required by the increased height.

(3) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the city, taking into consideration the intent and purpose of this section and other requirements of this article.

(4) Owners of existing towers shall not be permitted to charge excessive fees for collocation.

(b) *Additional requirements.*

(1) Collocation is required as a condition of the WCF authorization permit. No new structures are permitted unless an applicant demonstrates the inadequacy of existing facilities as provided for in this article. If a WCF provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the city. In such a case, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

(2) In addition, the city may take such action as allowed by statute and ordinances to require conformity, including requiring collocation and revocation of the WCF authorization permit and the annual WCF permit. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the city.

(3) Collocation of an additional WCF on an existing WCF is treated the same as construction of a new WCF, and requires compliance with all terms of this article. Each separate WCF collocated on the same tower or structure is subject separately to the requirements of this article.

(4) For all collocations served by an accessory building, there must be a single, architecturally uniform accessory building for all operators at the WCF.

(Code 1997, § 98-540; Ord. No. 778, 6-17-2002)

Sec. 50-623. Maintenance and repair.

(a) As a condition of issuance of the annual WCF permit, the wireless communications provider must submit and the building official must approve a maintenance plan. The planning commission and city council shall, in its discretion, with respect to the design and appearance of the tower and all accessory buildings, require construction and maintenance which creates harmony with the surrounding area, minimizes distraction, reduces visibility, maximizes aesthetic appearance, and ensures compatibility with surroundings. It shall be the responsibility of the applicant to maintain all WCFs in a neat, safe, and orderly condition in accordance with all terms and conditions of the WCF authorization permit, annual WCF permit, applicable ordinances of the city and any applicable state or federal regulations.

(b) The landowner and wireless communications provider are jointly responsible for maintaining the site in a neat, safe and orderly condition, both during and after construction of the facility. To ensure the structural integrity of towers, a tower shall be maintained by the wireless communications providers in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are published by the electronic industries association, as amended from time to time. If, upon inspection, the city concludes that a WCF fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the WCF provider, the provider and landowner shall have 30 days to bring such WCF into compliance. Failure to do so shall constitute grounds for the removal of the WCF at the provider's and landowner's expense.

(c) Each facility is subject to inspection as the building official may deem necessary. At a minimum, each facility must be inspected annually, and must pass inspection as a condition of issuance of the annual WCF permit. Inspections will include an assessment not only of the structural soundness and overall safety of the facility, but will also address routine maintenance and repair issues.

(d) Failure to pass inspection at any time shall be deemed a violation of this article and subject the wireless communications provider and landowner to all actions allowed by this article and by local, state and federal law.

(e) The wireless communications provider shall be required as part of the annual permit report to submit an inspection of the WCF, inspecting such aspects of the WCF as the building official may require, certified by a structural engineer licensed in the state.

(Code 1997, § 98-541; Ord. No. 778, 6-17-2002)

Sec. 50-624. Removal of facilities.

(a) The WCF authorization permit, and the annual WCF permit for a WCF shall be revoked, and the WCF shall be removed as provided in this section, upon the occurrence of one or more of the following events:

(1) When the WCF has not been used for 60 days or more, it will be deemed to be abandoned. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.

(2) Six months after new technology is available at reasonable cost as determined by the city council, which permits the operation of the communications system without the requirement of the tower, or with a tower which is lower and/or more compatible with the area.

(3) When the facility is not maintained in accordance with the standards set forth in this article and written notice of the deficiencies is delivered to the wireless communications provider and the wireless communications provider fails to correct the deficiencies within 60 days thereafter.

(4) Any material breach of any of the conditions of the WCF construction or annual WCF permit.

(5) Failure to file annual permit reports as created by the building official.

(6) The WCF being operated at noise levels in excess of 70 decibels at any time.

(7) Failure to qualify for renewal of the annual WCF permit.

(b) The situations in which removal of a facility is required, as set forth in subsection (a) of this section, may be applied and limited to portions of a facility.

(c) Upon the occurrence of one or more of the events requiring removal, or lowering of the tower, specified in subsection (a) of this section, the wireless communications provider and landowner are jointly responsible and shall immediately apply for and obtain any required demolition, reconstruction or removal permits, and immediately proceed with and complete the demolition/alteration/removal, restoring the premises to an acceptable condition as reasonably determined by the building official.

(d) If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the city may remove or procure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge, plus attorney fees, to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility. Notwithstanding the potential or actual recovery of costs from the bond or other security, the provider and landowner remain jointly liable for the actual costs and administrative charges of demotion, alteration and removal.

(e) The wireless communications provider shall immediately notify the city building official in writing if and as soon as the use of a facility ceases.

(f) Any reuse of a facility after it has been abandoned will require a completely new permit process.

(g) The WCF authorization permit for any WCF, or portion thereof, which is required to be removed shall expire upon the occurrence of the event requiring removal.

(Code 1997, § 98-542; Ord. No. 778, 6-17-2002)

Sec. 50-625. Effect and approval.

(a) *Authorization permits.* Final approval to construct a WCF shall be effective for a period of six months, and if commencement of construction has not begun by that date, the WCF authorization permit shall expire without further notice and the applicant shall have no further rights under the permit. Once construction of a facility has begun, it shall be completed within three months unless the time period is extended by the city administrator for good cause shown.

(b) *Annual permits.* Annual WCF permits may be granted annually up to ten consecutive years by the city administrator, upon recommendation of the building official. Renewal each year requires payment of a fee determined by the city council, submission of an annual report containing such information as the city administrator may require, and submission of an annual permit report in a form as may be required by the building official, certified by the wireless communications provider. The annual report shall include, at a minimum, a certification that no event has occurred requiring removal of the WCF, including abandonment or the availability of new technology, listing the wireless communications providers using the WCF and a description of their use of the facility, changes to the information about the WCF, the wireless communications provider or the owner of the property on which the WCF is located contained in the original application. The annual report is due on the anniversary date of the date of issuance of the WCF authorization permit.

(c) *Nonassignability.* No WCF construction or annual WCF permit is assignable without the written consent of the city.

(d) *Resubmission after ten years.* After ten years of operation, the wireless communications provider and landowner must reapply for permission to continue to operate the WCF and must submit all information then required for issuance of a WCF authorization permit for a new WCF, with such exceptions to the required information as the city council may permit.

(Code 1997, § 98-543; Ord. No. 778, 6-17-2002)