

Chapter 46 ZONING¹

ARTICLE I. IN GENERAL

Sec. 46-1. Purpose.

Ord. No. 752, as amended, was adopted pursuant to the authority conferred by the public acts of the state, in such case, made and provided for the purpose of promoting, and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the city, by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding of the land and undue congestion of population; providing adequate light, air, and reasonable access; and facilitating adequate and economic provision of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan.

(Prior Code, § 5.1)

Sec. 46-2. Short title.

This chapter shall be known and may be cited as the city zoning ordinance.

(Prior Code, § 5.2)

Sec. 46-3. Construction of language.

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

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- (3) The term "shall" is always mandatory and not discretionary. The term "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, unless the context clearly indicates the contrary.
- (5) A building or structure includes any part thereof.
- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (7) The term "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

¹State law reference(s)—Michigan Zoning Enabling Act, MCL 125.3101 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.

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- (8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
- a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (9) Terms not herein defined shall have the meaning customarily assigned to them.

(Prior Code, § 5.5)

Sec. 46-4. Definitions.

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

Accessory use or *accessory* means a use which is clearly incidental to, customarily found in connection with, and, except in the case of accessory off-street parking spaces or loading, located on the same zoning lot as the principal use to which it is related. When accessory is used in this text, it shall have the same meaning as accessory use.

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

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

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 communications signals.

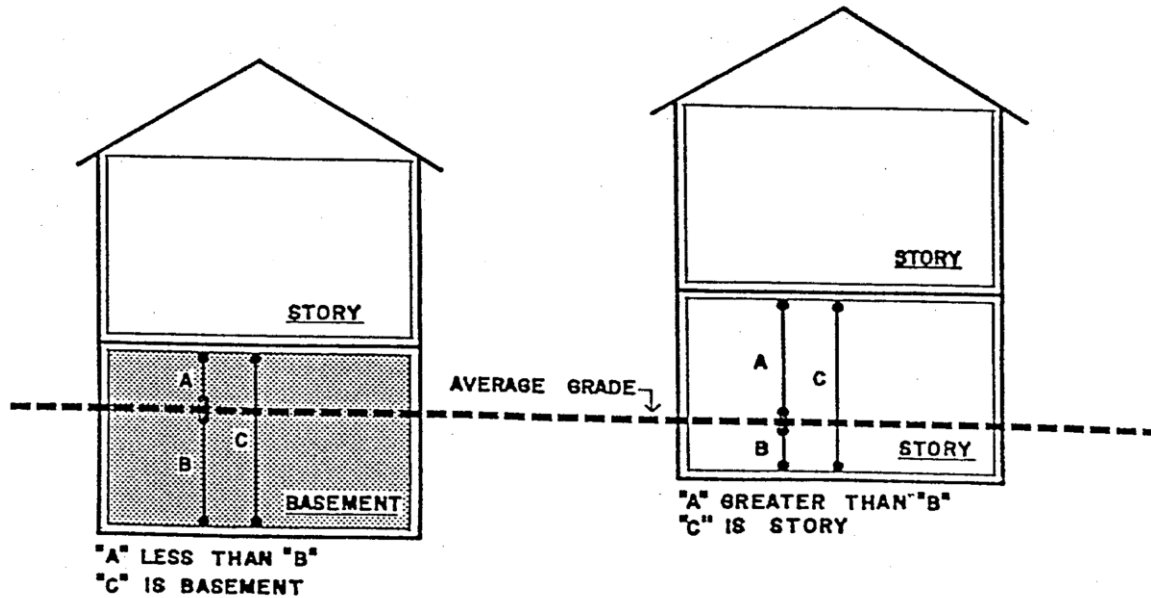
Apartments means dwelling units intended for longterm rental to one family as defined in this chapter.

Assisted living means a dwelling unit where the furnishing of medical care, nursing, housekeeping, personal care and/or meals is available to the occupants.

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

Backhaul network means the lines that connect providers towers, cell sites and antennas to one or more cellular telephone switching offices, and/or long distance providers, or the public telephone network.

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



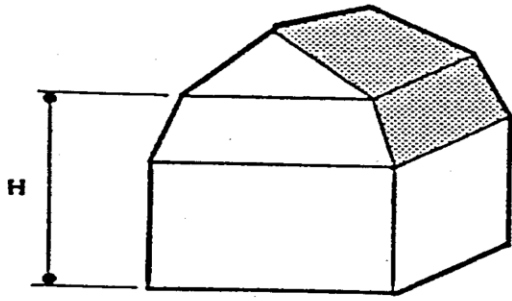
Basement & Story

Bed and breakfast means a single-family dwelling unit in which the innkeeper resides and has up to eight rooms available for rent to transient tenants, for fewer than 30 days. The term "bed and breakfast" is also known as a "tourist home."

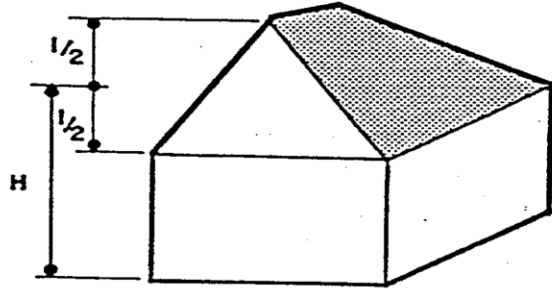
Block means the property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier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

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

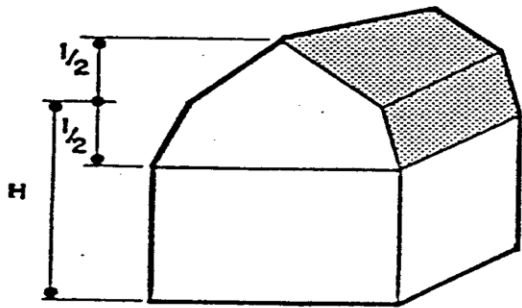
Building height means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs and to the average height between eaves and ridge for gable, hip and gambrel roofs.



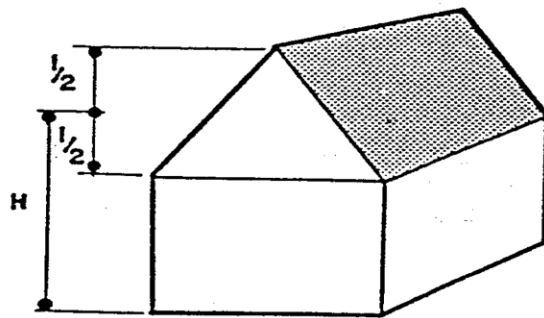
MANSARD ROOF



HIP ROOF



GAMBREL ROOF

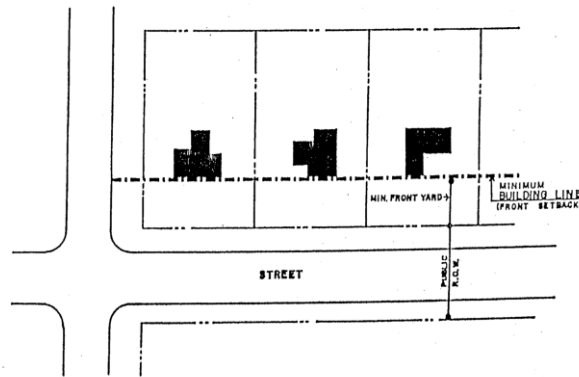


GABLE ROOF

H = HEIGHT OF BUILDING

Building Height

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



Building Line

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

Combination group/family shelter shall mean a homeless shelter that shelters some combination of a family or group of unrelated persons of differing genders under one roof and with centralized management.

Commercial wireless telecommunication services (CWTS) means licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhances specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

Condominium means a form of ownership of real property in accordance with Public Act No. 59 of 1978 (MCL 559.101 et seq.), including site condominiums.

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

Crematorium means an enclosed facility wherein human remains are cremated in a cremation retort.

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

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

Dormitory means a group of three or more rooming units owned by an institution used for temporary housing.

Drive-in means a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, and shall include such titles as walk-in, takeout, drive-by, drive-through or similar names.

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

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

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

Dwelling unit means a building, or portion thereof, designed for nontransient occupancy by one family for residential purposes, having permanent living, sleeping, eating, cooking and sanitation.

Erected means built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like.

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of overhead, surface or underground gas, electrical, steam, or water distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public or municipal department or commission for the public health, safety and general welfare. The term "essential services" does not include commercial telecommunication equipment or cell towers.

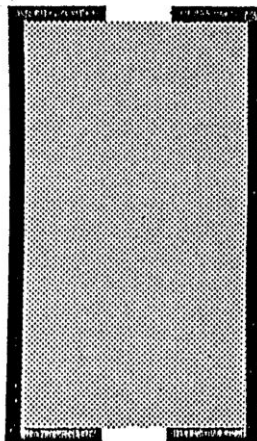
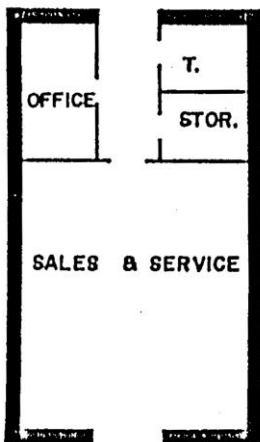
Excavation means any breaking of ground, except common household gardening and ground care.

Family means a single individual or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a permanent relationship based upon birth, marriage or other domestic bonds. The term "family" shall not include a group occupying a boardinghouse or lodginghouse, clubs or other associations of a temporary, transient or seasonal character.

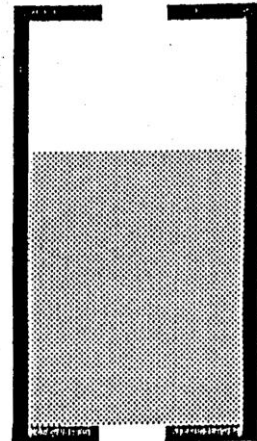
Family shelter shall mean a single family dwelling that shelters a family who are persons related by blood, marriage or adoption, or no more than four individuals occupying a dwelling unit who are committed to living together as a single housekeeping unit, in harmony with the surrounding neighborhood, responsible for maintaining a common household.

Fence/wall mean any artificial barrier, partition or structure erected as a dividing structure between adjoining lots either wholly or in part. An exception to the terms "fence/wall" are "privacy screens," as defined in this section.

Floor area, gross, means, for the purposes of computing parking, that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.



GROSS FLOOR AREA
(FOR PURPOSES OF COMPUTING PARKING)



USABLE FLOOR AREA

Gross Floor Area

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

Funeral home (mortuary) means a building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial, (b) the performance of autopsies and other surgical procedures, (c) the storage of caskets, funeral urns and other related funeral supplies, and (d) the storage of funeral vehicles.

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

Garage, service, means any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

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

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

Group shelter shall mean a type of homeless shelter that shelters multiple people of the same gender who are unrelated. In a women's shelter, this could also include a single mother with children. Group shelters are supervised at all hours that the residents are present.

Habitable room shall mean any room that meets adopted building code requirements for a habitable room, including minimum room proportions, minimum egress requirements, and minimum standards for lighting, ventilation, electricity, and public safety requirements.

Home occupation means an accessory business use of a dwelling unit, for gainful employment, which is clearly incidental to the residential use, conducted entirely within the dwelling unit, and carried on only by persons who reside within the dwelling unit.

Homeless person shall mean an individual who, or family which, lacks a fixed, regular and/or adequate nighttime residence.

Homeless shelter shall mean emergency housing with minimal supportive services for homeless persons that is intended for occupancy of three months or less in a given year by a homeless person.

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

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

Kennel, commercial, means any lot or premises on which three or more dogs, cats or other household pets over six months of age are either permanently or temporarily boarded. The term "kennel" shall also include any lot or premises where such household pets are bred or sold.

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

Lodge means a structure used by a fraternal or nonprofit organization for the temporary use of its members, and containing sleeping and common dining facilities.

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

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

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

Lot coverage means the part or percent of the lot occupied by a building including accessory buildings.

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

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

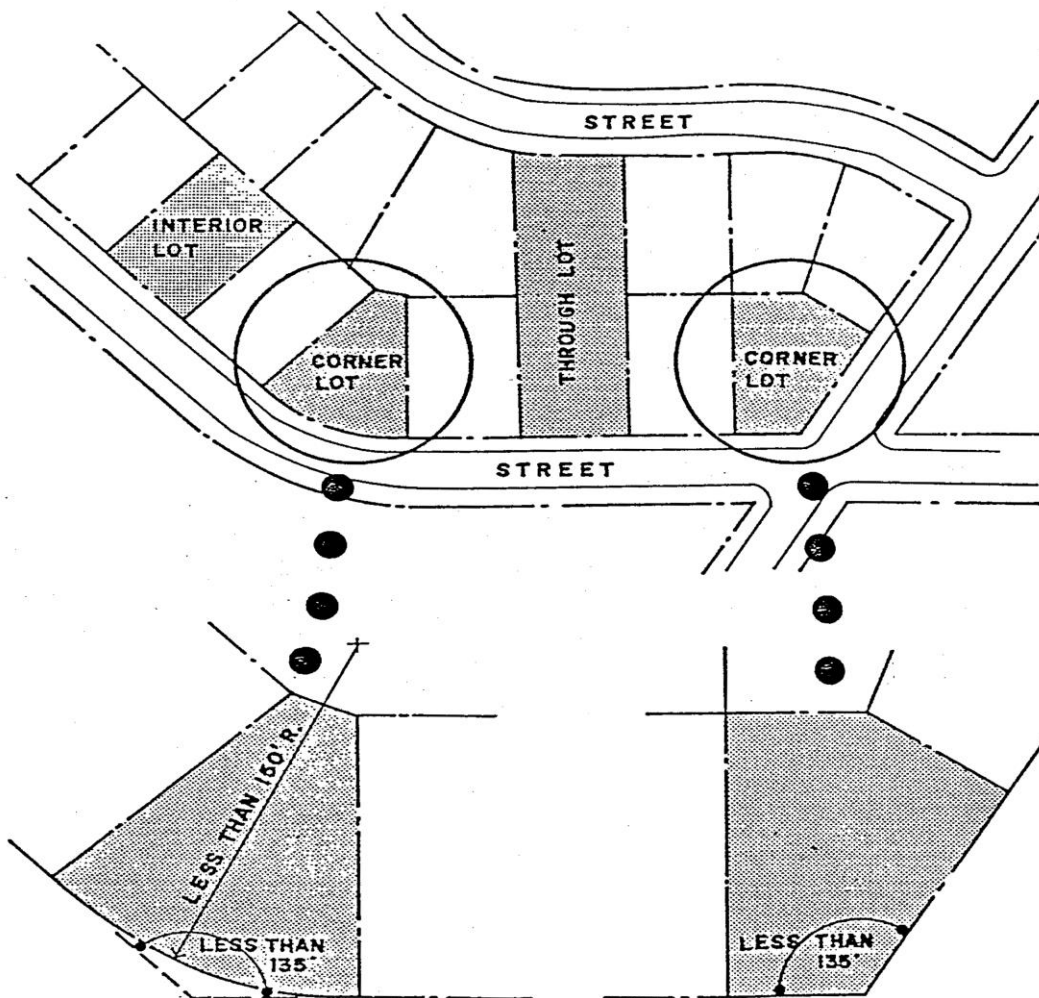
Lot lines means the lines bounding a lot as defined herein:

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

- (2) *Rear lot line* means that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.
- (3) *Side lot line* means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

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

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



Interior, Through, and Corner Lots

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

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

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

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

Master plan means the comprehensive community plan, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, and includes any unit or part of such plan, and any amendment of such plan or parts thereof. Such plan may or may not be adopted by the planning commission and/or the legislative body.

Mezzanine means an intermediate floor in any story occupying not to exceed one-third of the floor area of such story.

Mobile home means a structure, transportable in one or more sections, which is on a chassis and designed to be used as a dwelling with or without a permanent foundation, and includes the plumbing, heating, air conditioning and electrical system contained within the structure. The term "mobile home" does not include any recreational type vehicles. Mobile homes for occupancy purposes cannot be less than 12-feet wide and must contain 600 square feet or more.

Mobile home park or trailer court means any plot of ground upon which two or more trailer coaches, occupied for dwelling or sleeping purposes are located.

Motel means a series (three or more) of attached, semidetached or detached rooming units. Units shall provide for overnight transient lodging and shall cater primarily to the public traveling by motor vehicle.

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

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

Nuisance factors means an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to:

- (1) Noise;
- (2) Dust;
- (3) Smoke;
- (4) Odor;
- (5) Glare;

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- (6) Fumes;
 - (7) Flashes;
 - (8) Vibration;
 - (9) Shock waves;
 - (10) Heat;
 - (11) Electronic or atomic radiation;
 - (12) Objectionable effluent;
 - (13) Noise of congregation of people, particularly at night.

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

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

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

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

Pet crematorium means a dedicated area within a building approved for animal cremation service or an accessory building of an approved animal cremation service wherein animal remains are cremated in a cremation retort.

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

Privacy screens means an accessory structure surrounding, in whole or part, a rear or side yard deck, patio or porch, with said deck, patio or porch being affixed or adjacent to the dwelling or other principal use. The walls of a privacy screen must either be attached directly to the deck, patio or porch or located within one foot from said deck, patio or porch. For purposes of this Code, the term "privacy screen" shall be considered as attached to the dwelling unit or other principal use.

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

Recreational vehicle means and includes any of the following:

- (1) *Camping trailer or folding tent trailer* means a vehicular portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or only travel use.
- (2) *Motor home or motorized home* means a vehicular portable structure built on a self-propelled motor vehicle chassis, primarily designed to provide only temporary living quarters for recreation, camping or travel use.

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- (3) *Small mobile home* means primarily designed and used as temporary living quarters for recreational, camping or travel purposes.
 - (4) *Travel, dependent*, means a travel trailer which is dependent upon a service building for toilet and lavatory facilities, as well as electrical power.
 - (5) *Travel trailer* means a vehicular portable structure, mounted on wheels of such size or weight not to require special highway movement permits when drawn by a stock passenger automobile, primarily designed and constructed to provide only temporary living quarters or recreational, camping or travel use.
 - (6) *Truck camper* means a portable structure, designed to be loaded onto, or affixed to the bed or chassis of a truck, constructed to provide only temporary living quarters for recreation, camping or travel use.

Room means, for the purpose of determining lot area requirements and density in a multiple-family district, a living room, dining room or bedroom, equal to at least 80 square feet in area. The term "room" shall not include the area in kitchens, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing 1-, 2-, or 3-bedroom units and including a den, library or other extra room shall count such extra room as a bedroom for the purposes of computing density.

Rooming unit means any room or group of rooms with provisions for sleeping.

Roominghouse means any dwelling unit, or part of any dwelling containing one or more rooming units, in which space is let by the owner to three or more persons not in immediate family. When rooms are let to less than three persons, the dwelling must comply with the requirements of a single-family dwelling unit unless otherwise required in this Code. The term "roominghouse" shall not include a bed and breakfast, hotel, motel or other transient uses less than 30 days.

Satellite apartment means a dwelling unit located on the same property as the owner's residence. The term "satellite apartment" is also known as an echo apartment.

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

Sidewalk café means a street level portion of a restaurant, of any type, located within the sidewalk area of the public right-of-way, which is normally adjacent to a street and functions as an extension of the principal use of the private property of the restaurant. A sidewalk café is open to the sky, except that it may have table awnings or umbrellas, and shall be used for dining, drinking (including alcoholic beverages in certain circumstances) and circulation therein. A sidewalk café may provide either wait staff service or self-service.

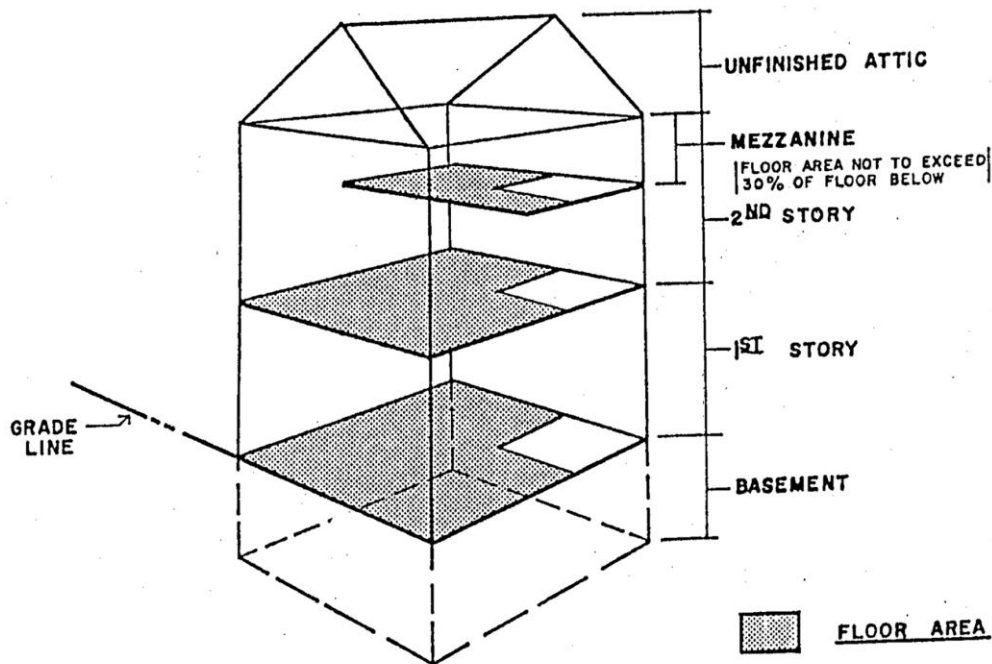
Secondly, in the interest of promoting a vibrant and active downtown business district, sidewalk cafés are allowed when the proper annual, revocable permit has been issued by the city manager, or his or her designee, as a principal use in the B-2 central business district as set forth in section 46-395, principal Uses permitted.

Sign means the use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known, such as are used to show an individual, firm, profession, or business, and are visible to the general public.

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

Sign, nonaccessory, means a sign which is not accessory to the principal use of the premises.

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



Basic Structural Terms

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

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

Structure means anything constructed or erected, the use of which required a permanent location on the ground or attachment to something having a permanent location on the ground. Exceptions to the term "structure" as used in this chapter are as follows:

- (1) Structures not greater than nine inches above the average finished grade, nor more than six feet below grade, such as, but not limited to driveways, patios and decks.
- (2) Structures with a cross sectional area at grade less than 16 square feet, and with a projected silhouette in any plane less than 50 square feet, such as, but not limited to well house covers, flagpoles, and monuments.

Temporary use or building means a use or building permitted by the board of appeals to exist during periods of construction of the main building or use, or for special events for a period of time as specified by the board of appeals.

Tourist cabin means a maximum of two detached buildings which are maintained, offered or used as dwellings or sleeping quarters for transients. More than two tourist cabins on the same property will be considered a motel.

Tourist home. See Bed and breakfast.

Towers means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term "towers" includes radio and television transmission towers, alternative tower structures and the like. The term "towers" includes the structure and any support thereto. This chapter shall not govern any tower or the installation of any antenna that is under 40 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

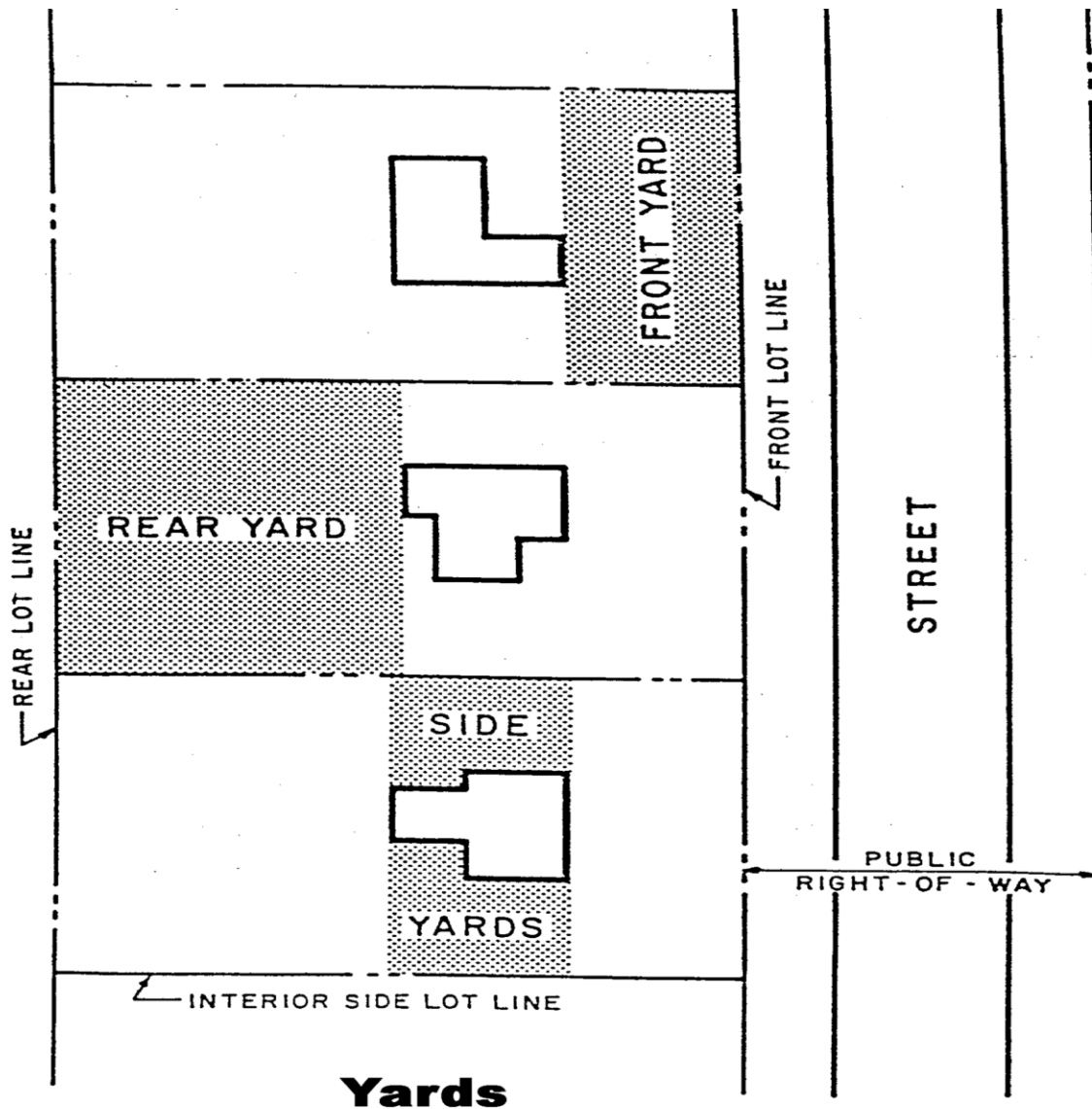
Transient resident means one who temporarily resides for generally less than 30 days or seasonally for less than three months during any 12-month period.

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

Wall. See Fence/wall.

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

- (1) *Front yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
- (2) *Rear yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- (3) *Side yard* means an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.



Zoning exception and zoning variance mean the following:

- (1) Zoning exception is a use permitted only after review and recommendation of an application by the planning commission and approved by the legislative body. Such review being necessary because the provisions of this chapter covering conditions precedent or subsequent are not precise enough to all applications without interpretation, and such review and exception is provided for by this chapter.
- (2) Zoning variance is a modification of the literal provisions of the physical development standards of this chapter granted when strict enforcement of the zoning chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are undue hardships and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.
- (3) The land uses considered under the exception provisions of this chapter could not be conveniently allocated to one zone or another, or the effects of such uses could not be definitely foreseen as of a given time. In general, the characteristics of these uses include one or more of the following:

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- a. They are not specified within a given zone district.
 - b. They require large areas.
 - c. They are infrequent.
 - d. They sometimes create an unusual amount of traffic.
 - e. They are sometimes obnoxious or hazardous.
 - f. They are required for public safety and convenience.

(Prior Code, §§ 5.6—5.12; Ord. No. 80-004, 12-1-1980; Ord. No. 80-006, 12-1-1980; Ord. No. 88-06, 6-6-1988; Ord. No. 89-01, 1-9-1989; Ord. No. 89-20, 11-6-1989; Ord. No. 90-28, 12-3-1990; Ord. No. 95-16, 7-17-1995; Ord. No. 98-01, 3-2-1998; Ord. No. 98-23, 11-16-1998; Ord. No. 2005-13, 8-15-2005; Ord. No. 2009-01, § 1, 3-2-2009; Ord. No. 2016-13, § 1, 12-19-2016; Ord. No. 2017-05, § 1, 4-17-2017; Ord. No. 2018-14, § 1, 12-17-2018)

Secs. 46-5—46-26. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 46-27. Enforcement.

The provisions of this chapter shall be administered and enforced by the zoning administrator or his or her designee.

(Prior Code, § 5.241; Ord. No. 2010-10, § 15, 8-2-2010)

Sec. 46-28. Duties of zoning administrator.

- (a) The zoning administrator or his or her designee shall have the power to grant zoning compliance permits, to make inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this chapter. It shall be unlawful for the zoning administrator or his or her designee to approve any plans or issue any permits until he has inspected such plans in detail and found them to conform with this chapter.
- (b) Under no circumstances is the zoning administrator or his or her designee permitted to make changes to this chapter nor to vary the terms of this chapter in carrying out his or her duties as zoning administrator.
- (c) The zoning administrator or his or her designee shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

(Prior Code, § 5.242; Ord. No. 96-19, 1-20-1997; Ord. No. 2010-10, § 15, 8-2-2010)

Sec. 46-29. Site plan.

- (a) The zoning administrator or his or her designee shall require that all applications for zoning compliance permits, and when otherwise required by the provisions of this chapter, shall be accompanied by such

surveys, plans, specifications and information as needed to determine the compliance with this chapter, and shall include a site plan showing the following:

- (1) The names and addresses of the architect, planner, designer, engineer, or person responsible for the preparation of the site plan.
 - (2) The location and right-of-way widths of all abutting and intersecting streets and alleys or other public easements and all existing and proposed drives and parking areas on the subject property. Show existing driveways on abutting properties and properties across the street.
 - (3) The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.
 - (4) The shape, size and location shall be shown and properly dimensioned for all buildings or other structures to be erected, altered, or moved and for all buildings or other structures already on the lot.
 - (5) The existing and proposed use of the property and of all such structures upon it. In residential areas, the number of dwelling units a building is intended to accommodate is to be shown.
 - (6) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.
 - (7) All site plans shall include a date, north point and a scale of not less than one inch equals 50 feet if the subject property is less than three acres and one inch equals 100 feet, if three acres or more.
 - (8) Stormwater drainage.
 - (9) Utility locations and sizes.
 - (10) Uses of abutting properties.
- (b) Before a site plan is approved or any zoning compliance permit issued, the zoning administrator shall determine that the proposed development is in accordance with the requirements of this chapter.
- (c) In the process of reviewing the site plan, the zoning administrator shall consider:
- (1) The safety and adequate circulation of pedestrian and vehicular traffic on the site.
 - (2) The safety and unimpeded traffic flow of any street upon which the property abuts.
 - (3) Satisfactory and harmonious relationships between the use or development on the site and the prospective development of contiguous land and adjacent neighborhoods.

(Prior Code, § 5.243; Ord. No. 96-19, 1-20-1997; Ord. No. 2010-10, § 15, 8-2-2010)

State law reference(s)—Submission and approval of site plan, MCL 125.3501.

Sec. 46-30. Permits.

- (a) *Not to be issued.* No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all of the provisions of this chapter.
- (b) *For new use of land.* No land heretofore vacant shall hereafter be used or and existing use of land be hereafter changed to a use of a different class of type unless a certificate of occupancy is first obtained for the new or different use.
- (c) *For new use of buildings.* No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

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- (d) *Required.* No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the state construction code, housing law, Public Act No. 167 of 1917 (MCL 125.401 et seq.), or this chapter, except for minor repairs or changes not involving any of the aforesaid features.

(Prior Code, § 5.244)

Sec. 46-31. Certificates.

- (a) *Required for occupancy.* No land, building, or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use.
- (b) *Issuance requirements.* The following shall apply in the issuance of any certificate:
- (1) *Not to be issued.* No certificates of occupancy shall be issued for any building, structure, or part thereof, or for the use of any land, which is not in accordance with all the provisions of this chapter.
 - (2) *Required.* No building or structure, or part thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
 - (3) *Including zoning.* Certificates of occupancy as required by the city building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this chapter.
 - (4) *For existing buildings.* Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land, are in conformity with the provisions of this chapter.
 - (5) *Record kept on file.* A record of all certificates issued shall be kept on file in the office of the Wexford County building inspector, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
 - (6) *Buildings accessory to principal dwelling.* Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
 - (7) *Application.* Application for certificates of occupancy shall be made in writing to the Wexford County building inspector on forms furnished by that department, and such certificates shall be issued within five days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this chapter.
- (c) *Refusal notification.* If such certificate is refused for cause, the applicant therefor shall be notified of such refusal and cause thereof, within the aforesaid five-day period.

(Prior Code, § 5.245; Ord. No. 2010-10, § 15, 8-2-2010)

Sec. 46-32. Final inspection.

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building, structure or part thereof, shall notify the Wexford County building inspector immediately upon the completion of the work authorized by such permit for final inspection.

(Prior Code, § 5.246; Ord. No. 2010-10, § 15, 8-2-2010)

Sec. 46-33. Fees.

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

(Prior Code, § 5.247; Ord. No. 2010-10, § 15, 8-2-2010)

Sec. 46-34. Zoning commission.

The planning commission is hereby designated as the commissions specified in section 301 of Public Act No. 110 of 2006 (MCL 125.3301), and shall perform the zoning duties of said commission as provided in the statute in connection with the amendment of this chapter.

(Prior Code, § 5.261)

Sec. 46-35. Changes and amendments.

The city council may from time to time, on recommendation from the planning commission or on petition, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Public Act No. 110 of 2006 (MCL 125.3101 et seq.).

(Prior Code, § 5.262)

Sec. 46-36. Interpretation.

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

(Prior Code, § 5.263)

Sec. 46-37. Vested rights.

Nothing in this chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein, and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

(Prior Code, § 5.264)

Sec. 46-38. Fees.

Any regular business to come before the planning commission that does not require a public hearing shall be accompanied by a fee. An application for a special land use request shall be accompanied by a fee. An application for a rezoning request shall be accompanied by a fee. Such fees shall be used by the city towards expenses involved in hearing this request, including public hearings before the planning commission and the city council. Such fees shall be as currently established or as hereafter adopted by ordinance from time to time.

(Prior Code, § 5.265; Ord. No. 86-03, 6-2-1986; Ord. No. 95-11, 6-5-1995)

Secs. 46-39—46-64. Reserved.

DIVISION 2. BOARD OF APPEALS²

Sec. 46-65. Creation and membership.

- (a) There is hereby established a board of appeals, which shall perform its duties and exercise its powers as provided in article VI of Public Act No. 110 of 2006 (MCL 125.3601 et seq.), and in such a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done. The board shall consist of seven members appointed by the city council. Each member shall be appointed for a period of three years, each term to commence on January 1 of the year of appointment. Any vacancies on the board shall be filled by appointment by the city council for the remainder of the unexpired term. The board of appeals shall annually elect its own chairman, vice-chairman, and secretary. The compensation of the appointed members of the board of appeals may be fixed by the city council.
- (b) Two alternate members may be appointed to the board of appeals, for terms to run for the same term as regular members. The alternate members may be called, on a rotating basis, to sit as regular members on the board in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the board of appeals.

(Prior Code, § 5.21; Ord. No. 85-09, 7-8-1985; Ord. No. 88-04, 4-18-1988)

Sec. 46-66. Meetings.

All meetings of the board of appeals shall be held at the call of the chairman and at such time as such board may determine. All hearings conducted by the board shall be open to the public. The city clerk, or his representative, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Four members of the board shall constitute a quorum for the conduct of its business. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matter before it.

²State law reference(s)—Zoning board of appeals, MCL 125.3601 et seq.

(Prior Code, § 5.252)

Sec. 46-67. Reserved.

Editor's note(s)—Ord. No. 2010-10, § 15, adopted Aug. 2, 2010, repealed § 46-67 which pertained to appeal and derived from § 5.253 of the prior Code.

Sec. 46-68. Fees.

There will be a fee for any application for appeal to the board of appeals where a public hearing is not required. There will be a fee for an application for a variance to the board of appeals where a public hearing is required. At the time the notice for appeal is filed, said fee shall be paid to the secretary of the board of appeals, which the secretary shall forthwith pay over to the city treasurer to the credit of the general revenue fund of the city. Such fees shall be as currently established or as hereafter adopted by ordinance from time to time.

(Prior Code, § 5.254; Ord. No. 95-11, 6-5-1995)

Sec. 46-69. Jurisdiction.

- (a) *Restrictions on power.* The board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to permit any use of land or premises, excepting temporary uses, nor to make any change in the terms of this chapter, but does have the power to act on those matters where this chapter provides for an administrative review, interpretation, and to authorize a variance as defined in this section and laws of the state.
- (b) *Authority.* The board of appeals powers shall include:
 - (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the building inspector or any other administrative official in carrying out or enforcing any provisions of this chapter.
 - (2) *Variance.* To authorize, upon an appeal, a variance from the strict application of the provisions of this chapter where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this chapter or by reason of exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed development as it may deem reasonable in furtherance of the purpose of this chapter. In granting a variance, the board shall state the grounds upon which it justifies the granting of a variance.
 - (3) *Interpretation and special approvals.* To hear and decide in accordance with the provisions of this chapter, for interpretations of the zoning map, and for decisions on special approval situations on which this chapter specifically authorizes the board to pass. Any special approval shall be subject to such conditions as the board may require to preserve and promote the character of the zone district in question and otherwise promote the purpose of this chapter, including the following:
 - a. 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 zoning map fixing the use districts, accompanying and made part of this chapter, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.

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- b. Permit the modifications of the loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
 - c. Permit temporary buildings for periods not to exceed one year in undeveloped sections of the city and for periods not to exceed six months in developed sections.
 - d. Permit, upon proper application, the following character of temporary use, not otherwise permitted in any district, not to exceed 12 months with the granting of 12 month extensions being permissible: uses which do not require the erection of any capital improvement of a structural nature.
 - e. The board of appeals, in granting permits for the above temporary uses, shall do so under the following conditions:
 - 1. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor the property whereon the temporary use is permitted.
 - 2. The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use and reconditioning of the property at the termination of said temporary permit.
 - 3. All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the city, shall be made at the discretion of the board of appeals.
 - 4. In classifying uses as not requiring capital improvement, the board of appeals shall determine that they are either demountable structures related to the permitted use of the land, recreation developments, such as, but not limited to: golf driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections; or, improvement to the land which can be easily removed upon termination of said temporary permit.
 - 5. The temporary use shall be in harmony with the general character of the district.
 - 6. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this chapter. Further, the board of appeals shall seek the review and recommendation of the planning commission prior to the taking of any action.
- (4) *Considerations for variations.* In consideration of all appeals and all proposed variations to this chapter, the board shall, before making any variations from the chapter in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or decrease the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city. The concurring vote of four members of the board shall be necessary to reverse any order, requirements, decision, or determination of the building inspector, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. Nothing herein contained shall be construed to give or grant to the board the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the mayor and the city council, in the manner provided by law.

(Prior Code, § 5.255)

Sec. 46-70. Orders.

In exercising the powers enumerated in section 46-69, the board may reverse or affirm, wholly or partly, or may modify the orders, requirements, decisions or determinations appealed from and may make such order, requirements, decisions or determinations as ought to be made, and to that shall have all the powers of the building inspector from whom the appeal is taken.

(Prior Code, § 5.256)

Sec. 46-71. Notice.

The board shall make no recommendation except in a specific case and after a public hearing conducted by the board. It shall, by general rule or in specific cases, determine the interested parties who, in the opinion of the board, may be affected by any matter brought before it. All notices shall comply with the requirements of MCL 125.3103 and 125.3604. The board may require any party applying to the board for relief to give such notice to other interested party as it shall prescribe.

(Prior Code, § 5.257)

Sec. 46-72. Miscellaneous.

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

(Prior Code, § 5.258)

Sec. 46-73. Rehearing.

No rehearing of any decision of the board of appeals will be considered unless new evidence is submitted which could not reasonably have been presented at the meeting or unless there has been a material change in the facts of the case.

(Prior Code, § 5.259; Ord. No. 85-08, 7-8-1988)

Secs. 46-74—46-104. Reserved.

DIVISION 3. ENFORCEMENT, PENALTIES AND REMEDIES

Sec. 46-105. Violations.

- (a) Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than \$500.00 and the costs of prosecution or, in default of the payment thereof, shall be

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punished by imprisonment in the county jail for a period not to exceed 90 days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the costs of such prosecution.

- (b) Any violation of this chapter shall be punishable as a misdemeanor unless specifically set forth in this Code as a municipal civil infraction.

(Prior Code, § 5.271; Ord. No. 95-21, 8-7-1995)

Sec. 46-106. Public nuisance per se.

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

(Prior Code, § 5.272)

Sec. 46-107. Fines; imprisonment.

The owner of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

(Prior Code, § 5.273)

Sec. 46-108. Each day a separate offense.

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

(Prior Code, § 5.274)

Sec. 46-109. Rights and remedies are cumulative.

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

(Prior Code, § 5.275)

Sec. 46-110. Severance clause.

Sections of this chapter shall be deemed to be severable and should any section, subsection, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this chapter as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

(Prior Code, § 5.276)

Secs. 46-111—46-133. Reserved.

ARTICLE III. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 46-134. Established.

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

(1) *Residential districts.*

- a. R-1 One-family residential district.
- b. R-2 One-family residential district.
- c. R-3 One-family residential district.
- d. R-4 One-family residential district.
- e. RT Two-family residential district. (See section 46-218, pertaining to two-family uses.)
- f. RM-1 Multiple-family residential district.
- g. RM-2 Multiple-family residential district.
- h. RMH One-family residential mobile home district.
- i. MH Mobile home park residential district.
- j. R-PUD Residential planned unit development.

(2) *Nonresidential districts.*

- a. OS-1 Office service district.
- b. OS-2 Office service district.
- c. B-1 Auxiliary business district.
- d. B-2 Central business district.
- e. B-3 General business district.
- f. TS-1 Tourist service district.
- g. TS-2 Tourist service district.
- h. I-1 Light industrial district.
- i. I-2 General industrial district.
- j. P-1 Vehicular parking district.
- k. POS Parks and open space district.
- l. C-PUD Commercial planned unit development.

(Prior Code, § 5.21; Ord. No. 87-17, 10-9-1987; Ord. No. 90-28, 12-3-1990; Ord. No. 96-19, 1-20-1997)

Sec. 46-135. Boundaries—Established.

The boundaries of these districts are hereby established as shown on the zoning map, city zoning ordinance, which accompanies Ord. No. 752, as amended by the zoning map attached to the ordinance from which this chapter is derived, and which map with all notations, references, and other information shown thereon shall be as much a part of this chapter and Ord. No. 87-17, as if fully described herein.

(Prior Code, § 5.22; Ord. No. 87-17, 10-9-1987)

Sec. 46-136. Same—Interpreted.

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

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

(Prior Code, § 5.23)

Sec. 46-137. Zoning—Annexed areas.

Whenever any area is annexed to the city, one of the following conditions will apply:

- (1) Land that is zoned previous to annexation shall be classified as being in whichever district of this chapter most closely conforms with the zoning that existed prior to annexation, such classification to be recommended by the planning commission to the city council and the city council may approve the same by resolution.
- (2) Land not zoned prior to annexation shall be automatically classified as an R-1 district until a zoning map for said area has been adopted by the city council. The planning commission shall recommend the

appropriate zoning districts for such area within three months after the matter is referred to it by the city council.

(Prior Code, § 5.24)

Sec. 46-138. Same—Vacated areas.

Whenever any street, alley or other public way, within the city shall be vacated, such street, alley, or other public way or portion thereof, shall automatically be classified in the same zone district as the property to which it attaches.

(Prior Code, § 5.25)

Sec. 46-139. District requirements.

All buildings and uses in any district shall be subject to the provisions of article IV of this chapter, pertaining to supplemental regulations and article V of this chapter, pertaining to general exceptions.

(Prior Code, § 5.26)

Secs. 46-140—46-161. Reserved.

DIVISION 2. R-1 THROUGH R-4 ONE-FAMILY RESIDENTIAL DISTRICTS

Sec. 46-162. Intent.

- (a) The R-1 through R-4 one-family residential districts are designed to be the most protective of the residential districts. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities, which serve the residents in the district.
- (b) It is also intended that the size, shape and design of structures located within these areas conform with the neighborhood in which they are located so as not to diminish or impair the value of surrounding properties.

(Prior Code, § 5.31)

Sec. 46-163. Principal uses permitted.

In a one-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) One-family detached dwellings.
- (2) State licensed residential facilities as required by MCL 125.3206.
- (3) Farms on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than five acres, all subject to the health and sanitation provisions of the city and provided further that no farms shall be operated as piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one year immediately prior thereto, and for the use and consumption by persons residing on the premises.

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- (4) Publicly owned and operated libraries, parks, parkways and recreational facilities.
 - (5) Cemeteries which lawfully occupied land at the time of the adoption of this Code.
 - (6) Public, parochial and other private elementary schools offering courses in general education and not operated for profit.
 - (7) Accessory buildings and uses, customarily incident to any of the uses permitted in subsections (1) through (6) of this section.
 - (8) Home occupations in any residential district under the following conditions:
 - a. It is understood that many occupations use their home as a base of operations, and many businesses begin as small home occupations which are expanded in the future. It is the intention of the city to allow such uses as long as the uses do not adversely affect the peace and quiet of the residential neighborhood, and to encourage their relocation into a commercially zoned area if the business expands beyond the residential constraints.
 - b. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence.
 - c. Instructions in craft, fine art, music, dancing and similar subjects shall be limited to six students at a time.
 - d. Day care facilities shall be limited to not more than six children; provided that all requirements set by the state department of human services are complied with.
 - e. Only residents of the dwelling may be engaged in the home occupation.
 - f. No display of products shall be visible from the street, and there shall be no signs other than those permitted by section 46-664.
 - g. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling. No internal or external alterations inconsistent with the residential use of the building shall be permitted.
 - h. Use of the dwelling or accessory building for this purpose shall be limited to an area not greater than ten percent of the occupiable floor space of the principal building.
 - i. Outside storage shall not be used in connection with the home occupation.
 - j. No such home occupation shall be noxious or offensive by reason of emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, interference in radio or television reception, or other objectionable emissions. No unreasonable use of lights shall be permitted.
 - k. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation. No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood (i.e., no more than one additional vehicle at a time) and any need for parking generated by the conduct of a home occupation shall be met off the street.
 - l. The following uses and similar such uses shall be prohibited as home occupations, because the nature of the investment or operations have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of residentially zoned areas: auto repair or painting, barbershop, beauty salon, major carpentry work, patient clinic facility of a doctor or dentist, private schools with organized classes with more than six students, appliance repair and upholstery.

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- m. The wholesaling of products shall not be permitted at any home occupation site.
 - n. Garage and yard type sales with a duration not more than three days a month are exempt from this section.
 - o. The city council may void any home occupation for noncompliance with the conditions set forth herein.
 - p. Business uses that are beyond the scope of a customary home occupation/business may be eligible for a special use permit according to article VI of this chapter, pertaining to special land use.

Examples of accessory home occupations/businesses: artists, authors, clothes makers, home crafts, office facilities of clergy, salesmen, professionals, the boarding of not more than two boarders.

(Prior Code, § 5.32; Ord. No. 89-20, 11-6-1989)

Sec. 46-164. Principal uses permitted subject to special conditions.

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

- (1) Churches and other facilities normally incidental thereto, subject to the following conditions:
 - a. Buildings of greater than the maximum height allowed in division 18 of this article, the schedule of regulations, may be allowed provided front, side and rear yards increased above the minimum required yards by two feet for each foot of building height that exceeds the maximum height allowed.
 - b. All access to the site shall be in accordance with section 46-671.
- (2) Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit. Access to the site shall be in accordance with section 46-671.
- (3) Utility and public service buildings and uses, without storage yards, when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity.
- (4) Nursery schools, day nurseries and child care centers, not including dormitories; provided that for each child so cared for, there shall be provided and maintained a minimum of 150 square feet of outdoor play area. Such play space shall have a total minimum area of not less than 5,000 square feet and shall be fenced and screened from any adjoining lot in any residential district.
- (5) Private noncommercial recreational areas, institutional or community recreation centers, nonprofit swimming pool clubs, all subject to the following conditions:
 - a. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare as designated on the major thoroughfare plan, and the site shall be so planned as to provide all access in accordance with section 46-671.
 - b. Front, side and rear yards shall be at least 80 feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.
 - c. Off-street parking shall be provided so as to accommodate not less than one-half of the member families and/or individual members. The planning commission may modify the off-street parking requirements in those instances wherein it is specifically determined that the users will originate

from the immediately adjacent areas, and will therefor be pedestrian. Prior to the issuance of a building permit or zoning compliance permit, bylaws of the organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases wherein the proposed use or organization does not have bylaws or formal membership, the off-street parking requirement shall be determined by the planning commission on the basis of usage.

- d. Whenever a swimming pool is constructed under this chapter, said pool area shall be provided with a protective fence, four feet six inches in height, and entry shall be provided by means of a controlled gate.
- (6) Golf courses, which may or may not be operated for profit, subject to the following conditions:
- a. The site shall be so planned as to provide all access in accordance with section 46-671.
 - b. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways, and parking areas which will encourage pedestrian and vehicular traffic safety.
 - c. Development features including the principal and accessory buildings and structures shall be so located and related as to minimize the possibilities of any adverse effects upon adjacent property. This shall mean that all principal or accessory buildings shall not be less than 200 feet from any property line abutting residentially zoned lands; provided that, where topographic conditions are such that buildings would be screened from view, the planning commission may modify this requirement.
 - d. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six feet in height, and entry shall be by means of a controlled gate.
- (7) Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical, or religious education and not operated for profit, all subject to the following conditions:
- a. Any use permitted herein shall be developed only on sites of at least 40 acres in area, and shall not be permitted on any portion of a recorded subdivision plat.
 - b. All access to said site shall be in accordance with section 46-671.
 - c. No building shall be closer than 80 feet to any property line.
- (8) Private swimming pools shall be permitted as an accessory use within the rear yard only, provided they meet the following requirements:
- a. There shall be a minimum distance of not less than ten feet, between the adjoining property line, or alley right-of-way and the outside of the pool wall. Side yard setbacks shall apply to side yards if greater than ten feet.
 - b. There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot.
 - c. No swimming pool shall be located less than 35 feet from any front lot line.
 - d. No swimming pool shall be located in an easement.
 - e. For the protection of the general public, all yards containing swimming pools shall be completely enclosed by a fence not less than four feet in height. The gates shall be of a self-closing latching-type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods;

provided, however, that if the entire premises of the residence is enclosed, then this provision may be waived by the Wexford County building inspector.

- (9) Roominghouses and boardinghouses.
- (10) Family shelter, subject to the requirements of article VI—Special Land Uses.
- (11) Accessory buildings and uses customarily incident to any of the above permitted uses.

(Prior Code, § 5.33; Ord. No. 2010-10, § 16, 8-2-2010; Ord. No. 2017-05, § 2, 4-17-2017)

Sec. 46-165. Area and bulk requirements.

See division 18 of this article, schedule of regulations, limiting the height and bulk of buildings, the minimum size of a lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Prior Code, § 5.34)

Secs. 46-166—46-183. Reserved.

DIVISION 3. RM-1 MULTIPLE-FAMILY DISTRICTS

Sec. 46-184. Intent.

The RM-1 multiple-family residential district is designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures between adjacent residential and commercial, office, thoroughfares or other uses which would affect residential character. This district also recognizes the existence of older residential areas of the city where larger houses have been or can be converted from single-family to two-family or multiple-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization.

(Prior Code, § 5.41; Ord. No. 96-19, 1-20-1997)

Sec. 46-185. Principal uses permitted.

In an RM-1 multiple family residential district, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) All uses permitted and as regulated in one-family residential districts. The standards of the schedule of regulations applicable to the R-3 one-family residential district, shall apply as minimum standards when one-family detached dwellings are erected.
- (2) Two-family dwellings.
- (3) Multiple-family dwellings. (See section 46-215, pertaining to site plans and conditions for approval.)
- (4) Accessory buildings and uses customarily incident to any of the uses permitted in subsections (1) through (3) of this section.

(Prior Code, § 5.42; Ord. No. 96-19, 1-20-1997)

Sec. 46-186. Special land uses permitted.

The following uses of land and structures will be allowed as stipulated in article VI of this chapter, special land uses:

- (1) Recreational activities.
- (2) Offices and/or business in an existing building.
- (3) Office and/or business in a dwelling (mixed use).
- (4) Family shelter.
- (5) Group shelter.
- (6) Combination group/family shelter.

(Prior Code, § 5.43; Ord. No. 96-19, 1-20-1997; Ord. No. 2017-05, § 3, 4-17-2017; Ord. No. 2018-14, § 2, 12-17-2018)

Sec. 46-187. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of a lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Prior Code, § 5.44; Ord. No. 96-19, 1-20-1997)

Secs. 46-188—46-212. Reserved.

DIVISION 4. RM-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 46-213. Intent.

The RM-2 multiple family residential districts are designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and lower density single-family districts. The multiple-family district is further provided to serve the limited needs for the apartment type of unit in an otherwise medium density, single-family community.

(Prior Code, § 5.51; Ord. No. 96-19, 1-20-1997)

Sec. 46-214. Principal uses permitted.

In a multiple-family residential district, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) All residential uses permitted and as regulated in the one-family residential districts. The standards of the schedule of regulations applicable to the R-1 one-family residential district, shall apply as minimum standards when one-family detached dwellings are erected.
- (2) Two-family dwellings. The standards of the schedule of regulations applicable to the R-3 one-family residential district shall apply as minimum standards for the setbacks, lot coverage and building heights

of the duplexes constructed in the Twin Haven plat approved by the planning commission on January 22, 1996.

- (3) Multiple-family dwellings.
- (4) Accessory buildings and uses customarily incident to any of the permitted uses in subsections (1) through (3) of this section.

(Prior Code, § 5.52; Ord. No. 96-19, 1-20-1997)

Sec. 46-215. Site plans required; conditions for approval.

- (a) In the case of multiple-dwelling developments, all site plans (see section 46-29) shall be submitted to the planning commission for its review and approval prior to issuance of a building permit.
- (b) Approval shall be contingent upon a finding that:
 - (1) The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety; and
 - (2) All the development features including the principal building or buildings and any accessory buildings, or uses, open spaces, and any service roads, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to: channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulation routes located as to interfere with police or fire equipment access.

(Prior Code, § 5.53)

Sec. 46-216. Special land uses permitted.

The following uses of land and structures will be allowed, as stipulated in article VI of this chapter, special land uses:

- (1) Recreational facilities.
- (2) Mobile home parks.
- (3) Office and/or business in an existing building.
- (4) Office and/or business in a dwelling (mixed use).
- (5) Family shelter.
- (6) Group shelter.
- (7) Combination group/family shelter.
- (8) Accessory buildings and uses customarily incident to any of the special land uses in subsections (1) through (7) of this section.

(Prior Code, § 5.54; Ord. No. 96-19, 1-20-1997; Ord. No. 2017-05, § 4, 4-17-2017; Ord. No. 2018-14, § 3, 12-17-2018)

Editor's note(s)—Ord. No. 2018-14, § 3, adopted December 17, 2018, amended § 46-216 and in so doing changed the title of said section from "Principal uses permitted subject to special conditions" to "Special land uses permitted," as set out herein.

Sec. 46-217. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and providing minimum yard setback requirements. (Prior Code, § 5.55; Ord. No. 96-19, 1-20-1997)

Sec. 46-218. Two-family uses (formerly RT district).

The RT two-family residential district requirements have been incorporated into the RM-1 and RM-2 multiple-family district requirements. For those RT districts currently shown on the zoning map, the standards of the schedule of regulations (section 46-629) applicable to the R-3 one-family residential district shall apply as minimum standards for the setbacks of newly constructed duplexes, otherwise, all other standards of the schedule of regulations applicable to RM-2 multiple-family residential district shall apply as minimum standards.

(Prior Code, § 5.56; Ord. No. 96-19, 1-20-1997)

Secs. 46-219—46-244. Reserved.

DIVISION 5. RMH ONE-FAMILY RESIDENTIAL MOBILE HOME DISTRICTS

Sec. 46-245. Intent.

The RMH one-family residential mobile home districts are designed to accommodate the housing of families on individual lots located outside the confines of a mobile home park. These districts recognize the existence of land divisions which are not in general keeping with modern practices of land subdivision and homebuilding.

(Prior Code, § 5.81)

Sec. 46-246. Principal uses permitted.

In a one-family residential mobile home district, no building or land shall be used and no structure shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) All uses permitted and as regulated in the one-family residential districts. The standards of the schedule of regulations applicable to the R-3 one-family residential district shall apply as minimum standards when one-family detached dwellings are erected.
- (2) Accessory buildings and uses customarily incident to any of the permitted uses in subsection (1) of this section.

(Prior Code, § 5.82)

Sec. 46-247. Required conditions for approval of plot plan.

In the case of mobile home development, the approval of plot plans submitted to the building inspector for review shall be contingent upon a finding that:

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- (1) All development features, including the location of the principal building, any accessory buildings, or uses, open spaces, driveways, parking areas, etc., are so located and related to minimize the possibility of any adverse effects upon adjacent property.
 - (2) A concrete pad shall be provided which is at least as large as the mobile home in total width and length, and shall have sufficient tiedowns as specified by the building inspector.
 - (3) All water and sewer connections shall be suitably protected from freezing.
 - (4) All fuel oil and gasoline tanks located on the lot shall be screened from view. All tanks shall be equipped with vent pipes and fused valves.
 - (5) There shall be no storage of any kind under mobile homes.
 - (6) All mobile homes shall be properly skirted.
 - (7) There shall not be less than 600 square feet of floor space within each mobile home for the first two occupants, and an additional 50 square feet of floor space for each occupant over two. Mobile homes less than 12 feet wide are not permitted within the city. These provisions shall not apply to any mobile home lawfully located in a mobile home park on the effective date of the ordinance from which this chapter is derived.

(Prior Code, § 5.83)

Sec. 46-248. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of a lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Prior Code, § 5.84)

Secs. 46-249—46-274. Reserved.

DIVISION 6. MH MOBILE HOME PARK DISTRICTS³

Sec. 46-275. Intent.

The MH mobile home park districts are designed to provide for mobile home parks and their accessory uses. Mobile home parks possess site characteristics most similar to multiple-family residential development and would provide for transition between nonresidential development and residential districts where such use would not be detrimental to the future expansion of residential development in the area. Because mobile home parks possess unique characteristics which may be detrimental to the development of new residential areas, the maintenance of a high degree of control over their location is essential and each location requires review of all site features and relationships between abutting land uses before approval.

(Prior Code, § 5.61)

³State law reference(s)—Mobile home commission act, MCL 125.2301 et seq.

Sec. 46-276. Principal uses permitted.

In mobile home parks, principal uses shall be permitted after review and approval of the site plan by the planning commission and subject further to the following conditions:

- (1) The mobile home park shall have access to two existing streets, one of which shall be paved.
- (2) A mobile home park shall be permitted only on a lot or parcel which has a width of at least 400 feet on an existing street.
- (3) Prior to the public hearing on the proposed mobile home park, notification shall be given by mail of the proposal for said mobile home park and the date, time and place of public hearing to all property owners within 1,000 feet of the proposed mobile home park.
- (4) The mobile home park site shall be enclosed by a 15-foot wide greenbelt adjacent to all abutting properties and public rights-of-way. The greenbelt shall be located within the mobile home park site and shall provide a continuous yearround obscuring screen.
- (5) An open area shall be provided on each mobile home lot to insure adequate natural light and ventilation to each trailer and to provide sufficient area for outdoor uses essential to the occupants of the mobile home. Mobile home lots shall average not less than 4,000 square feet in area exclusive of drives, open space in the mobile home park or other open areas not specifically for mobile home occupancy. The minimum width for mobile home lots shall be not less than:
 - a. Forty feet for singlewide mobile homes.
 - b. Forty-five feet for expandable mobile homes.
 - c. Fifty-five feet for doublewide mobile homes.
- (6) Each mobile home site shall have the minimum yard requirements in MAC R 125.1941.
- (7) Parking spaces shall be as required by MAC R 125.1925 and R 125.1926.
- (8) Mobile home sites shall be provided with a concrete apron of suitable width and length to park and support a mobile home, and shall have tie downs as specified by the building inspector.

(Prior Code, § 5.62)

Sec. 46-277. Service drives and sidewalks.

Service drives and sidewalks shall be as required by MAC R 125.1920 and 125.1928.

(Prior Code, § 5.63)

Sec. 46-278. Underground wiring.

- (a) Arrangements shall be made for all local distribution lines for telephone, television or electric services, exclusive of main supply and perimeter feed lines when located on section or quarter section lines, to be placed entirely underground throughout the trailer court area; provided, however, that when a mobile home park overlaps a section or quarter section line, main supply and perimeter feed lines located on such section or quarter section line shall be placed underground. The planning commission may waive or modify this requirement where, in its judgment and upon the advice of the city engineer, circumstances exist which render compliance impractical.

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- (b) Conduits or cables should be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephone, television and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephone and electrical facilities shall be constructed in accordance with standards of construction approved by the state public service commission.

(Prior Code, § 5.64)

Sec. 46-279. Additional requirements.

- (a) There shall not be less than 400 square feet of floor space within each mobile home for the first one occupant, and an additional 100 square feet of floor space for each occupant over one. This provision shall not apply to any mobile home located in a mobile home park on the effective date of Ord. No. 752.
- (b) There shall be provided for each mobile home park a recreation area equal in size to at least 200 square feet per mobile home park site. Said recreation area shall be no longer than 1½ times its width. Such area shall be graded, developed, equipped, sodded and maintained by the management, so as to provide recreation for the residents of the mobile home park.
- (c) The front yard, and any side yard adjacent to a street shall be landscaped within one year after the issuance of a building permit and in any case prior to the certificate of occupancy and the entire mobile home park shall be maintained in a good, clean, presentable condition at all times.
- (d) No business of any kind shall be conducted in any mobile home park except for separate, permanent structures which contain facilities such as the management's office, laundry and dry cleaning facilities or similar uses which are designed to serve only the residents of the mobile home park and provided that no signs or advertising devices shall be visible from adjacent public streets.
- (e) All fuel oil and gas tanks located on each mobile home site shall be placed in a uniform manner and screened from view. All tanks shall be equipped with vent pipes and fused valves.
- (f) There shall be no storage of any kind under mobile homes, and all mobile homes shall be properly skirted.
- (g) All fences, other than the greenbelt surrounding the court, shall be uniform in height, and shall not exceed 30 inches in height, and shall be constructed in such a manner as to provide firemen access to all sides of each mobile home.

(Prior Code, § 5.65)

Sec. 46-280. Compliance with state law.

All mobile home park development shall further comply with Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

(Prior Code, § 5.66)

Sec. 46-281. Additional permitted uses.

All uses permitted and as regulated in the one-family residential district are permitted in the MH mobile home park districts. The standards of the schedule of regulations applicable to the R-3 one-family residential district shall apply as minimum standards when one-family detached dwellings are affected.

(Prior Code, § 5.67)

Sec. 46-282. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of a lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

(Prior Code, § 5.68)

Secs. 46-283—46-312. Reserved.

DIVISION 7. RESIDENTIAL PLANNED UNIT DEVELOPMENT (R-PUD)

Sec. 46-313. Requirements.

- (a) *Special exception within districts.* A R-PUD planned unit development shall be recognized as a special exception use within zoning districts. The requirements listed in this section shall apply in addition to all other applicable requirements of this chapter for the districts in which such uses are located. Control of such R-PUD developments shall be the responsibility of the city planning commission.
- (b) *Purpose.* The purpose of these regulations is to permit greater flexibility in the development of zoning districts than is generally possible under conventional zoning regulations. It is further intended to promote more efficient use of the land while permitting a harmonious variety of development choices, the integration of necessary services and community facilities and the preservation of open space for park and recreational use. A permit may be issued for construction and occupancy of a R-PUD subject to compliance with the requirements, standards and procedures set forth in this chapter.
- (c) *General requirements for residential planned unit developments.*
 - (1) *Minimum area.* The minimum area for a R-PUD special exception permit shall not be less than five contiguous acres of land. However, an area bounded on all sides by a public street, railroad, or other external barriers of a similar defining nature shall be considered for a R-PUD, regardless of minimum acreage.
 - (2) *Ownership.* The tract of land for a project must be either in one ownership or the subject of an application filed jointly by the owners of all property involved.
 - (3) *Location.* Residential planned unit developments shall be allowed in any zoning district.
 - (4) *Utilities.* Public water, sanitary sewer and storm drainage facilities shall be provided as part of the site development. All public utility transmission lines shall be placed underground.
 - (5) *Streets.* All streets shall be approved by the city engineer. All sewer and water installations and use shall be approved by the city utilities director.
- (d) *Approval.* Approval by the city planning commission of a sketch plan and detailed site plan for all planned use development is required.

(Prior Code, § 5.35; Ord. No. 95-17, 7-17-1995)

Sec. 46-314. Permitted uses.

No structure or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following:

- (1) *Residential uses permitted:*
 - a. Single-family detached dwellings;
 - b. Two-family dwellings;
 - c. Townhouses;
 - d. Apartment buildings;
 - e. Condominiums;
 - f. State licensed residential facilities;
 - g. Any combination of the permitted uses in this subsection.
 - h. Family shelter, subject to the requirements of article VI—Special Land Uses.
- (2) *Nonresidential uses permitted.* Nonresidential uses of a religious, educational, commercial, or recreational character to the extent that they are designed and intended for use by the residents of the R-PUD. The burden shall be on the applicant to show that nonresidential uses are intended to serve principally the residents of the R-PUD. Nonresidential permitted uses shall be allowed only to the extent that the planning commission finds them to be designed to serve primarily the residents of the R-PUD, and compatibly and harmoniously incorporated into the unitary design of the R-PUD. Buildings designed and intended to be used, in part or wholly, for nonresidential uses shall be constructed according to the following:
 - a. If the R-PUD contains from one to 50 dwelling units, 75 percent of said dwelling units must be physically constructed prior to any nonresidential use construction.
 - b. If the R-PUD contains 50 or more dwelling units, 50 percent of said dwelling units shall be physically constructed prior to any nonresidential use construction. In no case shall the number of physically constructed dwelling units under this standard be less than 38 prior to the nonresidential use construction.
 - c. The only nonresidential uses permitted within a R-PUD are:
 1. Commissary for the retail sale of books, stationary, foodstuffs typically consumed on a daily basis, nonprescription pharmacy products, and related sundry goods;
 2. Barbershops and beauty shops;
 3. Laundromats;
 4. Schools, public or private;
 5. Churches;
 6. Public parks, forest preserves, and noncommercial recreational areas;
 7. Golf courses;
 8. Real estate office only in conjunction with a new R-PUD, limited to selling or renting units in such development; and

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9. Temporary buildings associated with on-site construction activities for a period not to extend beyond the completion date of such construction. Placement of a temporary building shall only be made after issuance of necessary building permits for the associated construction activity.
- (3) *Nonresidential uses review and placement standards.* A special use provision to permit nonresidential uses within this district may be granted by the planning commission only after application has been made and reviewed in accordance with procedures established by this chapter. Approval of nonresidential uses shall require demonstration of compliance with the following standards:
- a. The R-PUD is of a scale to reasonably support the proposed nonresidential use.
 - b. The need for the use has been adequately demonstrated through applicable marketing studies or other appropriate research.
 - c. Nonresidential uses convenient for the users of the R-PUD or the immediate neighborhood and provided that such uses are planned so as to ensure that they shall not materially alter or negatively impact the existing character of adjacent residential neighborhoods, and shall be integrated by design as an accessory element of the R-PUD.
 - d. Except as provided in this subsection, all nonresidential uses allowed in the R-PUD, inclusive of those uses stated in subsection (2)c of this section, shall occupy no more than ten percent of the R-PUD net project area, nor shall nonresidential buildings occupy more than ten percent of the total ground floor area of all residential buildings in the project. The exceptions to the restriction stated in this subsection are recreational uses of primarily open space character, such as forest preserves and golf courses, which may occupy a net project area greater than ten percent.
 - e. Adequate provision has been made to accommodate the systems and facilities and services identified under section 46-316(e).
 - f. Compliance with other applicable requirements of this chapter.
 - g. Accessory uses. Uses which are customarily accessory and incidental to permitted principal uses.

(Prior Code, § 5.36; Ord. No. 941, 6-16-1980; Ord. No. 95-17, 7-17-1995; Ord. No. 2017-05, § 5, 4-17-2017)

Sec. 46-315. Design requirements.

Within the R-PUD, the requirements hereinafter set forth shall apply in lieu of any conflicting regulations set forth in the district in which the development is located:

- (1) *Number of units permitted.* The maximum number of units permitted within the project shall be determined by dividing the net planned unit development area, as defined in this subsection, by the minimum zoning lot area per unit required by the underlying district in which the project is located. In the event the project lies in more than one zoning district, the number of units shall be computed for each district separately. Net planned unit development area shall be defined as the gross area of the R-PUD site minus the sum of those areas occupied by the structures, uses, wetlands and water bodies stated in this subsection (1):
 - a. All areas planned for the placement of nonresidential buildings and associated nonresidential buildings and structures, including parking areas, loading and unloading areas, accessory buildings, dumpster pads, and road and driveway rights-of-way whose only function is to serve traffic movements associated with nonresidential uses. Determination of the extent of these areas shall be based on the footprint of each nonresidential building, structure and use which shall be detailed on the R-PUD sketch site plan;

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- b. Seventy-five percent of all areas classified as a regulated wetland under the provisions of part 303 of Public Act No. 451 of 1994 (MCL 324.3031 et seq.), and 75 percent of all area classified as a regulated inland lake or stream under the provisions of part 301 of Public Act No. 451 of 1994 (MCL 324.30101 et seq.). The location and size of these areas shall be indicated on the R-PUD sketch site plan.
- (2) *Reduction of lot area requirements.* The minimum lot area may be reduced for any permitted use provided; however, said reduction shall not be greater than 33 percent below that required in the district in which the project is located.
- (3) *Setbacks, yards and open spaces.* The minimum setbacks, yards and open space requirements for buildings and structures may be reduced or increased in the discretion of the planning commission to avoid unnecessary disruption of the environment where reasonably equivalent open space is provided elsewhere upon the site.
- (4) *Reduction of minimum lot frontage and width.* The minimum lot frontage and width for any lot designated for single-family dwellings may be reduced up to 33 percent below the requirements of the district in which the R-PUD is located.
- (5) *Screening.* A screening area comprised of landscaping, fencing, increased building setback, or any combination of the same, may be required by the planning commission along the perimeter of the R-PUD or any portion thereof, if deemed necessary to ensure a more compatible relationship between the R-PUD and adjoining property.
- (6) *Open space required.* Within every R-PUD there shall be planned and set aside permanently as part of the total development an amount of common open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the development as a whole.
- a. Before accepting the open space as meeting the requirements of this provision, the planning commission must find the land thus designated:
1. To be sufficient in size, suitably located, with adequate access; and
 2. With evidence given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the municipality of future maintenance thereof.
- b. For the purposes of meeting the open space requirement in this subsection, the planning commission may consider regulated wetlands and regulated water bodies, as defined under subsection (1)b of this section, provided said wetlands and water bodies are integrated into the R-PUD in such a way that R-PUD residents are afforded the opportunity to access and use these natural features for recreational purposes.
- (7) *Arrangement of open space.* All required open space within the R-PUD shall be arranged so as to provide benefit to the maximum number of dwelling units. Separate tracts of open space shall have adequate pedestrian access from at least one point along a public street or from a right-of-way in common ownership to all R-PUD residents and easily accessible by the same.
- (8) *Sign standards.* All signs located in the R-PUD shall be subject to the requirements of section 46-664. The underlying zoning district shall be used as a guide.
- (9) *Variations.* With the exception of increases in permitted housing density, the planning commission may authorize variations from the design provisions of this section, which will not be incompatible with the purposes of the R-PUD or the criteria required in this section, and will not be obstructive of view, light or air, or hazardous or otherwise a nuisance or annoyance to adjacent developments, highway motorists or the general public.

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- a. The purpose of these variations is to provide for reasonable flexibility in the regulations as a means of:
 - 1. Permitting the development of a site upon which buildable areas exist, but upon which the majority of the site area is encompassed by regulated wetlands, regulated water bodies, other unique natural features, or combinations of each; or
 - 2. Providing opportunity for the development of innovative design concepts which will be of public benefit.
 - b. In consideration of a variation, the applicant shall demonstrate:
 - 1. The property values of parcels contiguous to the R-PUD will not depreciate as a result of the variation;
 - 2. The existing public infrastructure, or infrastructure proposed for construction as a component of the R-PUD, is capable of supporting the variation; and
 - 3. The R-PUD could not reasonably be developed without a variation due to practicable difficulties associated with the physical characteristics of the site; or a variation offers an appropriate alternative to compliance with the design requirements of this section.

(Prior Code, § 5.37; Ord. No. 941, 6-16-1980; Ord. No. 95-17, 7-17-1995)

Sec. 46-316. Application procedure and approval process.

- (a) *General.* Whenever any R-PUD is proposed, before any building permit is granted, the developer shall apply for and secure approval of a special exception use in accordance with the procedures of this section and obtain approval of a final site plan from the planning commission.
- (b) *Application for sketch plan approval.* So that the planning commission and the developer can reach an understanding of what is being proposed, and what is required, the developer shall submit a R-PUD application and sketch site plan and related project information to the planning commission. The sketch site plan shall be drawn to scale, fully dimensioned, and shall clearly show the following information:
 - (1) Boundaries and size of property;
 - (2) Location, size and height of all buildings and building facades;
 - (3) Interior roadway system including parking facilities, proposed and existing rights-of-way, loading and unloading areas, curb cuts to public roads, and adjacent streets;
 - (4) The interior open space system with details on the size and use of the space, ownership status at R-PUD completion, and method of maintaining same;
 - (5) The overall stormwater drainage system;
 - (6) Principal ties to the neighborhood and community with respect to transportation, water supply and sewage disposal;
 - (7) Delineation of the various residential and nonresidential areas and uses, including size, location and number of housing units and other buildings;
 - (8) Construction phases and construction schedule;
 - (9) Existing natural features and proposed landscaping;
 - (10) Topography, existing and proposed (contour intervals of no greater than five feet);
 - (11) Location, size and function of proposed signs.

In addition to the sketch plan, the applicant shall submit copies of other information, which may be required by provisions of the R-PUD regulations.

- (c) *Public hearing.* The planning commission shall hold at least one public hearing on any application for a R-PUD in accordance with the provisions of this chapter.
- (d) *Following the public hearing.* The planning commission shall, within 60 days, approve or disapprove the sketch plan or make modification thereto and so notify the applicant of its decision.
- (e) *Approval of sketch plan.* The sketch plan shall not constitute approval of the detailed site plan, but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan. The planning commission shall find that compliance with the following standards has been met before approving any sketch plan:
 - (1) The R-PUD is located in an appropriate underlying zoning district;
 - (2) The R-PUD site and proposed uses shall be served by necessary public infrastructure including roadways and utilities and that said infrastructure is appropriately sized and arranged to accommodate the requirements of the R-PUD while avoiding negative impacts on the infrastructure to which it will connect;
 - (3) The R-PUD site, proposed uses and related development shall comply with all density and other PUD design standards;
 - (4) The R-PUD shall be compatible with the adjacent area;
 - (5) That facilities and uses such as parking, loading and unloading areas, dumpster locations, active play areas and other facilities and uses that may pose compatibility problems with adjacent residential development shall either be located internal to the R-PUD site or appropriately buffered through landscaping and fencing;
 - (6) That proposed parking and vehicular and pedestrian circulation, including points of ingress and egress, are properly sized and located;
 - (7) The R-PUD site features including, but not limited to, walkways, exterior lighting, play areas, common areas, building entry points, garage and storage areas, landscaping and signs have been appropriately designed and arranged to compliment the principle R-PUD buildings and uses;
 - (8) The R-PUD is consistent with the city's long range comprehensive plan.

Approval of the sketch plan warrants to the applicant certification that the proposed R-PUD is appropriate for the planned location and consistent with basic R-PUD site development and design standards as required for sketch site plan approval.

- (f) *Request for changes in plan.* If it becomes apparent that certain elements of the sketch plan, as it has been approved by the planning commission become unfeasible and in need of modification, the applicant shall then resubmit his entire sketch plan, as amended, to the planning commission pursuant to the procedures in this section.
- (g) *Application for detailed site plan approval.* After receiving approval of a sketch plan from the planning commission, the applicant shall, within six months, prepare his detailed site plan and submit it to the planning commission. The final site plan shall be considered a construction design document and, in addition to the information provided on the sketch plan, contain sufficient design information to determine compliance with applicable city codes and construction requirements including, but not limited to, the following systems:
 - (1) Roads/streets and site access, including location and geometrics;
 - (2) Public water;

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- (3) Public sewers (sanitary and storm);
 - (4) Surface water drainage and snow storage;
 - (5) Emergency access routes;
 - (6) Fire hydrant locations;
 - (7) Exterior lighting
 - (8) Energy and communication facilities, including type and location;
 - (9) Location and size of public and private easements;
 - (10) Exterior signs, including size and location;
 - (11) Parking, loading and unloading, and vehicular and pedestrian circulation;
 - (12) Detailed landscape plan, including all buffers;
 - (13) Waste disposal; and
 - (14) Other information determined by the planning commission, after consultation with city staff, necessary for determination of compliance with city codes and ordinances.

Within 60 days of receipt of the information in this subsection, the planning commission shall approve, approve with conditions, or deny the final site plan.

- (h) In making a determination of approval, the planning commission shall find that:
 - (1) The systems and project elements identified under subsection (e)(5) of this section are properly arranged and adequate to meet the requirements of the R-PUD;
 - (2) The systems and project elements identified under subsection (e)(5) of this section are consistent with the design requirements of the city; and
 - (3) The final site plan complies with all regulations of this chapter.
- (i) *Action on detailed site plan.* The planning commission shall render its approval, disapproval, or approval with conditions or modifications and so notify the applicant and the building inspector.
- (j) *Revocation.* In any case where construction on the R-PUD has not commenced within one year from the date of final planning commission approval, the special exception use permit shall be null and void.
- (k) *Effect of approval.* After a final site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof by the planning commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.
- (l) *Bond requirement.* A performance bond, bank letter of credit or other surety acceptable to the city conditioned upon construction and development in accordance with the approved plans shall be required by the planning commission to be filed with the city treasurer at the time of application of a building permit in such amounts and for such periods as in the discretion of said board appears adequate to ensure compliance with the approved plans.
- (m) *Contract.* Prior to the commencement of construction on any project permitted under this chapter, the owner shall enter into a contract with the city, which contract shall provide such safeguards and guarantees as may be required by the city. Said contract shall consist of the approved final site plan, conditions which may have been attached to the R-PUD approval, bond requirements, necessary building and other required permits, and payment of all fees.

(Prior Code, § 5.38; Ord. No. 95-17, 7-17-1995)

Secs. 46-317—46-335. Reserved.

DIVISION 8. OS-1 AND OS-2 OFFICE SERVICE DISTRICTS

Sec. 46-336. Intent.

- (a) The OS-1 district is designed to accommodate uses such as offices, hospitals and personal service establishments.
- (b) The OS-2 district is designed to accommodate the same uses as the OS-1 district but with residential uses either as the principal use or as a mixed-use within the same building. It is intended to serve as transitional area between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.

(Prior Code, § 5.91; Ord. No. 2002-25, 12-16-2002)

Sec. 46-337. Principal uses permitted in the OS-1 office service district.

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

- (1) Office buildings for any of the following occupations: executive, administrative and professional, subject to the limitations contained in section 46-340.
- (2) Medical office, including clinics.
- (3) Facilities for human care, such as: hospitals, sanitariums, rest and convalescent homes.
- (4) Personal service establishments such as health salons and massage therapy.
- (5) Off-street parking lots.
- (6) Other uses similar to the uses stated in subsections (1) through (5) of this section.
- (7) Accessory structures and uses customarily incident to the permitted uses.

(Prior Code, § 5.92; Ord. No. 2002-25, 12-16-2002)

Sec. 46-338. Principal uses permitted in the OS-2 office service district.

In an OS-2 district, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) All principal uses permitted in the OS-1 district.
- (2) Single-family residential in a building existing at the time of adoption of the ordinance from which this chapter is derived.
- (3) Office and/or business and residential mix in one dwelling.
- (4) Business and professional offices, banks, credit unions, savings and loan associations and similar uses, without drive-in facilities.
- (5) Personal service establishments including barbershops and beauty shops.

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- (6) U.S. post offices.
 - (7) Day care, nursery schools and similar childcare facilities.
 - (8) Home occupations.

(Prior Code, § 5.93; Ord. No. 2002-25, 12-16-2002)

Sec. 46-339. Special land uses permitted in the OS-1 and OS-2 service.

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

- (1) An accessory use authorized by this section, such as, but not limited to, a pharmacy or apothecary shop, beauty shops and barbershops where not already a principal use permitted, spas and gyms, stores limited to corrective garments or bandages, or optical service, may be permitted.
- (2) Mortuary establishments, when adequate assembly area is provided off-street for vehicles to be used in funeral procession; provided further that such assembly areas shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of mortuary establishments located in an OS-1 district, whereas it is a principal use permitted in an OS-2 district.
- (3) Publicly owned buildings, telephone, exchange building and public utility offices, excluding storage yards.
- (4) Multifamily or two-family residential, either new construction or within an existing building, provided the building is of similar style and construction as buildings on adjacent lots, which lend to the transitional nature of the office service districts and the site meets all other chapter requirements, especially on-site parking.
- (5) Single-family residential, new construction, provided the building is of similar style and construction as buildings on adjacent lots, which lend to the transitional nature of the office service districts and the site meets all other chapter requirements, especially onsite parking.
- (6) Cafe or eatery designed to serve the occupants/users of the principal use and nearby establishments, with a maximum occupant load of 25 persons.
- (7) Office and/or business and residential mix in one dwelling in an OS-1 district.
- (8) Religious and other similar assembly uses.
- (9) Convenience stores.
- (10) Recreational activities.
- (11) Group shelter, but only in the OS-2 district and subject to the requirements of article VI—Special Land Uses.

(Prior Code, § 5.94; Ord. No. 2002-25, 12-16-2002; Ord. No. 2017-05, § 6, 4-17-2017)

Sec. 46-340. Required conditions.

- (a) No interior display shall be visible from the exterior of the building.
- (b) The outdoor storage of goods or materials, whether for sale or not, shall be prohibited.

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- (c) Warehousing or indoor storage of goods or material, beyond that normally incident to the permitted uses in section 46-339, shall be prohibited.

(Prior Code, § 5.95; Ord. No. 2002-25, 12-16-2002)

Sec. 46-341. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of a lot by permitted land use and providing minimum yard setback requirements.

(Prior Code, § 5.96; Ord. No. 2002-25, 12-16-2002)

Secs. 46-342—46-370. Reserved.

DIVISION 9. B-1 AUXILIARY BUSINESS DISTRICTS

Sec. 46-371. Intent.

The B-1 auxiliary business district is designed to provide sites for business, office and residential uses. It is intended to create an area of less intense use than the B-2 central business district, with less density than either the B-2 or OS-1 office service district. It is intended to be transitional in nature between one or more adjacent zones, and be easily accessible to both pedestrian and vehicular traffic. A special emphasis is placed on developing and retaining green areas and enhancing the enjoyment of established parks and recreational areas.

(Prior Code, § 5.101; Ord. No. 87-17, 10-5-1987)

Sec. 46-372. Principal uses permitted.

The following principal uses are permitted in the B-1 auxiliary businesses districts:

- (1) Offices of a personal service professional or administrative nature and offices of communication media.
- (2) Restaurants or other establishments serving food or beverage, except those having the character of a drive-in.
- (3) Indoor commercial recreational facilities
- (4) Establishments providing overnight lodging accommodations.
- (5) Assembly establishments which provide entertainment or social activities.
- (6) Public or private educational facilities
- (7) Residential dwelling units, except on the primary floor at grade level
- (8) Incidental accessory uses customarily related to the principal use.

(Prior Code, § 5.102; Ord. No. 87-17, 10-5-1987; Ord. No. 2021-04 , § 1, 3-1-2021)

Sec. 46-373. Required conditions.

The following conditions must be met for permitted uses in the B-1 auxiliary business districts:

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- (1) All business, servicing or processing, except for off-street parking and loading, shall be conducted within a completely enclosed building.
 - (2) Food service establishments which are walkup or open air in nature shall be exempt from subsection (1) of this section, but must provide a suitable physical and visual delineation between any seating area and parking lots or public rights-of-way, as approved by the zoning administrator.
 - (3) No interior display of goods shall be visible from the exterior of the building.
 - (4) The outdoor storage of goods or materials shall be prohibited.
 - (5) Warehousing or indoor storage of goods or material, beyond that customarily incident to the permitted uses in section 46-372, shall be prohibited.
 - (6) All curb cuts for vehicular access shall be limited to performing the following functions: access to required off-street parking, access to loading or delivery zones.
 - (7) Off-street parking in the required front yard is prohibited.

(Prior Code, § 5.103; Ord. No. 87-17, 10-5-1987)

Sec. 46-374. Special land uses permitted.

The following uses of land and structures will be allowed as stipulated in article VI of this chapter, special land use:

- (1) Marine and boat livery facilities including boat rental sales and service facilities.
- (2) Off-street parking areas or structures, either public or private, to afford necessary parking for nearby concerns.

(Prior Code, § 5.104; Ord. No. 87-17, 10-5-1987; Ord. No. 2017-05, § 7, 4-17-2017; Ord. No. 2021-04, § 1, 3-1-2021)

Sec. 46-375. Schedule of regulations.

See division 18 of this article, limiting height, area and density within the district.

(Prior Code, § 5.105; Ord. No. 87-17, 10-5-1987)

Secs. 46-376—46-393. Reserved.

DIVISION 10. B-2 CENTRAL BUSINESS DISTRICTS

Sec. 46-394. Intent.

The B-2 central business district is designed to service a larger consumer population than the auxiliary business district and is characterized by a high density, integrated cluster of comparison retail establishments and supportive office/service establishments, utilizing common parking areas and generating large volumes of vehicular and pedestrian traffic.

(Prior Code, § 5.111; Ord. No. 87-17, 10-5-1987)

Sec. 46-395. Principal uses permitted.

The following principal uses are permitted in the B-2 auxiliary business districts:

- (1) All principal uses allowed in the B-1, except where further stipulations for said uses are listed in this section.
- (2) Retail establishments where the principal activity is the sale of merchandise in an enclosed building.
- (3) Private assembly establishments, which provide entertainment or social activities, however, not to be located on a floor with grade level access.
- (4) Commercial assembly establishments, which provide entertainment or social activities.
- (5) Incidental accessory uses customarily related to the principal use.
- (6) Sidewalk cafés with and without alcohol service are subject to the following regulations:
 - a. Sidewalk cafés shall not unduly obstruct pedestrian movement nor diminish the safety of the general public. Tables, chairs and other facilities shall be compatible with the architectural character of adjacent buildings and shall be located near the building wall. A clear path of not less than 60 inches shall be maintained along the full length of the sidewalk for general pedestrian use. A site plan shall be submitted with a sidewalk café permit application that identifies the proposed location of all sidewalk café furniture and equipment, including any lighting, relative to the public right-of-way.
 - b. The immediate area of the café shall be maintained free of litter and debris.
 - c. Tables, chairs, portable signs and other equipment used in the operation of the café shall be removed daily at the close of business.
 - d. Sidewalk cafés may only be located adjacent to the restaurant or food service business with which they are associated. This requirement may be waived, however, to extend the sidewalk café to an adjacent property if deemed appropriate after city review and agreeable to the adjacent property owner.
 - e. Hours of operation of the sidewalk café shall not be later than 11:00 p.m.
 - f. Days of operation of the sidewalk café shall not occur before April 1 or after November 30. A sidewalk café permit shall expire after 360 days.
 - g. The sidewalk café permit issued in accordance with this article shall be prominently displayed.
 - h. A certificate of general liability insurance that names the city and its officers and agents as additional insureds, and provides for a least 15 days notice of cancellation must be submitted prior to issuance of the permit. The minimum amount of coverage required is \$1,000,000.00 per occurrence and \$2,000,000.00 in aggregate.
 - i. The city shall have the right to suspend the operation of a sidewalk café because of anticipated or actual problems or conflicts in the use of the public sidewalk. Such problems may arise from, but are not limited to, festivals and similar events, parades, or repairs to the street, sidewalk or utilities within the public right-of-way. To the extent possible, the café owner will be given prior written notice of any time period during which the operation of the sidewalk café may be suspended.
 - j. All permits issued under this section are subject to immediate suspension or revocation by the city manager or his or her designee for failure to comply with any or all provisions of this section.

Revocation shall be reserved for third offense repeat violations and violations that present an egregious safety risk to the public.

- k. Persons who have had their permit revoked may request in writing a hearing on that revocation before the city council. Requests for a hearing or an appeal must be made within five business days of the revocation.
- (7) Sidewalk cafés with alcohol are subject to the following additional regulations:
- a. The operator of the sidewalk café shall take whatever steps are necessary to procure the appropriate license from the Michigan Liquor Control Commission if he or she intends to serve alcoholic beverages in the sidewalk café area and shall comply with all other laws and regulations concerning the serving of alcoholic beverages in the State of Michigan.
 - b. The sidewalk café area shall be separated from pedestrian traffic by an approved barrier, which can consist of planters, railings and other similar materials. The barrier shall be removed daily at the close of business. All barriers used for sidewalk cafés serving alcoholic beverages shall also conform to Michigan Liquor Control Commission Regulations.
 - c. A sign reading "No Food or Beverage Allowed Beyond Railing" shall be posted at a conspicuous location within the sidewalk café.
 - d. All alcoholic beverages to be served at sidewalk cafés shall be prepared within the adjacent indoor restaurant or food service business, and alcoholic beverages shall only be served to patrons seated at tables. The drinking of alcoholic beverages by a member of the public while a patron at a sidewalk café within the confines of the sidewalk café area shall not be construed as a violation of any ordinance controlling open containers in a public area.
 - e. Notice to the adjacent property owners or occupants on both sides of the applicant's property shall be required before issuing a permit. Proof of this notice shall be provided to the city by the applicant seven days prior to the issuance of a permit.
 - f. Sidewalk cafés serving alcohol shall be continuously supervised by employees of the establishment.
 - g. To be eligible to apply for a sidewalk café, the adjoining restaurant or food service business from which the sidewalk café extends must provide a full-service menu for the on-site consumption of food.

(Prior Code, § 5.112; Ord. No. 87-17, 10-5-1987; Ord. No. 2005-13, 8-15-2005; Ord. No. 2009-01, 3-2-2009)

Sec. 46-396. Required conditions.

The following conditions must be met for permitted uses in the B-2 auxiliary business districts:

- (1) All business establishments shall be retail or service establishments. All goods provided on the premises shall be sold at retail on the premises.
- (2) All business, servicing or processing, except for off-street parking, loading and delivery shall be conducted within completely enclosed buildings. Exceptions of a temporary nature may be authorized by the city council (sidewalk sale days, etc.).
- (3) Businesses of a drive-up, drive-through or drive-in character are prohibited and curb cuts shall not be constructed for this purpose or for access to delivery or loading zones.

(Prior Code, § 5.113; Ord. No. 87-17, 10-5-1987)

Sec. 46-397. Special land uses permitted.

The following uses of land and structure will be permitted as stipulated in article VI of this chapter, special land use:

- (1) Open air businesses such as outdoor vendors. Open air markets, outdoor cafes, outdoor accommodations for patron use, but not including sidewalk cafes as defined by this chapter.
- (2) Off-street parking areas or structures, either public or private, to afford necessary parking for nearby concerns.
- (3) Establishments providing overnight lodging accommodations.
- (4) Drive-through financial institutions or drive-through components of financial institutions.
- (5) Retailers authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, subject to section 10-2 of the City Code and section 46-752 of this zoning ordinance, and subject to the following locational requirements:
 - a. A retailer in the B-2 district must be located on a parcel that has frontage on Mitchell Street, except that no retailers may be located on the section of Mitchell Street between Bremer Street and South Street unless the following two requirements are met: (1) the retailer must be located on an upper level or subgrade level of the building and not on the ground level (with "grade" and "ground level" measured at Mitchell Street); and (2) the entrance for the retailer must face the alley located behind the building and not Mitchell Street.
 - b. The map in Table 1 identifies the areas within the B-2 district in which retailers may be located, subject to the other locational and distance requirements in this zoning ordinance, including section 46-752.
- (6) Provisioning centers authorized under the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27102 et seq., subject to section 10-3 of the City Code and section 46-753 of this zoning ordinance, and subject to the following locational requirements:
 - a. A provisioning center in the B-2 district must be located on a parcel that has frontage on Mitchell Street, except that no provisioning centers may be located on the section of Mitchell Street between Bremer Street and South Street unless the following two requirements are met: (1) the provisioning center must be located on an upper level or subgrade level of the building and not on the ground level (with "grade" and "ground level" measured at Mitchell Street); and (2) the entrance for the provisioning center must face the alley located behind the building and not Mitchell Street.
 - b. The map in Table 1 identifies the areas within the B-2 district in which provisioning centers may be located, subject to the other locational and distance requirements in this zoning ordinance, including section 46-753.

(Prior Code, § 5.114; Ord. No. 87-17, 10-5-1987; Ord. No. 95-26, 10-16-1995; Ord. No. 2005-13, 8-15-2005; Ord. No. 2017-05, § 8, 4-17-2017; Ord. No. 2019-14, § 3, 11-18-2019; Ord. No. 2019-15, § 3, 11-18-2019; Ord. No. 2021-04, § 2, 3-1-2021)

Sec. 46-398. Schedule of regulations.

See division 18 of this article limiting height, area and density within the district.

(Prior Code, § 5.115; Ord. No. 87-17, 10-5-1987)

Secs. 46-399—46-424. Reserved.

DIVISION 11. B-3 GENERAL BUSINESS DISTRICTS

Sec. 46-425. Intent.

The B-3 general business districts are designed to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the local business district or the community business district.

(Prior Code, § 5.121; Ord. No. 96-11, 8-5-1996)

Sec. 46-426. Uses permitted.

In a general business district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this chapter:

- (1) Any retail business or service establishment permitted in OS-1, OS-2, TS, B-1 and B-2 districts as principal uses permitted and uses permitted subject to special conditions.
- (2) Residential dwelling units, except units on the primary floor at grade level if the unit or units are located within the Downtown Development Authority District.
- (3) Auto washes when completely enclosed in a building.
- (4) Bus passenger stations
- (5) New and used car salesroom, showroom or office.
- (6) Other uses similar to the uses in this section.
- (7) Other structures and uses customarily incidental to the permitted uses in this section.

(Prior Code, § 5.122; Ord. No. 96-11, 8-5-1996; Ord. No. 2021-04 , § 3, 3-1-2021)

Sec. 46-427. Principal uses permitted subject to special conditions.

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

- (1) Outdoor sales space for exclusive sales of new or secondhand automobiles, house trailers, or rental of trailers and/or automobiles, all subject to the following:
 - a. The lot or area shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
 - b. Access to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
 - c. No major repair or major refinishing shall be done on the lot.
 - d. All lighting shall be shielded from adjacent residential districts.
- (2) Motels, subject to the following conditions:

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- a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
 - b. Each unit shall contain not less than 250 square feet of floor area.
- (3) Business in the character of a drive-in or open front store, subject to the following conditions:
- a. A setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
 - b. Access points shall be located at least 60 feet from the intersection of any two streets.
 - c. All lighting shall be shielded from adjacent residential districts.
 - d. A five-foot high completely obscuring wall shall be provided when abutting or adjacent districts are zoned R, OS-1, OS-2, B-1, B-2, B-3 or TS districts. The height of the wall shall be measured from the surface of the ground. Said wall shall further meet the requirements of article IV of this chapter, supplemental regulations.
- (4) Veterinary hospitals or clinics, provided all activities are conducted within a totally enclosed main building; and, provided further, that all buildings are set back at least 200 feet from abutting residential districts on the same side of the street.
- (5) Plant materials nursery for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment and garden supplies subject to the following conditions:
- a. The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
 - b. All loading and parking shall be provided off-street.
 - c. The storage of any soil, fertilizer, or other loose, unpackaged materials shall be contained so as to prevent adverse effects on adjacent uses.
- (6) Warehousing and wholesale establishments, subject to the following conditions:
- a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
 - b. All lighting shall be shielded from adjacent residential districts.
 - c. The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
 - d. All loading and parking shall be provided off-street.
- (7) Automobile service stations for the retail sale of gasoline, oil, groceries or minor accessories, including the minor repair and maintenance and such other activities whose external effects would not adversely extend beyond the property line, not including vehicle body repair, painting, steam cleaning, undercoating or engine rebuilding.
- a. The curb cuts to a service station shall not be permitted at such locations that will tend to create traffic hazards, shall be located a minimum of 25 feet to a street intersection (measured from curblines), or to a residential district.
 - b. Gas pumps and maneuvering lanes shall be located to allow a minimum vehicular stacking of three vehicles (20 feet times three equals 60 feet overall) for each pump location.
 - c. The minimum lot area shall be 15,000 square feet, except stations having no facilities for repair or servicing may be permitted on lots a minimum of 10,000 square feet in area.

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- d. Off-street parking, in addition to those requirements for gas pumps in subsection (7)b of this section, must be provided at a rate of two for each service stall, one for each employee, and one for each 150 square feet of retail area.
 - e. Signage must comply with section 46-664.
 - f. There shall be provided, on those sides abutting or adjacent to a residential district, a six-foot obscuring wall or fence, measured from the average surface grade of the abutting properties.
 - g. All lighting shall be shielded from adjacent residential districts.
 - h. Engine and body repair when conducted on the site shall be within a completely enclosed building. The storage of automobiles on the site shall be completely obscured from public view.
 - i. Sufficient space shall be provided on site for the maneuvering and parking of delivery vehicles associated with the delivery of fuel and other products.
 - j. Canopies are allowed over the fueling stations subject to the conditions in this subsection. The term "canopy" means structures without walls consisting of a roof supported by a minimum number of columns and/or cantilevered from the main building.
 - 1. Height restrictions:
 - (i) The maximum height of canopies is two-thirds of the maximum height allowed in the district.
 - (ii) The minimum height is seven feet, as measured from the ground to the lowest projection of the canopy roof.
 - 2. Since canopies do not obstruct the visual streetscape as do walled structures, they will be allowed to project into the required yard not to exceed four-fifths of the required minimum setback; provided, however, said projection shall maintain a minimum setback of at least five feet.
 - 3. The maximum depth or thickness of the roof shall not exceed three feet and shall be horizontal and parallel to the ground surface.
 - 4. The size/width of the columns shall not exceed that necessary for structural requirements.
 - 5. Advertising on the canopy or columns shall not project beyond the canopy or columns in any direction and the total sign area shall not exceed 15 percent of the surface on which installed.
 - 6. Canopy lighting shall be internal or placed on the underside such that said lighting is directed in a downward fashion towards the fueling stations.
 - 7. Canopy material shall be of rigid construction. Vinyl or cloth fabric shall not be permitted.
 - 8. Canopies shall be maintained in good repair.
- (8) Group shelter, subject to the requirements of Article VI—Special Land Uses.
- (9) Retailers authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., subject to section 10-2 of the City Code and section 46-752 of this zoning ordinance, and subject to the following locational requirements:
- a. A retailer in the B-3 district must be located on a parcel that has frontage on Mitchell Street or Paluster Street, except that no retailers may be located on the section of Mitchell Street between Bremer Street and South Street unless the following two requirements are met: (1) the retailer must be located on an upper level or subgrade level of the building and not on the ground level

(with "grade" and "ground level" measured at Mitchell Street); and (2) the entrance for the retailer must face the alley located behind the building and not Mitchell Street.

- b. For purposes of subsection (a), Parcel No. 10-082-00-141-00, 621 S. Mitchell, is not deemed to be between Bremer Street and South Street because a portion of that parcel is located south of South Street.
 - c. The map in Table 1 identifies the areas within the B-3 district in which retailers may be located, subject to the other locational and distance requirements in this zoning ordinance, including section 46-752.
- (10) Provisioning centers authorized under the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27102 et seq., subject to section 10-3 of the City Code and section 46-753 of this zoning ordinance, and subject to the following locational requirements:
- a. A provisioning center in the B-3 district must be located on a parcel that has frontage on Mitchell Street or Paluster Street, except that no provisioning centers may be located on the section of Mitchell Street between Bremer Street and South Street unless the following two requirements are met: (1) the provisioning center must be located on an upper level or subgrade level of the building and not on the ground level (with "grade" and "ground level" measured at Mitchell Street); and (2) the entrance for the provisioning center must face the alley located behind the building and not Mitchell Street.
 - b. For purposes of subsection (a), Parcel No. 10-082-00-141-00, 621 S. Mitchell, is not deemed to be between Bremer Street and South Street because a portion of that parcel is located south of South Street.
 - c. The map in Table 1 identifies the areas within the B-3 district in which provisioning centers may be located, subject to the other locational and distance requirements in this zoning ordinance, including section 46-753.

(Prior Code, § 5.123; Ord. No. 87-17, 10-2-1987; Ord. No. 92-22, 12-7-1992; Ord. No. 96-11, 8-5-1996; Ord. No. 2017-05, § 9, 4-17-2017; Ord. No. 2019-14, § 4, 11-18-2019; Ord. No. 2019-15, § 4, 11-18-2019)

Sec. 46-428. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of a lot by permitted land use, and providing minimum yard setback requirements.

(Prior Code, § 5.124; Ord. No. 96-11, 8-5-1996)

Secs. 46-429—46-454. Reserved.

DIVISION 12. TS-1 AND TS-2 TOURIST SERVICE DISTRICTS

Sec. 46-455. Intent.

The TS-1 and TS-2 tourist service districts are designed to accommodate those activities necessary to service tourist needs including retail activities, tourist accommodations, parks, recreation and public uses of general interest to the tourist.

(Prior Code, § 5.131; Ord. No. 96-11, 8-5-1996)

Sec. 46-456. Principal uses permitted in TS-1 tourist service district.

The following principal uses are permitted in the TS-1 tourist service districts:

- (1) Motels and hotels for temporary lodging only.
- (2) Tourist-related offices.
- (3) Public buildings.
- (4) Religious institutions.
- (5) Accessory buildings and uses customarily incident to any of the permitted uses in this section.

(Prior Code, § 5.132; Ord. No. 96-11, 8-5-1996)

Sec. 46-457. Special land uses permitted.

The following uses of land and/or structures will be permitted as stipulated in article VI of this chapter, special land uses:

- (1) Private clubs and lodge halls.
- (2) Assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (3) Sitdown restaurants that do not have drive-in, drive-up or drive-through facilities.
- (4) Condominiums subject to parking requirements as set forth in section 46-659, pertaining to residential, multiple-family.
- (5) Other uses similar to the uses in this section, subject to approval by the planning commission.

(Prior Code, § 5.133; Ord. No. 96-11, 8-5-1996; Ord. No. 2001-08, 7-2-2001)

Sec. 46-458. Principal uses permitted in TS-2 tourist service district.

The following principal uses are permitted in the TS-2 tourist service districts:

- (1) Motels, hotels, tourist cabins and tourist homes for temporary lodging only.
- (2) Gift and souvenir shops.
- (3) Restaurants, taverns and bars.
- (4) Bowling alleys and pool or billiard parlors.
- (5) Marine and boat livery facilities, including boat rental, sales and service facilities.
- (6) Recreation and sporting goods shops.
- (7) Private clubs or lodge halls.
- (8) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.
- (9) Accessory buildings and uses customarily incident to any of the permitted uses in this section.
- (10) Condominiums, subject to parking requirements set forth in section 46-459, pertaining to residential, multiple-family.

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- (11) Laundromats and dry cleaning establishments, subject to parking requirements set forth in section 46-459, pertaining to laundromats, coin-operated and dry cleaners.
 - (12) Generally recognized retail businesses which supply commodities on the premises, such as, but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.
 - (13) Business establishments which perform services on the premises, such as, but not limited to: banks, loan companies, insurance offices and real estate offices.
 - (14) Personal service establishments including barbershops, beauty shops and health salons.
 - (15) Other uses similar to the principal uses permitted in this section.

(Prior Code, § 5.134; Ord. No. 92-22, 12-7-1992; Ord. No. 96-11, 8-5-1996)

Sec. 46-459. Special land uses permitted.

The following uses shall be permitted in TS-2 tourist service districts, subject to the conditions herein, and as stipulated in article VI of this chapter, special land uses:

- (1) Businesses which have the character of a drive-in, walkup or takeout restaurant subject to the following:
 - a. A building setback of at least 60 feet from the right-of-way line of any existing street must be maintained.
 - b. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
 - c. All lighting shall be shielded from adjacent residential districts.
 - d. A four-foot six-inch wall or obscuring fence shall be provided where abutting or adjacent to a residential use or district. The height of the wall shall be measured from the surface of the ground of the abutting residential district or use.
- (2) Commercially used outdoor recreation space for children's amusement parks, carnivals, miniature golf courses, subject to the following:
 - a. Children's amusement park must be fenced on all sides with a four-foot six-inch wall or fence.
 - b. Adequate parking shall be provided off the road right-of-way and shall be fenced with a four-foot six-inch wall or obscuring fence where adjacent to the recreation facility.
- (3) Automobile service stations for the retail sale of gasoline, oil, groceries or minor accessories, including the minor repair and maintenance and such other activities whose external effects would not adversely extend beyond the property line, not including vehicle body repair, painting, steam cleaning, undercoating or engine rebuilding. See section 46-427(7).
- (4) Retailers authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., subject to section 10-2 of the City Code and section 46-752 of this zoning ordinance, and subject to the following locational requirements:
 - a. A retailer in the TS-2 district must be located on a parcel that has frontage on M-115 or M-55, except that no retailers may be located on any parcel with frontage on Lake Cadillac.
 - b. The map in Table 1 identifies the areas within the TS-2 district in which retailers may be located, subject to the other locational and distance requirements in this zoning ordinance, including section 46-752.

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- c. No retailers are permitted in the TS-1 district.
 - (5) Provisioning centers authorized under the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27102 et seq., subject to section 10-3 of the City Code and section 46-753 of this zoning ordinance, and subject to the following locational requirements:
 - a. A provisioning center in the TS-2 district must be located on a parcel that has frontage on M-115 or M-55, except that no provisioning centers may be located on any parcel with frontage on Lake Cadillac.
 - b. The map in Table 1 identifies the areas within the TS-2 district in which provisioning centers may be located, subject to the other locational and distance requirements in this zoning ordinance, including section 46-753.
 - c. No provisioning centers are permitted in the TS-1 district.

(Prior Code, § 5.135; Ord. No. 96-11, 8-5-1996; Ord. No. 2019-14, § 5, 11-18-2019; Ord. No. 2019-15, § 5, 11-18-2019)

Sec. 46-460. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of a lot by permitted land use, and providing minimum yard setback requirements.

(Prior Code, § 5.136; Ord. No. 96-11, 8-5-1996)

Secs. 46-461—46-488. Reserved.

DIVISION 13. I-1 LIGHT INDUSTRIAL DISTRICTS

Sec. 46-489. Intent.

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

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- (4) To promote the most desirable use of land in accordance with a well considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the city's tax revenue.

(Prior Code, § 5.141)

Sec. 46-490. Principal uses permitted.

- (a) In a light industrial district, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:
 - (1) Any use charged with the principal function of basic research, design, and pilot or experimental product development when conducted within a completely enclosed building.
 - (2) Any of the uses stated in this subsection (a)(2), when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding, or processing shall be totally obscured by a wall on those sides abutting R-1 through R-3, R-T, RM, RM-1, RM-2, MH, RMH, OS-1, OS-2, B-1, B-2, and B-3 districts, and on any front yard abutting a public thoroughfare except as otherwise provided in section 46-668, pertaining to obscuring walls.
- (b) In I-1 districts, the extent of such a wall may be determined by the planning commission on the basis of usage. Such a wall shall not be less than four feet and six-inches in height and may, depending upon land usage, be required to be eight feet in height, and shall be subject further to the requirements of article IV of this chapter, pertaining to supplemental regulations. A chainlink fence, with intense evergreen shrub plantings, shall be considered an obscuring wall. The height shall be determined in the same manner as the wall height set forth in this subsection.
 - (1) Warehousing and wholesale establishments, and trucking facilities.
 - (2) The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.
 - (3) The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious metals or stones, sheet metal, shell textiles, tobacco, wax, wire, wood and yarns.
 - (4) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
 - (5) Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
 - (6) Manufacture or assembly of electrical appliances, electronic instruments and devises, radios and phonographs.
 - (7) Laboratories: experimental, film or testing.
 - (8) Manufacturing and repair of electric or neon signs, light sheetmetal products, including heating and ventilating equipment, cornices, eaves and the like.
 - (9) Central dry cleaning plants or laundries; provided that such plants shall not deal directly with a consumer, at retail.
 - (10) All public utilities, including, buildings, necessary structures, storage yards and other related uses.

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- (c) Warehouse, storage and transfer and electric and gas service buildings and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations; water supply and sewage disposal plants; water and gas tank holders; railroad transfer and storage tracks; railroad rights-of-way and freight terminals.
 - (d) Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all residential or business districts, and on any yard abutting a public thoroughfare. In any I-1 district, the extent of such fence or wall may be determined by the planning commission on the basis of usage. Such fence or wall shall not be less than five feet in height, and may, depending on land usage, be required to be eight feet in height. A chainlink type fence, with heavy evergreen shrubbery inside of said fence, shall be considered to be an obscuring fence.
 - (e) Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings and uses, including outdoor storage.
 - (f) Greenhouses.
 - (g) Trade or industrial schools.
 - (h) Freestanding nonaccessory signs.
 - (i) Other uses of a similar and no more objectionable character to the uses permitted in this section.
 - (j) Accessory buildings and uses customarily incident to any of the permitted uses in this section.

(Prior Code, § 5.142)

Sec. 46-491. Principal uses permitted subject to special conditions.

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

- (1) Auto engine and body repair, and undercoating shops when completely enclosed.
- (2) Lumber and planing mills when completely enclosed and when located in the interior of the district so that no property line shall form the exterior boundary of the I-1 district.
- (3) Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
- (4) Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities, such as, but not limited to: lumberyard, building materials outlet, upholsterer, cabinet maker, outdoor boat, house trailer, automobile garage or agricultural implement sales; or serve convenience needs of the industrial district, such as, but not limited to: eating and drinking establishment, bank, savings and loan association, credit union, automobile service station, motel or bowling alley, trade or industrial school or industrial clinic.
- (5) Storage of flammable liquids.
- (6) Other uses of a similar character to the uses in this section.
- (7) Crematoriums and pet crematoriums subject to the conditions set forth in section 46-747(6) of this chapter.
- (8) Marihuana establishments authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., subject to section 10-2 of the City Code and section 46-752 of this zoning ordinance.

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- (9) Medical marihuana facilities authorized under the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27102 et seq., subject to section 10-3 of the City Code and section 46-753 of this zoning ordinance.

(Prior Code, § 5.143; Ord. No. 90-19, 10-1-1990; Ord. No. 2016-13, § 2, 12-19-2016; Ord. No. 2019-14, § 1, 11-18-2019; Ord. No. 2019-15, § 1, 11-18-2019)

Sec. 46-492. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of a lot by permitted land use and providing minimum yard setback requirements.

(Prior Code, § 5.144)

Secs. 46-493—46-522. Reserved.

DIVISION 14. I-2 GENERAL INDUSTRIAL DISTRICTS

Sec. 46-523. Intent.

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

(Prior Code, § 5.151)

Sec. 46-524. Principal uses permitted.

In a general industrial district, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this chapter:

- (1) Any principal uses first permitted in an I-1 district.
- (2) Heating and electric power generating plants, and all necessary uses.
- (3) Any of the following; provided that they are located not less than 800 feet distant from any residential district and not less than 300 feet distant from any other district:
 - a. Junkyards; provided such are entirely enclosed within a building or within an eight-foot obscuring wall and; provided, further that, one property line abuts a railroad right-of-way.
 - b. Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant.
 - c. Blast furnace, steel furnace, blooming or rolling mill.
 - d. Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris.
 - e. Petroleum or other inflammable liquids, production, refining or storage.
 - f. Smelting of copper, iron or zinc ore.

(4) Any other use which shall be determined by the board of appeals, after recommendation from the planning commission, to be of the same general character as the permitted uses in this section. The board of appeals may impose any required setback and/or performance standards so as to insure public health, safety and general welfare.

(5) Accessory buildings, buildings and uses customarily incident to any of the above permitted uses.

(Prior Code, § 5.152)

Sec. 46-525. Area and bulk requirements.

See division 18 of this article, schedule of regulations limiting the height and bulk of buildings, the minimum size of a lot by permitted land use, and providing minimum yard setback requirements.

(Prior Code, § 5.153)

Sec. 46-526. Principal uses permitted subject to special conditions.

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

- (1) Crematoriums and pet crematoriums subject to the conditions set forth in section 46-747(6) of this chapter.
- (2) Marihuana establishments authorized under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., subject to section 10-2 of the City Code and section 46-752 of this zoning ordinance.
- (3) Medical marihuana facilities authorized under the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27102 et seq., subject to section 10-3 of the City Code and section 46-753 of this zoning ordinance.

(Ord. No. 2016-13, § 3, 12-19-2016; Ord. No. 2019-14, § 2, 11-18-2019; Ord. No. 2019-15, § 2, 11-18-2019)

Secs. 46-527—46-543. Reserved.

DIVISION 15. P-1 VEHICULAR PARKING DISTRICTS

Sec. 46-544. Intent.

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

(Prior Code, § 5.161)

Sec. 46-545. Principal uses permitted.

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

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(Prior Code, § 5.162)

Sec. 46-546. Required conditions.

- (a) The parking area shall be accessory to, and for use in connection with one or more businesses, or industrial establishments, located in adjoining business or industrial districts, or in connection with one or more existing professional or institutional office buildings or institutions.
- (b) Such parking lots shall be contiguous to any RM-1 or nonresidential district. Parking areas may be approved when adjacent to said district, or on the end of a block where such areas front on a street, which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P-1 district and the above listed districts.
- (c) Parking area shall be used solely for parking of private passenger vehicles, for periods of less than one day, or, 24-hour parking of private commercial and private passenger vehicles when separated by a suitable visual barrier from abutting pedestrian and vehicular throughfares. Parking areas shall not be used as an off-street loading area. A suitable visual barrier shall be determined by the building inspector.
- (d) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area.
- (e) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area.
- (f) No building other than those for shelter or attendants shall be erected upon the premises and they shall not exceed 15 feet in height.
- (g) Applications for P-1 district rezoning shall be made by submitting a dimensional layout of the area requested, showing the intended parking plans in accordance with section 46-660.

(Prior Code, § 5.163; Ord. No. 85-17, 12-2-1985)

Sec. 46-547. Minimum distances and setbacks.

- (a) *Side and rear yards.* Where the P-1 district is contiguous to the side and/or rear lot lines of premises within a residentially zoned district, the required wall shall be located along said lot line.
- (b) *Front yards.* Where the P-1 district is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for said residential district, or a minimum of 25 feet, or whichever is the greater. The required wall shall be located on this minimum setback line unless, under unusual circumstances, the planning commission finds that no good purpose would be served. The land between said setback and street right-of-way line shall be kept free from refuse and debris and shall be planted with shrubs, trees, or lawn and shall be maintained in a healthy, growing condition, neat and orderly in appearance.

(Prior Code, § 5.164)

Sec. 46-548. Layout and standards.

P-1 vehicular parking districts shall be developed and maintained in accordance with the requirements of division 18 of this article, general provisions.

(Prior Code, § 5.165)

Secs. 46-549—46-574. Reserved.

DIVISION 16. POS PARKS AND OPEN SPACES DISTRICTS

Sec. 46-575. Intent.

Parks and open space districts are designed to provide the community with developed and undeveloped lands for recreational uses, to provide for and to protect open spaces, and to maintain a desirable environment for the general health, welfare, and enjoyment of the community. These areas are unique in their function and purpose, and the character of individual areas will be determined by the nature of the activities provided on the site. They are furthermore, intended to be widely distributed throughout the community so as to be easily accessible.

(Prior Code, § 5.166; Ord. No. 87-21, 10-19-1987)

Sec. 46-576. Principal uses subject to planning commission approval.

In a park and open space district, no structure or land shall be used and no structure shall be erected, altered, or in any way operated except for one or more of the following uses:

- (1) Recreational uses which includes, but not limited to, the following: playgrounds, fishing sites, boating facilities, ball fields, parks, parkways, bike trails, docks and piers.
- (2) Wetlands, which provide refuge for and/or preserve wildlife.
- (3) Cemeteries.
- (4) Uses similar or accessory to the principal uses permitted in this section.
- (5) Temporary uses subject to the approval of the planning commission after finding that the proposed temporary uses would be related or connected with the uses permitted in this section.

(Prior Code, § 5.167)

Sec. 46-577. Area and bulk requirements.

See division 18 of this article, schedule of regulations, limiting the height and bulk of buildings, the minimum size of a lot by permitted land use, and providing minimum yard setback requirements.

(Prior Code, § 5.168)

Secs. 46-578—46-602. Reserved.

DIVISION 17. COMMERCIAL PLANNED UNIT DEVELOPMENT (C-PUD)

Sec. 46-603. General requirements.

- (a) *Special exception use in district.* The commercial planned unit development shall be recognized as a special exception use in the commercial zoning districts (OS-1, OS-2, B-1, B-2, B-3, TS-1 and TS-2). The following

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requirements shall apply in addition to all other applicable requirements of this chapter for the districts in which such uses are located. In the event of duplication or similarity between the standards in this section and those found elsewhere in this chapter, the most stringent of the various requirements shall control. Review and approval of commercial planned unit developments shall fall under the jurisdiction of the city planning commission.

- (b) *Purpose.* The purpose of these regulations is to permit greater flexibility in the placement and design of commercial facilities in commercial districts than is generally possible under conventional zoning regulations upon demonstration that deviation from said standards is necessary to achieve utilization of a site and/or will be of benefit to the surrounding area and the city as a whole.
- (c) *Requirements.* The general requirements for commercial planned unit development are as follows:
 - (1) *Minimum area.*
 - a. B-2, central business district, the minimum area is two acres.
 - b. Other commercial districts, the minimum area is five acres.
 - (2) *Contiguous.* All land must be contiguous.
 - a. Land separated by a street right-of-way shall not be considered contiguous; provided however, said street right-of-way shall not mean an alley under public ownership.
 - b. Land separated by a public alley right-of-way shall be considered contiguous.
 - (3) *Ownership (filing of application).* The application shall be filed by all owners of the parcel under consideration for a C-PUD.
 - (4) *Location and permitted uses.* C-PUDs shall only be placed in underlying commercial districts. A C-PUD may contain multiple uses and buildings. The range of uses permitted within a C-PUD shall be limited to those of the underlying zone district.
 - (5) *Infrastructure.* Public water, sanitary sewer, storm drainage facilities, and streets shall be provided as part of the site development. All public utility transmission lines shall be placed underground. All proposed infrastructure, including utility and other easements shall be indicated on the C-PUD site development plan.
 - a. *Subject to city approval.* All utilities and streets, including design and construction, shall be subject to approval by the city departments having regulatory control over said systems.
 - b. *Costs borne by applicant.* Off-site public infrastructure improvements necessary to serve the C-PUD shall either be in place or shall be constructed with costs borne by the applicant or by agreement acceptable to the city council.
 - (6) *Approval.* Approval by the city planning commission is required for a C-PUD.
 - (7) *Rezoning and C-PUD.* An application for a C-PUD shall not be accepted by the city unless the underlying zone district has a commercial classification and provides for the range of uses proposed for the C-PUD. A C-PUD shall not be submitted concurrent with a request for rezoning.
 - (8) *Basis for reasonable conditions.* The nature of the C-PUD is such that reasonable conditions may be required pursuant to plan approval. Reasonable conditions may be required in order to:
 - a. Ensure that public services and facilities affected by the C-PUD will be capable of accommodating increased service and facility loads;
 - b. Protect the natural environment and conserve natural resources and energy;
 - c. Ensure compatibility with adjacent land uses;

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- d. Promote the use of land in a socially and economically desirable manner;
 - e. Ensure compliance with the standards of this chapter; and
 - f. Promote and protect the public health, safety, and welfare.

(Prior Code, § 5.40; Ord. No. 96-18, 1-6-1997)

Sec. 46-604. Design requirements.

- (a) *Setbacks and yards.* Subject to the following standards, the minimum setback, yard, and open space requirements may be reduced or increased at the discretion of the planning commission to avoid unnecessary disruption of adjacent land uses or environmental features and to ensure a high degree of compatibility between the C-PUD and adjacent development:
 - (1) A setback reduction not to exceed 25 percent of the underlying zone district requirement may be permitted along a C-PUD lot line, which abuts a commercial district, provided pedestrian linkages are provided.
 - (2) A setback increase of no less than two times the required underlying zone district standard shall be required along a C-PUD lot line, which abuts a residential district.

The planning commission may require a greater setback or additional buffering such as landscaping, fencing, or walls if determined necessary to protect the integrity of the adjacent residential district.

- (b) *Minimum lot width (street frontage).* The minimum lot width is 200 feet; provided however, a rear lot having adequate street frontage for purposes of vehicular and pedestrian access, sign placement, and buffering may be considered.
- (c) *Screening.* Screening shall be required along any lot line, which abuts a residential district and may be required along other lot lines as determined necessary by the planning commission. Said screening shall be designed and constructed in a manner compatible with adjacent districts. Screening shall consist of decorative fencing, landscape, or combinations of each. See also subsection (d) of this section.
- (d) *Fencing.* The planning commission may require the erection of an architectural screen or fence between the C-PUD and adjoining property if it is determined a need for such screen or fence is necessary to protect or preserve the value or security of adjoining properties. In the event an architectural screen or fence is required, the applicant shall also incorporate landscape treatment along said screen or fence in order to mitigate the visual impacts of the screen or fence from off-site. Where screening or fencing is required by the planning commission under this section, the standards of this item shall prevail over subsection (c) of this section, screening.
- (e) *Sign standards.* The C-PUD shall be regulated by the sign standards of section 46-664.
- (f) *Parking and circulation.* The C-PUD shall be regulated by the parking and loading standards of section 46-658; provided however, as part of the site plan, the applicant must show the location and right-of-way dimensions of all public streets and alleys within 300 feet of the proposed project. The plan shall also show the location, width, and use (i.e., one-way, two-way, truck only, etc.) of all adjoining public or private driveways.
 - (1) In the event of multiple C-PUD uses, the parking and circulation plan shall incorporate measures for shared circulation and parking.
 - (2) The planning commission, after recommendation from the city traffic engineer, may require:
 - a. Acceleration or deceleration lanes or other measures deemed necessary for efficient traffic flow and for public safety and welfare;
 - b. The elimination or movement of proposed curb cuts;

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- c. That patron, employee and/or delivery traffic entry points be modified and/or relocated;
 - d. Off-site transportation improvements deemed necessary as a result of the C-PUD;
 - e. The reduction or increase of the number of parking spaces required by section 46-658, as determined necessary to support the range of uses proposed;
 - f. Modifications in the location and/or arrangement of loading areas;
 - g. A traffic and circulation study to be performed by a qualified traffic engineer; and
 - h. Other traffic and circulation improvements necessary to secure the public health, safety, and welfare.
- (g) *Pedestrian circulation.* The C-PUD shall incorporate a pedestrian circulation system affording the public a safe means of movement throughout the site. A C-PUD located adjacent to other commercial uses or developments shall incorporate a pedestrian circulation system which coordinates the safe flow of pedestrian movement to and from those uses and developments.
- (h) *Snow storage.* The site shall include provision for the placement of snow which must be stockpiled during winter months. Such placement shall not impact the efficient and safe movement of pedestrian and vehicular circulation. A minimum area equal in size to ten percent of the required parking lot area, including access lanes, must be provided for stockpiling of snow.
- (i) *Landscape plan.* The applicant shall submit a detailed landscape plan. The plan shall include the type, size, and location of all yard areas and vegetation, areas to be irrigated by underground sprinkling, sidewalks, patio and pedestrian seating areas, and other such features.
- (j) *Maintenance of views.* Buildings shall be designed and located in a manner which from off-site, at pedestrian level, limits the horizontal blockage of views through the site. Of particular importance is the maintenance of views to Lake Cadillac from downtown commercial sectors.
- (k) *Modification to design standards.* The planning commission may authorize variations from the design requirements of this section which will not be incompatible with the purposes of the C-PUD and will not be obstructive of view, light, air, or a hazard or nuisance or annoyance to adjacent developments, motorists, or the general public. In making such authorization, the applicant shall demonstrate to the satisfaction of the planning commission that modification of a design standard is necessary for development of the C-PUD, is consistent with the purposes of the C-PUD, and will not be obstructive or a hazard or a nuisance as detailed in this section.

(Prior Code, § 5.40.1; Ord. No. 96-18, 1-6-1997)

Sec. 46-605. Application procedure and approval process.

The application and approval process for a commercial planned unit development shall follow the application procedure and approval process for residential planned unit developments as provided for under section 46-316. In addition to section 46-316, as a condition of approval, the applicant shall demonstrate to the satisfaction of the planning commission:

- (1) The property uses and infrastructure included in the proposed C-PUD are consistent with the city master plan.
- (2) Property values of parcels contiguous to the C-PUD will not be negatively impacted as a result of the C-PUD.
- (3) That existing public infrastructure is adequate to support the proposed development, or that the applicant will provide the infrastructure improvements necessary to ensure adequacy.

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- (4) If requested by the planning commission, the need for the uses proposed by the C-PUD must be demonstrated.

(Prior Code, § 5.40.2; Ord. No. 96-18, 1-6-1997)

Secs. 46-606—46-628. Reserved.

PART II - CODE OF ORDINANCES
 Chapter 46 - ZONING
 ARTICLE III. - DISTRICT REGULATIONS
 DIVISION 18. SCHEDULE OF REGULATIONS

DIVISION 18. SCHEDULE OF REGULATIONS

Sec. 46-629. Height, bulk, density and area limitations by zoning district.

Zoning District	Minimum Zoning Lot Size*		Maximum Height of Structures (in feet)	Minimum Yard Setback** (in feet)			Maximum Percent of Lot Area Covered (By All Bldgs.)	Applicable Footnotes (set in section 46-630)
	Area square feet per unit	Width (in feet)		Front	Side	Rear		
R-1 One-family residential	12,500	100	40	35	least yard 10; total of both, 25	35	30	a, b, h
R-2 One-family residential	9,000	75	40	25	least yard 8; total of both, 18	30	35	a, b, h
R-3 One-family residential	6,000	50	40	18	least yard 7; total of both, 15	20	40	a, b, h
R-4 One-family residential	6,000	50	40	15	least yard 6; total of both, 13	20	40	a, b, h

RM-1 Multiple-family residential	3,600	50	40	15	8	30	40	c, h
RM-2 Multiple-family residential	3,000	200	40	35	25	30	35	c, h
MH-Mobile home park residential	---	---	25	50	12	25	30	
RMH- One-family residential mobile home	6,000	60	15	20	8	20	40	b, h
OS-1 Office service	5,000	50	40	30	15	25	25	d
OS-2 Office service	5,000	50	40	30	15	25	25	d
B-1 Local business	10,000	100	40	10	15	25	25	d, i
B-2 Central business	---	---	90	0	0	0	---	j, k, l
B-3 General business	10,000	100	40	20	10	0	25	d, i
TS-Tourist service	10,000	100	40	50	10	45	25	d
I-1 Light industrial	60,000	200	See airport overlay	5	25	25	---	d, e, f, g, n
I-2 Heavy industrial	120,000	400	See airport overlay	100	50	75	---	d, e, f, g
P-1 Vehicular parking	5,000	45	15	25	---	---	5	
POS Park, open spaces	---	---	---	---	---	---	---	m

*Not applicable if lot of record prior to September 24, 1971. See section 46-710.

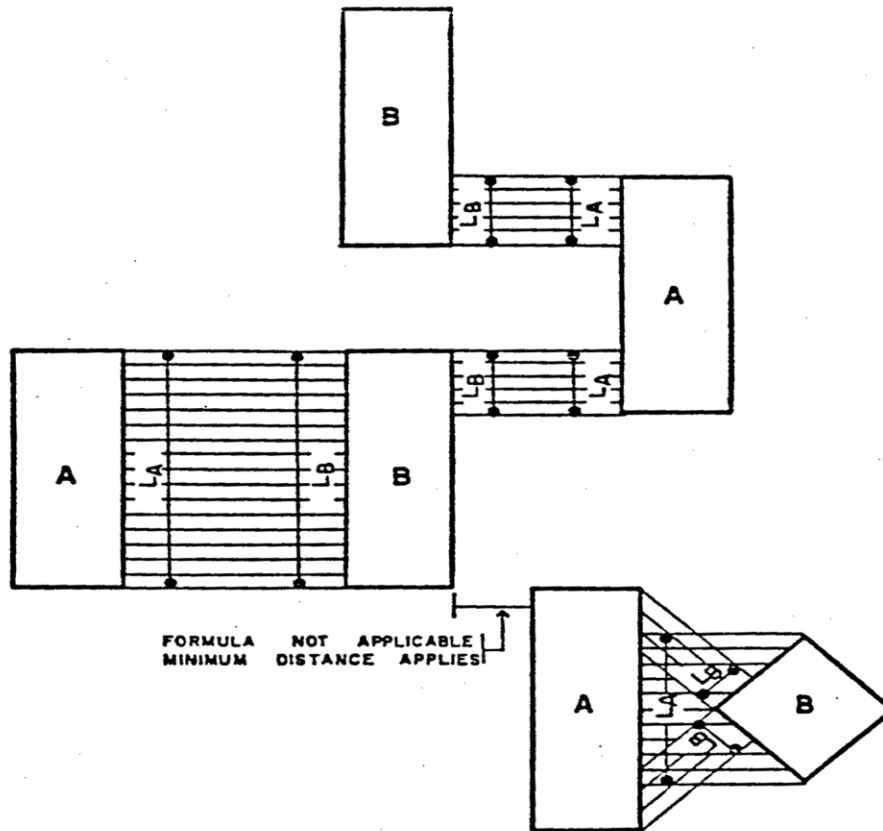
**For lots having water frontage, see section 46-715.

(Prior Code, § 5.170; Ord. No. 95-04, 3-6-1995; Ord. No. 96-19, 1-20-1997; Ord. No. 99-02, 4-5-1999; Ord. No. 2001-13, 11-5-2001)

Sec. 46-630. Notes to schedule of regulations.

- (a) See section 46-631, averaged lot size and section 46-632, subdivision open space plan, regarding flexibility allowances.
- (b) For all uses permitted other than single-family residential, the setback shall equal the height of the main building or the setback required in section 46-164 or 46-629, whichever is greater.
- (c) In all RM-1 and RM-2 multiple-family residential districts, the minimum distance between any two buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than 30 feet. Parking may be permitted within a required side or rear yard but shall not cover more than 30 percent of the area of any required yard, or any minimum distance between buildings. The formula regulating the required minimum distance between two buildings in all RM-1 districts is as follows:

$S = L_A + L_B + 2(H_A + H_B) / \text{over } 6$, where (See illustration after this subsection.)	
S = Required minimum horizontal distance between any wall of building B or the vertical prolongation of either.	
L _A = Total length of building A.	
	The total length of building A is the length of that portion or portions of a wall or walls of building A from which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.
L _B = Total length of building B.	
	The total length of building B is the length of that portion or portions of a wall or walls of building B from which, when viewed directly from above will intersect any wall of building A.
H _A = Height of building A.	
	The height of building A at any given level is the height above the natural grade level of any portion or portions of a wall or walls along the length of building A.
H _B = Height of building B.	
	The height of building B at any given level is the height above the natural grade level of any portion or portions of a wall or walls along the length of building B. "Natural grade level" shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.



MIN. DISTANCE BETWEEN BUILDINGS

$$= \frac{L_A + L_B + 2(H_A + H_B)}{6}$$

Distance Spacing for Multiple Dwellings

- (d) Off-street parking shall be permitted in a required side yard setback, provided it is screened from any abutting street by a visual barrier as approved by the zoning administrator.
- (e) Off-street parking for visitors, over and above the number of spaces required under section 46-659, may be permitted within the required front yard setback.
- (f) No building shall be located closer than 50 feet to the outer perimeter (property line) of such district when said property line abuts any residential district.
- (g) All outside storage shall be located a minimum of 50 feet from a public street or shall be completely screened with an obscuring wall or fence, not less than four-feet six-inches high, or with a chainlink-type fence and a greenbelt planting so as to obscure all view from any adjacent residential, office or business district or from a public street.
- (h) On corner lots, there shall be provided a setback of not less than 20 feet from the side street lot line.

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- (i) Buildings may be situated on a lot so as to abut an adjoining building at the side and/or rear lot line for the purpose of conforming with front yard setbacks and/or providing additional parking in the side yard, subject to all other provisions herein required.
 - (j) Minimum facade height of new construction fronting on Mitchell, Harris or Cass Street shall be 20 feet.
 - (k) Maximum front and side yard setbacks shall equal minimum required front and side yard setbacks.
 - (l) Buildings in the area west of Elk Avenue, between Pine and Chapin Streets, shall have a maximum height of 20 feet.
 - (m) The height and bulk, the minimum size of lots by permitted land use and the minimum yard setback regulations shall be to the discretion of the planning commission. Adjacent zoning districts should be used as guidelines.
 - (n) A minimum five feet wide greenbelt planting must be maintained between any street right-of-way and buildings or parking lots.
- (Prior Code, § 5.171; Ord. No. 80-004, 12-1-1980; Ord. No. 87-21, 10-19-1987; Ord. No. 95-04, 3-6-1995)

Sec. 46-631. Averaged lot size.

The intent of this section is to permit the subdivider or developer to vary his lot sizes and lot widths so as to average the minimum size of lot per unit as required in section 46-629, schedule of regulations for each one-family residential district. If this option is selected, the following conditions shall be met:

- (1) In meeting the average minimum lot size, the subdivision or site condominium shall be so designed as not to create lots having an area or width greater than ten percent below that area or width required in the schedule of regulations and shall not create an attendant increase in the number of lots.
- (2) All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.

(Prior Code, § 5.172; Ord. No. 95-16, 7-17-1995)

Sec. 46-632. Subdivision open space plan.

- (a) *Intent.* The intent of the subdivision and site condominium open space plan is to promote the following objectives:
 - (1) Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.
 - (2) Encourage developers to use a more creative approach in the development of residential areas.
 - (3) Encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles on the site.
 - (4) Encourage the provision of open space within reasonable distance to all lot development of the subdivision or site condominium and to further encourage the development of recreational facilities.
- (b) *Conditions.* Modifications to the standards as outlined in section 46-629, schedule of regulations may be made in the one-family residential districts when the following conditions are met:
 - (1) The lot area in all one-family residential districts, which are served by a public sanitary sewer system, may be reduced up to 20 percent. In the R-1 district, this reduction may be accomplished in part by reducing lot widths up to ten feet. In the R-2, R-3 and R-4 districts, this reduction may be accomplished

in part by reducing lot widths up to five feet. These lot area reductions shall be permitted; provided that the dwelling unit density shall be no greater than if the land area to be subdivided or developed as a site condominium were developed in the minimum square foot lot areas as required for each one-family district under section 46-629, schedule of regulations.

- (2) Under the provisions of subsection (b)(1) of this section, for each square foot of land gained within a residential subdivision or site condominium through the reduction of lot size below the minimum requirements as outlined in the schedule of regulations at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision or site condominium in a manner approved by the city.
 - (3) The land area necessary to meet the minimum requirements of this section shall not include bodies of water, swamp or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. The entire area may, however, be located in a floodplain.
- (c) *Time limit.* The subdivision or site condominium shall be started within 12 months after having received approval, and must be completed in a reasonable time. Failure to start within this period shall void all previous approval.

(Prior Code, § 5.173; Ord. No. 95-16, 7-17-1995)

Secs. 46-633—46-640. Reserved.

DIVISION 19. MIXED USE PLANNED UNIT DEVELOPMENT DISTRICT (M-PUD)⁴

Sec. 46-641. Intent.

The M-PUD District is intended to permit flexibility in the regulation of land development, encourage innovation in land use and variety in design, layout, and type of structures constructed, achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space, and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the city and the general public. More specifically, this zoning district is intended to provide greater flexibility in the placement and design of commercial, office and residential facilities in a single zoning district than is generally possible under conventional zoning regulations. It is further the intent of these regulations to require a unified, integrated planning and construction project using specialized modern zoning techniques, requirements and review procedures to achieve a cohesive development, promote compatibility and walkability between such uses and promote and encourage innovation in land use planning and design to achieve a higher quality of development than might otherwise be possible. While traditional bulk requirements may be set aside in this District in order to achieve particular design objectives, the city intends that any such district use should share responsibility for maintenance of landscaping, sidewalks, and/or other facilities used or held in common, adhere to all applicable health and building codes and clearly demonstrate a commitment to maintaining a balance between residential and non-residential use, between public open space provided and private land set aside, and in accordance with the ability of the remainder of the city to absorb and effectively deal with the attendant growth.

⁴Editor's note(s)—Ord. No. 2015-17, § 1, adopted January 4, 2016, set out provisions intended for use as new division 19, §§ 46-653—26-657. In order to avoid duplication of section numbers, and at the editor's discretion, these provisions have been included as 46-641—46-645.

(Ord. No. 2015-17, § 1, 1-4-2016)

Sec. 46-642. Permissible and prohibited uses in the M-PUD.

Subject to review and approval as provided in this division, the range of uses permissible within an M-PUD shall be limited to any residential, office or commercial uses in the R-1, R-2, R-3, R-4, RM-1, RM-2, OS-1, OS-2, B-1, B-2, B-3, TS-1 and TS-2. No other uses shall be permissible in the M-PUD district, including but not limited to adult businesses and any industrial uses otherwise permitted in the I-1 or I-2 zoning districts.

(Ord. No. 2015-17, § 1, 1-4-2016)

Sec. 46-643. Minimum design requirements.

- (a) *Setbacks and yards.* Except as provided in this section, the minimum setback, yard, and open space requirements required shall be as follows:
- (1) A landscaped buffer of at least 40 feet wide measured from the road right-of-way shall be provided on the subject property adjacent to any state trunk highway or United States highway.
 - (2) A landscaped buffer of at least ten feet wide measured from the road right-of-way shall be provided on the subject property adjacent to any internal public street.
 - (3) A landscaped buffer of at least 50 feet wide shall be provided on the subject property between commercial uses and residential uses located on the subject property and a landscaped buffer of at least 50 feet wide shall be provided between residential uses on the subject property adjacent to any other property zoned or used for residential purposes.
 - (4) A landscaped buffer of at least 75 feet shall be provided on the subject property between commercial uses on the subject property adjacent to any other property zoned or used for residential purposes.
 - (5) A landscaped buffer of at least 25 feet shall be provided on the subject property between commercial uses on the subject property adjacent to any other property zoned or used for commercial or industrial purposes.
 - (6) No building shall be constructed on the subject property closer than 75 feet from the adjacent state trunk highway right-of-way.
 - (7) No building shall be constructed on the subject property closer than 25 feet from the adjacent internal public street right-of-way.
 - (8) No residential building or development shall be constructed on the subject property closer than 25 feet from any private roadway.
 - (9) No residential building or development shall be constructed on the subject property closer than 25 feet from any parking area.
 - (10) Except for property adjacent to a state trunk highway as provided by subsection (5), above, no building shall be constructed on the subject property closer than 100 feet to any property line of the subject property.
 - (11) No commercial buildings on the subject property shall be located closer than 100 feet from any residential buildings on the subject property.
 - (12) Separation between residential buildings on the subject property shall comply with all provisions of this Code.

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- (13) Separation between commercial buildings on the subject property shall comply with all provisions of this Code.
 - (14) The subject property shall provide for a minimum open space of 35 percent, including the landscaped buffers.

For purposes of this subsection, a "landscaped buffer" shall mean the area in which either existing vegetation is preserved on the subject property or landscaping or decorative fencing is planned and maintained for screening and as part of the overall landscape plan for the subject property. No parking or pavement is permitted in the landscaped buffer, except for pavement for ingress and egress, sidewalks or other pedestrian walkways.

- (b) *Setback variation.* Notwithstanding, the required setbacks, yard, and open space may be reduced or increased at the discretion of the planning commission or city council to avoid unnecessary disruption of adjacent land uses or environmental features and to ensure a high degree of compatibility between the M-PUD and adjacent development:
 - (1) A setback reduction not to exceed 50 percent of the otherwise required distance may be permitted from an M-PUD lot line that abuts a commercial district, provided pedestrian linkages are provided.
 - (2) A setback increase or additional buffering such as landscaping, fencing, or walls may be required along an M-PUD lot line that abuts a residential district if the planning commission or city council determines it is necessary to protect the integrity of the adjacent residential district. In no event shall the setback required be more than two times the distance that would otherwise be required by the zoning district in which the land use is permitted.
- (c) *Screening.* Screening shall be required along any lot line that abuts a residential district and may be required along other lot lines as determined necessary by the planning commission or city council. Screening shall be designed and constructed in a manner compatible with adjacent districts and may consist of decorative fencing, landscape, or a combination of each.
- (d) *Fencing.* The planning commission or city council may require the erection of an architectural screen or fence between the M-PUD and adjoining property if it is determined a need for such screen or fence is necessary to protect or preserve the value or security of adjoining properties. In the event an architectural screen or fence is required, the applicant shall also incorporate landscape treatment along said screen or fence in order to mitigate the visual impacts of the screen or fence from off-site.
- (e) *Sign standards.* The M-PUD shall generally be regulated by the sign standards of section 46-664. Notwithstanding, as part of the review and approval of the site plan, the planning commission and city council may vary any sign standards under section 46-664, including without limitation, the size, location, and number and types of permitted signs.
- (f) *Parking and circulation.* The M-PUD shall be regulated by the parking and loading standards of section 46-658; provided, however, as part of the sketch and final site plan, the applicant must show the location and right-of-way dimensions of all public highways, streets and alleys within 300 feet of the proposed project together with the location, width, and use (i.e., one-way, two-way, truck only, etc.) of all adjoining public or private driveways and internal roadways. The parking and circulation plan shall incorporate measures for shared circulation and parking. The planning commission or the city council may also require:
 - (1) Acceleration or deceleration lanes or other measures deemed necessary for efficient traffic flow and for public safety and welfare;
 - (2) The elimination or movement of proposed curb cuts;
 - (3) That patron, resident, employee and/or delivery traffic entry points be modified and/or relocated;
 - (4) Off-site transportation improvements deemed necessary as a result of the M-PUD;

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- (5) The reduction or increase of the number of parking spaces required by section 46-658, as determined necessary to support the range of uses proposed;
 - (6) Modifications in the location and/or arrangement of loading areas;
 - (7) A traffic and circulation study to be performed by a qualified traffic engineer; and
 - (8) Other traffic and circulation improvements necessary to secure the public health, safety, and welfare.
- (g) *Pedestrian circulation.* The M-PUD shall incorporate a pedestrian circulation system affording the public a safe means of movement throughout the site. An M-PUD located adjacent to other commercial or residential uses or developments shall incorporate a pedestrian circulation system which coordinates the safe flow of pedestrian movement to and from those uses and developments.
 - (h) *Snow storage.* The site shall include provision for the placement of snow which must be stockpiled during winter months. Such placement shall not impact the efficient and safe movement of pedestrian and vehicular circulation. A minimum area equal in size to ten percent of the required parking lot area, including access lanes, must be provided for stockpiling of snow.
 - (i) *Landscape plan.* The applicant shall submit a detailed landscape plan. The plan shall include the type, size, and location of all yard areas and vegetation, areas to be irrigated by underground sprinkling, sidewalks, patio and pedestrian seating areas, and other such features.
 - (j) *Maintenance of views.* Buildings shall be designed and located in a manner which from off-site, at pedestrian level, limits the horizontal blockage of views through the site. Of particular importance is the maintenance of views to Lake Cadillac from downtown commercial sectors and corridors to and from the city, including adjacent highways and freeways.
 - (k) *Modification to design standards.* The planning commission or city council may authorize variations from the design requirements of this section that are not incompatible with the purposes of the M-PUD and will not be obstructive of view, light, air, or a hazard or nuisance or annoyance to adjacent developments, motorists, or the general public. In making such request for deviations, the applicant shall demonstrate to the satisfaction of the planning commission or city council that modification of a design standard is necessary for development of the M-PUD, is consistent with the purposes of the M-PUD, and will not have an unreasonable adverse effect on adjacent uses or the public.

(Ord. No. 2015-17, § 1, 1-4-2016)

Sec. 46-644. Requirements.

- (a) *Eligibility.* To be eligible for M-PUD zoning approval, the applicant must demonstrate that the following criteria will be met:
 - (1) *Recognizable benefits.* The planned development must result in a recognizable and substantial benefit to the ultimate users of the project and to the community, and result in a higher quality and diverse development than could be achieved under conventional zoning.
 - (2) *Minimum area.* Except as provided by this subsection, the minimum area considered for an M-PUD zoning district shall not be less than 20 contiguous acres of land. Land separated by a public street right-of-way shall not be considered contiguous. Land separated by a public alley right-of-way shall be considered contiguous. Notwithstanding the above, the city council, upon the recommendation of the planning commission, may consider a smaller area if the proposed project has unique characteristics or benefits or the subject property has unusual topography, tree stands, wetlands, poor soil conditions, water courses, unusual shape or proportions, utility easements or any other external barrier of a similar defining nature. If the applicant desires an area of less than 20 acres to be considered, the

applicant shall submit a request for a pre-application conference to the planning commission. The request shall request a waiver of the minimum area requirements and explain in detail the proposed project and the basis for requesting a waiver from the minimum size. In particular, the applicant must describe the proposed benefits of the project to the community, the unique characteristics of the site or project and any other reasons for waiving the minimum area provision. The planning commission shall review the request and make a recommendation to the city council. The city council shall make the final decision concerning the waiver.

- (b) *Development agreement and ownership.* The application shall be filed and jointly signed by all owners of the land proposed for rezoning to an M-PUD. Notwithstanding, the proposed development shall, at the time of approval or execution of the development agreement, be under ownership or control such that all owners of the land proposed for rezoning to an M-PUD shall have responsibility for completing the project, or assuring completion of the project, in conformity with this Code and to ensure a cohesive development. A development agreement, which shall be recorded with the Wexford County Register of Deeds between the city and any owner of land proposed for rezoning, is required by this Code. The development agreement shall include regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density. The development agreement shall include all conditions of approval of the planned development including, but not limited to, land use restrictions, landscaping and lighting requirements, architectural features and materials, and a requirement that all portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the owner or their successors. The development agreement must bind all successors in title to any commitments made by the initial owner or applicant. Nothing in this subsection shall prohibit a transfer of ownership or control, provided that no such transfer shall occur prior to recording the development agreement with the Wexford County Register of Deeds.
- (c) *Utilities and other infrastructure.* Public water, sanitary sewer, storm drainage facilities, and streets shall be provided as part of the site development. All public utility transmission lines within the planned development shall be placed underground. All proposed infrastructure, including utility and other easements shall be indicated on the M-PUD sketch plan and final site plan and shall be subject to all of the following:
- (1) All utilities and streets, including design and construction, shall be subject to approval by the city departments having regulatory control over said systems.
 - (2) All costs for utilities shall be paid by the applicant. Off-site public infrastructure improvements necessary to serve the planned development shall either be in place or shall be constructed at the sole cost and expense of the applicant or by agreement acceptable to the city council.
 - (3) The proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities and utilities, and shall not place an unreasonable burden upon the subject site, surrounding land, property owners and occupants, or the natural environment.
- (d) *Planning, design, development and building materials.* The planning, design, development and building materials of any M-PUD shall incorporate best development practices and shall be designed and operated to:
- (1) Complement the design principles and standards reflected in the city's master plan and this Code.
 - (2) Maintain a high standard of scenic and visual qualities with due regard to impacts on neighboring properties and motorists, including but not limited to varied roof heights and pitches that add visual interest and obscure roof mounted mechanical equipment.
 - (3) Discourage the establishment of uses deemed more appropriate to the city's core downtown. If the subject property is located outside of the city's downtown development authority boundaries, no more than five percent of the total available commercial space planned for the subject property shall consist of uses occupying less than 2,250 square feet for a single use. This limitation shall not apply to ancillary uses, including but not limited to banks, coffee shops, fast food or food court areas, wholly contained

within a larger commercial building. The total available commercial space planned for the subject property shall be indicated on the sketch plan pursuant to section 46-657(b)(2).

- (4) Encourage the overall design and development of the area in a cohesive and planned manner taking into account access management controls and vehicular circulation, pedestrian and non-vehicular traffic amenities, public spaces, parking, signage, outdoor lighting, landscaping and screening, loading/unloading areas, utilities and public services, energy efficiency, open space conservation; and the like.
- (5) Ensure that all open areas of any lot not used for parking, driveways or permitted storage be landscaped with an attractive mix of trees, shrubs, berms, flowers, natural mulch, planted ground cover, and other landscaping elements.
- (6) Function in an environmentally sensitive manner with due regard for the management and protection of surface water and the containment of noise, odor, and light pollution.
- (7) Improve pedestrian connectivity by providing a circulation system that is conducive to pedestrian and bicycle travel throughout areas designed for residential purposes as well as provisions for convenient and safe non-motorized movement from residential areas to the office and commercial sectors of the planned development.
- (8) Mitigate views of large off-street parking lots through filtering/screening with appropriate landscaping.
- (9) Coordinate the design of buildings and their sites to create a cohesively planned and visually attractive development.
- (10) Encourage the use of architectural design features such as arches, canopies, awnings, covered walkways or porticos, offsets, reveals, recesses, columns, display windows, tile work and molding, and other similar visually appealing features.
- (11) Incorporate the use of building materials that provide for an aesthetically pleasing and consistent overall development, while recognizing the benefits of diversity. In that regard, the following building materials shall be permitted:
 - a. All exterior walls shall be at least 60 percent masonry. Masonry coverage calculation does not include doors, windows, window box-outs, or bay windows that do not extend to the foundation. Masonry shall be defined as:
 1. Stone material. Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone and dimensioned stone techniques are acceptable.
 2. Brick material. Brick material used for masonry construction shall be hard fired (kiln fired) clay or slate material which meets the latest version of ASTM standard C216, Standard Specification for Facing Brick (Solid Masonry Unit Made of Clay or Shale), and shall be severe weather (SW) grade, and type FBA or FBS or better.
 3. Concrete masonry units. Concrete masonry units used for masonry construction shall meet the latest version of the following applicable specifications; ASTM C90, Standard Specification for Hollow Load Bearing Concrete Masonry Units; ASTM C145, Standard Specification for Solid Load Bearing Masonry Units; ASTM C129, Standard Specification for Hollow and Solid Non-Load-Bearing Units. Concrete masonry units shall have an indented, hammered, split face or other similar architectural finish as approved by the city. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.

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4. Concrete panel construction. Concrete finish or precast panel (tilt wall) construction shall be painted, fluted, or other approved architectural concrete finish. Smooth or untextured concrete finishes are not acceptable.
 5. Stucco (exterior Portland cement plaster with three coats over metal lath or wire fabric lath).
 6. Cement fiberboard.
 7. Architectural glass block (less than 25 percent reflectance).
- (b) Structures 20,000 square feet or less shall require a minimum of two distinct building materials from the approved masonry list be utilized on all facades to provide architectural detail and interest.
 - (c) Structures over 20,000 square feet shall require a minimum of three distinct building materials from the approved masonry list be utilized on all facades to provide architectural detail and interest.
 - (d) Secondary materials must cover a minimum of ten percent of the building facade on all sides.
 - (e) Architectural accent materials not exceeding 20 percent of the exterior walls, may include metal and wood. Metal accents may include profiled panels, deep-ribbed panels and concealed fastener systems. Exterior finish shall be film laminated or baked on enamel painted to the wall manufacturer's standards. Synthetic stucco, also known as exterior insulation and finish system (EIFS), may be used as architectural accent material when placed more than four feet above grade.
 - (f) Roofing materials. Architectural textured 25-year minimum warranty asphalt or synthetic shingles, standing seam metal, or tile roofs are allowed for sloping roofs. Roof materials for flat roofs shall provide the equivalent level of protection.
 - (g) Prohibited materials. The following materials are prohibited:
 1. Aluminum siding or cladding.
 2. Corrugated, metal, plastic, or fiberglass panels.
 3. Galvanized, aluminum coated, zinc aluminum coated or unpainted exterior metal except as permitted as architectural accent material.
 4. Wood siding or plastic siding.
 5. Synthetic stucco, exterior insulation and finish system (EIFS), placed less than four feet above grade.
 6. Unfinished concrete block.
 7. Exposed aggregate.
 8. Wood roof shingles.
 9. Reflective glass.

(Ord. No. 2015-17, § 1, 1-4-2016)

Sec. 46-645. Application procedure and approval process.

- (a) *General.* Whenever any M-PUD is proposed, the application for an M-PUD shall serve as a petition to rezone the subject property to the M-PUD district. The application for an M-PUD shall include a request for sketch

site plan approval and shall be filed with the city planning commission. The petition for rezoning and sketch plan approval shall be considered concurrently and the requirements of the Michigan Zoning Enabling Act, being Public Act 110 of 2006 (MCL 125.3101 et seq.) and this Code for amendment of a zoning ordinance shall be followed, except that the hearing and notice required by MCL 125.3503 shall fulfill the public hearing and notice requirements of MCL 125.3306.

- (b) *Application for sketch plan approval.* So that the planning commission, city council and the developer may reach an understanding of what is being proposed, and what is required, the developer shall submit a sketch site plan and related project information with an M-PUD application to the planning commission. The sketch site plan shall be drawn to scale, fully dimensioned, and shall clearly show all of the following information:
- (1) Boundaries and size of property;
 - (2) Location (including setbacks from property lines), size and height of all buildings and building facades;
 - (3) Interior roadway system including parking facilities, proposed and existing rights-of-way, loading and unloading areas, curb cuts to public roads, and adjacent streets;
 - (4) The interior open space system with details on the size and use of the space, proposed ownership of any open space at M-PUD completion, and method of maintaining same;
 - (5) The overall water supply system, waste water system and stormwater drainage system, including any connections to public facilities;
 - (6) Principal ties to the neighborhood and community with respect to transportation, or other public utilities, including gas and electric service;
 - (7) Delineation of the various residential and nonresidential areas and uses, including size, location and number of housing units and other buildings;
 - (8) Construction phases and construction schedule;
 - (9) Existing natural features and proposed landscaping;
 - (10) Topography, existing and proposed (contour intervals of no greater than five feet);
 - (11) Location, size and function of proposed signs;
 - (12) Location, size and function of any on-site lighting, including a photometric plan for the site; and
 - (13) Location of all structures within 300 feet of the property line of the subject property.

In addition to the sketch plan, the applicant shall submit copies of any other information reasonably requested by the planning commission or city council.

- (c) *Public hearing.* The planning commission and city council shall each hold at least one public hearing on any application in accordance with the provisions of this Code and the Michigan Zoning Enabling Act.
- (d) *Following the public hearing.* The planning commission shall, within a reasonable time of the public hearing, make a recommendation to the city council to deny, approve or approve with conditions the application. The city council shall receive and consider the recommendation of the planning commission and shall deny, approve or approve with conditions the application, including the sketch plan.
- (e) *Basis for conditions.* Due to the nature of the M-PUD, additional conditions may be required by the planning commission or the city council. Any conditions imposed by the planning commission or city council must be reasonable and intended to do one or more of the following:
- (1) Ensure that public services and facilities affected by the M-PUD will be capable of accommodating increased service and facility loads;
 - (2) Protect the natural environment and conserve natural resources and energy;

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- (3) Ensure compatibility with adjacent land uses;
 - (4) Promote the use of land in a socially and economically desirable manner;
 - (5) Ensure compliance with the standards of this division; or
 - (6) Promote and protect the public health, safety, and welfare.
- (f) *Approval of sketch plan.* If the sketch plan is approved by the city council, such approval shall not constitute approval of the detailed site plan, but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed plan. The city council shall find that compliance with the following standards have been met before approving any sketch plan:
- (1) The M-PUD site and proposed uses shall be served by necessary public infrastructure including roadways and utilities and that said infrastructure is appropriately sized and arranged to accommodate the requirements of the M-PUD while avoiding negative impacts on the infrastructure to which it will connect;
 - (2) The M-PUD site, proposed uses and related development shall be consistent with the city's master plan;
 - (3) That facilities and uses such as parking, loading and unloading areas, dumpster locations, active play areas and other facilities and uses that are adjacent to residential development shall either be located internal to the M-PUD site or appropriately buffered through landscaping and other screening techniques;
 - (4) That proposed parking and vehicular and pedestrian circulation, including points of ingress and egress, are properly sized and located;
 - (5) The M-PUD site features including, but not limited to, walkways, exterior lighting, play areas, common areas, building entry points, garage and storage areas, landscaping and signs have been appropriately designed and arranged to compliment the principle M-PUD buildings and uses and avoid adverse impacts on adjacent property or uses;
- (g) *Effect of sketch plan approval.* Approval of the sketch plan only warrants to the applicant certification that the proposed M-PUD is appropriate for the planned location and consistent with basic M-PUD site development and design standards as required for sketch site plan approval, subject to any additional terms and conditions of the development agreement approved as part of final site plan approval.
- (h) *Request for changes in plan.* If it becomes apparent that certain elements of the sketch plan, as approved by the city council, become unfeasible and in need of substantial modification, the applicant shall then resubmit the entire sketch plan, as amended, to the planning commission, which shall be reviewed by the planning commission and the city council in the same manner as the original sketch plan. Notwithstanding, if a change to the sketch plan is not substantial, the change may be reviewed and approved administratively by the community development director or his or her designee.
- (i) *Application for final site plan approval.* After receiving approval of a sketch plan from the city council, the applicant shall, within six months, prepare a final site plan and submit it to the planning commission. The final site plan shall be reviewed by the planning commission in the same manner as the sketch plan, except that no additional public hearings shall be required. Within a reasonable time following submission of a complete final site plan, the planning commission shall make a recommendation on the final site plan to the city council. The final site plan submitted to the planning commission must be a construction design document and, in addition to the information provided on the sketch plan, contain sufficient design information to determine compliance with any applicable city codes and construction requirements including, but not limited to, the following systems:
- (1) Roads/streets and site access, including location and geometrics;

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- (2) Public water;
 - (3) Public sewers (sanitary and storm);
 - (4) Surface water drainage and snow storage;
 - (5) Emergency access routes;
 - (6) Fire hydrant locations;
 - (7) Exterior lighting;
 - (8) Energy and communication facilities, including type and location;
 - (9) Location and size of public and private easements;
 - (10) Exterior signs, including size and location;
 - (11) Parking, loading and unloading, and vehicular and pedestrian circulation;
 - (12) Detailed landscape plan, including all buffers;
 - (13) Solid waste disposal; and
 - (14) Other information reasonably requested by the planning commission, after consultation with city staff, necessary for determination of compliance with city codes, resolutions, rules and regulations.
- (j) *City council approval of detailed or final site plan.* Within a reasonable time following the recommendation from the planning commission, the city council shall review the final site plan and in making a determination of approval, the city council must find that:
- (1) The systems and project elements are in substantial conformance with the sketch plan and properly arranged and adequate to meet the intended uses within the M-PUD;
 - (2) The systems and project elements are consistent with the design requirements of the city; and
 - (3) The final site plan complies with all regulations of this Code and any other applicable federal, state and local statutes, ordinances, codes, rules and regulations.
- (k) *Action on final site plan.* The city council shall deny, approve, or approve the final site plan with conditions or modifications and so notify the applicant and the building inspector. Final approval may be granted on each phase of a multi-phased M-PUD if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the M-PUD and the residents of the surrounding area.
- (l) *Expiration.* In any case where construction on the M-PUD has not commenced within one year from the date of final approval or construction on any phase fails to conform with the approved phasing schedule, final site plan approval shall expire and shall be null and void. Notwithstanding, the community development director or his or her designee may administratively extend the expiration date of the final site plan for a period not to exceed one additional year.
- (m) *Effect of approval.* The final site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan. After a final site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof by the planning commission and city council.
- (n) *Bond requirement.* A performance bond, bank letter of credit or other surety acceptable to the city shall be required and be filed with the city treasurer at the time of application of a building permit in such amounts and for such periods adequate to ensure compliance with the approved plans.

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- (o) *Development agreement.* Prior to final site plan approval and commencement of construction on any project permitted under this division, the owner shall enter into a development agreement with the city, which agreement shall provide such safeguards and guarantees as may be required by the city. Said agreement shall consist of the approved final site plan, conditions which may have been attached to the M-PUD approval, bond requirements, necessary building and other required permits, and payment of all fees.

(Ord. No. 2015-17, § 1, 1-4-2016)

Secs. 46-646—46-652. Reserved.

ARTICLE IV. SUPPLEMENTAL

Regulations

Sec. 46-653. Conflicting regulations.

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

(Prior Code, § 5.181)

Sec. 46-654. Scope.

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

(Prior Code, § 5.182)

Sec. 46-655. Nonconforming lots; structures; uses of land; uses of structure.

- (a) *Intent.* It is the purpose of this section to permit the continuance of a lawful use of any building or land existing at the effective date of the ordinance from which this chapter is derived, although such use of land or structure may not conform with the provisions of this chapter. It is recognized, however, that those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without restriction.
- (b) *Encourage appropriate groupings.* The zoning regulations established by this chapter are designed to guide the future use of land in the city by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established, and thus their gradual elimination is generally desirable. The regulations of this section permit such nonconformities to continue without specific limitation of time but are generally intended to restrict further investments which would make them more permanent.
- (c) *Distinction between major nonconforming uses or structures and minor nonconformities.* Different regulations are established for each of these categories in this subsection. The degree of restriction over

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each category is a function of the degree to which that category of nonconformity is a nuisance or incompatible with the purposes and regulations of this chapter.

(1) *Major nonconforming use or structure.*

a. A major nonconforming use is any use listed in the table below for the district in which it is listed:

Zoning District	Major Nonconforming Use
Residential	Industrial use
	Commercial use
Public lands and open space	Industrial use
	Commercial use
Business, office service, tourist service	Industrial use
Industrial	Residential use

- b. A major nonconforming use or structure shall not be changed to any use other than a use permitted in the zoning district in which it is located.
- c. Major nonconforming uses or structures shall not be reestablished in their nonconforming condition in any zoning district after damage or destruction, if the estimated expense of reconstruction exceeds 33 percent of the value, determined as the original cost, indexed to present day replacement cost and discounted for physical depreciation and physical obsolescence, as determined by the city assessor.
- d. If a major nonconforming use ceases for any reason for a period of more than 90 consecutive days, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be reestablished and any future use shall be in conformity with the provisions of this chapter.
- e. Major nonconforming uses or structures may not be enlarged, increased, extended, altered, expanded, constructed or reconstructed except in accordance with subsection (h) of this section.

(2) *Minor nonconforming use or structure.* A minor nonconforming use or structure is any nonconforming use or structure which is not a major nonconforming use or structure.

(d) *Minor nonconforming uses of land or structure.* Where, at the effective date of adoption or amendment of the ordinance from which this chapter is derived, a lawful use of land and/or structure exists that is no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use of structure or land shall be enlarged, increased, extended or altered to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this chapter is derived. An exception to this restriction can be made where an otherwise lawful structure exists that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, the zoning board of appeals may approve the reestablishment, expansion, alteration, or extension upon evidence of demonstrable hardship or practical difficulty resulting from conditions which do not exist generally throughout the zone.
- (2) No such nonconforming use of structure or land shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance from which this chapter is derived.

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- (3) Nonconforming uses shall not be changed to another nonconforming use except after approval of the board of zoning appeals. Before granting such approval, the board shall determine, by making findings in the specific case, that such change in use will have a less detrimental effect on neighboring properties than the existing nonconforming use, and is more or equally appropriate in the zone. In permitting such change, the board of appeals may require appropriate conditions in accordance with the purpose and intent of this chapter.
 - (4) If such nonconforming use of land or structure ceases for any reason for a period of more than 90 consecutive days, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. The time limit of discontinuance may be extended beyond the 90 days, for a period of time not to exceed one year upon proper application to the board of zoning appeals within the 90-day period and upon presentation of evidence that an unnecessary hardship or practical difficulty would exist should the 90-day limitation be strictly enforced. At the end of this period of abandonment, the nonconforming use of structure or land shall not be reestablished and any future use shall be in conformity with the provisions of this chapter.
 - (5) Structural alterations or extensions adding to the bulk of a structure which is nonconforming shall be permitted without prior approval of the board of zoning appeals; provided, that such structure alteration or extension shall not increase the extent of nonconformity and shall satisfy all other site development regulations which are applicable.
 - (6) Structural alterations which do not add to the bulk of structure or increase the intensity of use of the structure shall not require prior approval of the board of zoning appeals.
 - (7) Nonconforming buildings or structures may be structurally altered so as to prolong the life of the building or structure.
 - (8) Nonconforming structures may be reestablished in any zoning district after damage or destruction of the nonconforming structure, if such building or structure is nonconforming due only to its being located on a site having a size, width or both, less than prescribed in the applicable sections of this chapter.
 - (9) Structures which are nonconforming due to their having an insufficient setback may not be reestablished in their nonconforming condition in any zoning district after damage or destruction, if the estimated expense of reconstruction exceed 50 percent of the value, except with approval of the board of zoning appeals. The value is determined in this subsection as the original cost, indexed to present day replacement cost and discounted for physical depreciation and physical obsolescence, as determined by the city assessor. A variance shall be granted by the board only when the strict application of the requirements of this chapter would pose demonstrable hardship or practical difficulty resulting from conditions which do not exist generally throughout the zone. The terms hardship and practical difficulty shall not be deemed financial hardship or mere inconvenience.
 - (10) Any nonconforming use of a structure may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of the ordinance from which this chapter is derived.
- (e) *Nonconforming lots.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot or record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the board of appeals.

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- (f) *Repairs and maintenance.* Repairs and maintenance may be performed on any building devoted in whole or in part to a nonconforming use; including ordinary repairs or repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 50 percent of the assessed value (25 percent of true cash value) of the building during any period of 12 consecutive months. However, the cubic content of the building as it existed at the time of passage or amendment of the ordinance from which this chapter is derived shall not be increased, except as otherwise provided for in this section. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- (g) *Prior construction approval.*
- (1) Nothing in this article shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived; provided that construction is commenced within 90 days after the date of issuance of the permit, that construction is carried on diligently and without interruption for a continuous period in excess of 30 days, and that the entire building shall have been completed according to the plans filed with the permit application within two years after the issuance of the building permit.
 - (2) To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of any building on which construction was lawfully begun prior to the effective date of adoption or amendment of this article, and upon which actual construction has been diligently carried on. The term "actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction; provided that work shall be diligently carried on until completion of the building involved.
- (h) *Uses under exception provisions.* Any use which was permitted with a special exception as provided in this chapter, shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use.
- (i) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures, and premises; provided there is no change in the nature or character of such nonconforming uses.
- (j) *Elimination of nonconforming use or structure.* The city may acquire by purchase, condemnation or other means, private property or an interest in private property for the removal of any nonconforming use or structure. The cost or expense or a portion thereof may be paid from general funds or assessed to a special district in accordance with applicable statutory provisions.

(Prior Code, § 5.183; Ord. No. 87-01, 1-12-1987)

State law reference(s)—Nonconforming uses or structures, MCL 125.3208.

Sec. 46-656. Accessory buildings.

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

- (1) Where a building accessory to a residential building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to main building.
- (2) Buildings accessory to a residential building shall not be erected in any required yard, except a rear yard.

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- (3) Detached buildings accessory to a residential building shall not occupy more than 25 percent of a rear yard; provided that in no instance shall all of the accessory buildings exceed 65 percent of the ground floor area of the main building.
 - (4) No detached building accessory to a residential building shall be located closer than ten feet to any main building nor shall it be located closer than three feet to any side or rear lot line.
 - a. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than three feet to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.
 - b. A detached accessory building may be located closer than ten feet to any main building if all walls of the accessory building which face the main building or other permanent structures, are constructed to meet or exceed a one-hour fire rating.
 - (5) No detached accessory building in R-1 through R-4, RT, RM-1, RM-2, MH, RMH, OS-1, OS-2, B-1 and P-1 districts shall exceed one story or 20 feet in height. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said district.
 - (6) When buildings accessory to a residential building are located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot in the rear of such corner lot. In no instance shall an accessory building be located nearer than ten feet to a street right-of-way line.
 - (7) Buildings accessory to a nonresidential building must comply with all of the above requirements which apply to residential buildings or apply for and receive a variance from the zoning board of appeals.
 - (8) The parking of a mobile home for periods exceeding 24 hours on lands not approved for mobile home parks shall be expressly prohibited. All mobile homes owned by residents of the city and stored on their individual lots shall be stored only within the confines of the rear yard and shall further respect the requirements of this section applicable to accessory buildings, insofar as distances from principal structures, lot lines, and easements are concerned. All mobile homes parked or stored, shall not be connected to sanitary facilities or public utilities and shall not be occupied.
 - (9) Ground mounted satellite dishes, antennas, towers, privacy screens and similar structures are considered accessory structures when greater than nine inches in height and 50 square feet in projected silhouette, section 46-4, pertaining to the definition of structure, when not attached to a main building and when not the principal use on the property, and must conform to all regulations in this chapter applicable to accessory buildings and structures, including the obtaining of a building permit. Retaining walls must not extend more than nine inches above the highest grade, or they must comply with the city's fence ordinance. See article III of chapter 8, pertaining to fences. Exceptions are as follows:
 - a. Essential services which comply with section 46-707.
 - b. Commercial telecommunication towers and antennas which comply with sections 46-662 and 46-673.

(Prior Code, § 5.184; Ord. No. 80-004, 12-1-1980; Ord. No. 85-06, 4-1-1985; Ord. No. 90-15, 8-20-1990; Ord. No. 98-01, 3-2-1998; Ord. No. 98-25, 1-4-1999; Ord. No. 2001-13, 11-5-2001)

Sec. 46-657. Accessory uses.

- (a) *Accessory use examples.* An accessory use includes, but is not limited to the following:
 - (1) Residential accommodations for up to two servants and/or caretakers.

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- (2) Swimming pools for the use of the occupants of a residence, or their guests.
 - (3) Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
 - (4) A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays.
 - (5) Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
 - (6) Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
 - (7) Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
 - (8) Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
 - (9) Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
 - (10) Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.
- (b) *Accessory use locations.* In addition to being permitted on the same parcel as a primary use, accessory uses to non-residential uses may be approved on a lot which is separate from the lot on which the primary use is located if such lot is directly contiguous or contiguous across a public street right-of-way and within the same zoning district classification. Such accessory uses shall be accessory to a use permitted by right and which is operating from within an enclosed building. Accessory uses not on the same parcel as the primary use they serve shall also require administrative site plan review by the city's department heads and consulting engineer.

(Prior Code, § 5.6; Ord. No. 98-01, 3-2-1998; Ord. No. 98-23, 11-16-1998; Ord. No. 2019-06, § 1, 5-20-2019)

Sec. 46-658. Requirements—Off-street parking, pedestrian sidewalk, and motorized and bicycle parking.

There shall be provided in all zoning districts at the time of erection or enlargement of any main building or structure, automobile off-street parking with adequate access to all spaces. However, this shall not apply to the B-2 zone, or commercial uses in any zone which abut off-street public parking located within the B-2 zone, except subsections (4) and (10) shall remain applicable. For select uses, there shall also be provided facilities for the parking of non-motorized bicycles, including uses in the B-2 zone. Bicycle parking requirements are detailed under section 46-674 of this chapter. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy, as hereinafter prescribed.

- (1) Off-street parking spaces may be located within any non-required yard and within the required rear yard setback unless otherwise provided in this chapter.
- (2) Required parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.

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- (3) Parking for single family residential uses shall consist of a parking strip, bay, driveway, garage or combination thereof and required parking shall be located on the premises to be served, and shall be exempt from other provisions of this section, and section 46-660.
 - (4) Any area once designated as required off-street parking shall not be changed to any other use or to an amount less than the required for a similar new building or use, unless and until equal facilities are provided elsewhere.
 - (5) Two or more buildings or uses may collectively provide the required parking, in which case the number of spaces shall not be less than the sum of the requirements for the several individual uses computed separately. In the instance of dual function of off-street parking, where operation hours of buildings do not overlap, the board of appeals may grant an exception.
 - (6) Off-street parking areas shall be provided with a suitable, visually aesthetic buffer. This buffer may be the required setback, or may be a continuous, visually obscuring, 30-inch high masonry wall that conforms with the city's fence ordinance. Between these extremes, the buffer may consist of berm (section 46-663(4)) landscape foliage, fences, screens, or green areas as approved by the zoning administrator, such that the lesser the distance between the parking area and the property line, the greater the intensity of the buffer. Where a non-residential parking area is developed adjacent to a residential district, it must be provided with a minimum set back of ten feet or an equivalent buffer as described above.
 - (7) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.
 - (8) In all cases where a wall extends to an alley which is a means of access to an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
 - (9) a. Access to off-street parking areas shall be provided from a collector street only, or by consent of the planning commission, may be provided from streets other than collectors (but with immediate access to a collector) when the board finds a substantial improvement in traffic safety will be achieved by reducing the number of driveways onto a collector street.
 - b. However, at no time shall access proceed through a single family zone or be provided by way of a noncollector street to a collector street when the noncollector street is abutted by single family residential zone(s) between the access and the collector site.
 - c. Also, at no time shall a curb cut providing access be nearer than 25 feet from an abutting single family zone on the same side of the street or directly across the street from a single family zone.
 - (10) Establishments providing overnight lodging accommodations must provide at least one reserved off-street parking space per bedroom.
 - (11) The outside storage or parking (except for loading and unloading) of commercial vehicles or equipment is prohibited on city streets or in the front yards of residentially zoned property. An exception are commercial vehicles with a length of 21 feet overall, or less, and a height of 11 feet, or less.
 - (12) Sidewalks for pedestrian circulation and access. All business, services, and multiple family developments possessing four or more dwelling units, in all zone districts, shall provide a private sidewalk system (pedestrian access and circulation feature) for the safe and convenient movement of pedestrians from the principal parking area to the primary access door serving customers, clients, patrons, employees, and/or residents; a public sidewalk along any street right-of-way; and, a private sidewalk system from the primary access door to the public sidewalk system. These requirements shall also apply to industrial uses, provided, however, in cases where no adjoining right-of-way contains an

existing public sidewalk, industrial uses shall not be required to provide public sidewalks nor a private sidewalk system from the primary access door to the public sidewalk system.

Private sidewalks shall:

- a. Consist of a hard surface composition such as concrete, brick pavers, or asphalt designed to safely accommodate the movement of pedestrians throughout the year.
- b. Maintain a minimum width of five feet throughout their length.
- c. Insofar as feasible and practicable shall be positioned so as to provide for the convenient and prompt movement of pedestrians traveling from vehicular parking areas to the use served by said parking and to the public sidewalks. Unnecessary lengthy and circuitous routing shall be avoided.
- d. Be designed and located to limit potential conflicts between pedestrians using the sidewalks and nearby motorized traffic.
- e. For purposes of public safety, shall be well-lighted throughout their length.
- f. The overall design and construction of the sidewalk system shall harmonize with the design and construction of the use served. In the event the sidewalk system is positioned in the downtown (B-2 District), the design and construction shall harmonize with the planned character of the downtown.
- g. So as to assure its continued readiness for use and the safe movement of pedestrians, sidewalks shall be reasonably maintained throughout the year including removal of snow, ice, and debris and the repair of breaks and other trip hazards.
- h. Shall meet or exceed the Sidewalk Engineering Design Standards of the City of Cadillac.
- i. Abutting properties may share a private sidewalk system, or portion thereof, pursuant to the required connection to a public sidewalk system provided the design and construction standards of this ordinance are met and that a written agreement between the owners of the abutting properties is executed establishing liability, design and construction, and maintenance responsibilities for the shared sidewalk. The agreement shall be subject to review and approval by the city attorney and shall be recorded with the Wexford County Registrar of Deeds prior to construction of the sidewalk. A copy of the recorded instrument shall be provided to the city at no cost.

(Prior Code, § 5.185; Ord. No. 87-17, 10-9-1987; Ord. No. 90-14, 8-20-1990; Ord. No. 95-26, 10-16-1995; Ord. No. 98-26, 1-4-1999; Ord. No. 2020-11, § 1, 12-7-2020)

Sec. 46-659. Schedule of off-street parking space requirements.

The minimum number of off-street parking spaces shall be determined in accordance with the schedule in this section. However, uses not specifically mentioned shall be treated as a like use as determined by the planning commission. Whenever the required parking spaces are expressed as a fraction, the requirement shall be rounded to the next whole number.

Use	Number of Minimum Parking Spaces Per Unit of Measure
<i>Residential</i>	
Residential, one-family and two-family	Two for each dwelling unit.
Residential, multiple-family	Two for each dwelling unit.
Housing for the elderly	One for each unit, and one for each employee. Should the units revert to general occupancy, then

		two per unit shall be provided before the conversion.
	Mobile homes and mobile home park	Two for each mobile home site and one for each employee of the mobile home park.
<i>Institutional</i>		
	Churches or temples	One for each three seats or six feet of pews in the main unit of worship.
	Hospitals	One for each one bed.
	Homes for the aged and convalescent homes	One for each two beds.
	Elementary and junior high schools	One for each one teacher, employee or administrator, in addition to the requirements of the auditor.
	Senior high schools	One for each one teacher, employee, or administrator and one for each ten students, in addition to the requirements of the auditor.
	Private clubs or lodge halls	One for each two persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes.
	Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	One for each two member families or individuals plus spaces required for each accessory use, such as a restaurant or bar.
	Golf courses open to the general public, except miniature or par-three courses	Six for each one golf hole and one for each employee, plus spaces required for each accessory use, such as a restaurant or bar.
	Fraternity or sorority	One for each five permitted active members, or one for each two beds whichever is greater.
	Stadium, sports arena, or similar place of outdoor assembly	One for each three seats or six feet of benches.
	Theaters and auditoriums	One for each three seats plus one for each two employees.
<i>Business and commercial</i>		
	Planned commercial or shopping center	One for each 100 square feet of gross floor area.
	Auto wash (automatic)	One for each employee. In addition, reservoir parking spaces equal in number to five times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by 20.
	Auto wash (self-service or coin operated)	Three for each washing stall in addition to the stall itself.
	Beauty parlor or barbershop	Three spaces for each of the first two beauty or barber chairs, and 1½ for each additional chair.
	Bowling alleys	Five for each one bowling lanes plus accessory uses.
	Dance halls, pool or billiard parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed seats	One for each two persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.

	Establishment for sale and consumption on the premises, of beverages, food or refreshments	One for each 100 square feet of gross floor space or one for each two persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes.
	Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair, and other similar uses	One for each 800 square feet of gross floor area. (For that floor area used in processing, one additional shall be provided for each two persons employed therein.)
	Gasoline service stations	Two for each lubrication stall, rack, or pit; and one for each gasoline pump.
	Laundromats and coin operated dry cleaners	One for each two washing and/or dry cleaning machines.
	Miniature or par-three golf courses	Three for each one hole plus one for each one employee.
	Mortuary establishments	One for each 50 square feet of gross floor space.
	Motel, hotel, or other commercial lodging establishments	One for each one occupancy unit plus one for each one employee.
	Motor vehicle sales and service establishments	One for each 200 square feet of gross floor space of sales room and one for each one auto service stall in the service room.
	Nursery school, day nurseries, or child care centers	One for each 350 square feet of gross floor space.
	Retail stores except as otherwise specified herein	One for each 150 square feet of gross floor space.
<i>Offices</i>		
	Banks	One for each 100 square feet of gross floor space.
	Business offices or professional offices (except as indicated in the following use)	One for each 200 square feet of gross floor space.
	Professional offices of doctors, dentists or similar professions	One for each 50 square feet of gross floor area in waiting rooms, and one for each examining room, dental chair, or similar use area.
<i>Industrial</i>		
	Industrial or research establishments, and related accessory offices	Five plus one for every 1½ employees in the largest working shift. Space on site shall also be provided for all construction workers during period of plant construction.
	Warehouses and wholesale establishments and related accessory offices	Five plus one for every one employee in the largest working shift, or one for every 1,700 square feet of gross floor space, whichever is greater.

(Prior Code, § 5.186; Ord. No. 81-10, 8-31-1981)

Sec. 46-660. Off-street parking; layout; construction; maintenance.

Whenever the off-street parking requirements in sections 46-658 and 46-659 require an off-street parking area, such areas shall be in accordance with the following:

- (1) No parking lot shall be constructed unless and until a permit therefor is issued by the zoning administrator. Applications for a permit shall be accompanied with two sets of site plans for the

development and construction of the parking area showing that the provisions herein required will be fully complied with.

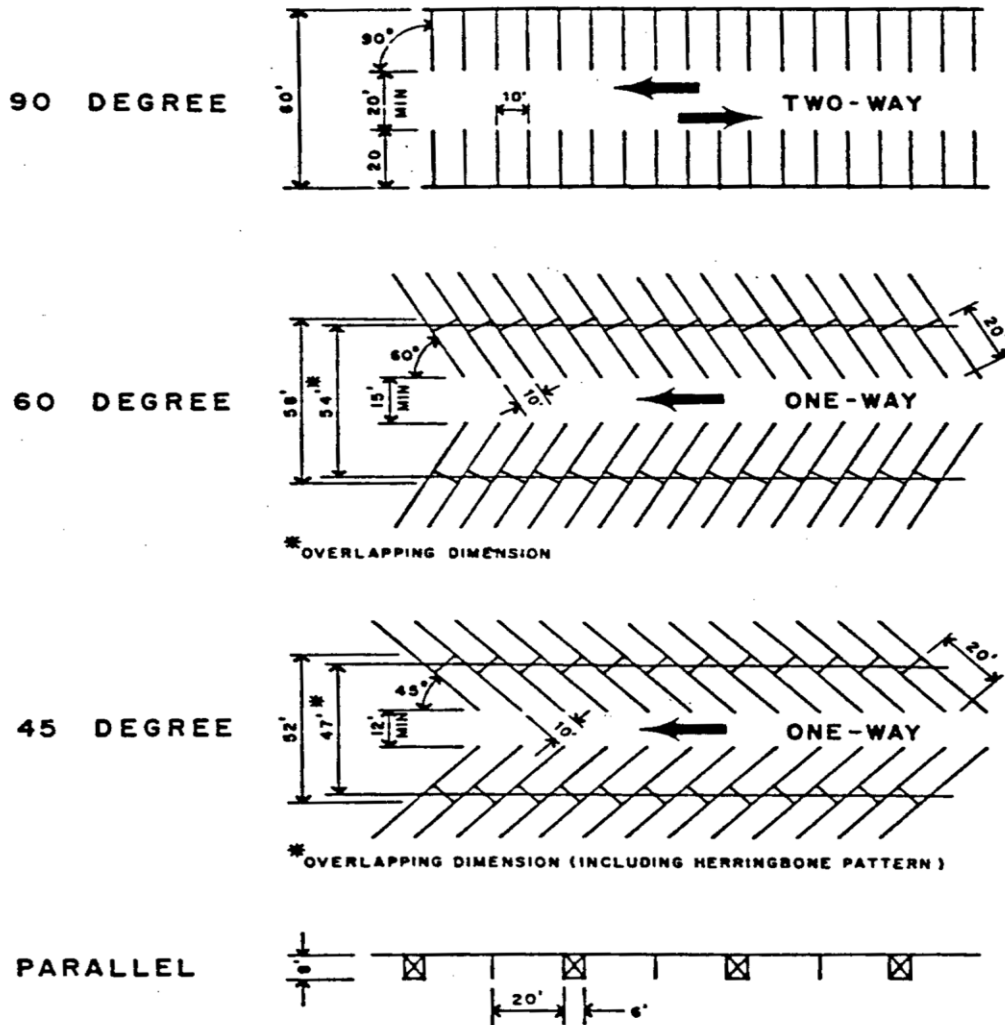
- (2) Plans for the layout of off-street parking shall be in accordance with the following minimum requirements:
- a. Parking space width and length for single spaces.

Parking Pattern (degrees)	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)
0	12	10	28
30 to 53	12	10	20
54 to 74	15	10	20
75 to 90	20	9	20

- b. Parking space width with one or two tiers.

Parking Pattern (degrees)	Total Width of One Tier of Spaces Plus Maneuvering Lane (feet)	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)
0	20	28
30 to 53	32	52
54 to 74	36.5	58
75 to 90	40	60

- (3) All spaces shall be provided adequate access by means of clearly limited and defined drives and maneuvering lanes. Backing directly onto a street shall be prohibited. All maneuvering lane widths listed in subsection (2)a and b of this section shall permit one-way traffic movement only, except the 90-degree pattern may permit two-way movement.
- (4) All off-street parking, including maneuvering lanes and access drives shall be provided with asphalt, concrete or other hard dust-free surfacing as specified by the engineering department. Surfacing shall be completed within six months of the date the occupancy permit is issued. Off-street parking areas shall be drained so as to dispose of all surface water on the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.



Parking Layouts

(Prior Code, § 5.187; Ord. No. 87-17, 10-9-1987; Ord. No. 2010-10, § 17, 8-2-2010)

Sec. 46-661. Off-street loading and unloading.

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public uses of dedicated rights-of-way. Such space shall be provided as follows:

- (1) Loading space shall be provided in the rear yard of all uses located in all commercial districts, except B-2 districts, in the ratio of at least 100 square feet per 1,000 square feet of gross floor area and shall be computed separately from the off-street parking requirements, but in no case shall more than 1,500 square feet of loading area be required.

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- (2) In the instance of OS-1 districts, loading space shall be provided in the ratio of 50 percent of the space required for other commercial districts. Where an alley exists at the rear of a building, loading requirements may be computed from the center of said alley.

(Prior Code, § 5.188; Ord. No. 87-17, 10-9-1987)

Sec. 46-662. Uses not otherwise included within specific districts.

- (a) Because the uses hereinafter referred to possess unique characteristics, making it impractical to include them in a specific use district classification, they may be permitted by the planning commission under the conditions specified. In every case, the uses hereinafter referred to shall be specifically prohibited from any residential districts, unless otherwise specified.
- (b) These uses require special consideration since they service an area larger than the city and require sizable land areas, creating problems of control with reference to abutting use districts. Reference to those uses falling specifically within the intent of this section is as follows:
 - (1) Shopping malls, amusement parks, stadiums, outdoor recreation and similar uses that require sites greater than five acres and are designed to accommodate occupancies greater than 200 people.
 - (2) Mining, gravel or sand extraction, oil exploration or similar temporary uses.
 - (3) Commercial television, radio, public utility and/or microwave transmitting towers and their attendant facilities. See section 46-673.

(Prior Code, § 5.189; Ord. No. 98-01, 3-2-1998)

Sec. 46-663. Plant materials.

Whenever in this chapter a greenbelt or planting is required, it shall be planted within six months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. Suitable materials equal in characteristics to the plant materials listed with the spacing as required shall be provided.

- (1) *Plant material spacing.*
 - a. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
 - b. Evergreen trees shall be planted not more than 30 feet on centers, and shall not be less than five feet in height.
 - c. Narrow evergreens shall be planted not more than six feet on centers, and shall not be less than three feet in height.
 - d. Tree-like shrubs shall be planted not more than ten feet on centers, and shall not be less than four feet in height.
 - e. Large deciduous shrubs shall be planted not more than four feet on centers, and shall not be less than six feet in height.
 - f. Large deciduous trees shall be planted not more than 30 feet on centers, and shall not be less than eight feet in height.
 - g. Small shrubs shall be planted not more than four feet on centers, and not less than two feet in height.
- (2) *Trees not permitted.*

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- a. Box Elder.
- b. Elms.
- c. Poplars.
- d. Willows.
- e. Horse Chestnut (nut bearing).
- f. Tree of Heaven.
- g. Catalpa.
- h. Jack Pine.
- i. Scotch Pine.
- j. Silver Maple.
- k. Walnut.

(3) *Shrubs not permitted.*

- a. Honeysuckle.
- b. Privet Hedge.
- c. Lilac (native species).

(4) *Berms.*

- a. Slopes shall not exceed a ratio of 1:4.
- b. Landscaped berms greater than one foot in height and less than five feet in width shall be provided with a subsurface watering system.
- c. Landscaped berms less than eight feet wide shall not exceed two feet in height.
- d. Landscaped berms greater than eight feet wide shall not exceed three feet in height.

Suggested Plant Materials	Height Minimum (in feet)
Evergreen trees	3
Douglas Fir*	
Fir	
Hemlock	
Juniper	
Pine (Red or White)	
Spruce*	
White Fir*	
Narrow evergreens	3
Blue Columnar Chinese Juniper	

	Douglas Arbor-Vitae	
	Irish Yew	
	Juniper	
	Pyramidal Red-Cedar	
	Tree-like shrubs	3
	Dogwood	
	Flowering Crab	
	Hawthorn	
	Mountain Ash	
	Redbud	
	Rose of Sharon	
	Large deciduous shrubs	6
	Arrow Wood Viburnum*	
	Cotoneaster	
	Euonymus	
	Forsythia	
	French Hybrid Lilac*	
	Hazelnut	
	Lilac	
	Mock-Orange	
	Ninebark	
	Viburnum	
	Deciduous trees	8
	Beech*	
	Birch	
	Ginkgo	
	Hackberry	
	Honeylocust	
	Horse Chestnut	
	Linden	
	Little Leaf Linden*	
	Maple (Hard/Sugar)*	

	Modesto Ash*	
	Oak*	
	Red Maple	
	Sweet Gum	
	Sycamore	
	Sycamore (London Plane)*	
	Small shrubs	8
	Burning Bush	
	Junipers	
	Spirea	
	Yews	

*Recommended for hardiness and maintenance.

(Prior Code, § 5.190; Ord. No. 98-26, 1-4-1999)

Sec. 46-664. Signs.

- (a) *Findings.* The city council finds that signs and other visual outdoor advertising are necessary to the commerce, health, safety and general welfare of the residents of the city. Further, it finds that failure to regulate their size, location and construction may lead to poor identification of individual businesses, deterioration of the business and residential areas of the city, intensification of the conflicts between different types of land use, reduction in the effectiveness of traffic control devices, and safety hazards to pedestrians and motorists. Further, it finds that the city's economic base is dependent on preserving property values and a healthy business climate.
- (b) *Purpose.* The purpose of this section is to regulate signs and outdoor advertising in a manner which will minimize the harmful effects while permitting latitude for creative and effective advertising and identification. To achieve this purpose, this section has the following objectives:
- (1) To prevent the placement of signs in a manner that will conceal or obscure signs or adjacent businesses.
 - (2) To keep the number of signs and sign messages at the level reasonably necessary to identify a business and its products.
 - (3) To keep signs within a reasonable scale with respect to the buildings to which they relate.
 - (4) To prevent off-premises signs from conflicting with business, residential and public land uses.
 - (5) To keep an area adjacent to streets clear of signs which might obstruct or distract the view of motorists.
 - (6) To reduce the visual and physical obstructions to motorists entering or leaving streets.
- (c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Awning sign means any sign when located as an integral part of a canopy or awning. If located on a maximum 12-inch wide valance, the sign shall be considered a marquee sign with no maximum square footage. If located on other than a 12-inch or less valance, the sign shall be considered a wall sign for determining maximum square footage. Approval of awning signs shall be by a staff committee composed of the downtown development director, zoning administrator, and city engineer. In the event two or more designated members of the staff committee are unavailable or have a conflict of interest, approval shall revert to the full planning commission. Determination of approval, whether by the staff committee or planning commission, shall be based on awning sign standards approved by the planning commission. Decisions of the staff committee or planning commission may be appealed to the zoning board of appeals.

Billboard. See *Off-premises advertising sign*.

Business sign means any sign erected for the purpose of advertising a business, product or subject related to the premises on which said sign is located.

Commercial or professional center sign means any sign which gives directions and/or identification to a group of two or more contiguous stores or business spaces whether or not under single management.

Display surface means the entire area within a common geometric figure enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two faces are placed back to back and are at no point more than three feet from one another, the area of the sign shall be taken

as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

Encroaching sign means a sign which projects beyond the private property line into and over public property, or any privately owned sign wholly or partially on public property.

Front means and shall be the side of the property facing the thoroughfare that carries the greatest amount of traffic.

Hanging sign. See *Marquee sign.*

Home occupation sign means any sign used for the purpose of advertising services in conjunction with a lawful home occupation.

Identification sign means a sign that identifies the name of the property, owner, resident or business on said property, with or without the street address.

Institutional sign means a sign containing a surface area upon which is displayed the name of a church, school, library, museum, day care center, cemetery, community center, and similar institutions and the announcement of its services or activities.

Interior signs means those signs located inside of a building. When located in a residential zone district and visible from a street they are to be considered a wall sign.

Marquee sign or hanging sign means a sign which is attached to the underside of a soffit or underside of a marquee, or other covered building structure, projecting from and supported by the building, and not more than 12 feet nor less than seven feet above the adjacent sidewalk or driveway, nor projecting beyond the perimeter of the marquee or soffit.

Monument sign means a freestanding yard sign, considered a pole sign and sometimes referred to as a ground mounted sign.

Nonconforming sign means any sign, which does not conform to the requirements of this section.

Off-premises advertising sign or billboard means any sign erected for the purpose of advertising a business, product, event, person or subject, not relating to the premises on which the sign is located. It has been determined by the city council that a maximum of three such signs could be supported within the city limits. The intent is to allow one sign near each end of Mitchell Street and one in the Cadillac West area in accordance with the following regulations:

- (1) No sign shall have a total area of all faces in excess of 700 square feet or 350 square feet per sign face;
- (2) Maximum height of 25 feet;
- (3) Not closer than one mile to any other off-premises advertising sign;
- (4) Minimum setback from any street right-of-way of 25 feet.

Pole sign means a freestanding sign which is supported by one or more uprights. Pole signs shall be set back from property lines a minimum of one-half the required yard setback in that particular district, or set back a minimum of 50 feet from the traveled paved portion of the abutting street, whichever is less; and in no case closer than the height of the sign to the traveled portion of a public street. This distance shall be measured from the outer-most edge of the sign. Pole signs are prohibited in B-1 and B-2 districts, except when approved by the planning commission as a decorative monument sign which blends with the district.

Portable or temporary sign means any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier or other nonmotorized mobile structure; a portable sign which has its wheels removed shall still be considered a portable sign hereunder. For the purpose of this section, trailer signs and signs on benches are portable/temporary signs.

Projecting sign means a sign projecting from and supported by the wall of a building with the exposed faces of the sign not in a plane parallel to the building wall.

Public sign means a sign intended for the community and its people rather than a private commercial concern.

Required setback means the minimum setback as measured from the street right-of-way to the nearest portion of the sign or its supporting structure.

Roof sign means a sign which is erected, constructed and maintained upon or above the roof of a building, marquee or parapet wall and which is wholly or partially supported by the building, but not projecting more than five feet above a flat roof or above the highest portion of a sloped roof. Roof signs are prohibited in the B-1 and B-2 zoning districts.

Signs means and include every individual announcement, declaration, illustration, insignia, surface or space when erected or maintained in view of the general public on a public way for identification, advertisement or promotion of the interest of any person. This definition does not include small goods or products when displayed indoors, or when approved by the planning commission for outdoor display, or when displayed within three feet of the front of the building (see section 36-41, pertaining to merchandise display), or when displayed in a nonrequired yard.

Trailer sign means a sign supported on a mobile or portable chassis, including a motor vehicle, and is to be considered a temporary sign and installed for a 30-day or less period. Trailer signs shall have the owner's name and address clearly imprinted for identification purposes and must be unilluminated.

Wall sign means a sign which is attached directly to or painted lettering on a wall or mansard roof of a building with the exposed face of the sign in a plane parallel to the building wall, and which projects not more than 18 inches from the building or structure wall and which does not extend above the parapet, eaves or building facade of the building on which it is located. Wall signs located in the central business district, B-2 zoning, must be lower than the second floor window sills or 15 feet, whichever is lower.

Yard sign. See *Pole sign.*

Note(s)—Definition illustrations. For purposes of clarity, certain definitions found in this subsection are supplemented through illustration. In the event of discrepancies between the sign illustrations and sign text, the sign text shall prevail.

Figure (4)(a) Awning Sign

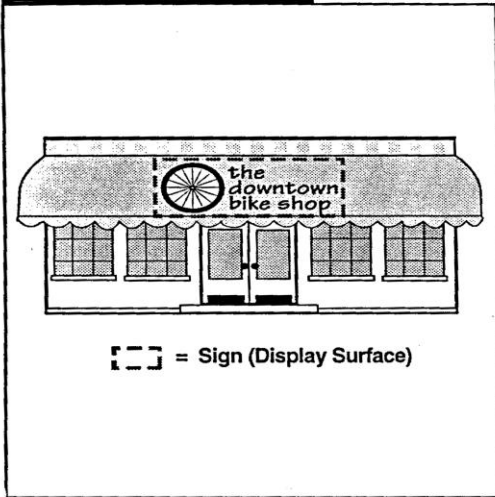


Figure (4) (y) Wall Sign



Figure (4)(m) Marquee Sign



Figure (4)(e) Display Surfaces

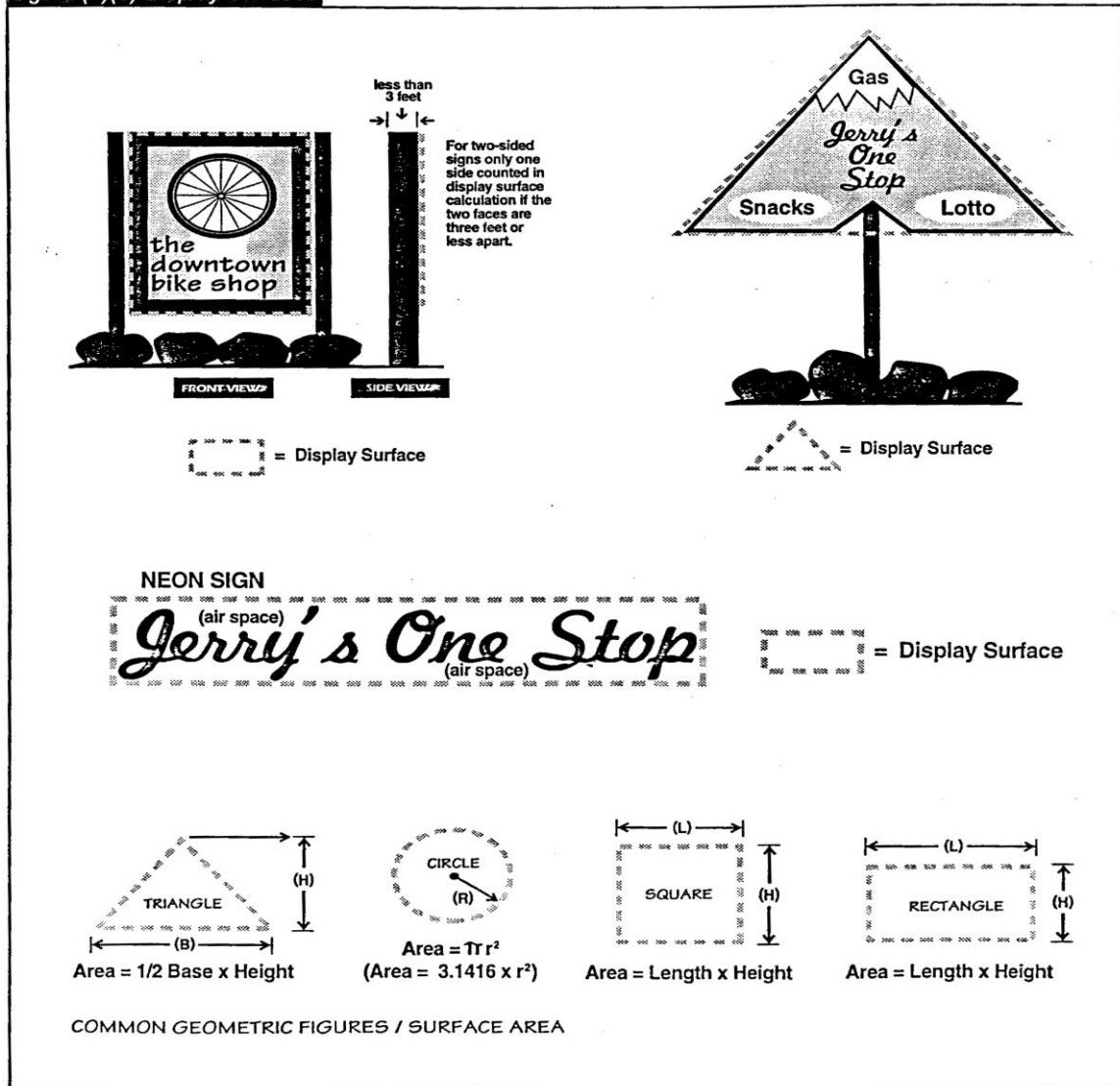


Figure (4)(n) Monument Sign

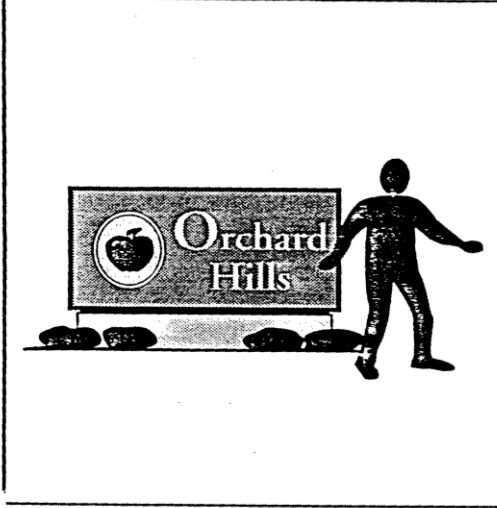


Figure (4)(q) Pole Sign

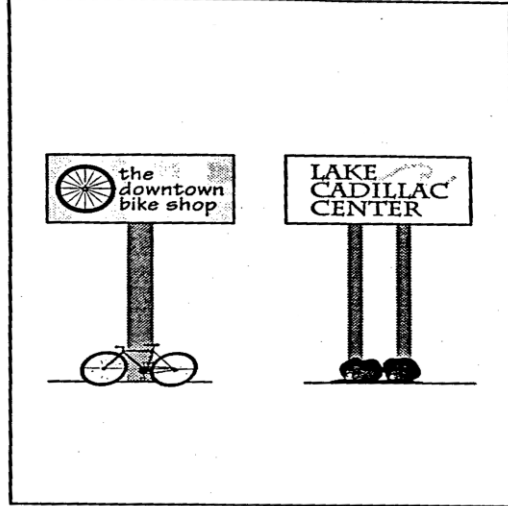


Figure (4)(s) Projecting Sign

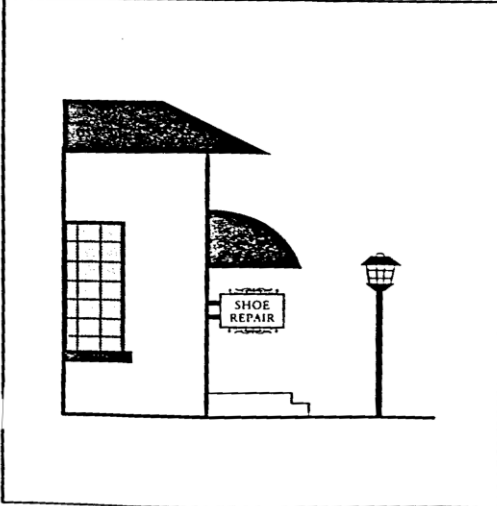


Figure (4)(x) Trailer Sign



(d) *General provisions.*

(1) *Prohibited signs.*

- a. Encroaching signs, as defined in subsection (c) of this section, are prohibited, except for signs located in the B-2 zoning district as authorized by this chapter and signs approved by the city council as authorized by this chapter.
- b. Any sign, which is by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or detriment to traffic safety by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any traffic control device on public streets and roads. Illumination of signs must be directed away or shielded from the roadway (indirect or internally illuminated), and must not be blue, red or amber colored.
- c. Signs which make use of words such as "Stop," "Look," "Danger," or any other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.

-
- d. Signs and sign structures that are no longer in use as originally intended or have been abandoned; or are structurally unsafe, constitute a hazard to safety and health, or those not kept in good repair.
 - e. Any sign which obstructs free ingress to or ingress from a required door, window, fire escape or other required exit way.
 - f. Any sign or other advertising structure containing any obscene, indecent or immoral matter.
 - g. Any sign, from the effective date of the ordinance from which this section is derived (November 5, 1986), unlawfully installed, erected or maintained.
 - h. Signs having flashing, blinking or running type lights that are visible from the roadway are prohibited unless such flashing, blinking or running-type lighting is used solely for the purpose of electrically changing the copy of the sign, for example, time and temperature signs.
 - i. Any sign installed prior to this section without a sign permit, when in fact the prior ordinance required a sign permit.
 - j. Signs located on vacant zoning lots, except real estate for sale, rent or lease sign, pertaining to the property on which the sign is located, see subsection (f) of this section, pertaining to temporary use signs.
 - k. Signs that obstruct visual clearance by exceeding 30 inches in height or signs not raised above a height of at least ten feet, with no more than one pole not exceeding 12 inches in diameter, shall not be permitted within the triangular area formed at the intersection of the traveled portion of any street, driveway or alley by a straight line drawn between them at a distance 25 feet from their point of intersection.
 - l. All signs shall be designed and constructed in conformance with the materials, loads, stresses and fire safety requirements as outlined by the state construction code requirements. Signs not so designed and constructed shall be prohibited.
- (2) *Exempted signs.* The following signs are exempt from the restrictions of this section:
- a. Reserved.
 - b. Interior and exterior window signs on buildings located in nonresidential districts, and interior window signs located in residential districts for purposes of child safety; provided, however, window signs in the B-2 zone district shall comply with the design standards detailed in Schedule B set forth in this section.
 - c. Nameplates less than one square foot in area and located on a building.
 - d. Memorial signs or tablets with the building name and date, when cut into the masonry or made of bronze or similar material and located on a building.
 - e. Private directional, instructional or other noncommercial signs, such as entry, parking, restroom location, and similar functional signs, when horizontally painted on pavement and not to exceed four square feet in area when constructed and erected as pole signs and not to exceed four feet in height. When the height exceeds three feet, the sign must be set back a minimum of 20 feet from the traveled portion of a street, alley or sidewalk. A business identification sign or emblem, not exceeding 50 percent of the sign area, may be incorporated within the permitted private directional sign. Wall signs, not to exceed two square feet in area and not located more than eight feet above grade may also be placed for directional or instructional purposes.
 - f. A maximum of two on-premises institutional signs setting forth the name or any simple announcement for public, charitable, educational or religious purposes, not to exceed 18 square

feet in area per sign. If ground mounted, the top of the sign shall not be more than six feet above grade level.

- g. "No Trespassing," "No Hunting" and signs of a similar nature.
- h. Address numbers with a numeral height not to exceed 12 inches when located on a building.
- i. Flags bearing the official designation of a noncommercial organization and up to one free waving commercial flag, with a maximum area of 20 square feet, when displayed with an American flag.
- j. Permanent signs affixed to equipment pertaining directly to the equipment or contents therein, i.e., gas pumps, vending machines.
- k. Signs carried by an individual.
- l. Credit card signs shall not exceed 18 inches by 18 inches when added to a conforming sign.

(3) *Nonconforming signs.*

- a. Signs installed without a sign permit shall be considered illegal and nonconforming and shall be either removed or made to conform to this section and a legal permit be obtained.
- b. Nonconforming signs shall not be changed, altered or enlarged unless such change, alteration, or enlargement is made to conform to this section. See note at the end of this subsection (d).
- c. Nothing in this section shall prohibit the change of the business or product copy or message thereon.
- d. Any lawful nonconforming sign damaged, worn or destroyed may not be repaired, rebuilt, restored or reinstalled, except in conformance with this Code.

Exceptions: electrical, painting, tuck-pointing, sealing or other incidental repair or maintenance.
- e. Signs for nonconforming uses of land and/or buildings must have approval from the city's zoning board of appeals.
- f. No nonconforming signs shall be reestablished, maintained or resurfaced after the activity, business or usage to which it relates has been discontinued for 30 days or longer. Nonconforming signs of a discontinued activity, business or usage shall be considered a blighting nuisance and must be removed within 40 days of said discontinuation.
- g. If the owner of a sign or the premises on which a sign is located changes the location of a building, property line or sign, or changes the use of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform with this Code.

Note: Change in copy or sign facing shall not be considered a structural change and shall not require a permit provided that no enlargement is made.

(e) *Permitted signs by zoning districts.* Sign regulations by their zoning districts are as follows:

- (1) *Residential districts.* In all residential districts, the requirements of Schedule A shall govern sign use, area, type, height, and numbers, in addition to requirements elsewhere in this section.
- (2) *Commercial and office districts.* In all commercial and office zoning districts, the requirements of Schedule B shall govern sign use, area, type, height and numbers, in addition to requirements elsewhere in this section. Pursuant to Schedule B, the sign standards for the B-2 zone district follow the Schedule B, groups 1 through 6, table of sign regulations.
- (3) *Industrial districts.* In all industrial zoning districts, the requirement of Schedule C shall govern sign use, area, type, height and numbers, in addition to requirements elsewhere in this section, and any protective covenants for the specific industrial parks.

- (f) *Temporary use signs.* Temporary use signs not otherwise prohibited by this chapter are permitted, provided they comply with all of the requirements of this section and Schedule D.

Schedule A - Residential Districts				
Use	Sign Type			
	Pole	Marquee	Wall	Projecting Sign
Group 1 - Religious Day Care, Human Care, Cemeteries, Parks (public), Public Buildings and School				
Maximum display area	6 square feet	6 square feet	6 square feet	6 square feet
Maximum height	8 feet	See sign type definition	Not above wall line	Not above wall line
Sign purpose	Identification	Identification	Identification	Identification
Maximum number of signs	1 pole sign or 1 projecting sign	1 per entrance	1 per wall	1 projecting sign or 1 pole sign
Group 2 - Housing Developments, including Mobile Home Parks, Apartments, Subdivisions, Condominiums and Other Multi-Family Developments				
Maximum display area	6 square feet plus a maximum increase of 50% for signs required by the government			
Maximum height	8 feet			
Sign purpose	Identification			
Maximum number of signs	1 per street entrance			
Group 3 - Home Occupation, Name and/or Address of Occupant				
Maximum display area	2 square feet		2 square feet	2 square feet
Maximum height	4 feet		Not above wall line	4 feet
Sign purpose	Identification		Identification	Identification

Maximum number of signs	1 pole sign or 1 wall sign or 1 projecting sign per dwelling			
Group 4 - Off-Premises Signs				
Maximum display area	*****Prohibited*****			
Maximum height				
Sign purpose				
Maximum number of signs				

Schedule B - Commercial and Office Districts

<i>Use</i>	<i>Sign Type</i>					<i>Roof or Awning</i>
	<i>Pole^{1,2,3}</i>	<i>Marquee</i>	<i>Wall</i>	<i>Projecting Sign</i>		
Group 1 - Individual Establishment (not located within a multiestablishment center)						
Maximum display area	32 square feet - OS zone	6 square feet	An aggregate sign area of 15% area of wall being served	32 square feet - B-1, OS zone	See sign type definition	
	48 square feet - B-3 zone			48 square feet - B-3 zone		
	64 square feet - TS zone			64 square feet - TS zone		
Maximum height	Not higher than the maximum height limitation of the use district in which located	See definition	Not above wall line	Not higher than building	See sign type definition	
Sign purpose	Business or identification	Business or identification	Business or identification	Business or identification	Business or identification	Business or identification
Maximum number of signs	1 pole sign or 1 projecting sign or 1 roof sign; plus awning, marquee and wall signs	1 per entrance	2 signs per wall, provided a wall with a projecting sign or roof sign shall not also contain wall signs plus one pole sign	1 projecting sign or 1 pole sign or 1 roof or awning sign, or 2 wall signs	1 roof or awning sign or 1 pole sign or 1 projecting sign	

Group 2 - Individual establishments located within a multiestablishment						
Maximum display area	Individual pole signs are prohibited except that individual business tenants which are anchor stores with more than 25% of the total square footage in the multiestablishment (i.e., mall) may have 1 pole sign (complying with Group 1 of this schedule) in addition to the center sign. (See Group 3 of this schedule.)	6 square feet	15% area of wall to be served	18 square feet	See sign type definition	
Maximum height		See sign type definition	Not above roof line	Not above wall line	See sign type definition	
Sign purpose		Business or identification	Business or identification	Business or identification	Business or identification	
Maximum number of signs		1 per entrance	1 per wall provided a wall with a projecting or roof sign shall	1 projecting sign or 1 roof or awning sign or 1 pole sign (if permitted - see	1 roof or awning sign or 1 projecting sign or 1 pole sign (if permitted - see	

				not also contain a wall sign.	pole sign requirements).	pole sign requirements).
Group 3 - Multiestablishment and/or professional center. (This regulation does not apply to individual establishments in a development such as a shopping center. See Group 2 of this schedule for these requirements.)						
	Maximum display area	32 square feet - OS, zone		15% area of wall of establishment that sign is to be installed.		
		48 square feet - B-3 zone				
		64 square feet - TS zone				
		Allowable increase of 15 square feet in B-3 zone and 20 square feet in TS zones for each individual ⁴ business (lease/deed) in the multiestablishment, up to a maximum of 144 square feet in B-3 zone and 192 square feet in TS zones.				
	Maximum height	Not higher than the maximum height limitation of the		Not above front wall		

		use district in which located.				
	Sign purpose	Identification of shopping center and/or identification of individual businesses in shopping center.		Identification of shopping center		
	Maximum number of signs	1 pole sign per center		1 per wall		
Group 4 - Auto service station						
	Maximum display area	32 square feet - B-3 zone		15% area of wall of establishment that is to receive sign.	32 square feet - B-3 zone	See sign type definition.
		64 square feet - TS zone			64 square feet - TS zone	
	Maximum height	30 feet		Not above wall line.	Not above wall line.	See sign type definition.
	Sign purpose	Business or identification		Business or identification	Business or identification	Business or identification
	Maximum number of signs	Corner lot - Total of 2 pole signs or 2 projecting signs or combination of each.		1 per wall, provided a wall having a roof sign shall not also contain a wall sign.	Corner lot - Total of 2 projecting signs or 2 pole signs or combination of each.	1 per establishment

		Inside lot - 1 pole sign or 1 projecting sign.			Inside lot - 1 projecting sign or 1 pole sign.	
Group 5 - Permanent off-premises signs.						
	<i>Organization or Agency Requesting Sign</i>		<i>Sign Type/Purpose/Standards/Approval</i>			
	City, Michigan Department of Transportation and United States Federal Highway Administration		Traffic Control Signs - Traffic control signs of the city, Michigan Department of Transportation and United States Federal Highway Administration are exempt from the provisions of the ordinance and may be designed and erected in accordance with applicable local, state, and federal guidelines.			
	Public agencies and organizations including schools, public libraries, City of Cadillac, Wexford County Board of Commissioners, Cadillac-Wexford Transit Authority, Cadillac-Wexford Airport Authority, and other local, state and federal public agencies and organizations.		Directional Signs - Off-premises encroaching signs are subject to review and approval by the city council based upon a demonstration of compliance with the following standards: <ol style="list-style-type: none"> 1. Signs shall be for directional purposes only providing the name and location of the agency or organization they are intended to serve. 2. Signs shall not conflict with traffic control signs and devices or pre-existing signs nor impact the safe and efficient circulation of pedestrians and motorists. 3. Signs shall not impact the ability of people to safely and efficiently exit and enter parked vehicles. 4. Signs shall not be internally or externally lighted. 5. Signs shall be designed and located such that they are harmonious with the character of the surrounding area. 6. Signs shall not result in the rerouting of vehicular traffic such that residential areas traversed by the sign's directional message experience significant increases in vehicular traffic levels, unless the city council determines said rerouting to be in the public interest. 			

		In approving these signs, city council has authority to regulate the design, number and location of the signs.			
	Maximum display area	48 square feet		15% of area of wall served	
	Maximum height	30 feet		30 feet	
	Sign purpose	Name or location with directions to a business or activity.		Name or location with directions to a business or activity.	
	Maximum number of signs	Only as approved by city council.		Only as approved by city council.	
Group 6 - Off-premises advertising (see definition)					
	Maximum display area	350 square feet face or 700 square feet total		350 square feet face or 700 square feet total	
	Maximum height	25 feet		25 feet	
	Sign purpose	Advertising a business or service identification		Advertising a business or service identification	
	Maximum number of signs	3 pole signs or 3 wall signs or any combination of each. (See the zoning administrator.)		3 wall signs or 3 pole signs or any combination of each. (See the	

				zoning administrator.)		
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¹ Prohibited in B-1 and B-2 zones (except when approved by the planning board). In a TS-2 zone, when located within 25 feet of the abutting street right-of-way, the bottom of the sign must be raised, on poles, and at least seven feet above the ground.

² In addition to the main sign face of a conforming pole sign, an additional sign face may be added to the pole as a secondary sign. The secondary sign must:

- a) Be located below the main sign face;
- b) Not exceed 18 square feet in display area;
- c) Not be larger in display area than the main sign face; and

³ The area of a pole sign may be increased one square foot per each additional one foot the sign is set back from the front property setback line.

⁴ Each individual business must be separated with walls constructed in conformance with the building code.

B-2 Central Business District Zone District

<i>Wall Signs — B-2 Zone District</i>		
	Location	May be placed on any building elevation (wall) capable of being viewed from a public right-of-way such as a street, alley, sidewalk, or public parking lot.
	Number	One sign per building elevation, provided, however, a building elevation with a canopy sign or awning sign may not also erect a wall sign on said elevation. (See also Notes 1 and 2.)
	Maximum Area Per Sign	Fifteen percent of the gross area (in square feet) of the exterior building elevation (wall) on which the sign is to be placed.
	Projection from Wall	No portion of a wall sign shall project more than 18 inches from the wall to which the sign is attached.
	Height	Building Walls Adjacent To And Facing Mitchell Street (131BR) — Signs must be lower than the second floor windowsills or 15 feet, whichever is lower. Building Walls Adjacent To Other Streets And Alleys - No portion of a wall sign shall project above the wall to which the sign is attached.
	Illumination	Wall signs may be externally or internally illuminated.
	Notes	1) A sign may include the names of multiple building tenants and businesses provided the sign is designed, constructed, and installed as a single, cohesive, unit.2) Any business having an exterior wall possessing a doorway allowing direct access to the outside may install a wall sign on the exterior wall. Other businesses (i.e. those in multi-tenant buildings) must share the space on a wall sign as provided for under Note 1). A business with an exterior (outside) wall shall be considered a building elevation for sign purposes provided:a) the exterior wall possesses a doorway leading directly to the outside; and,b) said doorway is for the exclusive use of the business and business patrons for which direct outside access is provided.For determining allowable sign size, the area of the building elevation as stated above shall be based on the area of that portion of the exterior wall which, if extended internally, would be coincident with the interior space of the business served by said wall.
<i>Projecting Signs(1) — B-2 Zone District</i>		
	Location	May be attached to any building elevation (wall) fronting a street, alley, sidewalk, or public parking area.
	Number	One permanent sign per building elevation (wall) and one temporary sign per building elevation (wall) in which their exists a public entry point. A building

		elevation with a permanent projecting sign may not also erect a hanging sign on said elevation.
	Maximum Area Per Sign	Signs Projecting Into A Public Right-of-Way (2) - A projecting sign, with any portion of said sign extending into a public right-of-way, shall not exceed six square feet. Projecting Signs Outside Of A Public Right-of-Waya) Permanent - Shall not exceed 24 square feet.b) Temporary — Shall not exceed six square feet.
	Projection from Wall	No portion of a projecting sign shall extend more than 42 inches from the wall to which the sign is attached.
	Minimum Height	Permanent Projecting Signs - No portion of a permanent projecting sign shall be less than seven feet from the underlying ground surface. Temporary Projecting Sign a) The wall-mounting bracket for the sign pole shall be not less than five feet six inches from the underlying ground surface. b) No portion of a projecting sign face shall be less than six feet from the underlying ground surface if located within 36 inches of the wall to which the sign is attached. If located beyond 36 inches, no portion of a projecting sign face shall be less than seven feet from the underlying ground surface.
	Maximum Height	No portion of a projecting sign shall be higher than 15 feet from the underlying ground surface, provided, however, in no case shall any portion of the sign extend above the wall to which the sign is attached.
	Illumination	Projecting signs extending over a public right-of-way shall not be illuminated. Other projecting signs may be externally or internally illuminated.
	Notes	(1) Projecting Signs: a) Permanent Projecting Signs - Signs classified as permanent refer to those in which a sign is permanently affixed to a building and with the sign support and face constructed of rigid materials such as wood, firm plastic or vinyl, and metal. b) Temporary Projecting Signs - Signs classified as temporary refer to those in which the components of the sign (pole and sign face) are commonly placed and removed on a daily basis. The sign face is constructed of non-rigid material such as cloth, canvas, or flexible plastic and vinyl. Temporary signs commonly include "Open for Business" banners placed by merchants during the hours of business operation.(2) No portion of a projecting sign extending over a public right-of-way shall interfere with the safe movement of pedestrians.
<i>Hanging (Suspended) Signs (Including Marquee Signs) — B-2 Zone District</i>		

Location	Hanging signs shall be located beneath, and suspended from, a canopy, marquee, soffit, or similar building feature.
Number	One sign per building elevation (wall). A building elevation with a hanging sign may not also erect a permanent projecting sign on said elevation.
Maximum Area Per Sign	Four square feet.
Projection from Wall	No portion of a hanging sign shall extend beyond the perimeter of the building feature to which the sign is attached.
Minimum Height	No portion of a hanging sign shall be less than seven feet from the underlying ground surface.
Maximum Height	No portion of a hanging sign shall be higher than 15 feet from the underlying ground surface.
Illumination	None.
<i>Pole Signs (1) — B-2 Zone District</i>	
Location	No portion of the sign, including the sign pole (support members) or sign face, may be located in or over a public right-of-way.
Maximum Sign Area	Thirty-two square feet.
Number	One (1) sign per parcel.
Minimum Height	Except for the pole upon which the sign is mounted, no portion of the sign shall be less than seven feet from the underlying ground surface.
Maximum Height	No portion of the sign shall be higher than 40 feet from the underlying ground surface.
Illumination	Signs may be externally or internally illuminated.
Notes	1) Pole signs are subject to review and approval by the City Planning Board as a Special Land Use.
<i>Ground Mounted (Monument) Signs — B-2 Zone District</i>	
Location	The sign shall be located not less than ten feet from any property line. In no case shall a sign be located in a clear vision area.
Maximum Sign Area	Twenty-four square feet.
Number	One sign per parcel.
Maximum Height	No portion of the sign shall be greater than four feet in height as measured from the underlying ground surface.
Illumination	May be externally or internally illuminated.
<i>Portable A-Frame (Sandwich Board) Signs on a Public Sidewalk — B-2 Zone District</i>	
Location	The sign may be placed on the public sidewalk located adjacent to, and extending between, the front building elevation (i.e. building wall) and street curb line, provided, however, signs may not be placed in or on: a) decorative brick pavers; b) clear vision areas; c) locations that interfere with normal pedestrian movement and/or safety; d) curbside locations interfering with vehicular movement and

		passenger loading and unloading; or, e) any location representing a potential safety hazard. (See Note 1.)
	Maximum Sign Area	Six square feet per side with a maximum of two sides.
	Number	One sign per building entry commonly used by business patrons (See Note 2.)
	Maximum Height	Not to exceed 42 inches, as measured from the sidewalk to the uppermost part of the sign when fully opened for display purposes.
	Illumination	None.
	Placement Hours	Coincident with the hours of the business operation to which the sign relates. At all other times the sign shall be placed in-doors.
	Notes	1) In no case shall the standards of this chapter regarding the location of portable a-frame signs in a public right-of-way override or preclude compliance with any standards, regulations, and/or permit requirements imposed by the Michigan Department of Transportation (MDOT) pursuant to the use and occupancy of right-of-way under MDOT ownership and/or control.2) Only one sign is permitted per building entry regardless of the number of tenants or businesses that use said entry. The sign may include copy referencing multiple tenants or businesses.

Canopy and Awning Signs — B-2 Zone District

	Location	As an integral part (design) of a canopy or awning.
	Maximum Sign Area	A canopy or awning sign shall not exceed 15 percent of the gross area (in square feet) of the exterior building elevation (wall) on which the canopy or awning is to be placed.
	Number	One sign per canopy or awning, provided, however, a building elevation (wall) with a wall sign may not also erect a canopy or awning sign on said elevation.
	Projection from Canopy or Awning	No portion of a canopy or awning sign shall extend more than three inches beyond the underlying surface of the canopy or awning to which the sign is attached.
	Minimum Height	No portion of a canopy or awning sign shall extend below the canopy or awning.
	Maximum Height	No portion of a canopy or awning sign shall extend above the canopy or awning.
	Illumination	Canopy or awning signs may be illuminated internally.

Window Signs — B-2 Zone District

	Location	The exterior or interior of a window.
	Maximum Sign Area	Signs shall be placed such that a clear vision area of not less than 50 percent of the window surface, as measured by the exterior window surface, shall be

		maintained. Clear vision area refers to that portion of a window not blocked by any sign treatment thereby allowing views through the window.
	Number	Not applicable.
	Projection from Window	No portion of a window sign shall extend more than one-half inch from an underlying exterior window surface. Not applicable to interior window surfaces.
	Minimum Height	Not applicable.
	Maximum Height	Not applicable.
	Illumination	Not applicable.

Schedule C - Industrial				
Use	Sign Type			
	Pole	Marquee	Wall	Projecting Sign
Group 1 - Individual Establishments (see footnote 1)				
Maximum display area	32 square feet	6 square feet	15% of area of wall served.	
Maximum height	Not higher than the maximum height limitation of the use district in which located.	Affixed to the underside of the building overhang.	Not above front wall	
Sign purpose	Identification or business			
Maximum number of signs	1, provided that a wall sign shall not also be erected on the wall adjacent to a pole sign.	1 per entrance	1 per wall, provided that a wall sign shall not also be erected on a wall adjacent to a pole sign	
Group 2 - Individual park entrances (see protective covenants for specific park restrictions).				
Maximum display area	32 square feet			
Maximum height	Not higher than the maximum height limitations of the use district in which located.			
Sign purpose	Industrial Park Identification			
Maximum number of signs	1 sign per drive			
Group 3 - Off-Premises Signs				

Maximum display area	*****Prohibited*****
Maximum height	
Sign purpose	
Maximum number of signs	
Notes: ¹ Individual establishments within the city's industrial parks are covered by protective covenants. Pole signs are not permitted. Refer to covenants for requirements and standards.	

Schedule D - Temporary Use Signs		
	Residential Zoning Districts	All Other Districts
Maximum Number of Signs Per Parcel ¹	6 ²	6 ²
Maximum Area Per Sign	4 sq. ft.	32 sq. ft.
Sign Height Maximum for a Pole/Yard Sign	6 ft.	6 ft.
Sign Height Maximum for a Wall Sign	6 ft.	15 ft.
Minimum Setback/Distance from Right-of-Way ³	6 ft.	6 ft.
Minimum Spacing from any Other Sign	2 ft.	2 ft.
Maximum Duration After Conclusion of Event if Sign Pertained to an Event ⁴	10 days	10 days
Permit Required	No	Yes
Lighting or Illumination Allowed	No	No
Movement Allowed	No	No
Allowed on Public Sidewalk or Right of Way	No	No ⁵
Permission of Owner Required	Yes	Yes
<p>Notes:¹ Excludes window signs and other interior signs visible from the street. Maximum of two sides per sign.</p> <p>² In single-family residential zoning districts, each single-family residential use with at least one principal structure may place up to two offsite temporary signs on private property for the purpose of directing the public to a residential activity for a commercial purpose (e.g., real estate open house, garage/yard sale, estate sale) with owner permission. Said signs may be displayed during the hours that the single-family residence is open for public inspection and may not exceed six sq. ft. in area per sign.</p> <p>³ If the right-of-way contains a sidewalk, signs may be placed immediately adjacent to the sidewalk, regardless the distance from the right-of-way, so long as the signs do not overhang the sidewalk and are wholly placed on private property.</p> <p>⁴ For single-family subdivisions under development, signs shall be removed within the year after sale of 90 percent of all lots.</p> <p>⁵ Except for one sandwich board sign of six square feet or less in the Downtown Development Authority District.</p>		

In addition to the restrictions in Schedule D, temporary use signs shall comply with the following:

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- a. Signs shall not conflict with traffic control signs and devices or pre-existing signs, nor impact the safe and efficient circulation of pedestrians and motorists. Signs shall not be placed in clear vision zones as required by the city or Michigan Department of Transportation.
 - b. Signs shall not impact the ability of people to safely and efficiently enter and exit parked vehicles.
 - c. Signs shall be designed and located such that they are harmonious with the character of the surrounding area.
 - d. Signs shall not result in the rerouting of vehicular traffic such that residential areas traversed by the sign's directional message experience significant increases in vehicular traffic levels, unless the city council determines said rerouting to be in the public interest.
- (g) *Special land uses.* All signs connected with a special land use or planned unit development as outlined in the zoning ordinance must be reviewed and approved by the planning commission. The board must use the requirements of the underlying zoning district as a guide.
- (h) *Administrative and enforcement.*
- (1) *Administrative.* The provisions of this section shall be administered by the zoning administrator or his or her designee, who shall have the authority to issue sign permits. It shall be unlawful to erect or replace any sign, whether freestanding, mounted on, applied to or painted on a building or other structure, without first obtaining a permit, except temporary signs. Painting, repainting, repairing, servicing or cleaning of a sign or the changing of the business or product copy of a message thereon shall not be considered an erection or alteration which requires a sign permit, unless a structural change is made.
 - (2) *Enforcement.* If the zoning administrator or his or her designee shall find any of the provisions of this section are being violated, he shall notify, in writing, the persons responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. If compliance is not accomplished within a prescribed 30 days, the city attorney shall be contacted for appropriate enforcement action.
 - (3) *Penalties.* Any violation of the provisions of this section is punishable as a municipal civil infraction. Each day of violation shall constitute a separate offense.
- (i) *Sign permits.*
- (1) Application for a permit to erect or replace a sign shall be made to the zoning administrator or his or her designee, by submission of the required forms, fees, exhibits and information by the owner of the property on which the sign is to be located, or by his or her agent, or lessee. The applications shall contain the following information:
 - a. The property owner's name and address in full.
 - b. Applicant's name and address.
 - c. Address of property on which sign is to be situated.
 - d. Business to which sign belongs or relates.
 - e. Total display area in square feet.
 - f. Proposed setback from the right-of-way.
 - g. Sign type.
 - h. Sign purpose.
 - i. Sign height.

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- j. Height and width of building to be served, if applicable.
 - k. Drawing of proposed sign indicating proposed copy.
- (2) Sign permits issued on the basis of plans and applications authorize only the design and construction set forth in such approved plans and applications, and no other design.
 - (3) No sign permit for any sign which does not conform to the provisions of this section shall be issued.
 - (4) The zoning administrator or his or her designee may require the Wexford County building inspector to certify that all expected loadings are anticipated. If the zoning administrator determines that an electrical permit or building permit may be required, the zoning administrator shall direct the applicant to contact the Wexford County building inspector, and the applicant shall be required to obtain all required permits.
 - (5) The city shall maintain a record of all sign permits issued, and the record shall be open for public inspection.
 - (6) Permit fees shall be as currently established or as hereafter adopted by ordinance from time to time.
 - (7) Illegal signs. For all signs hereafter erected without issuance of a required sign permit, the zoning administrator or his or her designee shall inform, by certified mail, the property owner upon whose property the sign is situated of the alleged violation of this section. Seventy-two hours shall be allowed for compliance with this section, with the permit fee charged at five times the standard permit fee.

If compliance is not accomplished in the prescribed 30-day period, the city attorney shall be contacted for appropriate enforcement action.

(j) *Appeals and variances.*

- (1) *Appeals.* Any person allegedly aggrieved by a decision of a city official relative to the placement, area, height or construction of a sign may appeal such decision to the city zoning board of appeals. Such appeal shall be taken as a normal appeal through the zoning administrator.
- (2) *Variances.* Whenever the strict application of the requirements of this section may pose demonstrable hardship or practical difficulty with regard to placement, area, height and construction of a sign, a request for variance from such requirements may be filed with the zoning administrator on a form provided for such purpose.
- (3) *Standards.* The standards for granting variances shall be that all of the following conditions must be met:
 - a. Variances may be granted only when it can be clearly demonstrated that hardship or practical difficulty will in fact exist if the variance is not granted.
 - b. The mere fact that other larger signs constructed under prior sign ordinances do exist in the area shall not be sufficient reason to declare hardship nor practical difficulty.
 - c. In no case shall a variance be granted if it is determined by the board of appeals that the appellant has created the hardship or practical difficulty.
 - d. Before a variance is granted, it must be shown that the alleged hardships or particular peculiar difficulties of the person requesting the variance result from conditions which do not exist generally throughout the city.
 - e. The applicant for a variance shall be prepared to furnish a site drawing, photographs, and/or any other means of proof to the board of appeals to so indicate that hardship or practical difficulty does in fact exist.

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- f. The term "hardship" shall not be deemed financial hardship relating to the cost of the sign or the size of the sign or to the fact that the sign has already been constructed, or the fact that the sign is only available in standardized sizes and/or materials.
Example: franchised business signs.
 - g. The alleged hardships and practical difficulties, or both, which will result from a failure to grant the variance must include substantially more than mere inconvenience, or mere inability to attain a higher financial return.
 - h. It must be shown that allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this section, the individual hardships that will be suffered by a failure of the board to grant a variance, and especially the rights of others whose property would be affected by the allowance of the variance.
 - i. The above findings of fact shall be made by the board of appeals, which is not empowered to grant a variance without finding of fact in each of the categories above. Every finding of fact shall be supported in the record of the proceedings of the board.
 - j. Nothing contained herein shall be construed to empower the board of appeals to change the terms of this section or to add to the types of signs permitted on any premises.
- (4) *Fees.* Any person filing for a variance or taking an appeal with the zoning board of appeals shall fill out the necessary appeal variance form provided by the zoning administrator and shall pay a filing fee at the time of filing as currently established or as hereafter adopted by ordinance from time to time. The city clerk shall then place the matter on a regular meeting agenda of the board of appeals within 30 days of filing. Within 90 days of receipt, the board of appeals shall render a final decision in accordance with the provisions of this section.

(Prior Code, § 5.191; Ord. No. 86-16, 10-6-1986; Ord. No. 88-18, 10-17-1988; Ord. No. 91-14, 10-21-1991; Ord. No. 92-16, 10-5-1992; Ord. No. 95-14, 7-17-1995; Ord. No. 95-21, 8-7-1995; Ord. No. 97-12, 8-4-1997; Ord. No. 2007-05, § 1, 6-4-2007; Ord. No. 2009-04 § 1, 5-4-2009; Ord. No. 2010-10, § 18, 8-2-2010; Ord. No. 2013-05, § 2, 6-17-2013; Ord. No. 2021-13, §§ 1, 2, 9-7-2021)

State law reference(s)—Highway advertising act, MCL 252.301 et seq.

Sec. 46-665. Exterior lighting.

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

(Prior Code, § 5.192)

Sec. 46-666. Residential entranceway.

In all residential districts, so called entranceway structures including, but not limited to, walls, columns, and gates marking entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in section 46-667; provided that such entranceway structures shall comply to all codes of the municipality, and shall be approved by the zoning administrator or his or her designee.

(Prior Code, § 5.193; Ord. No. 2010-10, § 19, 8-2-2010)

Sec. 46-667. Corner clearance.

- (a) *Visual triangle area.* No fence, wall, shrubbery, sign or other visual obstruction above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any streets by a straight line drawn between said streets/alleys at a point 25 feet from their point of intersection.
- (b) *Exceptions.* The following exceptions from the corner clearance restrictions:
 - (1) Buildings located in the B-2 zone and complying with the requirements for that zone.
 - (2) Signs complying with section 46-664.

(Prior Code, § 5.194; Ord. No. 87-17, 10-9-1987)

Sec. 46-668. Obscuring walls.

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

Use	Requirements
P-1 Vehicular parking district	4'-6" high wall
Off-street parking area (other than P-1 districts)	4'-6" high wall
B-1, B-2, B-3, OS-1 and OS-2 districts	4'-6" high wall
I-1 and I-2 districts - open storage areas, loading or unloading areas	4'-6" to 8' high wall, height shall provide the most complete obscuring possible. See sections 46-490(d) and subsection (d) of this section.
Auto wash, drive-in restaurants, hospital - ambulance and delivery areas, utility buildings, stations and/or substations	6'-0" high wall

- (b) Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this chapter requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the building inspector may approve an alternate location for the wall or may waive the wall requirement if in specific cases it would not serve the purposes of screening the

parking area effectively. Required walls may, upon approval of the board of appeals, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the board of appeals in reviewing such request.

- (c) Such walls and screening barrier shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this chapter and except such openings as may be required by the chief of police and the building inspector. All walls herein required shall be constructed of materials approved by the building inspector to be durable, weather resistant, rust proof and easily maintained; and wood or wood products shall be specifically excluded. Masonry walls may be constructed with openings which do not in any square section (height and width) exceed 20 percent of the surface. Where walls are so pierced, the openings shall be so placed as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the building inspector.
- (d) The requirement for an obscuring wall between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than 200 feet distant from such abutting residential district.
- (e) The building inspector may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served; provided that in no instance shall a required wall be permitted to be less than four feet six inches in height, except where section 46-667 applies.
 - (1) In consideration of a request to waive wall requirements between nonresidential and residential districts, the building inspector shall refer the request to the planning commission for a determination as to whether or not the residential district is considered to be an area in transition and will become nonresidential in the future.
 - (2) In such cases as the planning commission determines the residential district to be a future nonresidential area, the building inspector may temporarily waive wall requirements for an initial period not to exceed 12 months. Granting of subsequent waivers shall be permitted; provided that the planning commission shall make a determination as hereinbefore described, for each subsequent waiver prior to the granting of such waiver by the board.

(Prior Code, § 5.195)

Sec. 46-669. Planning commission approval.

- (a) In cases where the planning commission is empowered to approve certain uses of land and/or buildings under the provisions of this chapter, and, in cases where planning commission review and recommendation is required prior to city council approval, the applicant shall furnish such surveys, plans, or any other information as may be reasonably required by the planning commission for proper consideration of the matter as set forth in section 46-29(a), site plan.
- (b) The planning commission shall investigate the circumstances of each such case and shall notify such parties, who may, in their opinion, be affected thereby of the time and place of any hearing which may be held relative thereto as required under its rules of procedures.
- (c) The planning commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this chapter.
- (d) In cases where planning commission review and recommendation is required prior to city council action, the planning commission may recommend to the city council such conditions or limitations as it deems necessary to fulfill the spirit and purpose of this chapter.

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- (e) Any approval given by the planning commission under which the premises are not used or work not started within 12 months or when such work has been abandoned for a period of six months, shall lapse and cease to be in effect.

(Prior Code, § 5.196; Ord. No. 95-16, 7-17-1995)

Sec. 46-670. Frontage on a public street.

No lot shall be used for any purpose permitted by this chapter unless said lot abuts an improved public street, unless otherwise provided for in this chapter, except a zoning lot may be occupied or developed, if access to the lot is provided from an improved street by a private easement not less than 20 feet in width. Under this provision, no more than one lot may be served by such a private easement. Additional lots, however, may be served by a single private access upon application for and receipt of a special use permit as provided for in article VI of this chapter, pertaining to special land use.

(Prior Code, § 5.197; Ord. No. 95-16, 7-17-1995)

Sec. 46-671. Access to major thoroughfare or collector street.

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

(Prior Code, § 5.198)

Sec. 46-672. Airport overlay zone

- (a) *Zone intent and resolution of conflict with underlying zoning district standards.* The airport overlay zone has been established to reduce the hazards to, and provide additional safety for, the users of the airport and to the people who live, work and use property in its vicinity. It is the intent of the airport overlay zone to reduce said hazards and to enhance the safety through the regulations and standards of this section which shall be in addition to the regulations and standards of the underlying zoning district. In the event of conflict between the regulations and standards of the airport overlay zone and those of the underlying zoning district, the more stringent shall apply.
- (b) *Airport overlay zone area limits.* The airport overlay zone shall encompass the corporate limits of the city and any lands under the direct control of the city pursuant to the provisions of Public Act No. 425 of 1984 (MCL 124.21 et seq.).
- (c) *Plan review prior to issuance of a building permit.* A project proposed for construction, including construction associated with modifications to existing structures, shall be reviewed for conformance with the regulations and standards of the airport overlay zone.
- (d) *Regulations and standards within the limits of the airport overlay zone.* No use or structure shall:

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- (1) Create electrical or other interference with radio communication between the airport and aircraft or create interference with navigational aids employed by aircraft.
 - (2) Make it difficult for fliers to distinguish between airport lighting or result in glare in the eyes of fliers using the airport.
 - (3) Create smoke, mist, fog, smog or air pollution in such amounts as to impair the visibility of fliers using the airport.
 - (4) Attract birds or other wildlife so as to constitute a hazard to aircraft.
 - (5) Endanger the landing, taking off or maneuvering of aircraft.
 - (6) Exceed a height in excess of the limitations prescribed by the provisions of the county airport zoning manual. Said height limitation shall apply to trees and other vegetation and all structures. In the event a specific height is not referenced in the above stated manual, the required height limitation shall be calculated by the building inspector through interpolation of the aerial contours as provided by said manual. In making said interpolation, the city may seek the assistance of the county airport authority.
- (e) *Appeals.* Appeals of decisions or actions by the building inspector pursuant to enforcement of the provisions of the airport overlay zone shall be made subject to division 2 of article II of this chapter, pertaining to the board of appeals; provided, however, that all applications for appeal shall be submitted to the county airport authority for review and recommendation.
- (f) *Conflict with federal regulations.* The provisions of the airport overlay zone are not intended to conflict with existing federal approach protection regulations. The Federal Aviation Administration requires that it be given notice of any construction or alterations that:
- (1) Would be more than 200 feet above ground level at its site.
 - (2) Would be above an imaginary surface extending outward and upward at a ratio of 100:1 slope, within 20,000 feet of the nearest point of a runway more than 3,200 feet in length.
 - (3) Would be above an imaginary surface extending outward and upward at a ratio of 50:1 slope within 10,000 feet of the nearest point of a runway less than 3,200 feet in length.

(Prior Code, § 5.199; Ord. No. 90-26, 11-5-1990)

State law reference(s)—Aeronautics code, MCL 259.1 et seq.; airport zoning act, MCL 259.431 et seq.

Sec. 46-673. Commercial wireless telecommunication services (CWTS) and towers.

- (a) The purpose of this section is to permit the siting of communication towers and antennas within the municipal boundaries of the city. The city finds that there is a need for such towers, however, the need to protect the public health, safety and welfare is paramount. The city's intent is to minimize the number of towers in the city, exclude their location in residential districts, and to encourage users of towers and antennas to configure/design them in a way that minimizes their adverse visual impact.
- (b) Towers in excess of 40 feet in height for commercial wireless telecommunication services shall meet the following standards:
 - (1) Antennas for commercial wireless telecommunication services shall be required to locate on any existing approved tower or structure within a one-mile radius of the proposed tower, unless one or more of the following conditions exist:
 - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and registered professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or

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- equivalent equipment at a reasonable cost. Costs exceeding new tower development are presumed to be unreasonable.
- b. The planned equipment would cause interference materially affecting the usability of other existing or planned equipment at the tower or building as documented by a qualified and registered professional engineer and the interference cannot be prevented at a reasonable cost.
 - c. Existing or approved towers and buildings within a one-mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer.
 - d. Other unforeseen reasons that make it infeasible to locate the planned equipment upon an existing tower or building.
- (2) Any proposed CWTS tower shall be designed, structurally, electrically and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at varying heights.
 - (3) CWTS towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other state or federal authorities. Towers shall be of a monopole design unless the planning commission determines that an alternative design would better blend into the surrounding environment.
 - (4) Any part of the structure or equipment placed on the ground pertaining to the CWTS towers shall comply with the following setbacks:
 - a. Residential districts. CWTS towers are not permitted in residential districts and must be located such that any part is not within 200 feet of any residential district lot line.
 - b. Nonresidential districts. Any part of a CWTS tower or associated equipment shall be set back for a distance equal to the setbacks for main buildings for the district in which it is located, except that in no case shall such structures or equipment be located less than 25 feet from any adjacent lot line, nor less than 200 feet from any residential district lot line, nor less than a distance equal to at least 75 percent of the height of the tower from the lot line.
 - c. These provisions shall not apply to antennas located on existing buildings, towers or other existing structures.
 - (5) The planning commission may require such structures or equipment on the ground to be screened with landscaping, berms, walls or a combination of these elements, to minimize their adverse visual impact.
 - (6) Towers and antennas shall not be illuminated unless required by other state or federal authorities. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated equipment or buildings.
 - (7) Towers and antennas shall be designed and constructed so as not to pose a threat to pedestrians or vehicles accessing the land upon which the tower is located.
 - (8) Towers and antennas shall meet all applicable state and federal height regulations and clearance zone requirements resulting from the presence of the city airport.
 - (9) Towers and antennas which are abandoned or unused shall be removed, along with any associated structures or equipment, within 12 months of the cessation of operations, unless a time extension is granted by the zoning administrator. One three-month extension shall be permitted only if the zoning administrator finds that the owner or former operator of the facility is taking active steps to ensure its removal.

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- (10) A building permit must be obtained before the installation of any tower or related building.
 - (11) A building permit must be obtained before the installation of any antenna on an existing structure when greater than two feet in diameter or greater than 12 feet in height or which weights more than 40 pounds.
 - (12) The maximum height of towers shall be prescribed by the planning commission with section 46-629, the schedule of regulations, used as a guide. Structures taller than the height limitations listed in section 46-629 shall be designed to be aesthetically compatible with the district in which it is located.
 - (13) Towers and related buildings shall be enclosed by security fencing not less than six feet and not more than eight feet in height. The fencing must be provided with appropriate anticlimbing devices as required by the planning commission.
 - (14) Towers and antennas constructed in conformance with this Code shall not be deemed to constitute an expansion of a nonconforming use or structure.
 - (15) The use of city owned properties or rights-of-way by the telecommunication service provider or backhaul network shall be through a franchise or lease agreement.

(Prior Code, § 5.200; Ord. No. 98-01, 3-2-1998)

Sec. 46-674. Bicycle parking requirements.

- (a) *Purpose.* The purpose of these regulations is to require secure and adequate parking for bicycles thereby promoting alternative transportation opportunities as desired by the city's residents and guests, reducing motorized vehicular traffic congestion and air pollution, and serving to implement the non-motorized transportation elements of the Cadillac Master Plan and the Cadillac City/Cadillac Area Public Schools Recreation Plan. Bicycle parking shall be provided for new facilities and additions to existing facilities. Bicycle parking as prescribed hereafter shall be provided for land uses occupying buildings, or portions thereof, which are constructed, established, wholly reconstructed, or moved onto a new lot or parcel after the effective date of the bicycle parking requirements, or of a subsequent rezoning or other amendment thereto establishing or increasing bicycle parking for such land uses, except to the extent that existing bicycle parking exceeds such requirements for any existing buildings. The required amount of new bicycle parking shall be based on the cumulative increase in floor area, or other applicable unit of measurement prescribed hereafter, after said effective date.
- (b) *Multiple uses on a single lot or parcel.* Whenever a single lot or parcel contains different activities with the same bicycle requirement, the overall requirement shall be based on the sum of all such activities, and the minimum size prescribed hereafter for which any bicycle parking is required shall be deemed to be exceeded for all such activities if it is exceeded by their sum. Whenever a single lot or parcel contains activities with different bicycle parking requirements, the overall requirement shall be the sum of the requirements for each activity calculated separately; provided, however, that the minimum size prescribed hereafter for which any bicycle parking is required shall be deemed to be exceeded on said lot or parcel for all activities for which the same or a smaller minimum size, expressed in the same unit of measurement, is prescribed, if said minimum size is exceeded by the sum of all such activities on the lot or parcel.
- (c) *Standards for required bicycle parking.*
 - (1) *Bicycle parking.* Bicycle parking shall consist of a bicycle rack or racks and is meant to accommodate visitors, customers, messengers, and others using bicycles for transportation purposes.
 - (2) *Specific use.* All bicycle parking facilities shall be dedicated for the exclusive use of bicycle parking.

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- (3) *Area compatibility.* The location and design of required bicycle parking shall be of a quality, character and color that harmonize with adjoining land uses. Required bicycle parking shall be incorporated whenever possible into building design or street furniture.
 - (4) *Location.* Bicycle parking shall be placed within 50 feet of a public entrance to the building or commercial use being served by said parking and should be in a well trafficked location visible from the entrance. Where applicable and possible bicycle parking should be placed within view of storefront windows. When a public entrance fronts a public sidewalk, public alley, or public parking lot on which bicycle parking is proposed for placement, the installer shall obtain an encroachment permit from the city to install the bicycle parking in the public right-of-way. In the event the right-of-way falls under the jurisdiction of the Michigan Department of Transportation (MDOT), the installer shall obtain an encroachment permit from the MDOT to install the bicycle parking in said right-of-way and submit copy to the city.
 - (5) *Locking device and supports.* All required bicycle parking spaces shall be designed to provide a stable position for the bicycle with an ability to easily lock the frame of the bicycle to the rack with either a u-lock or cable lock.
 - (6) *Anchoring.* Bicycle parking facilities shall be securely anchored so they cannot be easily removed and shall be of sufficient strength and design to resist vandalism and theft.
 - (7) *Parking space size.* A bicycle parking space shall be at least two-and-one-half feet in width by six feet in length to allow sufficient space between parked bicycles.
 - (8) *Vertical obstructions.* Racks shall be located with at least 30 inches in all directions from any vertical obstruction, including but not limited to, other racks, walls, light poles, and landscaping.
 - (9) *Maneuvering space.* A minimum four-foot wide aisle of unobstructed space behind all required bicycle parking shall be provided to allow for adequate bicycle maneuvering.
 - (10) *Circulation impact.* Bicycle parking facilities shall not impede pedestrian or vehicular circulation. Bicycle parking racks located on sidewalks shall maintain a minimum of five feet of unobstructed pedestrian right-of-way outside the bicycle parking space.
 - (11) *Protection from damage by motorized vehicles.* Bicycle parking facilities within auto parking facilities shall be protected from damage by cars by a physical barrier such as curbs, wheel stops, poles, bollards, or other similar features capable of preventing automobiles from entering the bicycle facility.
 - (12) *Lighting.* Bicycle parking facilities shall be located in highly visible well-lighted areas.
- (d) *Joint parking agreements.* Joint bicycle agreements are permitted and encouraged. Bicycle parking falling under a joint parking agreement shall be designed and constructed according to the standards of this chapter. Whenever any required bicycle parking is proposed to be provided on a lot other than the lot containing the activity served, the owners of both lots shall prepare and execute to the satisfaction of the city attorney, and file with the Wexford County Registrar of Deeds, an agreement guaranteeing that such facilities will be maintained and reserved for the activity served, for the duration of said activity.
 - (e) *Minimum number of required bicycle parking spaces.*
 - (1) Calculation rules:
 - a. *Fractional counts.* If after calculating the number of required bicycle parking spaces a quotient is obtained containing a fraction of one-half or more, an additional space shall be required; if such fraction is less than one-half, it may be disregarded.
 - b. *Employees.* When the bicycle parking requirement is based on number of employees, the number of spaces shall be based on the average number of working persons on the lot or parcel during the largest shift of the peak season.

- c. *Seats/pews.* When the bicycle parking requirement is based on the number of seats, as in the case of pews or similar facilities, each 20 inches shall be counted as one seat.
- (f) *Required bicycle parking.* The following minimum amounts of bicycle parking are required and shall be developed and maintained pursuant to the provisions of this chapter:

Activity/Use	Bicycle Parking Requirement
Residential Activities	
One-Family Dwelling	No spaces required.
Two-Family Dwelling/Duplex	No spaces required.
Multiple-Family Dwelling (Three or More Units)	One space per each 10 dwelling units evenly spaced among the apartment buildings.
Rooming/Boarding House	No spaces required.
Other	Zoning Administrator Determination section 46-674(j)
Civic Activities	
Churches, Temples, and Synagogues	1 space for each 60 fixed seats, or one space for each 5,000 square feet of floor area, whichever is greater. Minimum requirement is 2 spaces.
Administrative/Municipal Offices/Libraries/Museums	1 space for each 20,000 square feet of floor area. Minimum requirement is 4 spaces.
Hospitals	1 space for each 40,000 square feet of floor area. Minimum requirement is 4 spaces.
Public Parochial and Private Elementary, Junior High and High Schools	1 space per each 20 students of planned capacity. Minimum requirement is 4 spaces.
Other	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.
Commercial Activities	
Retail	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
Offices	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
Restaurants/Bars	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
Other	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
Industrial Activities	
Any industrial activity as specified as a permitted or	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.

special use in the Industrial Districts employing 10 or more people on any shift	
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- (g) *Automobile parking credit.* The total number of required off-street automobile parking spaces may be reduced at the ratio of one automobile space for each four bicycle spaces provided. The total number of required off-street automobile parking spaces cannot be reduced by more than five percent.
- (h) *Credit for bicycle racks in public locations.* The calculation of bicycle parking may include existing racks owned and maintained by the city that are in the public right-of-way and are within 50 feet of the main entrance of the use seeking credit provided the zoning administrator determines that the location and number of racks in the public right-of-way are sufficient to meet the needs of said use without harm to the public in general.
- (i) *Zoning administrator determination.* In the case of activities for which the zoning administrator is required to prescribe a number of bicycle parking spaces or for which this section is not clear or does not prescribe a number of spaces, the zoning administrator shall base his/her determination on factors such as the proposed use of the lot or parcel, the number of customers or employees, the nature of operation of the site, and the availability of bicycle parking spaces under public ownership. Any such determination shall be subject to appeal pursuant to the administrative appeal procedures of this chapter.

(Ord. No. 2020-11 , § 2, 12-7-2020)

Secs. 46-675—46-704. Reserved.

ARTICLE V. GENERAL EXCEPTIONS

Sec. 46-705. Area, height and use exceptions.

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

(Prior Code, § 5.221)

Sec. 46-706. Setbacks.

- (a) Where, within the R-1 through R-4 residential districts, the front yard setback for existing dwellings in the vicinity of, and in the same zoning district as, a vacant subject lot are less than the required front yard setback for the zoning district of the subject lot, the required front yard setback for the subject lot shall be the average of the actual front yard setbacks of existing dwellings on the same side of the street and entirely or partially within 100 feet of the side lot lines of the subject parcel, subject to subsections (b) and (c) of this section.
- (b) The front yard setback permitted in subsection (a) of this section shall only be permitted if there are two or more lots occupied by dwelling units within the area described in subsection (a) of this section for computing the average front yard setback.
- (c) In no case shall the average front yard setback resulting from the application of subsections (a) and (b) of this section be less than ten feet.

(Prior Code, § 5.11; Ord. No. 80-006, 12-1-1980; Ord. No. 88-06, 6-6-1988; Ord. No. 89-01, 1-9-1989; Ord. No. 90-28, 12-3-1990; Ord. No. 98-23, 11-16-1998; Ord. No. 2005-13, 8-15-2005)

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Sec. 46-707. Essential services.

Essential services, as defined in section 46-4, shall be permitted as authorized by the city manager and regulated by law and other ordinances of the city. It is the intention to exempt essential services from the application of this chapter. Commercial telecommunications are not considered essential services.

(Prior Code, § 5.222; Ord. No. 98-01, 3-2-1998)

Sec. 46-708. Voting place.

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

(Prior Code, § 5.223)

Sec. 46-709. Height limit.

- (a) Except as noted in subsection (b) of this section, the height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flagpoles or public monuments.
- (b) Exceptions.
 - (1) Unless approved by the board of appeals, the height of the structures/building features referenced in subsection (a) of this section shall not exceed the limits as proscribed by the airport overlay zone.
 - (2) If the structures/building features, referenced in subsection (a) of this section, require authorization as, or are associated with, a use permitted subject to special conditions or as a special land use, the planning commission may specify height limits for same. In determining said height limits, the provisions of the airport overlay zone shall not be exceeded unless so authorized by the board of appeals.

(Prior Code, § 5.224; Ord. No. 90-26, 11-5-1990; Ord. No. 98-01, 3-2-1998)

Sec. 46-710. Lot area.

- (a) Any existing lot and lot of record on the effective date of the ordinance from which this chapter is derived may be used for any principal use permitted in this chapter in the district in which such lot is located whether or not the lot complies with the lot area requirements of this chapter.
- (b) No more than one main structure shall occupy any lot unless each structure meets the lot area requirements of this chapter.
- (c) The following uses must comply with the lot area requirements outlined in this chapter:
 - (1) Nonconforming lots, structures, premises, uses of land, and uses of structures as stated in section 46-655.
 - (2) Conditional uses as defined in this chapter under special land uses or under principal uses permitted subject to planning commission approval.

(Prior Code, § 5.225; Ord. No. 90-18, 11-5-1990)

Sec. 46-711. Yard regulations.

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

(Prior Code, § 5.226)

Sec. 46-712. Porches.

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

(Prior Code, § 5.227)

Sec. 46-713. Projections into yards.

Architectural features, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three feet, except those architectural embellishments such as cornices, eaves, lintels, sills, awnings, canopies and signs, when located on buildings in the B-2 zone and in conformance with the state construction code and all other requirements of this Code, may extend over public property.

(Prior Code, § 5.228; Ord. No. 87-24, 12-7-1987)

Sec. 46-714. Access through yards.

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

(Prior Code, § 5.229)

Sec. 46-715. Lots having water frontage on Lakes Cadillac and Mitchell.

- (a) *Waterfront setback.* Those residential lots and/or parcels having water frontage and abutting a public thoroughfare shall maintain the front yard on the water side as an open, unobstructed yard, except that a boat well and boat hoist (but not a boathouse) shall be permitted after review and approval of plans by the zoning administrator or his or her designee. All structures located in the waterfront yard must be set back from the water's edge (as established by a lake level of 1,290 feet) a minimum distance equal to the average setback of the neighboring four main buildings on the two lots on each side of the subject property, providing that this distance is 35 feet or greater.
- (b) *Road front yard setback.* Detached accessory structures shall be permitted in the road front yard, with the minimum three-foot setback from the abutting road right-of-way and three-foot setback from the side lot line being maintained, and the guidelines in subsection (c) of this section are also maintained.
- (c) *Guidelines for approval of accessory structures.* Exterior designs of all accessory structures shall be regulated by the zoning and building department to assure orderly, reasonable and harmonious developments which

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shall maintain the essential character and quality of the surrounding neighborhood. This shall also be intended to prevent the harmful effects of inappropriate exterior design of accessory structures in relation to the exterior designs prevailing throughout the neighborhood.

(Prior Code, § 5.230; Ord. No. 88-05, 1-9-1989; Ord. No. 99-02, 4-5-1999; Ord. No. 2010-10, § 20, 8-2-2010)

Secs. 46-716—46-743. Reserved.

ARTICLE VI. SPECIAL LAND USES⁵

Sec. 46-744. Purpose.

Special land uses are those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and legislation in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent land uses. The purpose of this article is to establish equitable procedures and criteria, which shall be applied in the determination of requests to establish special land uses. In addition, special land uses are a means of implementing changes in land use as envisioned and outlined in the long-range comprehensive plan and shall be utilized as such. The standards for approval and requirements provided for under the provisions of this article shall be in addition to those required elsewhere in this chapter, which are applicable to the special land use under consideration.

(Prior Code, § 5.278; Ord. No. 88-02, 3-12-1988)

Sec. 46-745. Authorization.

This article hereby authorizes the city planning commission to consider special land uses. The following uses of land and structures are eligible to be permitted under this article in the district enumerated, as in any proposed use that is listed in this chapter as an eligible special land use:

Special Use	Districts Allowed
Newly constructed multiple-family under five acres	R-3, R-4, RT, TS-2, RMH, OS-1, OS-2, B-3
Newly constructed two-family under five acres	R-2, R-3, R-4, RT, TS-2, RMH
Private recreational activities	R-2, R-3, R-4, RT
Office and/or business and residential mix in one dwelling	R-2, R-3, R-4, RT, RM-1, RM-2, RMH, MH, OS-1, OS-2, TS-1, TS-2, P-1, B-1, B-2, B-3

⁵State law reference(s)—Special land uses, MCL 125.3502 et seq.

Business and/or office in an existing building	R-2, R-3, R-4, RT, RM-1, RM-2, RMH, MH, OS-1, OS-2, B-1, B-2, B-3, TS-1, TS-2, P-1
Two-family residential in existing building	R-2, R-3, R-4, B-3, RT, RMH
Multiple-family in existing building	R-3, R-4, B-3, RT, RMH
Family shelter	R-1, R-2, R-3, R-4, RM -1, RM-2, RMH, MH, R-PUD
Group shelter	RM-1, RM-2, OS-1, OS-2, B-1, B-2, B-3
Combination Group/Family shelter	RM-1 and RM-2

(Prior Code, § 5.279; Ord. No. 88-02, 3-12-1988; Ord. No. 90-28, 12-3-1990; Ord. No. 95-24, 8-7-1995; Ord. No. 2017-05, § 10, 4-17-2017; Ord. No. 2018-14, § 4, 12-17-2018)

Sec. 46-746. Application procedures.

An application to establish a special land use shall be submitted and acted upon in accordance with the following procedures:

- (1) Any person owning or having an interest in the subject property may file an application for one or more special land use authorizations as provided for in this article. Applications will be available from the zoning administrator and two completed copies, along with all required materials, must be submitted to the zoning administrator, accompanied by the required fee as established by ordinance. No part of any fee shall be refundable and no incomplete application shall be processed. All incomplete applications will be returned to the applicant.
- (2) The applicant must submit and sign a checklist stating the requirements that will be met to assure the board of present and future compliance with the standards required for approval in this chapter and other standards by this chapter affecting the special land use under consideration.
- (3) It is required that a sketch plan be submitted to the zoning administrator to ensure that the zoning administrator and applicant can reach an understanding of what is being proposed and what is required. The sketch plan should be drawn to approximate scale and shall follow the guidelines set forth in section 46-29, pertaining to site plans.
- (4) A detailed site plan will be submitted through the zoning administrator to the planning commission for approval in conformance with section 46-29.
- (5) Hearing. After a preliminary review by the zoning administrator of the sketch plan, and application for a special land use authorization, the planning commission shall hold a hearing on the site plan and special land use request. Notice of the hearing shall be given as required by MCL 125.3502. Any person or individual representing a group, which may be affected by a special land use authorization may present any petition or document providing support for or opposition to the application in question.
- (6) Review and approval. The review and approval of an application and site plan requesting a special land use shall be made by the planning commission in accordance with the procedures and standards specified in this article. If an application and site plan do not meet the requirements of the article, they

must be denied for a special land use. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with the article, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating said changes. A site plan and application for a special land use must be approved if they comply in all respects with the requirements of this article or other applicable county, state or federal laws, rules or regulations. The site plan, application and any statements of conditions and modifications shall become part of the special land use and shall be enforceable as such. The decision to approve or deny a special land use request shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusion, which specifies:

- a. The basis for the decision;
 - b. Any changes to the originally submitted application site plan necessary to ensure compliance with this chapter;
 - c. Any conditions imposed with approval.
- (7) Rehearing. A rehearing of a case shall be subject to the same rules and costs as an original hearing, and must be based on new information.
- (8) If authorized by the board, the zoning administrator shall document the special land use and retain all pertinent information. It shall be the responsibility of the zoning administrator to monitor compliance with the terms, conditions and restrictions of any special land use and take any enforcement action necessary in the event of a violation of a special land use authorization.
- (9) Once a special land use is approved by the board, all site development and use of land on the property affected shall be consistent with the approved special land use unless a change conforming to chapter requirements receives the mutual agreement of the landowner and the planning commission and is documented as such.
- (10) Performance guarantee. In authorizing a special land use, the planning commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond be furnished by the developer to ensure compliance with an approved site plan and the special land use requirements. Such guarantee shall be deposited with the city clerk at the time of the issuance of the special land use authorization. In fixing the amount of such performance guarantee, the board shall limit it to reasonable improvements required to meet the standards of this chapter and to protect the natural resources or the health, safety and welfare of the residents of the city and future users or inhabitants of the proposed project or project area including, but not limited to roadways, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project which is the subject of zoning approval nor to improvements for which a performance guarantee has been deposited pursuant to Public Act No. 288 of 1967 (MCL 560.101 et seq.). The board and the project developers shall establish an agreeable procedure for the rebate of any cash deposits required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. Said agreement shall be written as an element of the conditions surrounding the approval of the special land use.

(Prior Code, § 5.280; Ord. No. 88-02, 3-12-1988; Ord. No. 95-24, 8-7-1995)

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

Sec. 46-747. Basis of determination.

Prior to the approval of a special land use, the planning commission shall review all facts submitted to ensure compliance with the following standards as well as applicable standards established elsewhere in this Code:

- (1) *General standards.* The planning commission may approve a special land use upon a finding of compliance with the following standards:
 - a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - b. The special land use shall not inappropriately change the essential character of the surrounding area.
 - c. The special land use shall not interfere with the general enjoyment of adjacent property.
 - d. The special land use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - e. The special land use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property though the excessive production of traffic, noise, odor, fumes, or glare.
 - f. The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special land use shall be able to continually provide adequately for the services and facilities deemed essential for the special land use under consideration.
 - g. The special land use shall not place demands on public services and facilities in excess of current capacity.
 - h. The special land use shall be consistent with the intent and purpose of this chapter, and the objectives of the currently adopted long range comprehensive plan.
 - i. Outdoor play areas must be secured by a fence with a minimum height of 30 inches, or equivalent structure, such that children will be deterred from unauthorized access to adjacent streets, alleys or other locations which may pose a safety threat, as well as protecting adjoining property. Landscaping may be used in place of a structure, provided said landscaping is determined by the planning commission to be of a character suitable to achieve the desired level of security.
- (2) *Specific standards relating to two-family and multiple-family use requests.* The following guidelines shall be used when evaluating multiple-family use requests in single-family zones:
 - a. *Lot size.* Fifty percent of the underlying zoning will be added for each additional unit that is proposed.
 - b. *Lot coverage.* The lot coverage for a special land use request shall meet the requirement set forth in the underlying zoning of the area.
 - c. *Living space.* The minimum square footage for the following apartment types shall be:
 1. For a studio apartment, 350 square feet, plus bath.
 2. For a one-bedroom apartment, 550 square feet.
 3. For a two-bedroom apartment, 750 square feet.

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4. For a three-bedroom apartment, 950 square feet.
 - d. *Parking.* Each unit shall have appropriate parking spaces for two vehicles. These spaces must have clear ingress and egress. They also cannot be developed in the required front or side yard setbacks.
 - e. *Density.* Two-family and multiple-family uses in single-family zones shall not be within three times the required lot width of the underlying zoning of each other.
- (3) *Specific standards relating to family shelters.* In addition to the general standards required in this section, the following additional requirements shall apply when evaluating requests for family shelters:
- a. A family consisting of persons related by blood, marriage or adoption, or no more than four individuals occupying a dwelling unit who are committed to living together as a single housekeeping unit, in harmony with the surrounding neighborhood, responsible for maintaining a common household.
 - b. A minimum of 300 feet shall be maintained between family shelters unless within a combination group/family shelter.
 - c. A current and unrevoked housing maintenance certificate shall be required for all family shelters.
- (4) *Specific standards relating to group shelters and combination group/family shelters.* In addition to the general standards required in this section, the following additional requirements shall apply when evaluating requests for group shelters or combination group/family shelters:
- a. Group shelters and combination group/family shelters shall not be permitted in the Downtown Development Authority District or the Historic Districts.
 - b. Group shelters and combination group/family shelters shall not be permitted on any property having lake frontage or within 500 feet of Lake Cadillac.
 - c. Group shelters and combination group/family shelters shall comply with all applicable federal and Michigan statutory requirements.
 - d. Group shelters and combination group/family shelters shall comply with all applicable Uniform Building and Fire Codes, including maximum occupancy restrictions.
 - e. Community need, development and operational standards. In addition to the application requirements, group shelters and combination group/family shelters shall comply with all community need, development and operational standards provided in this section.
 1. *Community need standards.* Any application for a group shelter or combination group/family shelter must demonstrate that the group shelter or combination group/family shelter is needed to take care of the homeless needs that exist within the greater Cadillac area.
 2. *Development standards.*
 - i. *Location and separation.*
 - (A) Group shelters and combination group/family shelters shall be located in an enumerated zoning district where such use is permitted by special land use or special conditions.
 - (B) A minimum distance of 1,000 feet shall be maintained between all group shelters and combination group/family shelters.
 - ii. *Physical characteristics.*

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- (A) The maximum number of beds, including those of caretakers or resident managers shall be 16 for group shelters. For combination group/family shelters, the maximum number of beds including those of caretakers or resident managers shall be 60.
 - (B) Smoke detectors in accordance with the international fire code shall be installed.
 - (C) The facility shall provide adequate private living space in accordance with the International Property Maintenance Code.
 - (D) All bedrooms shall have emergency escape openings that comply with the building code.
 - (E) Adequate bathroom facilities shall be provided.
 - (F) A shared/communal area for socializing shall be provided in accordance with the International Property Maintenance Code. For combination group/family shelters containing both a men's and a women's group shelter, a separate shared/communal area shall be provided for both the men's and women's shelter areas in accordance with the International Property Maintenance Code.
 - (G) Secure storage areas for the intended residents shall be provided.
 - (H) Laundry facilities shall be provided.
 - (I) Bicycle racks shall be provided.
 - (J) A designated location should be provided for waste receptacles and such receptacles shall be screened from view.
 - (K) The size of a group shelter shall be in character with the surrounding buildings in the neighborhood.
 - (L) Group shelters shall not be permitted within a commercial multi-tenant shopping center.

3. *Operational and design standards.*

- i. If located within 150 feet of a single family residential zoning district, all outdoor activity shall be screened from public view and from the view of adjacent properties.
- ii. If the group shelter or combination group/family shelter plans to offer drug or alcohol abuse counseling to residents of the shelter, the applicant shall advise the city on any state licensing that may be required and demonstrate compliance as appropriate.
- iii. Lighting shall be sufficient to provide illumination and clear visibility to all outdoor areas, with minimal shadows or light leaving the property. Lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible/comparable with the neighborhood.
- iv. Off-street parking shall be provided at a rate of one vehicle parking space per employee/volunteer plus one vehicle parking space for every six beds.
- v. Adequate management, support staff and security must be present during the hours of operation of the group shelter. A minimum of one supervisory level

staff member must be present on the site during hours of operation. Management staff must make best efforts to ensure that loitering does not occur on the property during off-hours and must ensure that clients are not creating a nuisance to the neighborhood.

- vi. The group shelter or combination group/family shelter shall have a minimum of 18 hours per day of operation and the hours of operation shall be posted in a publicly visible and accessible location. Hours of operation means that the shelter is available for occupancy by homeless persons.
 - vii. Group shelters and combination group/family shelters shall require that [their] residents participate in wrap-around services which involve individual case management.
 - viii. The intake process for new residents should be handled from an internal office within the group shelter or combination group/family shelter.
- f. *Management policies.* An applicant for a group shelter or combination group/family shelter, as part of the application process, shall prepare and file with the city its management policies as they relate to the following:
- 1. A resident identification process;
 - 2. Timing and placement of outdoor activities;
 - 3. Standards governing expulsions;
 - 4. Hours of operation and standard lights-out;
 - 5. Policies regarding safety and security and to include emergencies;
 - 6. Smoking policy to include identification of areas where smoking is to be permitted;
 - 7. Volunteer and donation procedures;
 - 8. Communications with the city and the neighborhood.
- g. *Group shelter or combination group/family shelter approval.* The city may deny a proposed group shelter or combination group/family shelter if it makes findings that:
- 1. The proposed shelter fails to meet one or more of the required standards of this section or other applicable state or federal law.
 - 2. The proposed shelter would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development of the shelter financially infeasible. As used in this subsection, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

If an application is denied, the reasons for that denial shall be recorded in the motion to deny. If an application is approved with conditions, the conditions shall be included in the motion to approve.

(Prior Code, § 5.281; Ord. No. 88-02, 3-12-1988; Ord. No. 89-11, 6-5-1989; Ord. No. 95-24, 8-7-1995; Ord. No. 95-32, 1-15-1996; Ord. No. 2016-13, § 4, 12-19-2016; Ord. No. 2017-05, § 11, 4-17-2017; Ord. No. 2018-14, § 5, 12-17-2018)

Sec. 46-748. Effective date.

The special land use shall become effective when the application has been approved by the planning commission.

- (1) A building permit shall not be issued until approval of such special land use permit by the board.
- (2) Until a building permit has been granted pursuant to the special land use authorization, there shall be no construction or excavation on said land, nor shall use of the land be made toward the intended purposes of such special land use.
- (3) Land subject to a special land use authorization may not be used or occupied for purposes of such special land use until after a certificate of occupancy for same has been issued pursuant to the provisions of this chapter.

(Prior Code, § 5.282; Ord. No. 88-02, 3-12-1988; Ord. No. 95-24, 8-7-1995)

Sec. 46-749. Permit validity.

- (a) Approval of a special land use shall be valid regardless of change of ownership, provided that all terms and conditions of the authorization are met. Should the property fail to be used in accordance with the authorization land use or activity, the property will revert to the original zoned use and the special land use will be invalid. If invalidated by the board, the applicant has a right to seek relief from circuit court within 30 days.
- (b) In instances where development authorized by a special land use has not commenced within one year from the date of issuance or the last date of review authorized by this subsection, the planning commission shall review the authorization in relation to the applicable standards and requirements of this chapter. Upon a finding that there has been a change in conditions on the property or the surrounding area or in the provisions of this chapter applicable to the special land use under review, such that the authorization is no longer in conformance with the requirements of this chapter, the authorization shall become null and void upon action by the board. Where it is determined that such authorizations are in conformance with the provisions of this chapter, and there has not been a change in conditions affecting the validity of the authorization, the special land use shall remain valid, subject to periodic review in accord with the provisions of this subsection.
- (c) All special land use authorizations with respect to the approval of a land use or activity, shall be recorded in the office of the register of deeds at the expense of the applicant to be considered valid, and a copy filed with the zoning administrator.

(Prior Code, § 5.283; Ord. No. 88-02, 3-12-1988; Ord. No. 95-24, 8-7-1995)

Sec. 46-750. Requirement for compliance; penalties.

It shall be the duty and obligation of the owners and occupants or operators of land and uses subject to a special land use authorization, to ensure the continued use of such land shall at all times be in compliance with the use requirements of this chapter. Failure to comply shall be a violation of this chapter and subject to the penalties and remedies provided in section 1-14 and the continuance thereof may be declared to be a public nuisance per se.

(Prior Code, § 5.284; Ord. No. 88-02, 3-12-1988; Ord. No. 95-24, 8-7-1995)

Sec. 46-751. Special land use authorization deemed conforming use.

Any special land use authorization that has been granted shall be deemed a conforming use permitted in the district in which such use is located, provided such authorization:

- (1) Was issued in conformity with the provisions of this chapter;
- (2) Shall be deemed to effect only the lot or portion thereof and uses thereupon for which the special land use authorization shall have been explicitly granted; and
- (3) Permits a use, which is subsequently built, operated and maintained in compliance with the chapter the special land use authorization, and all conditions established with its approval.

(Prior Code, § 5.285; Ord. No. 88-02, 3-12-1988; Ord. No. 95-24, 8-7-1995)

Sec. 46-752. Adult-use marihuana establishments.

In addition to all requirements of section 10-2 of the City Code, any other requirements of this zoning ordinance or the City Code, and any conditions imposed by the planning commission in granting special use approval, adult-use (recreational) marihuana establishments must comply with the following requirements. All terms defined in section 10-2.01 of the City Code have the same meaning when used in this section.

- (1) Establishments must comply with the MRTMA and the MRTMA rules, as well as any other applicable state laws or regulations.
- (2) Co-located establishments are permitted in the city subject to section 10-2.02(c)(1) of the Cadillac City Code.
- (3) Stacked grower licenses are prohibited in the city, except for establishments in the Light Industrial (I-1) and General Industrial (I-2) districts.
- (4) Co-located marihuana establishments and stacked grower licenses are prohibited.
- (5) Establishments shall be sufficiently screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
- (6) Special use applicants must provide a plan for the storage and disposal of marihuana or chemicals associated with marihuana cultivation, so as to minimize the risk of theft or harm resulting from chemical exposure.
- (7) No marihuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marihuana overnight in an outdoor waste bin or a secure transport vehicle parked outdoors.
- (8) Signage for marihuana establishments may be approved pursuant to the generally applicable procedures and standards provided in section 46-664 ("signs"), with the additional restriction that establishment signage may not depict marihuana, marihuana-infused products, or marihuana-related paraphernalia.
- (9) Marihuana establishments must control and eliminate odor as follows:
 - a. The building must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.

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- b. The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - c. The air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers' recommendation to ensure optimal performance.
 - d. Negative air pressure must be maintained inside the building.
 - e. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use applicant submits a report by a mechanical engineer licensed in the state of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
- (10) The following minimum-distancing regulations apply:
- a. An establishment may be located within 1,000 feet of a public or private K—12 school or a college or university, subject to subsection (10)(b) and (c). However, an establishment may not be located adjacent to a public or private K—12 school or a college or university.
 - b. A grower, processor, or safety compliance establishment may not be located within a district zoned exclusively for residential use.
 - c. A retailer or microbusiness may not be located within a district zoned exclusively for residential use or within 100 feet of any existing one-family dwelling.
 - d. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marijuana establishment; provided, however, that for purposes of subsection (c) only, the distance shall be computed by measuring a straight line between the two closest points of the subject buildings.
- (11) The following requirements apply to retailers:
- Operational requirements.
- a. Retailers may not be open to customers between the hours of 11:00 p.m. and 8:00 a.m.
 - b. Retailers may not receive deliveries between the hours of 9:00 p.m. and 7:00 a.m.
 - c. The interior of the establishment must be arranged in a way such that neither marijuana nor marijuana-infused products are visible from the exterior of the establishment.
 - d. Consumption of marijuana shall be prohibited in the retail establishment, and a sign shall be posted on the premises of each retail center indicating that consumption is prohibited on the premises.
 - e. Retailers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days.
 - f. The public or common areas of the retail establishment must be separated from restricted or non-public areas of the marijuana establishment.

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- g. No drive-through window on the portion of the premises occupied by a retail establishment shall be permitted.
 - h. Retailers shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

Design requirements.

- i. *Appearance.* The exterior appearance of a retailer must be compatible with surrounding businesses with respect to façade type, ground floor opacity, size and placement of signage, site layout, etc.
- j. *Minimum wall articulation.* Building bays shall be a maximum of 30 feet in width. Bays shall be visually established by architectural features such as columns, ribs or pilasters, piers and fenestration pattern. In order to add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size, the following additional standards shall apply:
 - 1. No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding 30 feet without including at least two of the following: change in plane, change in texture or masonry pattern, windows, or an equivalent element that subdivides the wall into human scale proportions.
 - 2. Side or rear walls that face walkways may include false windows and door openings defined by frames, sills and lintels, or similarly proportioned modulations of the wall, only when actual doors and windows are not feasible because of the nature of the use of the building.
 - 3. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear façades shall be prohibited.
- k. *Façades.* Façades that face streets or connecting pedestrian frontage shall be subdivided and proportioned using features such as windows, entrances, arcades, arbors, awnings, along no less than 50 percent of the façade.
- l. *Entrances.* Primary building entrances shall use clear glass and be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the inclement weather.
- m. *Windows.* Windows shall have clear glass.
- n. *Awnings.* Awnings shall be no longer than a single storefront.
- o. *Base and top treatments.* All façades shall have:
 - 1. A recognizable "base" consisting of, but not limited to: (a) thicker walls, ledges or sills; (b) integrally textured materials such as stone or other masonry; (c) integrally colored and patterned materials such as smooth-finished stone or tile; (d) lighter or darker colored materials, mullions or panels; or (e) planters.
 - 2. A recognizable "top" consisting of, but not limited to: (a) cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials; (b) sloping roof with overhangs and brackets; (c) stepped parapets.

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- p. *Encroachments.* Encroachments for special architectural features, such as bay windows, decorative roofs and entry features may be considered; however, in no case may such features be below a height of eight feet.
- (12) The following requirements apply to growers:
- a. Cultivation must occur within an enclosed building with exterior facades consisting of opaque materials typical of an industrial or commercial building. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.
 - b. Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
- (13) The following requirements apply to processors:
- a. Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
- (14) The following requirements apply to safety compliance facilities:
- a. Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
- (15) The following requirements apply to microbusinesses:
- a. Microbusinesses may not be open to customers between the hours of 11:00 p.m. and 8:00 a.m.
 - b. Microbusinesses may not receive deliveries between the hours of 9:00 p.m. and 7:00 a.m.
 - c. The exterior appearance of a microbusiness must be compatible with surrounding businesses with respect to façade type, ground floor opacity, size and placement of signage, site layout, etc.
 - d. The interior of the establishment must be arranged in a way such that neither marihuana nor marihuana-infused products are visible from the exterior of the establishment.
 - e. Consumption of marihuana shall be prohibited in the establishment, and a sign shall be posted on the premises of each microbusiness indicating that consumption is prohibited on the premises.
 - f. Microbusinesses shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days.
 - g. The public or common areas of the microbusiness establishment must be separated from restricted or non-public areas of the marihuana establishment.
 - h. No drive-through window on the portion of the premises occupied by a microbusiness establishment shall be permitted.
 - i. Microbusinesses shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.
 - j. Cultivation must occur within an enclosed building with exterior facades consisting of opaque materials typical of an industrial or commercial building. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or

rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.

- k. Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
- (16) Special use permit specific to applicant.
- a. Any special use permit granted for a marihuana establishment is unique and specific to the applicant and does not run with the land. The special use permit may be transferred to another marihuana establishment only with city approval and subject to section 10-2.04 of the City Code.
- (17) Violations; remedies; revocation. Notwithstanding any other provision in this zoning ordinance to the contrary, penalties for violations of this subsection shall be as follows:
- a. If at any time an establishment violates the zoning ordinance, any condition imposed through a special use permit, or any other applicable city ordinance or state law or regulation, the city may take any or all of the following actions:
 - 1. The city may request that LARA revoke or refrain from renewing the establishment's state operating license.
 - 2. Following notice and a public hearing, the city may revoke the establishment's special use permit.
 - 3. The city may treat the violation as a municipal civil infraction, for which each day the violation continues will be a separate offense, and impose the following fines:
 - First violation = \$500.00
 - Second offense = \$2,500.00
 - Each subsequent offense = \$5,000.00
 - 4. The city may seek other appropriate and proper remedies, including actions in law or equity.
- (18) Application to certain transferred area. Notwithstanding any contrary provisions in this zoning ordinance, the following provisions shall apply to the real property ("transferred area") that is the subject of the agreement for the conditional transfer of property dated August 19, 2019 ("Act 425 Agreement"), and recorded with the Wexford County Register of Deeds, and that is also the subject of a consent judgment entered by the Wexford County Circuit Court on September 23, 2019, in Case Nos. 13-24803-CH and 17-27610-CZ:
- Marihuana establishments shall be permitted on the transferred area only in accordance with the Act 425 Agreement, consent judgment, and related documents and exhibits. The terms of the Act 425 Agreement and consent judgment supersede any conflicting provisions of this chapter with respect to the transferred area. However, to the extent that the Act 425 Agreement and consent judgment do not conflict with this zoning ordinance, this zoning ordinance shall control and govern any marihuana establishments in the transferred area.

(Ord. No. 2019-14, § 6, 11-18-2019; Ord. No. 2021-17 , §§ 1, 2, 12-20-2021)

Sec. 46-753. Medical marihuana facilities.

In addition to all requirements of section 10-3 of the City Code, any other requirements of this zoning ordinance or the City Code, and any conditions imposed by the planning commission in granting special use

approval, medical marihuana facilities must comply with the following requirements. All terms defined in section 10-3.01 of the City Code have the same meaning when used in this section.

- (1) Facilities must comply with the MMMFLA and the MMMFLA rules, as well as any other applicable state laws or regulations.
- (2) Co-located facilities are permitted in the city, subject to section 10-3.02(c)(1) of the Cadillac City Code.
- (3) Stacked grower licenses are prohibited in the city, except for facilities in the Light Industrial (I-1) and General Industrial (I-2) districts.
- (4) Co-located marihuana facilities and stacked grower licenses are prohibited.
- (5) Facilities shall be sufficiently screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
- (6) Special use applicants must provide a plan for the storage and disposal of marihuana or chemicals associated with marihuana cultivation, so as to minimize the risk of theft or harm resulting from chemical exposure.
- (7) No marihuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marihuana overnight in an outdoor waste bin or a secure transport vehicle parked outdoors.
- (8) Signage for medical marihuana facilities may be approved pursuant to the generally applicable procedures and standards provided in section 46-664 ("signs"), with the additional restriction that facility signage may not depict marihuana, marihuana-infused products, or marihuana-related paraphernalia.
- (9) Medical marihuana facilities must control and eliminate odor as follows:
 - a. The building must be equipped with an activated air scrubbing and carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter and air scrubbing system.
 - b. The filtration system must consist of one or more fans, activated carbon filters and be capable of scrubbing the air prior to leaving any building. At a minimum, the fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
 - c. The air scrubbing and filtration system must be maintained in working order and must be in use at all times. The filters must be changed per manufacturers' recommendation to ensure optimal performance.
 - d. Negative air pressure must be maintained inside the building.
 - e. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
 - f. An alternative odor control system is permitted if the special use applicant submits a report by a mechanical engineer licensed in the state of Michigan sufficiently demonstrating that the alternative system will eliminate odor as well or better than the air scrubbing and carbon filtration system otherwise required.
- (10) The following minimum-distancing regulations apply:

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- a. A facility may be located within 1,000 feet of a public or private K—12 school or a college or university, subject to subsection (10)(b) and (c). However, a facility may not be located adjacent to a public or private K—12 school or a college or university.
 - b. A grower, processor, or safety compliance facility may not be located within a district zoned exclusively for residential use.
 - c. A provisioning center may not be located within a district zoned exclusively for residential use or within 100 feet of any existing one-family dwelling.
 - d. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marijuana facility; provided, however, that for purposes of subsection (c) only, the distance shall be computed by measuring a straight line between the two closest points of the subject buildings.

(11) The following requirements apply to provisioning centers:

Operational requirements.

- a. Provisioning centers may not be open to customers between the hours of 11:00 p.m. and 8:00 a.m.
- b. Provisioning centers may not receive deliveries between the hours of 9:00 p.m. and 7:00 a.m.
- c. The interior of the facility must be arranged in a way such that neither marijuana nor marijuana-infused products are visible from the exterior of the facility.
- d. Consumption of marijuana shall be prohibited in the retail facility, and a sign shall be posted on the premises of each retail center indicating that consumption is prohibited on the premises.
- e. Provisioning centers shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of 14 days.
- f. The public or common areas of the retail facility must be separated from restricted or non-public areas of the marijuana facility.
- g. No drive-through window on the portion of the premises occupied by a retail facility shall be permitted.
- h. Provisioning centers shall not allow the sale, consumption, or use of alcohol or tobacco products on the premises.

Design requirements.

- i. *Appearance.* The exterior appearance of a provisioning center must be compatible with surrounding businesses with respect to façade type, ground floor opacity, size and placement of signage, site layout, etc.
- j. *Minimum wall articulation.* Building bays shall be a maximum of 30 feet in width. Bays shall be visually established by architectural features such as columns, ribs or pilasters, piers and fenestration pattern. In order to add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size, the following additional standards shall apply:
 - 1. No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding 30 feet without including at least two of the following: change in plane, change

in texture or masonry pattern, windows, or an equivalent element that subdivides the wall into human scale proportions.

2. Side or rear walls that face walkways may include false windows and door openings defined by frames, sills and lintels, or similarly proportioned modulations of the wall, only when actual doors and windows are not feasible because of the nature of the use of the building.
 3. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear façades shall be prohibited.
- k. *Façades.* Façades that face streets or connecting pedestrian frontage shall be subdivided and proportioned using features such as windows, entrances, arcades, arbors, awnings, along no less than 50 percent of the façade.
 - l. *Entrances.* Primary building entrances shall use clear glass and be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the inclement weather.
 - m. *Windows.* Windows shall have clear glass.
 - n. *Awnings.* Awnings shall be no longer than a single storefront.
 - o. *Base and top treatments.* All façades shall have:
 1. A recognizable "base" consisting of, but not limited to: (a) thicker walls, ledges or sills; (b) integrally textured materials such as stone or other masonry; (c) integrally colored and patterned materials such as smooth-finished stone or tile; (d) lighter or darker colored materials, mullions or panels; or (e) planters.
 2. A recognizable "top" consisting of, but not limited to: (a) cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials; (b) sloping roof with overhangs and brackets; (c) stepped parapets.
 - p. *Encroachments.* Encroachments for special architectural features, such as bay windows, decorative roofs and entry features may be considered; however, in no case may such features be below a height of eight feet.
- (12) The following requirements apply to growers:
- a. Cultivation must occur within an enclosed building with exterior facades consisting of opaque materials typical of an industrial or commercial building. The roof of the building may be constructed of a rigid transparent or translucent material designed to let in light, such as glass or rigid polycarbonate or fiberglass panels. Films or other non-rigid materials cannot be used to construct any component of the building's exterior structure.
 - b. Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
- (13) The following requirements apply to processors:
- a. Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
- (14) The following requirements apply to safety compliance facilities:

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- a. Cultivation must be conducted in a manner to minimize adverse impacts on the city's sanitary sewer. The city's public works department shall review all pertinent information relating to sewer discharges and shall provide any pertinent comments on to the planning commission.
- (15) Special use permit specific to applicant.
- a. Any special use permit granted for a medical marihuana facility is unique and specific to the applicant and does not run with the land. The special use permit may be transferred to another medical marihuana facility only with city approval and subject to section 10-3.04 of the City Code.
- (16) Violations; remedies; revocation. Notwithstanding any other provision in this zoning ordinance to the contrary, penalties for violations of this subsection shall be as follows:
- a. If at any time a facility violates the zoning ordinance, any condition imposed through a special use permit, or any other applicable city ordinance or state law or regulation, the city may take any or all of the following actions:
1. The city may request that LARA revoke or refrain from renewing the facility's state operating license.
 2. Following notice and a public hearing, the city may revoke the facility's special use permit.
 3. The city may treat the violation as a municipal civil infraction, for which each day the violation continues will be a separate offense, and impose the following fines:
First violation = \$500.00
Second offense = \$2,500.00
Each subsequent offense = \$5,000.00
 4. The city may seek other appropriate and proper remedies, including actions in law or equity.
- (17) Application to certain transferred area. Notwithstanding any contrary provisions in this zoning ordinance, the following provisions shall apply to the real property ("transferred area") that is the subject of the agreement for the conditional transfer of property dated August 19, 2019 ("Act 425 Agreement"), and recorded with the Wexford County Register of Deeds, and that is also the subject of a consent judgment entered by the Wexford County Circuit Court on September 23, 2019, in Case Nos. 13-24803-CH and 17-27610-CZ:

Medical marihuana facilities shall be permitted on the transferred area only in accordance with the Act 425 Agreement, consent judgment, and related documents and exhibits. The terms of the Act 425 Agreement and consent judgment supersede any conflicting provisions of this chapter with respect to the transferred area. However, to the extent that the Act 425 Agreement and consent judgment do not conflict with this zoning ordinance, this zoning ordinance shall control and govern any medical marihuana facilities in the transferred area.

(Ord. No. 2019-15, § 6, 11-18-2019; Ord. No. 2021-18 , §§ 1, 2, 12-20-2021)

Secs. 46-754—46-770. Reserved.

ARTICLE VII. ADULT BUSINESSES

Sec. 46-771. Purpose.

In the development and execution of this chapter, it is recognized that there are some uses which, because of their very nature, have serious operational characteristics, particularly when one or more of them are located in near proximity to residential zones, thereby having a deleterious effect upon adjacent areas. Regulation of these uses through location is necessary to ensure that the adverse effects of such uses will not contribute to the blighting or downgrading of the surrounding neighborhood. The provisions of this chapter are intended to prevent deterioration or blighting of residential neighborhoods.

(Prior Code, § 5.300; Ord. No. 94-15, 10-3-1994)

Sec. 46-772. 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:

Adult bookstore means an establishment which has in excess of 50 percent of its stock-in-trade for sale or rent, which stock-in-trade consists of books, magazines, newspapers, videotapes, video discs and motion pictures which are characterized by an emphasis on specified sexual activities or specified anatomical areas, or which establishment excluded admission to minors by virtue of age.

Adult business means and includes, but is not limited to, adult bookstores, adult video stores, adult personal service businesses, adult cabarets, adult novelty businesses, massage parlors, nude and/or semi-nude modeling studios and tattoo parlors.

Adult cabaret means a cafe, restaurant or bar where patrons are entertained by dancers, strippers or male or female impersonators, whether accompanied by music or not, whose conduct is characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult motion picture theatre means any establishment, or part thereof, used for presenting material distinguished or relating to specified sexual activities or specified anatomical areas, as defined herein for observation by patrons therein.

Adult novelty business means a business which has as a principal activity, the sale of devices which stimulate human genitals or devices designed for sexual stimulation.

Adult personal service business means a business having as its principle activity a person, while nude or while displaying specified anatomical areas, providing personal services for another person. Such businesses include, but are not limited to, modeling studios, body painting studios, performances or entertainment, and lingerie parlors using nude or semi-nude models.

Adult store means an establishment which has in excess of 50 percent of its stock-in-trade for sale or rental to the public or patrons, video cassettes or video tapes, having, as a dominant theme an emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas.

Buttock means and includes the anus and perineum of any person.

Church means a building used for regular public worship services and exempt from taxation under the general property tax act of the state.

Massage means the manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating, through the use of a physical, mechanical or other device, of the body of another, for a fee.

Massage parlor means an establishment wherein private massage is practiced, used or made available as a principle use of the premises.

Nude modeling studio means any building, structure, premises or part thereof used primarily as a place which offers, as its principal activity, the providing of models to display specified anatomical areas for artists and photographers for a fee and/or modeling clothing in a nude or semi-nude state.

Protected use means a church, school or public park.

Public park means any park owned and maintained by the city.

School means a public or private school offering education to students enrolled in pre-kindergarten, kindergarten, one or more grades of one through 12, or post secondary education.

Sexual intercourse means and includes fellatio, cunnilingus, anal intercourse and any other intrusion, however slight, of any part of a person's body, or of any object into the genital or anal openings of another's body.

Sodomy means sexual bestiality.

Specified anatomical areas means:

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

Specified sexual activities means:

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

Tattoo parlor means a business having, as its principal activity, the application or placing, by any method, of designs, letters, scrolls, figures, symbols or other marks upon or under the human skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

(Prior Code, § 5.301; Ord. No. 94-15, 10-3-1994)

Sec. 46-773. Authorization.

The planning commission may, by the issuance of a special use permit, authorize the uses specified within this article only in the B-3 zoning district and after finding that the following conditions exist:

- (1) The parcel upon which the use is intended is located outside a 300-foot radius of any parcel upon which is located any residence, dwelling place, daycare facility, church, public park, or school unless a petition requesting waiver of this requirement is received and certified by the city clerk/treasurer signed by 51 percent of those adult persons or institutions residing within or owning residential, daycare, school, or church property within a 300-foot radius of the proposed location in which case the planning commission may waive this requirement.
- (2) The use is not located within a 300-foot radius of one other such use except that such restriction may be waived by the planning commission if the following findings are made:
 - a. That the proposed use will not be contrary to the interest or injurious to nearby properties and that the spirit and intent of this section will be observed.

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- b. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - c. That the establishment of a regulated use in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program or urban renewal.
 - d. That all applicable state laws and local ordinances will be observed.

(Prior Code, § 5.302; Ord. No. 94-15, 10-3-1994)

Sec. 46-774. Limitation on reapplication.

No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.

(Prior Code, § 5.303; Ord. No. 94-15, 10-3-1994)

Sec. 46-775. Miscellaneous requirements.

- (a) The height, yard, lot area, lot width, building coverage, sign and parking requirements of an adult business shall conform to the requirements for the zone in which it is located and with the standards for special land use approval contained within this chapter.
- (b) The distance between an adult business and a protected use shall be measured in a straight line, without regard to intervening structures or objects, from the lot line of the adult business or building containing an adult business to the nearest lot line of the protected use.
- (c) No person shall reside in or permit any person to reside in the premises of an adult business.

(Prior Code, § 5.304; Ord. No. 94-15, 10-3-1994)

Sec. 46-776. Procedure.

The procedure and requirements established for special uses as contained in this chapter shall be followed to process an application for an adult business.

(Prior Code, § 5.305; Ord. No. 94-15, 10-3-1994)

Sec. 46-777. Exceptions.

The provisions of this chapter regarding massage parlors shall not apply to a licensed masseuse for fitness clubs, hospitals, sanitariums, nursing homes or medical clinics, or to the offices of a physician, surgeon, podiatrist, chiropractor, osteopath or physical therapist, duly licensed by the state, or to barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders of patrons.

(Prior Code, § 5.306; Ord. No. 94-15, 10-3-1994)