

Chapter 38 ZONING¹

ARTICLE I. IN GENERAL

Sec. 38-1. Purpose.

- (a) This chapter is based on the city future land use plan and is intended and designed to regulate the use of land and structures, and to accomplish all of the following objectives to:
- (1) Promote the public health, safety, and welfare.
 - (2) Ensure that the uses of land shall be situated in appropriate locations and relationships.
 - (3) Limit the inappropriate overcrowding of land and congestion of population, transportation, and other public facilities.
 - (4) Facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs.
 - (5) Encourage the use of lands and natural resources in accordance with their character and adaptability.
 - (6) Limit the improper use of land.
 - (7) Accomplish the objectives of the city's future land use plan.
 - (8) Reduce potential hazards to life and property.
- (b) In order to effectively meet these objectives, the city is divided into districts of such number, shape and area, and of such common unity of purpose, adaptability or use, that are deemed most suitable to provide for the best general civic use, protect the common rights and interests within each district and the city as a whole, and to promote quality of life and business vitality. The regulations of this chapter accomplish the purpose and objectives as outlined in subsection (a) of this section by controlling land uses within each district; acknowledging the unique impacts of special land uses through specific standards for their development in appropriate locations within selected districts; promoting quality development by limiting the location, height, bulk, occupancy and uses of buildings and other structures, specifying the percentage of a site available for a building, providing for basic site design standards to ensure that land is developed in a functional and aesthetically attractive manner, and requiring building and parking setbacks from property lines and public street rights-of-way.

(Ord. No. 98-01, § 1.2, 9-15-1998)

¹Cross reference(s)—Any ordinance pertaining to rezoning property saved from repeal, § 1-11(a)(15); buildings and building regulations, ch. 8; community development, ch. 12; environment, ch. 14; land divisions and subdivisions, ch. 18; planning, ch. 26; streets, sidewalks and other public places, ch. 30; telecommunications, ch. 32; franchises, app. A.

State law reference(s)—Authority to regulate land use, MCL 125.581 et seq.; municipal planning, MCL 125.31 et seq.

Sec. 38-2. Scope.

- (a) Where any condition imposed by any provision of this chapter upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this chapter, or by the provision of any ordinance or regulation adopted under any other law, the provision which is more restrictive or which imposes the higher standard or requirement shall govern.
- (b) This chapter shall not abrogate or annul any easement, covenant, or other private agreement. Where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.
- (c) No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with this chapter.
- (d) No setback area or lot existing at the time of adoption of this chapter shall be reduced in dimensions or area below the minimum requirements set forth in this chapter. Yards or lots created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established in this chapter.
- (e) Unless otherwise provided for by this chapter, any conditions attached to a lot as a result of public action taken pursuant to the application of this chapter shall remain in effect even though such lot may be subject to a change in ownership.
- (f) The regulations established in this chapter shall be the minimum regulations for promoting and protecting the public health, safety, and welfare.

(Ord. No. 98-01, § 1.3, 9-15-1998)

Sec. 38-3. Authority.

This chapter is enacted in accordance with Public Act No. 207 of 1921 (MCL 125.581 et seq.).

(Ord. No. 98-01, § 1.4, 9-15-1998)

Sec. 38-4. Validity and severability.

This chapter and the various parts, subsections, paragraphs, sentences, phrases, and clauses thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not specifically included in such ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular lot, use, building, or structure, such ruling shall not affect the application of such provision to any other lot, use, building, or structure not specifically included in such ruling.

(Ord. No. 98-01, § 1.5, 9-15-1998)

Sec. 38-5. Rules applying to the text.

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

- (1) The illustrations contained within this chapter are intended to illustrate hypothetical applications of the provisions which refer to them, and shall not have the effect of enlarging or restricting the terms

and provisions which refer to them. In the event of any conflict between the provisions of the written text of this chapter and the illustrations, the text shall govern.

- (2) When not inconsistent with the context, words used in the present tense shall include the future tense, words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) A "building" or "structure" includes any part thereof.
- (5) The word "person" shall include a firm, association, partnership, joint venture, corporation, trust, municipal or public entity, or equivalent entity or a combination of any of them as well as a natural person.
- (6) The words "used" and "occupied," as applied to any land, building or structure, shall be construed to include the phrases "intended to be," "arranged to be" or "designed to be" used or occupied.
- (7) The words "erected" or "erection" as applied to any building or structure, shall be construed to include the words "built," "constructed," "reconstructed," "moved upon," or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed or moved upon, such as excavation, filling, drainage or the like.
- (8) The particular shall control the general.
- (9) Terms not defined in this chapter shall have the meanings customarily accepted.

(Ord. No. 98-01, § 2.1, 9-15-1998)

Sec. 38-6. Definitions.

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

Accessory building, structure, or use means a building, structure, or use which is clearly incidental to, customarily found in connection with, devoted exclusively to, subordinate to, and located on the same lot as the principal use.

Adult means a person having arrived at the legal age of adulthood defined by the laws of the state.

Adult entertainment uses means any use of land, whether vacant or combined with structures or vehicles thereon by which such property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing, or presenting specified sexual activities or specified anatomical areas. Adult entertainment uses shall include, but not be limited to, the following:

Adult bookstore means a use which has a display containing books, magazines, periodicals, slides, pictures, cassettes, or other printed or recorded material which has a significant portion of its content or exhibit matter or actions depicting, describing, or relating to specified sexual activities or specified anatomical areas or an establishment with a (substantial) segment or section devoted to the sale or display of such material.

Adult cabaret means a nightclub, theater, or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where a significant portion of such performances show, depict, or describe specified sexual activities or specified anatomical areas.

Adult massage parlor means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatment or any other treatment or

manipulation of the human body occurs as part of or in connection with specified sexual activities or where any person providing such treatment, manipulation or service related thereto exposes specified anatomical areas.

Adult mini-motion picture theater means an enclosed building with a capacity for less than 50 persons used for presenting material which has a significant portion of any motion picture or other display depicting, describing, or presenting specified sexual activities or specified anatomical areas.

Adult model studio means any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such considerations or gratuities, except that this provision shall not apply to any bona fide art school or similar educational institution.

Adult motel means a motel wherein matter, actions, or other displays are presented which contain a significant portion depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Adult motion picture arcade means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where a significant portion of images so displayed depict, describe, or relate to specified sexual activities or specified anatomical areas.

Adult motion picture theater means an enclosed building with a capacity of 50 or more persons used for presenting material which has a significant portion of any motion picture or other display depicting or relating to specific sexual activities or specified anatomical areas for observation by patrons therein.

Adult sexual encounter center means any business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family may congregate, assemble, or associate for the purpose of engaging in specified sexual activities or exposing specified anatomical areas.

Animal clinic means a place where animals are given medical care and the boarding of animals is limited to shortterm care incidental to the hospital use.

Animal shelter means a building serving as a temporary refuge for abandoned animals.

Basement and cellar mean:

- (1) A basement is that portion of a building partly below the average grade and 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.
- (2) A cellar is that portion of a building partly below the average grade and 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, with a ceiling height of less than 6.5 feet.

Bed and breakfast establishment means a use which is subordinate to the principal use of a dwelling as a single-family dwelling unit and in which transient guests are provided a sleeping room and board in return for payment.

Building means any structure which is erected having a roof supported by columns or walls, which is used or erected for the shelter or enclosure of persons, animals or personal property or for carrying on business activities or other similar uses.

Building height means the vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean elevation level between eaves and ridge of a gable, hip or gambrel roof.

Clinic means an establishment housing facilities for medical, dental or psychiatric diagnosis and treatment, exclusive of major surgical procedures, for sick, ailing and injured persons who are not kept overnight on the premises.

Drive-through business means a business establishment so developed that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in the vehicle.

Dwelling, multiple-family, means a building containing three or more dwelling units designed for exclusive use and occupancy by three or more families.

Dwelling, single-family, means a building designed for exclusive use and occupancy as a dwelling unit by one family.

Dwelling, two-family, means a building containing two separate dwelling units designed for residential use and connected by either a common wall or an attached garage area.

Dwelling unit means a building, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation, for exclusive use by one family.

Family means an individual or group of two or more persons related by blood, marriage or adoption, including those related as foster children, who are domiciled together as a single, domestic, nonprofit housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, nontransient, distinct domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms of other similar determinable period.

Floor area, residential, means, for the purpose of computing the floor area of a residential dwelling unit, the sum of the horizontal areas of each story of a dwelling unit, measured from the interior faces of the exterior walls, exclusive of areas of basements, unfinished attics, attached garages, carports, breezeways and enclosed or unenclosed porches.

Floor area, usable, means that area used for or intended to be used for the sale of merchandise or services, or for the use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

Frontage means the continuous length along which a parcel of land fronts on a street, measured along the line where the property abuts the street right-of-way.

Health care institution means a state licensed medical establishment whose facilities provide in-patient accommodation, a wide range of medical and surgical care, and other in-patient health services for sick, ailing or injured persons; and including such related facilities as laboratories, outpatient departments, training facilities, central services and staff offices and residences which are integral with and accessory to the principal use of the establishment.

Home business means an occupation, profession, or activity carried on in a residence (dwelling unit) or residential accessory building. Up to two nonoccupants may be employed at a home business.

Home care facilities means residences in which day care, foster care or similar care is provided to those in need. These facilities may be state licensed residential facilities providing care to seven or more individuals. The number of individuals occupying and receiving care shall not exceed 12.

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

Hotel and motel mean any establishment in which individual cabins, courts, rooms, suites or similar structures or units are rented to transients for temporary periods of time. A hotel shall include tourist cabins and homes and motels, but shall not include bed and breakfast establishments.

Inoperable vehicle means a vehicle or part of a vehicle which is unregistered, unlicensed, or nonfunctioning for any reason.

Junk means any scrap, waste, debris, or reclaimable material which is not housed in a building.

Junkyard means any area, lot, building, or structure which is devoted to the storage, purchase, sale, or disposal of junk.

Kennel means any land, building or structure where four or more cats and/or dogs over six months of age are either permanently or temporarily boarded, housed, bred or sold.

Lot means a parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a condominium unit site in a site condominium development, having frontage upon a public or private street and having sufficient size to comply with the requirements of this chapter.

Lot area means the total horizontal area included within lot lines. Where the front lot line is the centerline of a public street, the lot area shall not include that part which is in the public right-of-way or governed by easement.

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 purpose 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 a part or percent of a lot occupied by buildings or structures.

Lot depth means the arithmetic mean of the shortest and longest distances from the front lot line to the rear lot line.

Lot line means a line of record bounding a lot or parcel from another lot or parcel, from a public or private road, or from any other public space.

Lot line, front, means the lot line separating a lot or parcel from a road right-of-way or road easement.

Lot line, rear, means the lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line.

Lot line, side, means any lot line not a front 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, through, means any lot, excluding a corner lot, which fronts on two parallel streets. All yards of through lots adjacent to streets shall be considered as frontage, and front yard setbacks shall be provided as required.

Manufactured home means a mobile home, residential building, dwelling unit, dwelling room or rooms, or a building component which is designed for long-term residential use and is wholly or substantially constructed at an off-site location, transported to a site and erected.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in the structure. The term "mobile home" does not include a recreational vehicle or motor home.

Mobile home park means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual nonrecreational basis, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

Motor vehicle sales and/or repair means any establishment engaged in the sale, rental, or leasing of new or used automobiles, vans, pickup trucks, recreational vehicles, or travel trailers; or a business performing repairs on such vehicles, including work which requires the engine to be removed, replacement or modification of the frame, body, transmission, or suspension systems, glass or upholstery replacement, or the painting or undercoating of vehicles.

Motor vehicle service facility means any establishment engaged in the direct retail sale of gasoline or other engine fuels, motor oil or lubricants, performing interior or exterior cleaning, sale of tires, parts, or accessories, inspection, lubrication, engine tuning, or minor repair for automobiles, vans, pickup trucks, or other motor vehicles.

Nonconforming structure means a structure, or portion thereof, lawfully existing at the time the ordinance from which this chapter is derived or amendments to such ordinance became effective and which fails to meet the minimum requirements of the zoning district in which it is located.

Nonconforming use means the use of a building or of land lawfully existing at the time the ordinance from which this chapter is derived or amendments to such ordinance became effective but which does not conform with the use regulations of the district in which it is located.

Outdoor storage and sales means the keeping, display and sale of goods and services primarily outside of a building or structure, including vehicles, garden supplies, gas, tires, and motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials and lumber yards.

Parking space means a designated space for parking of motor vehicles.

Pet store means a retail establishment specializing in the sale of domesticated animals and/or the goods necessary for the proper care, feeding and other activities related to owning a pet.

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

Private road means any road, street or thoroughfare for vehicular traffic, with a minimum width of 20 feet, which is privately owned and maintained and which provides the principal means of access to abutting properties.

Public road means a road, highway, street, easement, or thoroughfare dedicated to the public, with a minimum width of 20 feet, which affords the principal means of access to abutting property.

Recreational vehicle means a vehicle intended and designed primarily for recreational use, such as motor homes, camper trailers, boats, snowmobiles, off-road and all-terrain vehicles, and similar vehicles or trailers. The term "recreational vehicle" shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

Retail store means any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale.

Right-of-way means a street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of the agency having jurisdiction over the right-of-way.

Salvage yard means any principal or accessory use where salvage or its component parts are bought and sold, exchanged, stored, baled, packed, disassembled, separated, or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A salvage yard includes automobile wrecking yards, junkyards and the like.

Satellite dish antenna means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit and/or receive television, radio, or other electromagnetic communication signals between terrestrially and/or extra-terrestrially-based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (television reception only satellite antennas), and satellite microwave antennas.

Screen means a structure such as a fence or wall, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

Setback means the required minimum horizontal distance between a front, rear, or side lot line and a building line.

Sign means a structure, device, letter, work, model, figure, symbol, product, banner, balloon, flag, pennant, streamer, insignia, emblem, logo, painting, poster, or some quantity or combination of the above which is visible from a public place and is intended to direct public attention to a product, service, place, activity, person, institution, business, solicitation, or otherwise convey a message to the public.

- (1) *Billboard sign* means a sign directing attention to a use, activity, message, product, or service which is not conducted on or related to the lot or parcel upon which the sign is located.
- (2) *Directional sign* means an on-premises sign erected for the purpose of directing vehicular or pedestrian traffic to points of ingress, egress, parking areas, loading and unloading areas, or building entry points. In addition to direction detail, such signs may possess the name, trademark, or logo of the enterprise it is intended to serve.
- (3) *Public sign* means a sign: (i) erected by any governmental entity which relate to emergency activities, civil defense, or any sign which may be required by law to be displayed; (ii) flags and emblems of governmental entities; and (iii) authorized by the city for specific public events or activities.

Refer also to article IX of this chapter.

Single-family residence. Refer to *Dwelling, single-family.*

Specified anatomical areas means:

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

Specified sexual activities means:

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

State licensed residential facilities means those facilities which provide resident services for six or less persons under 24-hour supervision or care. Such facilities are licensed pursuant to Public Act No. 218 of 1979 (MCL 400.701 et seq.) and Public Act No. 116 of 1973 (MCL 722.111 et seq.).

Story means that part of a building, except a mezzanine (an intermediate floor in any story occupying not to exceed one-third of the floor area of such story), including 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 basement shall not be counted as a story.

Street. Refer to *Public road* or *Private road.*

Structure means anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground. The word "structure" shall not apply to wires and their supporting poles or frames or electrical or telephone utilities or to service utilities below the ground.

Tattoo parlor means any place where any form of consideration or gratuity is provided to mark a person's skin with an indelible figure by the insertion of pigment under the skin.

Temporary outdoor storage and sales means a use and/or activity that is carried out for a maximum of ten days in duration, with the intent to discontinue such use upon the expiration of the time period, including flea markets, seasonal sales, swap and shop markets, racing meets, circuses and carnivals.

Two-family residence. Refer to *Dwelling, two-family.*

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

Vehicle means any device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

Yard means a space open to the sky and unoccupied or unobstructed, except by encroachments specifically permitted by this chapter, on the same lot with a building or structure. A required yard is measured between the applicable lot line and the nearest foundation line of a building or structure.

Yard, front, means a yard extending across the full width of the lot, the depth of which is the distance between the front lot line and foundation line of the building or structure. In the case of a waterfront lot, the yard on the street side shall be the front yard.

Yard, rear, means a yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and rear foundation line of the main building.

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

(Ord. No. 98-01, § 2.2, 9-15-1998)

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

Secs. 38-7—38-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT²

DIVISION 1. GENERALLY

Sec. 38-31. Zoning administrator.

Unless designated under a specific provision of this chapter otherwise, the zoning administrator shall be responsible for the administration of this chapter. The zoning administrator shall be a qualified individual appointed to the position by the city commission. The terms, conditions, and rate of compensation shall be

²Cross reference(s)—Administration, ch. 2; officers and employees, § 2-61 et seq.

determined by the city commission. All authority granted to the zoning administrator has been delegated by the city commission. If the city commission appoints a deputy zoning administrator, the deputy zoning administrator shall assume the role of zoning administrator when the zoning administrator has delegated parts or all of the authority.

(Ord. No. 98-01, § 10.1, 9-15-1998)

Sec. 38-32. Zoning permit required.

Except as otherwise provided, no buildings or structures, including signs shall be erected or any use authorized until a permit has been issued by the zoning administrator. Accessory buildings less than 100 square feet in size shall be exempt from this provision. All additional accessory buildings shall require a zoning permit. Once it has been determined by the zoning administrator that the proposed building, structure, or use is in conformance with all the provisions of this chapter, a zoning permit may be issued. The zoning permit shall be nontransferable and shall remain valid for one year from the date of issuance. A zoning permit shall be obtained prior to the application for a building permit. The zoning administrator shall not issue a zoning permit if it is found that the proposed building, structure, or use is not in conformance with the requirements and standards of this chapter.

(Ord. No. 98-01, § 10.2, 9-15-1998)

Sec. 38-33. Application for zoning permit.

All applications for zoning permits shall be made to the zoning administrator with the accompanying fee. The fee shall be set by the city commission. The application shall be made up of the following:

- (1) A sketch plan drawn to scale showing the location and size of the proposed building, structure, or use as it relates to roads and rights-of-way, lot lines, other buildings on the site, existing or proposed sewage disposal facilities, existing or proposed water wells, and lakes, streams, or wetlands.
- (2) A statement by the applicant outlining the intended use and purpose for the proposed building, structure, or land in question.

(Ord. No. 98-01, § 10.3, 9-15-1998)

Sec. 38-34. Issuance of zoning permit.

Within ten days of the receipt of the application for zoning permit, the zoning administrator shall issue a zoning permit if it is found that the application is complete and that the proposed building, structure, or use is in conformance with the requirements of this chapter. The zoning administrator shall keep a record of all permits issued.

(Ord. No. 98-01, § 10.4, 9-15-1998)

Sec. 38-35. Denial of zoning permit.

Within ten days of the receipt of the application for zoning permit, the zoning administrator shall deny a zoning permit if it is found that the application is not complete or that the proposed building, structure, or use cannot be located in conformance with the requirements of this chapter. The zoning administrator shall inform the applicant in writing citing the reasons for the denial of the permit. The zoning administrator shall keep a record of all permits denied.

(Ord. No. 98-01, § 10.5, 9-15-1998)

Sec. 38-36. Revocation of zoning permit.

The zoning administrator shall have the power to revoke or cancel any zoning permit in case of failure or neglect to comply with any provision of this chapter or any false statement or misrepresentation made in the application. The revocation or cancellation of the zoning permit shall be made in writing.

(Ord. No. 98-01, § 10.6, 9-15-1998)

Sec. 38-37. Appeals of the decision of the zoning administrator.

Any decision of the zoning administrator concerning the enforcement or interpretation of this chapter may be appealed to the zoning board of appeals. The appeal shall be filed with the city clerk within ten days of the decision of the zoning administrator. The zoning board of appeals shall review the available evidence and make a decision to uphold or reverse the decision of the zoning administrator.

(Ord. No. 98-01, § 10.7, 9-15-1998)

Sec. 38-38. Enforcement.

- (a) *Violations.* Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this chapter is declared to be a nuisance per se. All buildings, structures, and land uses considered to be in violation of this chapter shall be reported to the zoning administrator.
- (b) *Inspection of violation.* The zoning administrator shall inspect all alleged violations of this chapter. If a violation is found, the zoning administrator shall issue within seven days from the date of inspection, a written order to correct the violation and to otherwise comply with the provisions of this chapter.
- (c) *Correction period.* After the order to correct has been issued, the offender shall have five days to correct the violation. If the violation cannot be corrected within five days, the zoning administrator may, with just cause, extend the correction period for an appropriate amount of time up to six months. If a longer correction period is required, the zoning board of appeals, upon petition, may grant up to one year to correct if conditions warrant such an extended period of time. Any violation not corrected shall be reported to the city commission. The city commission may with the advice of legal counsel initiate prosecution procedures.
- (d) *Penalties.* Any person, firm, or organization who violates, disobeys, omits, or refuses to comply with any provision of this chapter or lawful order of the zoning administrator, zoning board of appeals, or city commission issued in pursuance of this chapter shall be guilty of a civil infraction punishable by the sanctions as set forth in subsections (f) and (g) of this section. Each day during which a violation continues may be deemed a separate infraction.
- (e) *Civil fines.* The sanction for any violation of this chapter which is a municipal civil infraction shall be a civil fine as provided in this chapter, plus any costs, damages, expenses, and other sanctions authorized under article II of chapter 20, pertaining to municipal civil infractions.
- (f) *Issuance of municipal civil infraction citations and notices.* The zoning administrator, the building inspector, together with police officers of the city are authorized officials to issue municipal civil infraction citations and municipal civil infraction violation notices for violation of this chapter.
- (g) *Amount of fine.* A person, corporation or firm who, as a result of violating any provision of this chapter, receives a municipal civil infraction violation notice, upon a determination of responsibility thereon, shall pay

a civil fine of not less than \$100.00 nor more than \$500.00, plus costs and other sanctions, for each infraction as to be determined by the city violations bureau. Fines shall be paid to the city violations bureau.

(Ord. No. 98-01, § 10.8, 9-15-1998)

Secs. 38-39—38-55. Reserved.

DIVISION 2. ZONING BOARD OF APPEALS³

Sec. 38-56. Authorization.

There is hereby established a zoning board of appeals, which shall derive its authority from Public Act No. 207 of 1921 (MCL 125.581 et seq.). The zoning board of appeals shall ensure that the spirit and intent of this chapter is upheld, that the public health, safety, and welfare is advanced and that substantial justice is done.

(Ord. No. 98-01, § 11.1, 9-15-1998)

Sec. 38-57. Membership and responsibilities.

- (a) *Regular members.* The city zoning board of appeals shall consist of at least five members. The city commission may act as the zoning board of appeals, or the commission may appoint the members from among the residents of the city. Members of the zoning board of appeals shall be removable by the city commission for nonperformance of duty or misconduct in office upon written charges and after public hearing.
- (b) *Alternate members.* The city commission may appoint not more than two alternate members for the same term as regular members to the zoning board of appeals. An alternate member may be called upon to serve as a regular member of the zoning board of appeals in the absence of a regular member if the regular member is absent from or will be unable to attend a meeting of the zoning board of appeals. An alternate member may also be called to serve as 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 shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the zoning board of appeals.
- (c) *Terms of office.* Terms of zoning board of appeals members shall be for three years, except for members serving because of their membership on the planning commission or city commission, whose terms shall be limited to the time they are members of such bodies and the period stated in the resolution appointing them. All vacancies for unexpired terms shall be filled for the remainder of the term.
- (d) *Rules of procedure.* The zoning board of appeals may adopt its own rules of procedure as it deems necessary to conduct its meetings and carry out its function.
- (e) *Officers.* Once a year the zoning board of appeals shall choose a chair, a vice-chair, and appoint a secretary.
- (f) *Meetings.* Meetings shall be held on a regular basis and at such other times as the zoning board of appeals in its rules of procedure may specify. A simple majority of the membership of the zoning board of appeals shall

³Cross reference(s)—Boards and commissions, § 2-91 et seq.

State law reference(s)—Board of appeals, MCL 125.585.

constitute a quorum and may conduct any items of business brought before the zoning board of appeals. All meetings of the zoning board of appeals shall be open to the public.

- (g) *Records.* Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the city clerk and are public records.
- (h) *Majority vote required.* The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to reverse any decision of the zoning administrator, to decide in favor of the applicant any matter upon which the zoning board of appeals is required to pass, or to grant any variance of the terms or conditions of this chapter.
- (i) *Decisions.* The zoning board of appeals shall return a decision upon each case within a reasonable amount of time. All decisions of the zoning board of appeals are final, and appeals must be filed with a court of competent jurisdiction.
- (j) *Conflict of interest.* A member of the zoning board of appeals shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member of the zoning board of appeals to disqualify himself from a vote in which the member has a conflict of interest shall constitute misconduct in office.
- (k) *Duties.* The zoning board of appeals shall have the power to act on those matters where this chapter provides for an administrative review, interpretation, or variance as defined in this article.

(Ord. No. 98-01, § 11.2, 9-15-1998)

Sec. 38-58. Hearings and notices.

- (a) Upon application, the zoning board of appeals shall schedule a hearing on any matter authorized by this chapter, within a reasonable amount of time.
- (b) The zoning board of appeals shall cause a notice of public hearing to be made. The notice shall be given to the applicant, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of any structures within 300 feet of the property in question. The notice shall be made by delivery or by mail not less than five days from the date of the hearing.

(Ord. No. 98-01, § 11.3, 9-15-1998)

Sec. 38-59. Variances.

The zoning board of appeals is authorized to grant upon application, variances to requirements of this chapter. Variances relating to the uses of land (not dimensional in nature) shall require a two-thirds vote of the board of appeals to pass. The board of appeals may attach any conditions it deems necessary to a variance to ensure that the spirit and intent of this chapter is carried out.

- (1) *Basis of determination.* The board of appeals shall ensure that all variances comply with the following:
 - a. Will not be contrary to the public interest or to the intent and purpose of this chapter.
 - b. Will not cause an adverse effect upon property values in the immediate vicinity or city as a whole.
 - c. Will relate only to the property for which the application has been submitted.
 - d. Is not a request that occurs regularly, that could be addressed through an amendment to this chapter.

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- (2) *Conditions.* The board of appeals shall not grant a variance unless at least one of the following is demonstrated:
- a. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that generally do not apply to other properties or uses in the same district. Such circumstances or conditions shall not be considered grounds for a variance if they were caused by the applicant or previous owner after the effective date of the ordinance from which this chapter is derived.
 - b. Where there are practical difficulties which prevent the carrying out of the strict letter of this chapter. Generally, economic difficulty on its face is not a qualifying difficulty. Difficulties should be evaluated in terms of the use of the parcel or property.
 - c. Where the lot or parcel was lawfully recorded prior to the effective date of this chapter or any amendment thereto, and the dimensional provisions of this chapter prohibit the use of the lot or parcel in accordance with the district regulations.
 - d. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same district.
- (3) *Resubmission.* Any variance that is denied wholly or in part shall not be resubmitted for a period of one year from the date that the board of appeals last took action on the request.

(Ord. No. 98-01, § 11.4, 9-15-1998)

Sec. 38-60. Administrative review.

- (a) The zoning board of appeals is authorized to review all administrative decisions made in the administration of this chapter. The zoning board of appeals may uphold, reverse, or modify any order, decision or determination made by the zoning administrator, planning commission, or any other entity. The appeal or request for administrative review shall be submitted to the city clerk with the appropriate fee.
- (b) The filing of an appeal or request for administrative review shall stay all proceedings in furtherance of the action being reviewed. If the zoning administrator certifies in writing to the zoning board of appeals that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the zoning board of appeals or by court action.

(Ord. No. 98-01, § 11.5, 9-15-1998)

Sec. 38-61. Interpretation.

- (a) Upon application or petition and the filing of the appropriate fees, the zoning board of appeals shall be authorized to interpret any uncertainty that may occur in the administration of this chapter.
 - (1) The board of appeals shall:
 - a. Determine the precise location of the boundary lines between zoning districts when there is a question about the exact location.
 - b. Classify any activity which is not specifically mentioned in the district regulations as a use permitted by right or permitted by special use. The basis for such classification shall be that the activity is consistent and similar to the uses already listed in the district, and that the activity is not listed in another district.

- (2) The board of appeals may determine the off-street parking and loading space requirements for any use or activity which cannot be determined under the provisions of this chapter.
 - (3) The board of appeals may interpret any provision of this chapter when the zoning administrator is unable to clearly determine its intent or purpose.
- (b) The zoning administrator shall keep a concise record of all interpretations made by the zoning board of appeals to facilitate such reference.
- (Ord. No. 98-01, § 11.6, 9-15-1998)

Secs. 38-62—38-100. Reserved.

ARTICLE III. ZONING DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 38-101. Division of the city.

For the purposes of this chapter, all land within the city, excepting streets and alleys, is divided into the following zoning districts:

| | |
|-----|-----------------------------|
| LDR | Low Density Residential |
| MDR | Medium Density Residential |
| MR | Mixed Residential |
| MFR | Multiple-Family Residential |
| RC | Residential Commercial |
| CBD | Central Business District |
| C | Commercial |
| I | Industrial |
| P | Public |

(Ord. No. 98-01, § 4.1, 9-15-1998)

Sec. 38-102. Official zoning map.

The boundaries of zoning districts are defined and established as shown on a map entitled the "City of Manton Zoning Map." This map, with all explanatory matter thereon, is hereby made a part of this chapter. The official zoning map shall be kept and maintained in the city offices.

(Ord. No. 98-01, § 4.2, 9-15-1998)

Sec. 38-103. Interpretation of boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the official zoning map, the following rules shall apply:

- (1) Boundaries indicated as approximately following streets or highways shall be presumed to follow the centerline of these roadways.
- (2) Boundaries indicated as approximately following city boundary lines or property lines shall be presumed to follow these lines.
- (3) Boundaries indicated as approximately parallel to the centerlines of streets or alleys shall be interpreted as being parallel thereto and at such a distance therefrom as indicated by given distance or scaled dimension.

(Ord. No. 98-01, § 4.3, 9-15-1998)

Sec. 38-104. Classification of uses not listed.

The zoning board of appeals shall have the power to classify a use which is not specifically mentioned by this chapter, as described in section 38-60. Such use shall be treated in a like manner with comparable uses permitted or prohibited by the district regulations for each zoning district.

(Ord. No. 98-01, § 4.4, 9-15-1998)

Sec. 38-105. Table of dimensional requirements.

TABLE OF DIMENSIONAL REQUIREMENTS

| Zoning District | Minimum Lot Area (Square Feet) | Minimum Dwelling Unit Width Requirement (Feet) | Minimum Frontage Requirement (Feet) | Minimum Front Setback (Feet) (8) | Minimum Side Setback (Feet) | Minimum Rear Setback (Feet) | Maximum Lot Coverage (Percent) | Maximum Structure Height (Feet) | Maximum Structure Height (Feet) |
|-----------------|--------------------------------|--|-------------------------------------|----------------------------------|-----------------------------|-----------------------------|--------------------------------|---------------------------------|---------------------------------|
| LDR (7) | 30,000 | (5), (9) | 150 | 25 | 30 | 35 | 30 | 35 | 25 |
| MDR (7) | 15,000 | (6), (9) | 100 | 25 | 15 | 15 | 30 | 35 | 25 |
| MR (7) | 8,000 (2) | (6), (9) | 65 | 25 | 15 | 15 | 35 | 35 | 25 |
| MFR (7) | 23,000 (3) | NA | 100 | 30 | 20 | 15 | 35 | 35 | 35 |
| RC | 23,000 (4) | 20 | 100 | 30 | 20 | 15 | 35 | 35 | 35 |
| CBD | 4,000 | NA | 35 | (3) | 0 | 0 | NA | 35 | 35 |
| C | 23,000 | NA | 100 | 30 | 20 | 15 | 35 | 35 | 35 |
| I | 29,000 | NA | 100 | 25 | 10 | 15 | 50 | 35 | 35 |
| P | NA | NA | (4) | 25 | 15 | 15 | 30 | 30 | 30 |

;sz=8q; (1) ;hg;This regulation shall not apply to church spires, flagpoles, antennas and antenna support structures, and similar structures.

(2) Two-family dwellings (duplex) require a minimum 20,000 square feet lot area.

-
- (3) Number of multiple-family dwelling units (apartments) shall not exceed ten per acre.
 - (4) The minimum lot area for single-family residential dwelling units in this district shall be 12,500 square feet. Commercial uses or commercial uses combined with residential uses, or any other permitted uses, shall require a minimum of 23,000 square feet.
 - (5) Eighty percent of the foundation must be 24 feet in width.
 - (6) Eighty percent of the foundation must be 16 feet in width.
 - (7) The minimum floor area per single-family dwelling unit shall be determined by districts:
 - LDR — 1,008 square feet.
 - MDR — 912 Square feet.
 - MR and MFR — 832 Square feet.
 - (8) Maintain an average of existing setbacks.
 - (9) Require that the age of manufacture of mobile homes be not more than five years.
- (Ord. No. 98-01, § 4.14, 9-15-1998; Ord. No. 99-06, 3-13-2000)

Secs. 38-106—38-120. Reserved.

DIVISION 2. LOW DENSITY RESIDENTIAL "LDR" DISTRICT

Sec. 38-121. Purpose and intent.

The LDR district is made up of those areas of the city which are devoted to, and which should continue to be devoted to single-family residences and customarily accepted accessory uses. The regulations set forth in this division for the LDR district are intended to be the most stringent and restrictive of all the residential zoning districts. The regulations in this division for the LDR district are intended to preserve and protect the existing homes and neighborhoods with respect to aesthetics, property values and compatibility of land uses.

(Ord. No. 98-01, § 4.5, 9-15-1998)

Sec. 38-122. Uses permitted by right.

The following uses are permitted by right in the LDR district:

- (1) Single-family residences.
- (2) State-licensed residential facilities providing care to six or less individuals.
- (3) Home occupations.
- (4) Customarily accessory uses and structures which are subordinate to the principal uses listed in this section.

(Ord. No. 98-01, § 4.5A, 9-15-1998)

Sec. 38-123. Uses permitted by special use permit.

The following uses are permitted by special use permit in the LDR district:

- (1) Home businesses.

(2) Bed and breakfast establishments.

(3) Home care facilities.

(Ord. No. 98-01, § 4.5B, 9-15-1998)

Sec. 38-124. Dimensional requirements.

For dimensional requirements for the LDR district, refer to section 38-105.

(Ord. No. 98-01, § 4.5C, 9-15-1998)

Secs. 38-125—38-140. Reserved.

DIVISION 3. MEDIUM DENSITY RESIDENTIAL "MDR" DISTRICT

Sec. 38-141. Purpose and intent.

The MDR district is comprised of those areas of the city which are or which ought to be residential in character. The regulations set forth in this division for the MDR district are intended to preserve, protect, and over time enhance the quality of development located in this district.

(Ord. No. 98-01, § 4.6, 9-15-1998)

Sec. 38-142. Uses permitted by right.

The following uses are permitted by right in the MDR district:

(1) Single-family residences.

(2) State-licensed residential facilities providing care to six or less individuals.

(3) Home occupations.

(4) Customarily accessory uses and structures which are subordinate to the principal uses listed in this section.

(Ord. No. 98-01, § 4.6A, 9-15-1998)

Sec. 38-143. Uses permitted by special use permit.

The following uses are permitted by special use permit in the MDR district:

(1) Home businesses.

(2) Bed and breakfast establishments.

(3) Home care facilities.

(4) Churches.

(5) Nursing homes, hospitals, or clinics.

(Ord. No. 98-01, § 4.6B, 9-15-1998)

Sec. 38-144. Dimensional requirements.

For dimensional requirements for the MDR district refer to section 38-105.

(Ord. No. 98-01, § 4.6C, 9-15-1998)

Secs. 38-145—38-160. Reserved.

DIVISION 4. MIXED RESIDENTIAL "MR" DISTRICT

Sec. 38-161. Intent.

The MR district is intended to provide for locations within the city for single-family, two-family, and compatible residential and nonresidential uses.

(Ord. No. 98-01, § 4.7, 9-15-1998)

Sec. 38-162. Uses permitted by right.

The following uses are permitted by right in the MR district:

- (1) Single-family residences.
- (2) Two-family residences.
- (3) State licensed residential facilities providing care to six or less individuals.
- (4) Home occupations.
- (5) Customarily accessory uses and structures which are subordinate to the principal uses listed above.
- (6) Public schools or public school facilities.
- (7) Public parks and public recreation areas.

(Ord. No. 98-01, § 4.7A, 9-15-1998)

Sec. 38-163. Uses permitted by special use permit.

The following uses are permitted by special use permit in the MR district:

- (1) Home businesses.
- (2) Bed and breakfast establishments.
- (3) Home care facilities.
- (4) Churches.
- (5) Nursing homes, hospitals, or clinics.
- (6) Mobile home parks (refer to subsection 38-429(2)).
- (7) Other uses which are not specifically listed in other district regulations, which are similar in nature to the uses listed in this section.

(Ord. No. 98-01, § 4.7B, 9-15-1998)

Sec. 38-164. Dimensional requirements.

For dimensional requirements for the MR district, refer to section 38-105.

(Ord. No. 98-01, § 4.7C, 9-15-1998)

Secs. 38-165—38-180. Reserved.

DIVISION 5. MULTIPLE-FAMILY RESIDENTIAL "MFR" DISTRICT

Sec. 38-181. Intent.

The MFR district is intended to provide a place for multiple-family dwelling units or alternative moderate density residential dwelling units to locate.

(Ord. No. 98-01, § 4.8, 9-15-1998)

Sec. 38-182. Uses permitted by right.

The following uses are permitted by right in the MFR district:

- (1) Multiple-family dwelling units including but not limited to apartments, townhouses, row houses, and single-family attached units not exceeding ten units per acre. The minimum square footage of a dwelling unit will be determined by the number of bedrooms within each unit as follows:
 - a. One bedroom unit: 650 square feet minimum.
 - b. Two bedroom unit: 850 square feet minimum.
 - c. Three bedroom unit: 1,050 square feet minimum.
- (2) These multiple-family dwelling units are also required to comply with all dimensional requirements established for the MFR district in section 38-105.

(Ord. No. 98-01, § 4.8A, 9-15-1998)

Sec. 38-183. Uses permitted by special use permit.

The following uses are permitted by special use permit in the MFR district:

- (1) Nursing homes, convalescent homes, and the like.
- (2) Other types of moderate density housing.
- (3) Commercial and service uses when they are subordinate to the primary multiple-family residential use.

(Ord. No. 98-01, § 4.8B, 9-15-1998)

Sec. 38-184. Dimensional requirements.

For dimensional requirements for the MFR district refer to section 38-105.
(Ord. No. 98-01, § 4.8C, 9-15-1998)

Secs. 38-185—38-200. Reserved.

DIVISION 6. RESIDENTIAL COMMERCIAL "RC" DISTRICT⁴

Sec. 38-201. Intent.

The RC district is made up of those areas located along US-131 that are a mix of residences and small businesses. The intent of the RC district is to foster this mix of uses as it is part of the small town character of the city.

(Ord. No. 98-01, § 4.9, 9-15-1998)

Sec. 38-202. Uses permitted by right.

The following uses are permitted by right in the RC district:

- (1) Single-family residences.
- (2) Two-family residences.
- (3) Home occupations.
- (4) Home businesses.
- (5) Retail and service stores and shops.
- (6) Offices.
- (7) Churches.
- (8) Funeral homes.

(Ord. No. 98-01, § 4.9A, 9-15-1998)

Sec. 38-203. Uses permitted by special use permit.

The following uses are permitted by special use permit in the RC district:

- (1) Child care centers.
- (2) Nursing homes, convalescent homes, or related care facilities.
- (3) Home care facilities.
- (4) Nurseries, seasonal markets, and the like.

⁴Cross reference(s)—Businesses, ch. 10.

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- (5) Motels and hotels.
 - (6) Laundromats and laundries.
 - (7) Similar uses to those listed in this section that do not directly compete with uses, in the C or CBD zoning districts.

(Ord. No. 98-01, § 4.9B, 9-15-1998)

Sec. 38-204. Dimensional requirements.

For dimensional requirements for the RC district, refer to section 38-105.

(Ord. No. 98-01, § 4.9C, 9-15-1998)

Secs. 38-205—38-220. Reserved.

DIVISION 7. CENTRAL BUSINESS "CBD" DISTRICT⁵

Sec. 38-221. Intent.

The purpose and intent of the CBD district is to provide regulations that will preserve, protect, and over time enhance the city's downtown area. The CBD district is intended to recognize the uniqueness of the downtown while providing minimum design and performance standards.

(Ord. No. 98-01, § 4.10, 9-15-1998)

Sec. 38-222. Uses permitted by right.

The following uses are permitted by right in the CBD district:

- (1) Retail stores.
- (2) Offices.
- (3) Restaurants and taverns.
- (4) Medical offices and clinics.
- (5) Service businesses.
- (6) Banks and other financial businesses.
- (7) Hotels and motels.
- (8) Funeral homes
- (9) Churches.
- (10) Pet stores and animal clinics, provided that the use is contained entirely within an enclosed building.

⁵Cross reference(s)—Businesses, ch. 10.

(Ord. No. 98-01, § 4.10A, 9-15-1998)

Sec. 38-223. Uses permitted by special use permit.

The following uses are permitted by special use permit in the CBD district:

- (1) Gas stations.
- (2) Car washes.
- (3) Laundries.
- (4) Child care centers.
- (5) Residential living quarters provided that the residential use is clearly incidental to a use listed in this section.

(Ord. No. 98-01, § 4.10B, 9-15-1998)

Sec. 38-224. Dimensional requirements.

For dimensional requirements for the CBD district, refer to section 38-105.

(Ord. No. 98-01, § 4.10C, 9-15-1998)

Secs. 38-225—38-240. Reserved.

DIVISION 8. COMMERCIAL "C" DISTRICT⁶

Sec. 38-241. Purpose and intent.

The purpose and intent of the C district is to provide locations for commercial establishments outside of the central business district which can be adequately served by the city's infrastructure. The C district is also intended to allow for uses which are related or dependant upon automobiles.

(Ord. No. 98-01, § 4.11, 9-15-1998)

Sec. 38-242. Uses permitted by right.

The following uses are permitted by right in the C district:

- (1) Retail stores.
- (2) Offices.
- (3) Restaurants and taverns.
- (4) Laundries.
- (5) Car washes.

⁶Cross reference(s)—Businesses, ch. 10.

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- (6) Motor vehicle service facilities including gas stations.
 - (7) Motor vehicle sales establishments.
 - (8) Service businesses.
 - (9) Banks and similar financial businesses.
 - (10) Temporary outdoor storage and sales.
 - (11) Pet stores, animal clinics, or animal shelters, provided that the use is contained entirely within an enclosed building.

(Ord. No. 98-01, § 4.11A, 9-15-1998)

Sec. 38-243. Uses permitted by special use permit.

The following uses are permitted by special use permit in the C district:

- (1) Building supply companies or yards.
- (2) Hotels and motels.
- (3) Commercial recreation facilities such as bowling alleys, skating rinks, arcades, and similar items.
- (4) Outdoor storage and sales (refer to subsection 38-429(1)).
- (5) Self service storage facilities or mini-warehouses.
- (6) Child care centers.
- (7) Animal clinics and animal shelters with outdoor facilities, provided that there is special noise deadening construction and/or deep open-space buffering to avoid sound transmission beyond property boundaries.
- (8) Commercial radio, television, telephone and similar communication towers and antennas (refer to subsection 38-429(3)).
- (9) Tattoo parlors subject to the following requirements and conditions:
 - a. The tattoo parlor building shall not be located within 100 feet of a residential dwelling or district, church, or school.
 - b. The site shall be so located as to abut a major thoroughfare right-of-way, and all ingress/egress to the site shall be directly from such major thoroughfare.
 - c. A tattoo parlor shall be contained in a freestanding building and, such activity shall be the sole use located in the building.
 - d. Tattoo parlors shall meet applicable health and safety requirements for such uses as may be required by any county or state agency having regulatory authority for such uses.
- (10) Other uses which are similar in nature to the uses listed in this section.

(Ord. No. 98-01, § 4.11B, 9-15-1998; Ord. No. 99-06, 3-13-2000)

Sec. 38-244. Dimensional requirements.

For dimensional requirements for the C district refer to section 38-105.

(Ord. No. 98-01, § 4.11C, 9-15-1998)

Secs. 38-245—38-260. Reserved.

DIVISION 9. INDUSTRIAL "I" DISTRICT⁷

Sec. 38-261. Purpose and intent.

The purpose and intent of the I district is to allow for light manufacturing, processing, storage, and related activities that are not permitted in other districts.

(Ord. No. 98-01, § 4.12, 9-15-1998)

Sec. 38-262. Uses permitted by right.

The following uses are permitted by right in the I district:

- (1) Processing, production, cleaning, testing, storage, repair and distribution of goods, products and foods.
- (2) Contractors establishments or contractors yards.
- (3) Motor vehicle repair shop, bump and paint shop.
- (4) Restaurants and taverns.
- (5) Car washes.
- (6) Animal clinics, or animal shelters, provided that the use is contained entirely within an enclosed building.
- (7) Animal clinics and animal shelters with outdoor facilities, provided that there is special noise deadening construction and/or deep open-space buffering to avoid sound transmission beyond property boundaries.
- (8) Adult entertainment uses. The purpose of this subsection (8) is to prevent crime, protect and preserve retail trade areas, maintain property values, protect and preserve the quality of life in the city, protect children from increased criminal activity, and prevent blighting, downgrading, and deterioration of residential neighborhoods and commercial areas. Adult entertainment uses are subject to the following:
 - a. No adult entertainment use shall be located within 1,000 feet of any other adult entertainment use nor within 300 feet of the following uses:
 1. Any public park.
 2. Any church.
 3. Any school having a curriculum including kindergarten or any one or more of the grades one through 12.
 - b. No adult entertainment use shall be located within 300 feet of any area zoned LDR, MDR, MR or MFR.

⁷Cross reference(s)—Businesses, ch. 10.

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- c. An adult entertainment use shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multi-use commercial structures do not constitute a freestanding building.
 - d. No adult entertainment use shall be conducted in any, manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not regulated as an adult entertainment use. This subsection shall apply to any display, decoration, sign, show window, other opening.
 - e. The distances specified in subsection (8)a. of this section shall be measured as a straight line distance between the nearest point of the structure containing the adult entertainment use to the nearest point of the structure or building unit occupied by uses listed in this subsection (8).

(9) Accessory uses which promote or advance the principal uses listed in this section.

(Ord. No. 98-01, § 4.12A, 9-15-1998)

Sec. 38-263. Uses permitted by special use permit.

The following uses are permitted by special use permit in the I district:

- (1) Outdoor processing or manufacturing of goods, products, or foods.
- (2) Lumber and building supply yards.
- (3) Freight terminals.
- (4) Warehousing and mini-warehousing (self-service storage).
- (5) Commercial radio, television, telephone and similar communication towers and antennas (refer to subsection 38-429(3)).
- (6) Tattoo parlors are subject to the following requirements and conditions:
 - a. The tattoo parlor building shall not be located within 100 feet of a residential dwelling or district, church, or school.
 - b. The site shall be so located as to abut a major thoroughfare right-of-way, and all ingress/egress to the site shall be directly from such major thoroughfare.
 - c. A tattoo parlor shall be contained in a freestanding building and such activity shall be the sole use located in the building.
 - d. Tattoo parlors shall meet applicable health and safety requirements for such uses as may be required by a county or state agency having regulatory authority for such uses.
- (7) Other industrial uses which are similar in nature to the uses listed in this section.

(Ord. No. 98-01, § 4.12B, 9-15-1998; Ord. No. 99-06, 3-13-2000))

Sec. 38-264. Dimensional requirements.

For dimensional requirements for the I district, refer to section 38-105.

(Ord. No. 98-01, § 4.12C, 9-15-1998)

Secs. 38-265—38-280. Reserved.

DIVISION 10. PUBLIC "P" DISTRICT

Sec. 38-281. Purpose and intent.

The purpose and intent of the P district is to designate existing public facilities and provide for additional areas or facilities.

(Ord. No. 98-01, § 4.13, 9-15-1998)

Sec. 38-282. Uses permitted by right.

The following uses are permitted by right in the P district:

- (1) Public schools and grounds.
- (2) Public parks and facilities.
- (3) Public recreation areas and campgrounds.
- (4) Public buildings and facilities.
- (5) Public fairgrounds and facilities.
- (6) Water and sewer facilities and buildings.
- (7) Cemeteries.
- (8) Temporary uses and activities approved by the zoning administrator which are ten or less days in duration.

(Ord. No. 98-01, § 4.13A, 9-15-1998)

Sec. 38-283. Uses permitted by special use permit.

The following uses are permitted by special use permit in the P district:

- (1) Essential service buildings, enclosures, substations, storage yards and related activities or structures.
- (2) Public outdoor storage yards.
- (3) Outdoor or seasonal sales and uses of a duration beyond ten days.

(Ord. No. 98-01, § 4.13B, 9-15-1998)

Sec. 38-284. Dimensional requirements.

For dimensional requirements for the P district, refer to section 38-105.

(Ord. No. 98-01, § 4.13C, 9-15-1998)

Secs. 38-285—38-320. Reserved.

ARTICLE IV. SUPPLEMENTARY PROVISIONS

Sec. 38-321. Intent and purpose.

In addition to the minimum requirements set forth in article III of this chapter, other standards and requirements are necessary to ensure that the development of land occurs in an efficient, orderly, and controlled manner. It is the intent of this article to set forth provisions that will regulate the uses allowed in all districts.

(Ord. No. 98-01, § 5.1, 9-15-1998)

Sec. 38-322. Accessory buildings.

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

- (1) Where an accessory building is structurally attached to or abuts a main building, it shall be subject to and must conform to, all regulations applicable to the main building.
- (2) Accessory buildings shall be subject to the front yard setback requirement for principal structures.
- (3) The minimum setback requirement for accessory buildings from any side or rear yard is ten feet. For accessory buildings exceeding ten feet in height, there shall be a one foot increase of the minimum setback requirement for each one foot increase of accessory building height above ten feet up to the setback requirement for principal structures.
- (4) Maximum accessory heights are set forth in section 38-105.

(Ord. No. 98-01, § 5.2, 9-15-1998)

Sec. 38-323. Lot allocation.

No portion of any lot or parcel used once in complying with the provisions of this chapter for yards, lot area, or any other requirement in this chapter, shall be used a second time to satisfy such requirements for any other structure or building.

(Ord. No. 98-01, § 5.3, 9-15-1998)

Sec. 38-324. Corner clearance.

No solid visual obstruction above 30 inches shall be permitted within a triangular area formed by the intersection of any road right-of-way lines at a distance along each such line of 20 feet from their point of intersection.

(Ord. No. 98-01, § 5.4, 9-15-1998)

Sec. 38-325. Fences, walls or screens.

- (a) The installation, erection, and/or maintenance of a fence is hereby prohibited except in compliance with the requirements of this chapter. A permit to be issued by the building inspector shall be obtained prior to installation or erection of any fence within the city.
- (b) Application for such permit shall be made upon a form provided by the building department, and shall require such information as may be required by the building department in order to determine whether such fence is in conformity with the requirements of this chapter. The filing fee for a fence permit shall be as presently established or as hereby adopted by resolution of the city commission.
- (c) Fences that are permitted or required are subject to the following:
 - (1) Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six feet in height, measured from the base of the fence, and shall not extend toward the front of the lot nearer than the front of the house. Decorative fences shall be permitted in a front yard where they do not exceed 2½ feet in height and the vertical surface in any five-foot section measured from the finished ground grade to the top of the fence has an opening of at least 50 percent of the total surface of each five-foot section of fence, and that all framing members including posts, horizontal or vertical supports and fencing are considered in the calculation.
 - (2) Fences on lots of record shall not contain barbed wire, razor wire, electric current or charge of electricity, except that barbed wire may be placed on the top of fences in nonresidential districts to enclose open storage areas or utility buildings or stations. Barbed wire cradles shall consist of not more than three strands of wire and shall overhang into the property which it is to protect.
 - (3) Fences which enclose public land, public institutions, or public institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total area.
 - (4) All fences in areas zoned or used for commercial purposes shall be of a screening type, and shall not be more than six feet in height above grade level.
 - (5) All fences in areas zoned or used for industrial purposes shall not exceed eight feet in height above grade level.
 - (6) Fences shall be constructed of wood, metal or masonry, and other acceptable materials, excluding plastic/wood slat interwoven weave designs. Only new material shall be used, which has been manufactured and/or treated in a manner to prevent rust and corrosion, and/or rot and decay. Posts and framing materials shall face to the interior of the area being fenced.
 - (7) All fences shall be constructed of a minimum of:
 - a. Two-inch iron pipe;
 - b. Two-inch angle iron;
 - c. Four-inch (four-inch by four-inch) wooden posts; or
 - d. Four-inch (four-inch by four-inch) reinforced concrete posts.
 - (8) All fences must be located entirely on the private property of the person constructing the fence, except that if the adjoining property owner's consent in writing to the construction of a fence on the property line, it may be so constructed. Such written consent shall be filed with the application of a permit. In the case of adjoining properties, only one fence between the two properties may be erected.

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- (9) The city shall not be responsible for the enforcement of any agreements relative to the mutual or separate payments of the cost of construction, maintenance, or repair of fences.
 - (10) The city shall not be responsible for the determination of the location of any fence to be erected on a lot line.
 - (11) Fences must be maintained in a neat and safe condition, so as not to endanger life or property. Any fence which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance. The building department shall notify the owner, agent, or person in control of the property on which the fence is located of the existence of such nuisance and specify the required repairs or modifications to be made to render the fence safe or require that the unsafe fence or any portion thereof to be removed and shall set a time limiting such repairs, modification, or removal.

(Ord. No. 98-01, § 5.5, 9-15-1998; Ord. No. 99-06, 3-13-2000)

Sec. 38-326. Porches, decks and swimming pools.

- (a) Open, unenclosed and uncovered porches, decks, or paved terraces may project into a required rear or side yard provided that the porch, deck, or terrace is located no closer than ten feet from any rear or side lot line.
- (b) No portion of a swimming pool or item accessory to a swimming pool shall be located closer than ten feet from any rear or side lot line. Swimming pools shall satisfy front yard setback requirements, provided that all unenclosed pools shall be completely surrounded with a protective fence not less than four feet in height and entry is provided by means of a controllable gate.

(Ord. No. 98-01, § 5.6, 9-15-1998; Ord. No. 99-06, 3-13-2000)

Sec. 38-327. Number of dwelling units per lot.

Unless otherwise permitted by this chapter, only one dwelling unit shall be constructed or placed on one lot meeting the minimum lot area requirements set forth in section 38-105. In the case of condominium developments, unit area and limited common areas may be used to satisfy lot area requirements. General common areas shall not be applied toward satisfying minimum lot area requirements.

(Ord. No. 98-01, § 5.7, 9-15-1998)

Sec. 38-328. Essential services.

Essential service transmission lines such as electric, telephone, gas, sewer and water, or other similar utilities, are permitted in all districts, provided that the services are authorized, regulated, and in compliance with all other applicable laws, ordinances and regulations. Buildings accessory to such services, however, are subject to the requirements set forth in this chapter. Cellular communication (telephone) towers shall not be considered an essential service and such towers shall be regulated subject the requirements found in subsection 38-429(3).

(Ord. No. 98-01, § 5.8, 9-15-1998)

Sec. 38-329. Satellite dish antennas, antennas and similar structures.

Satellite dish antennas, television antennas, amateur radio antennas, and other structures similar in size, shape and function are permitted in all zoning districts subject to the following:

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- (1) One satellite dish antenna shall be allowed per lot or parcel.
 - (2) All satellite dish antennas, amateur radio antennas and other similar structures shall satisfy the minimum yard setback requirements.
 - (3) Satellite dish antennas are subject to accessory building height limitations.
 - (4) One additional dish is permitted provided it is under three-foot diameter.

(Ord. No. 98-01, § 5.9, 9-15-1998)

Cross reference(s)—Telecommunications, ch. 32.

Sec. 38-330. Access and driveway requirements.

- (a) All lots shall have access to a public street under the jurisdiction of the city. Such access may be provided by way of a private driveway or by an easement not less than 24 feet wide. No more than one lot shall be served by such an access route.
- (b) All buildings, structures, and uses of land utilizing lots created after the effective date of the ordinance from which this chapter is derived shall be accessed by means of a driveway. Such driveway shall be contained entirely within the lot for which the building, use, or structure is proposed and access to a public road shall be in compliance with subsection (a) of this section.

(Ord. No. 98-01, § 5.10, 9-15-1998)

Sec. 38-331. Temporary outdoor uses.

A zoning permit identifying the location, sponsoring group or individual, and the beginning and ending dates of the use must be obtained from the zoning administrator by the event sponsor. The zoning administrator shall determine the off-street parking requirements for the event. Temporary outdoor uses may be permitted in any zoning district, provided, that the temporary use is similar in nature to those uses that are allowed by right in the district. A zoning permit authorizing a temporary outdoor use shall be valid for up to six months.

(Ord. No. 98-01, § 5.11, 9-15-1998)

Sec. 38-332. Building permits.

- (a) No construction activity requiring a building or grading permit shall commence until a zoning permit and building or grading permit have been issued.
- (b) Any building permit issued prior to the effective date of the ordinance from which this chapter is derived shall be valid, even though not conforming to the provisions of this chapter, provided that construction is commenced within 90 days after the date the permit was issued and that the building is completed according to the plans filed with the permit application within one year of the date issuance.

(Ord. No. 98-01, § 5.12, 9-15-1998)

Sec. 38-333. Required water supply and sanitary sewer facilities.

No structure shall be erected, altered, or moved upon any parcel for use as a dwelling, office, business, industry or public facility unless it is provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic commercial, and industrial waste. All

such installations and facilities shall conform with the requirements of the city, county health department and applicable state agencies.

(Ord. No. 98-01, § 5.13, 9-15-1998)

Sec. 38-334. Standards applicable to single-family dwellings.

- (a) All single-family dwellings either constructed on-site or manufactured off the site shall comply with the following standards:
- (1) The minimum dwelling size shall be in accordance with the requirements set forth in section 38-105.
 - (2) If the dwelling is a manufactured home or mobile home, such homes must either be (i) new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the United States Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated; or (ii) used and certified by the county building official to be safe and fit for residential occupancy.
 - (3) The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, mechanical, energy, and other similar codes which are or may be adopted by the city; provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where such standards are different than those imposed by city or county codes, then the federal or state regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the county building official.
 - (4) The dwelling unit shall comply with all requirements of this chapter, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yards, and maximum building height limitation of the zoning district in which it is located.
 - (5) The dwelling shall have a roof overhang on not less than six inches on all sides.
 - (6) The pitch of the main roof shall not be less than one foot of rise for each four feet on horizontal run. The main roof shall be shingled, or shall appear to be shingled, except where alternate energy devices are installed.
 - (7) The exterior wall shall be constructed, or appear to be constructed, of wood or masonry. Reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.
 - (8) The main body of the dwelling shall meet the dimensional width requirements as found in section 38-105 for the LDR, MDR, and MR zoning districts.
 - (9) The dwelling shall have not less than two exterior doors, which shall be located on separate sides of the dwelling.
 - (10) The dwelling shall be firmly attached to a permanent foundation, which shall be coextensive with the perimeter of the dwelling. The foundation shall be constructed in accordance with the county building code, and attachment of the dwelling to the foundation shall meet all applicable building codes and other state and federal regulations.
 - (11) The dwelling shall not have exposed wheels, towing mechanism, undercarriage or chassis.
 - (12) The dwelling shall contain storage area in a basement located under the dwelling, in an attic area, in closet areas or in a separate structure of standard construction, similar in exterior appearance to the principal dwelling. Such storage area shall be in addition to the space for the storage of automobiles

and shall contain a floor area not less than ten percent of the minimum living space required in section 38-105 for the LDR, MDR, and MR zoning districts.

- (13) The dwelling shall be certified by the manufacturer or builder to be:
- a. Designed only for erection or installation on a site-built permanent foundation;
 - b. Not designed to be moved once so erected or installed;
 - c. Designed and manufactured to comply with the county building codes, as adopted by the county;
 - d. To the manufacturer's or builder's knowledge, not intended to be used other than on a site-built permanent foundation.

- (14) The dwelling shall meet all standards of the county building code and all other applicable city ordinances.

- (b) Compliance with the standards of this section shall be determined by the building inspector, upon review of the plans submitted, which plans shall include elevations or photographs of all sides of the proposed dwelling, exterior dimensions, roof slopes, description of exterior finish and roofing composition, storage areas, and all other information required to be submitted under any applicable ordinance and/or building code. Such determination may be appealed by an aggrieved party to the board of appeals. Further, the board of appeals shall be empowered to grant variances from the foregoing standards. Such variances may be granted to permit innovative design concepts involved in such matters as solar energy, view, unique land contour, or relief from the common or standard design dwelling, provided that the conditions of section 38-59 are satisfied.

(Ord. No. 98-01, § 5.14, 9-15-1998; Ord. No. 99-06, 3-13-2000)

Sec. 38-335. Substandard lots.

Any residential lot or parcel created and recorded prior to the effective date of the ordinance from which this chapter is derived may be used for residential purposes even though the lot does not comply with the area and frontage requirements of this chapter, provided that:

- (1) The lot or parcel is at least 65 feet in width and complies with all provisions of this article.
- (2) The proposed building, structure, or use satisfies the yard requirements set forth in article III of this chapter.
- (3) The approvals set forth in section 38-333 are delivered to the zoning administrator.

(Ord. No. 98-01, § 5.15, 9-15-1998)

Sec. 38-336. Corner lots.

Lots or parcels which have continuous frontage on two or more streets shall be subject to the following:

- (1) All yards having frontage on a street shall be considered front yards for the purposes of satisfying dimensional requirements.
- (2) The lot or parcel owner shall designate which yard shall be considered the front yard for the purposes of establishing the rear and side yards.

(Ord. No. 98-01, § 5.16, 9-15-1998)

Sec. 38-337. Lots with frontage on alleys.

Lots or parcels that have frontage on alleys shall be subject to the following:

- (1) The minimum setback for principal structures and accessory structures shall be eight feet from the alley right-of-way or easement.
- (2) Alleys may be used to satisfy minimum yard requirements as set forth in section 38-105 in the RC, C, and CBD zoning districts, provided that access from a public road is available.
- (3) Dwelling units shall not front on an alley.

(Ord. No. 98-01, § 5.17, 9-15-1998)

Sec. 38-338. Keeping and raising of animals.

- (a) Unless authorized elsewhere in this chapter, the keeping and raising of livestock, fowl, poultry, rabbits and similar domestic animals is prohibited.
- (b) This section shall not apply to the raising and keeping of household pets provided that not more than a total of three cats, dogs, or any combination of other household pets are kept or raised on a premises. Household pets shall be raised and kept on the premises or within a dwelling unit or principal building.

(Ord. No. 98-01, § 5.18, 9-15-1998)

Sec. 38-339. Adult entertainment uses.

Adult entertainment uses as defined in section 38-6 shall be prohibited from locating in any zoning district within the city. The purpose of the prohibition is to prevent crime, protect and preserve the city's limited retail trade areas, maintain property values, protect and preserve the quality of life in a small city, preserve areas frequented by children from increased criminal activity and increased blight or other neighborhood deterioration, and prevent the blighting, downgrading, and deterioration of residential neighborhoods and commercial areas caused by the impacts of adult entertainment uses on a city with limited commercial areas and small, compact residential neighborhoods. Such impacts will be substantially greater in the city if adult entertainment uses are to be permitted than if such uses were to locate in a larger and more urbanized community where the impacts would not have such a degenerative influence on the community due to its size and the greater amounts of available and properly zoned commercial land.

(Ord. No. 98-01, § 5.19, 9-15-1998)

Sec. 38-340. Prohibition of medical marihuana provisioning centers.

- (a) *Intent.* The purpose of this section is to implement land use regulations to address the medical use of marihuana in the City of Manton under the Michigan Medical Marihuana Act ("MMA") Initiated Law 1 of 2008, MCL 333.26423, et seq., and its administrative rules, R 333.101 et seq. ("MMA Rules"), by prohibiting medical marihuana provisioning centers, dispensaries or cooperatives.
- (b) *Definitions. Medical marihuana provisioning center or provisioning center* means a commercial entity such as, but not limited to, a dispensary, cooperative, store or other entity located in this state that acquires, possesses, manufactures, delivers, transfers, or transports medical marihuana and sells, supplies, or provides medical marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where medical marihuana is sold to

registered qualifying patients and registered primary caregivers. The location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's medical marijuana registration process in accordance with the Michigan Medical Marijuana Act is not a provisioning center for purposes of this act.

- (c) *Medical marijuana provisioning centers are prohibited.* Medical marijuana provisioning centers or provisioning centers of any kind are prohibited in the City of Manton in all zoning districts.
- (d) *Violations and enforcement.* A violation of this section shall subject the offender to the enforcement provisions and penalties in section 38-38.

(Ord. No. 2014-02, § 1, 7-14-2014)

Secs. 38-341—38-360. Reserved.

ARTICLE V. NONCONFORMITIES⁸

Sec. 38-361. Intent and purpose.

It is recognized that within the districts created by this chapter, and amendments thereto, there exist buildings, structures, premises, and uses of land which would be prohibited, restricted, or regulated under the terms of this or amendments to this chapter. These buildings, structures, premises, and uses of land are hereby referred to as nonconformities. It is the intent of this chapter to allow nonconformities to continue, provided, however, that the use of the building, structure, premises or land was existing and lawful at the time of the effective date of the ordinance from which this chapter is derived, or of amendments to this chapter. In no instance shall uses that were not lawful on the effective date of the ordinance from which this chapter is derived, or of subsequent amendments be entitled to the provisions of this chapter. Such lawful nonconforming buildings, structures, premises, and uses of land are declared by this chapter to be incompatible with the uses, buildings and structures permitted in the zoning district. It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as justification for other uses prohibited elsewhere in the same zoning district.

(Ord. No. 98-01, § 3.1, 9-15-1998)

Sec. 38-362. Nonconforming lots.

The provisions regarding nonconforming lots are as set forth in section 38-335.

(Ord. No. 98-01, § 3.2, 9-15-1998)

Sec. 38-363. Nonconforming uses of land.

Where, at the effective date of the adoption of the ordinance from which this chapter is derived, or the effective date of any amendment to this chapter, a lawful use of land exists that becomes nonconforming under

⁸Cross reference(s)—Buildings and building regulations, ch. 8.

State law reference(s)—Nonconforming uses and structures, MCL 125.583a.

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

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of the ordinance from which this chapter is derived or the effective date of any amendment to this chapter.
- (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the adoption of the ordinance from which this chapter is derived or the effective date of any amendment to this chapter.

(Ord. No. 98-01, § 3.3, 9-15-1998)

Sec. 38-364. Nonconforming structures.

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

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity.
- (2) Should such structure be destroyed by any means to an extent of more than its state equalized value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter, unless authorized by zoning board of appeals.
- (3) Should such structures be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the area in which it is located after it is moved.

(Ord. No. 98-01, § 3.4, 9-15-1998)

Sec. 38-365. Repair and replacement of structures, housing and nonconforming uses.

On any building devoted in whole or in part to any nonconforming use, required maintenance may be completed. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Ord. No. 98-01, § 3.5, 9-15-1998)

Sec. 38-366. Change of tenancy or ownership.

There may be a change of tenancy, ownership or management of any existing nonconforming use of land, structure, or premises provided there is no change in the nature or character of such nonconforming uses.

(Ord. No. 98-01, § 3.6, 9-15-1998)

Sec. 38-367. Abandonment of nonconforming uses and structures.

- (a) If for any reason a nonconforming use is abandoned or discontinued for a period greater than 365 consecutive days, the use shall not be allowed to re-establish, and any subsequent use shall conform to all

requirements and provisions of this chapter. In cases where unusual circumstances exist, a petition may be made to the zoning board of appeals to extend the timeframe or re-establish the nonconforming use.

- (b) If for any reason the use of a nonconforming structure ceases to exist or is discontinued for a period of more than 365 consecutive days, no use shall be allowed to occupy the structure, unless authorized by the zoning board of appeals.

(Ord. No. 98-01, § 3.7, 9-15-1998)

Secs. 38-368—38-390. Reserved.

ARTICLE VI. PARKING⁹

Sec. 38-391. Intent and purpose.

It is the purpose of this article to ensure that adequate parking facilities are provided for, and that they are adequately maintained. Off-street parking as required by this chapter shall be in accordance with the provisions of this article.

(Ord. No. 98-01, § 6.1, 9-15-1998)

Sec. 38-392. Exemptions.

Uses located in the central business district (CBD) shall not be subject to the requirements of this article.

(Ord. No. 98-01, § 6.2, 9-15-1998)

Sec. 38-393. Table of off-street parking requirements.

- (a) Off-street parking shall be provided in accordance with the table set out in subsection (b) of this section. In addition to the uses listed in subsection (b) of this section, one additional space shall be provided for each employee working at the peak hour.
- (b) The following uses may have gravel surfaced parking providing that such parking surfaces are maintained as smooth, dustless and/or mud free surfaces:

| Land Use | Number of Spaces | Per Activity Unit |
|---------------------------|------------------|-------------------------------|
| One- and two-family homes | 2 | Dwelling unit |
| Campground/RV park | 1 | Campsite |
| Roadside produce stand | 5 | Stand |
| Grain elevator | 4 | Business |
| Cemetery | 2 | Acre |
| Fishing site | 1 | 20 feet of dock or waterfront |
| Boat launch | 10 | Ramp |
| Picnic area | 1 | Picnic table |

⁹Cross reference(s)—Stopping, standing and parking, § 34-31 et seq.

| | | |
|-------------------|----|----------------|
| Tennis | 2 | Court |
| Team sports | 12 | Court or field |
| Park, golf course | 1 | 2 acres |
| Driving range | 1 | Tee |

(c) The following uses shall have hard surfaced parking:

| Land Use | Number of Spaces | Per Activity Unit |
|---|------------------|---|
| Mobile home park, apartments | 2 | Dwelling unit |
| Senior citizen housing | 1 | Dwelling unit |
| Doctor, dentist, veterinarian | 2 | Exam or treatment room |
| Retail, office, service, financial | 1 | 150 square feet of public area |
| Vehicle sales | 1 | 500 square feet of public area |
| Vehicle service/wash, gas station | 3 | Wash, stall, or fuel pump |
| Truck stop | 5* | Fuel pump |
| Barbershop or beauty salon | 2 | Chair |
| Bar or restaurant (not drive-in) | 1 | 2 seats |
| Drive-in restaurant | 1 | 20 square feet gross floor area |
| Hotel or motel | 1 | Guest room |
| Meeting or bingo hall, skating rink, community center, gymnasium based on fire code rules | 1 | 4 persons allowed in building |
| Bowling alley | 4 | Lane |
| Wholesale, industrial | 1 | 900 square feet gross floor area |
| Church, theater, arena, stadium auditorium | 1 | 3 seats or 6 feet of bench or pew seating |
| Grade school | 1 | 10 students |
| High School | 1 | 5 students |
| College, technical school | 1 | 3 students |
| Hospital, visitor parking | 1 | 3 beds |
| Hospital, doctors' parking | 1 | 2 medical staff members |
| Nursing home | 1 | 6 beds |
| Library, museum, gallery, post office | 1 | 600 square feet gross floor area |
| Private Club | 1 | 2 member families |
| Adult entertainment uses: | | |
| (1) Cabaret | 1 | 20 square feet gross floor area |
| (2) Theater | 1 | 3 seats |
| (3) Bookstore/retail | 1 | 150 square feet of public area |
| (4) Motel | 1 | Guest room |
| (5) Massage parlor | 2 | Bed or treatment room |
| (6) Multi-uses (a through e). An adult entertainment facility containing more than one of the uses listed in a) through e) above shall provide: | 1 | 20 square feet gross floor area |
| (7) Other uses | 1 | 20 square feet gross floor area |

* Spaces must be sized to accommodate large vehicles or vehicles and trailers in combination.

(Ord. No. 98-01, § 6.3, 9-15-1998)

Sec. 38-394. Uses not listed.

The zoning administrator shall determine the amount of parking spaces required for uses not listed in the table in section 38-393. The zoning administrator's determination shall be based on a comparison of the proposed use and a similar use that is listed in section 38-393. If there is a dispute over the number of spaces required, the matter shall be referred to the zoning board of appeals for review and decision.

(Ord. No. 98-01, § 6.4, 9-15-1998)

Sec. 38-395. Building, structure, or use expansions or additions.

Additional parking shall be provided in accordance with the table in section 38-393 for any increase in floor area, change in use, addition, or expansion of a building or site.

(Ord. No. 98-01, § 6.5, 9-15-1998)

Sec. 38-396. Joint parking.

The use of joint parking is to be encouraged when it can be demonstrated that the parking areas will be used at different times by different uses.

(Ord. No. 98-01, § 6.6, 9-15-1998)

Sec. 38-397. Parking area layout and construction requirements.

Whenever the off-street parking requirements in subsection 38-393(c) require the building of an off-street parking facility, such off-street parking lots shall be laid-out, constructed and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefore is issued by the building inspector/official. Applications for a permit shall be submitted to the building department in such form as may be determined by the building official and shall be accompanied with two sets of site plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.
- (2) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

| Parking Pattern | Maneuvering Lane Width (Feet) | Parking Space Width (Feet) | Parking Space Length (Feet) | Total Width of One Tier of Spaces Plus Maneuvering Lane (Feet) | Total Width of Two Tiers of Space Plus Maneuvering Lane (Feet) |
|-----------------|-------------------------------|----------------------------|-----------------------------|--|--|
| | | | | | |

| | | | | | |
|-----------------------------|----|----|----|-----|----|
| 0 degree (parallel) parking | 12 | 8 | 23 | 20 | 28 |
| 30 degree to 53 degree | 12 | 8½ | 20 | 32 | 52 |
| 54 degree to 74 degree | 15 | 8½ | 20 | 36½ | 58 |
| 90 degree | 20 | 9 | 20 | 40 | 60 |

- (3) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- (4) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.
- (5) All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit two-way movement.
- (6) Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family use shall be at least 25 feet distant from adjacent property located in any single-family residential district.
- (7) Off-street parking areas adjacent to a residential zoning district shall be provided with a continuous wall not less than four feet six inches in height measured from the surface of the parking area.

Parking areas shall be set back a minimum of ten feet from the front property line or street right-of-way line, and all land between such parking area and/or wall shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in lawn. All landscaping and plant materials shall be maintained in a healthy, growing condition, and neat and orderly appearance.

- (8) The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the city engineer. The parking area shall be surfaced within one year of the date the occupancy permit is issued. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
- (9) All lighting used to illuminate any off-street parking area shall be so installed as to be confined and directed onto the parking area only.
- (10) In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
- (11) The planning commission, upon application by the property owner of the off-street parking area, may modify the yard or wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this section.

(Ord. No. 98-01, § 6.7, 9-15-1998)

Secs. 38-398—38-420. Reserved.

ARTICLE VII. SPECIAL USES¹⁰

Sec. 38-421. Purpose and intent.

The formulation and enactment of this chapter is based upon the division of the city into districts. Each district allows for uses that have been deemed compatible, and those uses are permitted by right, provided that they satisfy all applicable dimensional requirements. Other uses, however, may also be compatible in these districts based on their particular location and their impact on the surrounding area. The special use shall only be authorized after it has been found that it is in compliance with the standards and requirements set forth in this article.

(Ord. No. 98-01, § 7.1, 9-15-1998)

Sec. 38-422. Authority to grant special uses.

The planning commission shall have the authority to grant special uses. The granting of a special use shall be known as a special use permit. The planning commission shall attach any conditions it deems necessary to the special use permit to ensure that the spirit and intent of this article is complied with.

(Ord. No. 98-01, § 7.2, 9-15-1998)

Sec. 38-423. Application and fee.

An application for a special use permit shall be made by filing the application form, required information, and the required fee with the zoning administrator. Once deemed complete, the zoning administrator shall forward the application and fee to the city clerk. The application fee shall be set by resolution of the city commission. Once accepted by the city clerk no portion of the fee shall be returned to the applicant, unless authorized by the city commission.

(Ord. No. 98-01, § 7.3, 9-15-1998)

Sec. 38-424. Required information.

- (a) *Contents of application.* The application for a special use permit shall at a minimum include the following:
- (1) The applicant's name, address, and telephone number.
 - (2) The names and addresses of all owners of record and proof of property ownership or interest.
 - (3) The signed authorization of the property owner if the applicant is someone other than the owner.
 - (4) Legal description, address, and tax parcel number of the property.
 - (5) A scaled and accurate survey drawing showing all existing buildings, drives, and other improvements.

¹⁰State law reference(s)—Special land uses, MCL 125.584a.

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- (6) A detailed description of the proposed use.
- (b) *Site plan*. Nine copies of a site plan meeting the requirements of article VIII, pertaining to zoning district regulations, shall be submitted.

(Ord. No. 98-01, § 7.4, 9-15-1998)

Sec. 38-425. Special use permit procedure.

- (a) Once forwarded to the city clerk by the zoning administrator, the clerk shall forward the application and any supporting materials to the planning commission.
- (b) The planning commission shall review the application and materials for completeness. Once deemed complete, the planning commission shall schedule a public hearing.
- (c) The planning commission shall cause, a notice of the special use permit hearing. The notice shall be given by one publication in a newspaper of general circulation in the city. Such notice shall be made within 15 but not less than five days from the date of the hearing. Additional notice shall be given by mail to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The city clerk shall maintain an affidavit of notices made by mail as the city's proof of notification to all persons having real property within 300 feet of the property in question.
- (d) The planning commission shall hold a public hearing on the special use permit request.
- (e) The planning commission shall review the request and determine whether the standards and requirements of this article are satisfied.
- (f) Following its review of the request, the planning commission shall take one of the following actions:
- (1) Issue the special use permit if it is found to completely satisfy the requirements of this article.
 - (2) Place conditions on the special use permit to ensure that it complies with the requirements of this article or that the conditions advance the spirit and intent of this chapter.
 - (3) Deny the special use permit if it is found that the proposal fails to satisfy the requirements of this article. In the event of denial, the applicant shall be informed of the decision in writing, with the reasons for denial contained in the letter.

The planning commission shall generally render its decision within 30 days from the date of the public hearing held by the planning commission. The 30-day time period may be extended by the mutual consent of the applicant and the planning commission.

(Ord. No. 98-01, § 7.5, 9-15-1998)

Sec. 38-426. Required standards and findings for making determinations.

Every request for a special use permit shall be reviewed against the following:

- (1) The proposed use will be harmonious with and in accordance with the general and specific objectives of the city future land use plan and any amendments thereto.
- (2) The proposed use, including any buildings constructed in association with, will be designed, constructed, operated, and maintained to be harmonious with the existing or intended character of the general vicinity for which it has been proposed.

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- (3) The proposed use will not change the essential character of the area for which it is proposed to be located.
 - (4) The proposed use will not be disturbing or hazardous to current or future neighboring uses or residents.
 - (5) The proposed use and any future expansions of the use, can be adequately served by essential public services or facilities.
 - (6) The proposed use will not create excessive public costs and will not jeopardize the economic welfare of the city.
 - (7) The proposed use will be consistent with the intents and purposes of this chapter.

(Ord. No. 98-01, § 7.6, 9-15-1998)

Sec. 38-427. Conditions and safeguards.

To ensure the protection of public health, safety, and welfare and to protect adjacent property owners' rights, it may be necessary in some instances to impose conditions and safeguards as part of the authorization for the special use. Such conditions and safeguards may also be necessary for the use to conform to the requirements and standards of this article.

(Ord. No. 98-01, § 7.7, 9-15-1998)

Sec. 38-428. Appeal of special use permit decisions.

Any person aggrieved by the decision of the planning commission in the granting or denial of a special use permit may appeal such decision to the zoning board of appeals. The appeal fee shall be set by a resolution of the city commission. The fee shall entitle the appellant to a decision. The appellant shall file a letter with the city clerk, within ten days of the decision of the planning commission. The appellant's letter shall specify the grounds for the appeal, and the appeal shall be limited to the issues raised in the letter.

- (1) In its review of the decision, the zoning board of appeals shall consider the following:
 - a. The appellant's letter and validity of grounds for appeal.
 - b. The minutes of the public hearing held on the special use permit request by the planning commission.
 - c. Any other documentation presented to the planning commission prior to its decision on the special use permit.
 - d. Any verbal or written information submitted to the zoning board of appeals in response to additional information requested by the zoning board of appeals.
- (2) In its determination of the appeal, the zoning board of appeals may take any one of the following actions:
 - a. Affirm the decision of the planning commission with or without modification.
 - b. Refer the matter back to the planning commission for further consideration, study, or hearings. The zoning board of appeals shall inform the planning commission of the issues that it believes are in need of further consideration, study, or hearings. Once the planning commission has examined the issues it shall reaffirm its original decision, modify its original decision, or reverse its original decision.

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- c. Reverse the decision of the planning commission if the decision is not in accordance with the intents and purposes of this chapter or was a special use permitted in the zoning district.
- (3) The zoning board of appeals shall generally render a decision on the appeal within 60 days from the date the city clerk received the appeal. The 60-day time period may be extended by the mutual consent of the appellant and the zoning board of appeals.

(Ord. No. 98-01, § 7.8, 9-15-1998)

Sec. 38-429. Special uses requiring additional standards.

The following uses have been listed in certain district regulations as requiring a special use permit. Due to the nature and intensity of these uses, they shall meet the following minimum requirements:

(1) *Outdoor storage and sales.*

- 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 and shall have a minimum property line setback of 15 feet.
- c. No major repair or refinishing shall be done on the lot.
- d. All lighting shall be shielded from adjacent residential districts.
- e. A wall or fence shall be provided at the maximum height of outdoor material, not to exceed eight feet.

(2) *Mobile home parks.*

- a. All mobile home parks shall be developed and licensed in accordance with Public Act No. 96 of 1987 (MCL 125.2301 et seq.), the mobile home commission rules of current adoption, and published current standards set forth by the state department of public health.
- b. The entire perimeter (including along public rights-of-way) of the mobile home park shall be screened. The screening may be of acceptable landscape materials or of other materials that will form an effective screen. The screen shall be a minimum of five feet in height at the time of construction. The planning commission may waive this requirement if it is determined that the screening is not necessary or that existing vegetation forms an effective screen.
- c. Each mobile home site (lot) is at least 5,500 square feet in size.
- d. No mobile home pads shall be located within any 100-year floodplain boundary.
- e. Each mobile home shall be skirted in accordance with the requirements set forth for skirting in the mobile home commission rules of current adoption.
- f. Each mobile home shall be anchored in accordance with the requirements set forth for anchoring in the mobile home commission rules of current adoption.
- g. All structures located within a mobile home park shall be located no closer than ten feet from any mobile home park property line.
- h. All structures located within a mobile home park shall be located no closer than 50 feet from any abutting right-of-way.
- i. All private and public utilities shall be placed underground.

(3) *Radio, television, telephone, and similar communication towers and antennas.*

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- a. The parcel size must meet the minimum requirements for the district in which it is to be located and the tower shall be located no closer than 1.0 times the height of the tower measured from the base of such tower to all points on all property lines.
 - b. The tower shall be anchored properly according to applicable codes.
 - c. The tower and any accessory buildings shall be maintained to ensure that they do not become unsightly or unsafe.
 - d. The tower shall be located on a portion of the parcel that minimizes both aesthetic and potential safety impacts.
 - e. No strobe lighting or intense flashing lights are permitted.
 - f. Accessory buildings shall satisfy setbacks for principal buildings for the district in which they are to be located.
- (4) *Home business.*
- a. A maximum of two nonoccupants may be employed at a home business.
 - b. The maximum floor area used for the home business shall be 25 percent of the homes habitable floor area.

(Ord. No. 98-01, § 7.9, 9-15-1998)

Sec. 38-430. Site plan approval required.

- (a) All uses and construction authorized by special use permit shall submit a site plan for review by the planning commission or designee thereof. The special use permit shall not become effective until such time that a site plan meeting the requirements of article VIII, pertaining to zoning district regulations, has been reviewed and approved by the planning commission.
- (b) Nothing in this chapter shall be construed to discourage the concurrent review of the special use permit and the site plan.

(Ord. No. 98-01, § 7.10, 9-15-1998)

Sec. 38-431. Enforcement.

Conditions and requirements stated as part of the special use permit authorization shall be the responsibility of the special use permit holders. If it is found that the special use permit is not being complied with the zoning administrator shall issue an order to correct. The special use permit holder shall have 30 days to comply with the order to correct or otherwise comply with the conditions of the special use permit. In the event of continued noncompliance the special use permit shall be considered canceled and all activities authorized by such permit shall cease.

(Ord. No. 98-01, § 7.11, 9-15-1998)

Secs. 38-432—38-460. Reserved.

ARTICLE VIII. SITE PLAN REVIEW¹¹

Sec. 38-461. Intent.

In order to reduce the significant impacts of development on natural resources and adjacent land uses, and to ensure that public services and infrastructure are utilized in an effective and efficient manner, it is the intent of this article to require approval of a site plan for certain uses that can be expected to impact natural resources and surrounding land uses.

(Ord. No. 98-01, § 8.1, 9-15-1998)

Sec. 38-462. Uses, buildings, and structures subject to site plan review.

The following uses, buildings, and structures are subject to site plan review:

- (1) Uses, buildings, and structures permitted by right in the MFR, RC, CBD, C and I zoning districts.
- (2) Uses, buildings, and structures permitted by special use permit in all districts.
- (3) Residential subdivisions and condominium developments in the LDR, MDR, and MR zoning districts.
- (4) Buildings and structures in the P zoning district.

(Ord. No. 98-01, § 8.2, 9-15-1998)

Sec. 38-463. Application and fee.

An application for site plan review shall be made by filing the application form, required information, and the required fee with the zoning administrator. Once deemed complete, the zoning administrator shall forward the application and fee to the city clerk. The application fee shall be set by resolution of the city commission. Once accepted by the city clerk, no portion of the fee shall be returned to the applicant, unless authorized by an action of the city commission.

(Ord. No. 98-01, § 8.3, 9-15-1998)

Sec. 38-464. Required information.

The submission for site plan review shall at a minimum contain the following:

- (1) The applicant's name, address, and telephone number.
- (2) Legal description, address, and tax parcel number of the property.

¹¹Cross reference(s)—Buildings and building regulations, ch. 8.

State law reference(s)—Site plan, MCL 125.584d.

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- (3) Eighteen copies of the site plan at a scale of not less than one inch equals 100 feet. The site plan shall illustrate the following:
 - a. All property dimensions.
 - b. Topographic elevations at two-foot intervals when deemed necessary by the zoning administrator or the planning commission.
 - c. Existing vegetation.
 - d. Watercourses and waterways, including manmade improvements.
 - e. Existing public and private rights-of-way, pavements, and easements.
 - f. Existing and proposed buildings, structures, grading, and uses and their relationship to required setbacks.
 - g. Zoning classifications of adjacent properties.
 - h. The name and address of the person or firm that prepared the plan, and the date it was completed.
 - i. Traffic impact statement.

(Ord. No. 98-01, § 8.4, 9-15-1998)

Sec. 38-465. Site plan review procedure.

- (a) Once forwarded to the city clerk by the zoning administrator, the clerk shall forward the application and supporting materials to the planning commission.
- (b) The planning commission shall review the application and site plan for completeness. If the application is not considered complete, the applicant shall be informed why it is incomplete. Once deemed complete the planning commission shall begin its review of the site plan.
- (c) The planning commission shall review the site plan for conformance to the standards and requirements set forth in this article.
- (d) The planning commission may request/require written statements assessing the potential impacts of the proposed use and structures from the local school district, county road commission, state department of transportation, local police and fire agencies, public works department, or any other agency or department that may have jurisdiction or an interest in the project.
- (e) Following its review of the proposed site plan, the planning commission shall take one of the following actions:
 - (1) Approve the site plan if it is found to satisfy the requirements of this article.
 - (2) Place conditions on the site plan approval to ensure that it satisfies the requirements of this article and this chapter.
 - (3) Deny the site plan if it is found that the proposed site plan fails to satisfy the requirements of this article and this chapter. In the event of denial, the applicant shall be informed of the decision in writing, with the reasons for denial contained in the letter. The planning commission shall generally render its decision within 30 days from the date the application was received by the city clerk. The 30-day time period may be extended by the mutual consent of the applicant and the planning commission.

(Ord. No. 98-01, § 8.5, 9-15-1998; Ord. No. 99-06, 3-13-2000)

Sec. 38-466. Standards and requirements for site plan approval.

Every submission for site plan review shall be reviewed against the following, that:

- (1) All uses, structures, and buildings satisfy all the minimum dimensional requirements for the district for which the uses, structures, or buildings are located.
- (2) To the greatest extent possible, the existing topography and vegetation shall be preserved. The site shall be developed in a manner which limits the destruction of natural features.
- (3) The site plan shall provide for visual screening between uses that are located in different districts. Fences and landscape materials shall be used as screening materials.
- (4) Appropriate measures shall be taken to ensure that stormwater runoff is contained on the site. Runoff shall not affect adjacent properties or buildings. Parking areas shall be designed so stormwater drains from the parking area.
- (5) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not cause dangerous conditions along public roads or streets.
- (6) All buildings and groups of buildings or structures are arranged to allow emergency access to and from all sides.
- (7) Natural resources including lakes, ponds, streams, woodlands, farmlands, and unique wildlife habitat are not destroyed or adversely impacted by the proposed uses, structures, or buildings.
- (8) The uses, structures, and buildings are appropriately designed and scaled for the site for which they are proposed.
- (9) All necessary permits or authorizations from other regulatory agencies have been obtained or are in the process of being obtained.
- (10) The proposed uses, structures, and buildings are not in conflict with other provisions of this chapter, other city ordinances, or county, state and federal statutes and regulations.

(Ord. No. 98-01, § 8.6, 9-15-1998)

Sec. 38-467. Conditions and safeguards.

To ensure the protection of public health, safety, and welfare, and to protect adjacent property owner's rights, it may be necessary to impose conditions and safeguards as part of the authorization for site plan approval. Such conditions and safeguards may also be necessary for the uses, structures, and buildings to conform to the requirements and standards of this article.

(Ord. No. 98-01, § 8.7, 9-15-1998)

Sec. 38-468. Appeal of site plan review decisions.

Any person aggrieved by the decision of the planning commission in the approval or denial of a site plan review may appeal such decision to the zoning board of appeals. The appeal fee shall be set by a resolution of the city commission. The fee shall entitle the appellant to a decision. The appellant shall file a letter with the city clerk within ten days of the decision of the planning commission on the site plan. The appellant's letter shall specify the grounds for the appeal, and the appeal shall be limited to the issues raised in the letter.

- (1) In its review of the decision, the zoning board of appeals shall consider the following:

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- a. The appellant's letter and validity of grounds for appeal.
 - b. The minutes taken during the planning commission's review of the site plan.
 - c. Any other documentation presented to the planning commission prior to its decision on the site plan.
 - d. Any verbal or written information submitted to the zoning board of appeals in response to a request for the information by the zoning board of appeals.
- (2) In its determination of the appeal, the zoning board of appeals may take any of the following actions:
- a. Affirm the decision of the planning commission with or without modification.
 - b. Refer the matter back to the planning commission for further consideration, study, or additional documentation. The zoning board of appeals shall inform the planning commission of the issues that it believes are in need of further consideration, study, or documentation. Once the planning commission has examined the issues it shall refer the matter with a report back to the zoning board of appeals for a decision.
 - c. Reverse the decision of the planning commission if the decision is not in accordance with the intent and purposes of this chapter or failed to satisfy dimensional requirements for the district for which it is located.
- (3) The zoning board of appeals shall generally render a decision on the appeal within 60 days from the date the city clerk received the appeal. The time period may be extended upon the mutual consent of the appellant and the zoning board of appeals.

(Ord. No. 98-01, § 8.8, 9-15-1998)

Sec. 38-469. Special uses and concurrent approvals.

The planning commission may choose to review special use permit and site plan review submittals concurrently. In the event of concurrent review, the planning commission shall make sure that both the site plan and special use submittals satisfy all requirements of this chapter.

(Ord. No. 98-01, § 8.9, 9-15-1998)

Sec. 38-470. Amendments to approved site plans.

Any proposed addition, modification, or alteration to any uses, structures, or buildings, to a site plan which has previously been approved, shall be reviewed by the zoning administrator. The zoning administrator shall make a determination whether the proposed addition, alteration, or modification is a minor or major amendment. Minor amendments may be approved by the zoning administrator, provided that a revised dated site plan is submitted and made part of project file. Major amendments shall be reviewed by the planning commission in accordance with the standards set forth in this article.

(Ord. No. 98-01, § 8.10, 9-15-1998)

Secs. 38-471—38-500. Reserved.

ARTICLE IX. SIGNS

Sec. 38-501. Intent and purpose.

The intent of this section is to regulate the type, number, physical dimensions, erection and placement of signs in the city. The purpose of this article is to:

- (1) Promote the public health, safety, and welfare of residents and visitors.
- (2) Reduce hazardous distractions to motorists, pedestrians, and other forms of transportation.
- (3) Protect commercial districts from visual clutter.
- (4) Protect property values.
- (5) Protect the small town character of the city.

(Ord. No. 98-01, § 9.1, 9-15-1998)

Sec. 38-502. Signs.

Unless otherwise permitted by this chapter, only one freestanding and two wall signs are allowed per lot, premises, building or site. The regulations in this article shall apply to on-premises signs.

(Ord. No. 98-01, § 9.2, 9-15-1998)

Sec. 38-503. Zoning permit required.

Unless a sign is exempt from permit requirements as specified in section 38-504, a zoning permit must be obtained from the city zoning administrator prior to the construction or placement of any sign.

(Ord. No. 98-01, § 9.2A, 9-15-1998)

Sec. 38-504. Signs and activities exempt from permit.

As subject to the standards as set forth in this article and other applicable chapter requirements, the following signs are permitted and are exempt from the permit requirements of this chapter.

- (1) *Temporary construction signs.* One construction sign for each street frontage at a construction project, not to exceed 32 square feet in sign area per sign. Such signs may be erected no more than 30 days prior to commencement of construction and must be removed no longer than 30 days after completion of construction.
- (2) *Directional signs.* On-premises directional signs, not to exceed five square feet per sign, shall be permitted as a means of directing traffic to parking, loading, customer service, and related areas. The total number of such signs shall be approved by the zoning administrator who shall base his decision on promoting safety and efficient pedestrian and vehicular movement.
- (3) *Political signs.* Political signs shall not exceed 20 square feet in area per sign. Such signs shall be placed only on private property and only with permission of the property owner. Signs must be removed within 14 days following the election or referendum.
- (4) *Public signs or notices.* Public signs or notices of the city, the county, the state, or the United States Government may be erected as deemed necessary and appropriate by the unit of government.
- (5) *Real estate signs.* One real estate sign not exceeding 32 square feet of display area per side, per premises or site.

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- (6) *Nameplates.* One nameplate sign per premises or site not to exceed four square feet in sign area.
 - (7) *Special sale signs.* Sale signs including, but not limited to, garage, yard, rummage, and estate shall be removed within 24 hours after the sale.

(Ord. No. 98-01, § 9.2B, 9-15-1998)

Sec. 38-505. Prohibited signs.

- (a) Any sign not specifically permitted is prohibited, such as, but not necessarily limited to the following:
 - (1) Permanent exterior banners, pennants, spinners, and streamers.
 - (2) Exterior string lights used in the connection with a commercial premises, other than holiday decorations.
 - (3) Any sign which is structurally or electrically unsafe.
 - (4) Signs painted directly on structures, or signs painted on, attached, or affixed to any tree, rock, or similar organic or inorganic natural matter.
- (b) The zoning board of appeals shall have the authority to classify signs not specifically permitted.

(Ord. No. 98-01, § 9.2C, 9-15-1998)

Sec. 38-506. General sign standards.

- (a) Illumination, if permitted, shall be by a nonflashing reflective light. Such source of illumination shall be shielded from direct view of adjacent properties.
- (b) All signs shall be subject to the building and safety codes of the city.
- (c) Freestanding signs shall be set back a minimum of ten feet from all lot lines, except where otherwise allowed by this chapter.
- (d) No sign shall exceed the height limitation of the district in which it is located or as otherwise regulated by this chapter, provided however, monument signs shall not exceed eight feet in height.
- (e) Freestanding signs shall have a minimum clearance of eight feet between the ground surface and lowest point of the sign.
- (f) No signs shall be placed in required clear vision areas.
- (g) Wall signs must be attached flat against the building to which they are attached, except in the CBD zoning district. In the CBD zoning district wall signs may project out from a wall, provided that the sign is located at least eight feet from the ground and does not project across any property easement, or right-of-way lines.
- (h) No person shall erect or relocate or cause to be erected, any sign without first obtaining a sign erection permit.
- (i) No person shall repair or alter, or cause to be repaired or altered, any sign or billboard without obtaining a zoning permit if one-half of the replacement value of the sign or billboard will be exceeded.
- (j) Temporary/portable signs that are not permanently attached to the ground or other permanent structure, as described in this subsection, may be permitted up to six special events per year per organization, such as grand openings, fairs and festivals, and announcement of new products, services or management, subject to the following:

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- (1) Portable sign shall mean any sign that is designed to be transported, including, but not limited to, the following signs:
 - a. With wheels removed;
 - b. With chassis or similar support constructed without wheels;
 - c. Designed to be transported by trailer or wheels;
 - d. Converted to A or T frame signs;
 - e. Attached temporarily or permanently to the ground, a structure, or other sign;
 - f. Mounted on a vehicle for advertising purposes, parked, and visible from the public right-of-way;
 - g. Menu and sandwich boards;
 - h. Searchlights and stands; and
 - i. Hot air or gas filled balloons or umbrellas used for advertising.
 - (2) Portable signs shall be permitted subject to the following conditions:
 - a. They do not exceed 40 square feet in area on any side.
 - b. They are not located closer than ten feet to a public right-of-way.
 - c. No portable sign shall exceed eight feet in height.
 - d. No portable sign shall have moving parts or moving images.
 - e. No portable sign shall be located in such a manner as to interfere with vehicular or pedestrian traffic flow or visibility.
 - f. Portable signs shall be limited to 14 days per event period.
 - g. Only one portable sign per lot and/or parcel or site shall be permitted.
 - h. Portable signs with flashing lights must be turned off at dusk or at the end of the scheduled event.
 - (3) Search lights, sandwich board signs or inflatable signs are permitted subject to the conditions in subsection (j)(2) of this section and provided that they are located only in nonresidential districts or residential districts containing ten or more acres of land.
 - (4) Banners, pennants, spinners or streamers are permitted subject to the conditions set forth in this section and provided that they are located in a nonresidential district only.

(Ord. No. 98-01, § 9.2D, 9-15-1998)

Sec. 38-507. Permitted signs by district.

All signs shall be erected and in conformance with the table of sign regulations.

TABLE OF SIGN SIZE REGULATIONS

| District | Freestanding | Wall |
|----------|--------------------|----------------|
| LDR | NP (1) | 8 square feet |
| MDR | 16 square feet (3) | 8 square feet |
| MR | 25 square feet (3) | 16 square feet |
| MFR | 32 square feet (3) | 10 percent (2) |

| | | |
|-----|----------------|----------------|
| RC | 25 square feet | 16 square feet |
| CBD | 25 square feet | 15 percent (2) |
| C | 32 square feet | 10 percent (2) |
| I | 40 square feet | 30 percent (2) |
| P | 32 square feet | 16 square feet |

- (1) Not permitted.
- (2) Percentage of allowable display area for wall signs. The size of a wall sign shall be determined by the square footage of the wall to which it is attached, multiplied by the percentage of allowable signage. The result is the amount of wall signage permitted by this chapter, in square feet.
- (3) Monument sign only.

(Ord. No. 98-01, §§ 9.2E, 9.3, 9-15-1998)

Sec. 38-508. Nonconforming signs.

A nonconforming sign or sign structure existing and in place as of the date of the enactment the ordinance from which this article is derived may continue to have the copy or message on the sign changed and may also have normal maintenance performed. However, a nonconforming sign existing on the day of enactment of the ordinance from which this article is derived, unless authorized by the zoning board of appeals shall not be:

- (1) Changed to another nonconforming sign.
- (2) Structurally altered so as to prolong the life of the sign or change the shape, size, location, type, or design of the sign.
- (3) Re-established after the activity, business, or use to which it relates has been discontinued for 30 days or longer.
- (4) Re-established after damage by any means if the damage is in excess of the state equalized value (SEV) of the sign, as determined from its most recent assessed valuation.

(Ord. No. 98-01, § 9.4, 9-15-1998)

Sec. 38-509. Nonaccessory (billboard) signs.

- (a) Nonaccessory signs are permitted in the "I" industrial district and shall be regulated as follows:
 - (1) They shall be located a minimum of 200 feet from adjacent residentially zoned property;
 - (2) They shall be located a minimum of 1,000 feet from other nonaccessory signs on the same side of the right-of-way;
 - (3) They shall have the same setback as other principal structures in the zone in which they are located;
 - (4) They shall not exceed 300 square feet in area;
 - (5) They shall not exceed 45 feet in height; and
 - (6) They shall be freestanding signs.
- (b) No sign shall be erected on the roof of any building, nor have any one sign above another.

(Ord. No. 98-01, § 9.5, 9-15-1998)

Secs. 38-510—38-540. Reserved.

ARTICLE X. AMENDMENTS¹²

Sec. 38-541. Authorization.

Amendments to this chapter may be made as is deemed necessary, and shall be in accordance with Public Act No. 207 of 1921 (MCL 125.581 et seq.).

(Ord. No. 98-01, § 12.1, 9-15-1998)

Sec. 38-542. Initiation of amendments.

Proposals for amendments or supplements may be initiated by the city commission, planning commission, any person having an interest in the case of map amendments, or by any person in the case of text amendments.

(Ord. No. 98-01, § 12.2, 9-15-1998)

Sec. 38-543. Procedure.

- (a) *Submission of application for amendment.* Each petition to amend the text or map of this chapter shall be submitted upon an application of standard form to the zoning administrator. A fee as established by the city commission shall be paid at the time of application. Once deemed complete, the zoning administrator shall forward the application to the city clerk. The city clerk shall then transmit the application and other information to the planning commission for its recommendation.
- (b) *Recommendation.* The planning commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as well as in terms of the merits of the individual proposal. The planning commission may recommend any additions or modifications to the amendment petition. Following the notice and hearing requirements of this section, the planning commission shall forward a recommendation on the proposed amendment along with a copy of the public hearing minutes to the city commission.
- (c) *Public hearing.* Before making a recommendation on any proposed amendment to this chapter, the planning commission shall conduct a public hearing, with notice being given by the city as specified in subsections (d) and (e) of this section. Such notice shall contain the time, place, date, and purpose of the hearing.
- (d) *Published notice.* Notice shall be given by one publication in a newspaper of general circulation in the community, to be printed not less than 15 days before the date of the hearing.
- (e) *Mailed or delivered notice.* Mailed or delivered notice shall be made in accordance with the following:
 - (1) To each railroad, electric, gas, pipeline, and telephone company that chooses to register its name and mailing address with the city for the purpose of receiving such notice. Such notice shall be made at least 15 days in advance of the hearing.
 - (2) In the case of map amendments, to each owner of property as listed on the most recent tax roll of all real property located within 300 feet of the boundary of the property proposed for amendment. An

¹²State law reference(s)—Enactment of ordinances, MCL 125.584.

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- affidavit of the delivery shall be filed with the planning commission. Such notice shall be made at least 15 days in advance of the hearing.
- (3) In the case of map amendments, to each occupant of all structures within 300 feet of the boundary of the property proposed for an amendment. An affidavit of the delivery shall be filed with the planning commission. Such notice shall be made at least 15 days in advance of the notice.
- (4) To the applicant and/or owner of the property in question.
- (f) *City commission action.* Upon receipt of the planning commission's recommendation, the city commission shall review the planning commission's recommendation. The city commission shall adopt or reject the proposed amendment with or without modification, unless one or more of the following occurs:
- (1) *Request for additional hearing.* The city commission shall grant a hearing on the proposed amendment to any party who has filed a written request for such a hearing with the city clerk. Such request shall be filed in a timely manner. The planning commission may be requested to attend the hearing. Notice of the hearing shall be published in a newspaper of general circulation within the city. The notice shall be published not less than ten days prior to the hearing.
- (2) *Changes or additions proposed by the city commission.* If the city commission deems advisable any changes or additions to the amendment recommended by the planning commission, it may refer the changes or additions back to the planning commission for a report thereon within 30 days. After receiving the report, the city commission shall grant a hearing on the proposed amendment to any property owner who requests a hearing. The request for hearing shall be addressed to the city clerk and delivered by certified mail. The city commission may request the planning commission to attend the hearing.
- (3) *City commission vote on proposed amendment.* Following a hearing or a review of the planning commission's report as outlined in subsections (f)(1) and (f)(2) of this section, the city commission may by majority vote, adopt or reject the proposed amendment with or without changes.
- (g) *Adoption.* Following the adoption by the city commission, one notice of adoption shall be published in a newspaper of general circulation in the city, within 15 days of adoption. The notice shall contain the following:
- (1) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text amendment.
- (2) The effective date of the ordinance or amendment.
- (3) The place and time where a copy of the ordinance or amendment may be purchased or inspected.
- (h) *Protest petition.* If a protest petition satisfying the requirements of subsections (h)(1) and (h)(2) is presented prior to final city commission action on the amendment, a two-thirds vote of the city commission shall be required to adopt the amendment. In order to qualify as a recognized protest petition, it must be signed by either of the following:
- (1) The owners of at least 20 percent of the land proposed for change by the amendment.
- (2) The owners of at least 20 percent of the land within 100 feet of the boundary of the property proposed for change by the amendment.
- (i) *Amendment to conform with court decree.* An amendment for the purpose of conforming a provision of this chapter to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the city commission and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this chapter.

(Ord. No. 98-01, § 12.3, 9-15-1998; Ord. No. 99-01, 6-14-1999)
