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Zoning

Chapter 38

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ARTICLE I. IN GENERAL

Sec. 38-1. Purpose.

In the interpretation and application of the provisions of this chapter, its terms shall be held to the minimum requirements adopted for the promotion of the public health, safety, morals, and general welfare. Incidental thereto, and to accomplish such purpose, are provisions intended to provide for adequate light, air, and convenience of access to secure safety from fire and other dangers and to avoid undue concentration of population in the interests of public health and safety by regulating and limiting the height and bulk of buildings wherever erected and limiting, determining the size of yards and other open spaces and also regulating and restricting the location of uses, trades, industries, and buildings in relation to traffic and parking needs. (Ord. No. 600, § 15.012, 2-21-2005)

Sec. 38-2. Scope.

It is not intended by this chapter to repeal, abrogate, annul or, in any way, impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this chapter, or any private restrictions placed upon property by covenant, deed, or other private agreement. Where this chapter imposes a greater restriction upon use of buildings or premises or upon the height of buildings or lot coverage, or requires greater lot areas or larger yards or other open spaces than are imposed or required by such existing laws or ordinances, or by rules, regulations, or permits, or by such private restrictions the provisions of this chapter shall control. The provisions of this chapter shall be liberally construed to promote the purpose set forth in this chapter. (Ord. No. 600, § 15.013, 2-21-2005)

Sec. 38-3. Preamble.

The fundamental purpose of this chapter is to promote the public health, safety, morals, and general welfare in and of the city; to encourage the use of lands and natural resources in the city in accordance with their character and adaptability; to limit and discourage the improper use

of lands, buildings, and other structures; to provide for the orderly development of the city; to reduce hazards to life and property; to establish the location and size of and the specific uses for which dwellings, buildings, and other structures may hereafter be erected, altered or moved into the city; to regulate the minimum open spaces, sanitary, safety, and protective measures that shall be required for such dwellings, buildings, and structures; to provide safety in traffic and in vehicular parking; to facilitate development of a transportation system, education, recreation, and sewage disposal, safe and adequate water supply, and other public requirements; to conserve life, property, and natural resources, and expenditure of funds for public improvements and services to conform with the most advantageous use of land resources and properties.

The city recognizes the need to reinstate the registration and inspection program for rental dwellings within the city, set forth in chapter 6 buildings and building regulations, article III, property maintenance code, for the health and safety of its residents and to provide an efficient system for compelling landlords to correct violations and to maintain in proper condition rental property within the city. The city recognizes that the most efficient system is to require the registration, certification, and inspection of all rental housing properties as defined in this article, so that effective and regularly scheduled inspections can be performed by the designated city official. All rental properties are required to have a responsible local agent registered with the city. The responsible local agent must have authority to address any issues or concerns regarding the property or tenants. (Ord. No. 600, § 15.021, 2-21-2005; Ord. No. 564, 12-5-2016)

Sec. 38-4. Amendments.

The city council may, from time to time, amend, supplement, or change by ordinance, the boundaries of districts, or regulations herein established, in accordance with the state law. (Ord. No. 600, § 15.601, 2-21-2005)

State law reference—Zoning ordinance procedures, MCL 125.584.

Sec. 38-5. Definitions.

General provisions. For the purpose of this chapter, certain terms used are herewith defined. When not inconsistent with the context words used in the present tense include the future, words in the singular include the plural number, and words in the plural include the singular number. The word "shall" is always mandatory and not merely directory. The word "city" when used throughout this chapter shall be construed to mean the City of St. Ignace, in the County of Mackinac and the State of Michigan.

Accessory building means a subordinate or supplemental building or portion of a main building on the same lot or land as the main building or buildings, the use of which is incidental or secondary to that of the main building.

Accessory use means a use naturally and normally incidental to subordinate and devoted ordinarily to the main use of the land or building.

Alley means a public thoroughfare or right-of-way not more than 20 feet wide affording only secondary means of access to abutting property.

Alteration means any change in the supporting members of any building or structure including but not to the exclusion of other supporting members, bearing walls, columns, posts, beams, and girders, and any architectural change to the interior thereof, fitted for different uses or purposes than originally intended.

Apartment means a set of rooms fitted with housekeeping facilities, including a kitchen, bathroom, sleeping room(s) and living space leased as a dwelling unit as part of a larger building containing other apartments and/or businesses.

District means a part of the parts of the incorporated area of the city, subject to the terms of these zoning regulations are deemed districts or zones and the word "district" and the word "zone" are synonymous.

Dwelling unit means a building, or separate and distinct part thereof, designed for permanent

occupancy as a house or residence, with complete cooking and bathroom facilities for the exclusive use of the occupants.

Essential services means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution system; collection, communication, supply or disposal system; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment; and accessories in connection therewith; reasonably necessary for the furnishing of utility services by such public utilities or municipal departments or commissions for the public safety or general welfare.

Family means one or more persons related by blood, marriage or adoption occupying a dwelling unit as a single housekeeping unit; or a collective number of individuals living together in a dwelling unit whose relationship is of a permanent and distinct domestic character.

Family dwellings:

Multiple family dwelling (apartment): A building used entirely for more than two dwelling units with each dwelling unit occupied by not more than one family.

Single family dwelling (house): A building used entirely for only one dwelling unit by one family.

Two family dwelling (duplex): A building used entirely for two dwelling units with each dwelling unit occupied by not more than one family.

Gross residential square feet means the sum of all areas on all floors of a building included within the outside faces of its exterior walls, including all vertical penetration areas, for circulation and shaft areas that connect one floor to another. In a mixed-use building such as a commercial building with residential areas, the areas of commercial use must be subtracted from the overall gross area in order to identify the residential gross area.

Height shall be measured in number of feet, according to the following rules:

- (1) Height in feet shall be measured by the vertical distance from the established grade at the front of the building to the highest point of the roof.
- (2) The established grade at the front of the building shall mean the elevation of the ground adjacent to the front wall of the building if the ground is level, or the average elevation of the ground along the front line of the building is not level.
- (3) For interpretation purposes the definition of a story is that part of a building included between the surface of the floor and the surface of the floor next above, or if there is no floor above, then the ceiling next above, provided that a story thus defined shall be considered a basement and not counted as a story when less than one-half of the area of the front wall of said story is above established grade at the front of the building.
- (4) For interpretation, purpose the definition of a half-story is an upper-most story lying under a sloping roof, and:
 - a. The useable floor area of which with a floor-to-ceiling height of four feet or more does not exceed two-thirds of the floor of the story directly below it; and
 - b. The floor-to-ceiling height above at least 400 square feet of which is at least seven feet, six inches.

A story which exceeds the requirements of subsection (4)a. of this definition and meets the requirements of subsection (4)b. of this definition shall be considered a full story.

A story which does not meet the requirements of subsection (4)b. of this definition shall not be counted as a story.

Hotel or motel means an establishment that provides transient lodging (a term of fewer than 30 days) and usually meals and various personal services for the public.

Junkyard means a place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including house wrecking yards, used lumber yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment, but excluding such uses when conducted entirely within a completely enclosed building and excluding pawnshops and establishment for sale, purchase, or storage of used cars in operable condition, and the processing of used, discarded or salvaged materials as part of a manufacturing operation.

Lot means a parcel of land which is or may be occupied by one main building or use and its accessories, including the open spaces required by this chapter.

Lot, corner, means a lot of which at least two adjacent sites abut for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees.

Lot lines, front, means, in the case of a lot abutting only on one street, the line separating such lot from the street. In all cases in which the street widths have not been specifically recorded, the front lot line shall be considered to be 33 feet from the center of the street. In the case of a through lot the owner shall, for the purpose of this chapter have the privilege of electing either street lot. A through lot would also be considered a lake front lot bordered by a street.

Lot line, rear, means that lot line which is opposite and most distant from the front lot line. The rear lot line in any irregular, triangular or gore lot shall, for the purpose of this chapter, be a line entirely within the lot, ten feet long and parallel to and most distant from the front lot line.

Lot line, side, means any lot line not a front lot line or a rear lot line. A side lot line separating a lot from the street shall be called a side street lot line. A side line separating a lot from another lot or lots shall be called an interior side lot line.

Mobile home means a mobile home definition must comply with Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

Mobile home park means any lot size tract or parcel of land equipped, established and operated as a mobile home park as defined and described by Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

Modular home means a prefabricated structure either in one piece or interconnecting sections, which is designed for transporting on a trailer bed or railway one time from the manufacturer to a dealer to a permanent site. A modular home requires additional assembly or construction after it arrives on the site; it is permanently connected to a foundation; and it is not designed or intended to be relocated once it is placed on a foundation.

Motels means groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade, commonly known as motels or motor courts, and is distinguished from furnished rooms in an existing residential room in an existing residential building.

Nonconforming structure means a structure lawfully existing at the time of adoption of the ordinance from which this chapter is derived, or any amendment thereto and which does not conform to the regulations of the district in which it is located.

Nonconforming uses means the use of a building, structure, lot or other parcel of land conflicting with the provisions of this chapter.

Non-family dwelling means a single dwelling unit building (house), or two dwelling unit building (duplex), or three or more dwelling unit building (apartment), containing two or more persons who do not constitute a family as defined above. This includes but is not limited to, apartments, boarding houses, shared houses, shelters, halfway houses and duplexes occupied by persons who do not constitute a family.

Parking area means an open area, other than a street or other public way, used for the parking of motor vehicles and available for public use whether for a fee or as an accommodation for clients, customers or residents.

Principal use means the primary and predominant use of the premises, including customary accessory uses.

Rental dwelling unit means any dwelling unit, including but not limited to rental houses, apartments, boarding houses or sleeping rooms, rented by the owner or another person in control of such dwellings to any individual or individuals for a term longer than 30 days.

Responsible local agent means a natural person designated by the property owner as the agent responsible for operating such rental property in compliance with the ordinances adopted by the city.

Setback means the minimum distance between the front lot line and the nearest foundation wall of any building or structure located thereon whether roofed over or otherwise.

Single ownership means a lot of record on or before January 1964, in separate and distinct ownership from adjacent lot or lots where such adjacent lot or lots were not at the date owned by the same owner or by the same owner in joint tenancy in common with any other person or persons; or where such adjacent lot or lots were not owned by the same owner or any person or persons with whom he may have engaged in a partnership or joint venture; or where such adjacent lots were not owned by any corporation in which the owner owned 51 percent or more of the stock issued and outstanding.

Sleeping room means a room separate from common living areas used by one or more persons for sleeping. Each sleeping room must be in compliance with the current Michigan Code requirements for floor area and volume of space provided per occupant.

Street means any public thoroughfare not an alley or land.

Structure means any production or piece of work artificially built up or composed of parts joined together in some definite manner; any construction including dwellings, garages, buildings, signs and sign boards commonly known as billboards.

Transient occupancy means occupancy for a time period of fewer than 30 days.

Travel trailer means a non-self-propelled vehicle which is or can be licensed for travel on state highways in normal traffic without special permit; and is designed for human occupancy on a temporary basis. It is designed to be readily mobile and conveniently relocated on a frequent basis.

Use means the purpose for which land or a building or other structure thereon is designed, arranged, or intended to be occupied or used for, or which is occupied and maintained.

Used includes arranged, designed or intended to be used.

Words not defined. Words not herein defined shall be defined as in the single state construction code.

Yard means a space open to the sky and unoccupied or unobstructed, except by encroachments, specifically permitted under the provisions and terms of this chapter, on the same lot with a building or structure. Yard measurements shall be the minimum horizontal distance.

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

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

Yard, side, means a yard extending from the front yard to the rear yard between the side lot line and nearest side of the main building thereon. (Ord. No. 600, § 15.630, 2-21-2005; Ord. No. 564, 12-5-2016)

Secs. 38-6—38-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 38-31. Building permits required.

It shall be unlawful for any person to commence excavation for or construction of any

building, structure, or parking area, or to make any structural changes or alterations in any existing building or structure or to make any repairs of any kind whatsoever or moving of structures, except for ordinary repairs and maintenance, without first obtaining a building permit from the building inspector. No permit shall be issued for the construction, alteration, repair, renovation, remodeling, or improvement of any building or structure until an application has been submitted in accordance with the provisions of this chapter, showing that the construction proposed is in compliance with the provisions of this chapter, and with the single state construction code or other building regulations now in effect or hereafter adopted. No plumbing, electrical, or drainage permits shall be issued until the building inspector has determined that the plans and designated use indicates that the structure and premises, if constructed as planned and proposed, will conform with the provisions of this chapter. No permit of any kind shall be issued until the fee for such permit, as established by resolution of the city council, has been paid. Every building permit shall expire at the end of one year, unless the construction project for which it was issued has commenced; provided, that any expired permit shall be renewed without additional fees, if applied for by the original applicant within one year from the date of such expiration, except that such renewed permit shall be subject to all ordinance provisions in affect at the time of such renewal. Every project which is started under a building permit shall be completed within a reasonable length of time, not to exceed 12 months; provided, that upon written application for reason of hardship or other reasons beyond the control of the permittee, the building inspector may grant additional extensions of time for completion, not to exceed a total of 12 additional months.

(Ord. No. 600, § 15.531, 2-21-2005)

Sec. 38-32. Administrative officials.

Except as otherwise provided in this chapter, the building inspector or official designated by the city administration shall administrate and

enforce this chapter, including the receiving of applications, the inspection of premises and the issuing of zoning/building permits.

(Ord. No. 600, § 15.532, 2-21-2005; Ord. of 06-20-2016)

Sec. 38-33. Permits.

Every application for a building permit shall be made as required by the single state construction code and shall designate the existing or intended use of the structure or premises or part thereof which it is proposed to alter, erect, or extend, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by two ink, blueprint, or photostat copies of drawings, drawn on scale, showing the actual lines, angles, and dimensions of the lot to be built upon or used and the exact size and location on the lot of all existing and proposed structures and uses, together with specifications. The application shall contain other information with respect to the lot and adjoining property as may be required by the building inspector. One copy of both plans and specifications shall be filled in and retained by the office of the building inspector, and the other shall be delivered to the applicant when the building inspector has approved the application and issued the permit. In cases of minor alterations, the building inspector may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this chapter.

(Ord. No. 600, § 15.533, 2-21-2005)

Sec. 38-34. Occupancy.

It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended, or erected until the building inspector shall have made an inspection of the premises and shall have approved the same for occupancy. (Ord. No. 600, § 15.534, 2-21-2005)

Sec. 38-35. Violations and penalty.

Any building erected, altered or razed or converted, or any use carried on in violation of any provisions of this chapter is hereby declared to be a nuisance per se. Any person, firm or corporation who violates, disobeys, omits, neglects,

or refuses to comply with any provisions of this chapter shall be guilty of a municipal civil infraction. Nothing in this section shall be construed to limit the remedies available to the city in the event of a violation by a person of this article or permit.

(Ord. No. 600, § 15.535, 2-21-2005; Ord. No. 621, § 1, 5-3-2010)

Secs. 38-36—38-50. Reserved.

DIVISION 2. BOARD OF ZONING APPEALS*

Sec. 38-51. Creation and membership.

A board of zoning appeals is hereby established having the powers authorized in Public Act No. 207 of 1921 (MCL 125.581 et seq.). The board of zoning appeals shall consist of seven members appointed by the mayor with consent of the city council and one said member shall be a member of the city council. The member from the city council shall serve a one-year term each year. The other six members, to be citizens at large, shall serve three-year terms; however, for the first year's appointments, two members shall be appointed for one-year terms, two members shall be appointed for two-year terms, and two members shall be appointed for three-year terms; and thereafter all such appointments shall be for a three-year term. Appointments to the board of zoning appeals hereafter shall be made as soon as possible after this chapter becomes effective, and the terms hereunder shall expire for the first year at the end of the regular year for all other city appointments.

(Ord. No. 600, § 15.561, 2-21-2005)

Sec. 38-52. Officers.

The board of zoning appeals shall elect from its membership a chair, a vice-chair, and such other officers as it may deem necessary.

(Ord. No. 600, § 15.562, 2-21-2005)

***State law reference**—Board of appeals, MCL 125.585 et seq.

Sec. 38-53. Rules of procedure.

The board of zoning appeals shall adopt rules and regulations. Copies of such regulations shall be made available to the public at the office of the city clerk and the building inspector. Meetings of the board of zoning appeals may be held once each month, and at such additional times as the board may determine. The time of regular meetings of the board of zoning appeals shall be specified in the rules and regulations. There shall be a fixed place of meeting for the board of zoning appeals and all hearings shall be open to the public. The presence of four members of the board of zoning appeals shall constitute a quorum. The board of zoning appeals shall act by resolution. The concurring vote of five members of the board of zoning appeals shall be necessary to reverse any order, requirement, decision, or determination of the building inspector, or to decide in favor of the applicant on any matter upon which it is required to pass by this chapter or to grant variations from the requirements of this chapter. The board of zoning appeals shall keep minutes of the proceedings, showing the action of the board and the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination, and other official actions, all of which shall be filed promptly in the office of the board of zoning appeals and shall be a matter of public record. Board of zoning appeals members may abstain from voting only if conflict of interest is determined. The board of zoning appeals may call on any other city departments for assistance in the performance of its duties and it shall be the duty of such other departments to render such assistance to the board of zoning appeals as may reasonably be required. The regular attendance of board of zoning appeals members being necessary for the effective operation of the board of zoning appeals, any member of said board who is absent from either three consecutive meetings or one-fourth of all meetings in any 12-month period, unless the board shall excuse such absences and record such in the minutes of the board, shall be deemed to have resigned. The secretary of the board of zoning appeals shall notify the mayor of any

such resulting vacancy, and the mayor shall fill such vacancy as soon as possible after such notification.

(Ord. No. 600, § 15.563, 2-21-2005)

Sec. 38-54. Jurisdiction.

The board of zoning appeals in conformity with the provisions of this chapter and of Public Act No. 207 of 1921 (MCL 125.581 et seq.), may reverse and affirm, wholly or in part, or may modify the order, requirements, decision, or determination appealed from, and shall make such order, requirements, decision or determination as in its opinion ought to be made on the premises, and to that end shall have all the powers to hear and decide all matters referred to it or upon which is required to pass under this chapter.

(Ord. No. 600, § 15.564, 2-21-2005)

Sec. 38-55. Variances.

Subject to the provisions of section 38-596, the board of zoning appeals, after public hearing, shall have the power to decide applications, file as hereafter provided, for variances:

- (1) Where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by the building inspector or other administrative office in the carrying out of enforcement of the provisions of this chapter.
- (2) Where, by reason of the exceptional narrowness, shallowness, or shape of a specific piece of property on the effective date of the ordinance from which this chapter is derived, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of land, build-

ing or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties or would cause undue hardship; provided that the board of zoning appeals shall not grant a variance on a lot of less area than the requirements of the zone district even though such lot existed at the time of passage of the ordinance from which this chapter is derived if the owner owned adjacent land which could without undue hardship be included as part of the lot.

- (3) Where there are practical difficulties or unnecessary hardship in any way of carrying out the strict letter of this chapter relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of land, buildings or structures so that the spirit of this chapter shall be observed, public safety secured, and substantial justice done.

(Ord. No. 600, § 15.565, 2-21-2005)

Sec. 38-56. General conditions for variance.

No variance in the provisions or requirements of this chapter shall be authorized by the board of zoning appeals unless the board finds from reasonable evidence that all the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
- (2) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not itself be deemed sufficient to warrant a variance.
- (3) That the authorizing of such variance will not be of substantial detriment to adja-

cent property and will not materially impair the intent and purposes of this chapter or the public interest.

- (4) That the condition or situation of the specific piece of property, or the intended use of said property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

(Ord. No. 600, § 15.566, 2-21-2005)

Sec. 38-57. Special exceptions.

The board of zoning appeals, after public hearing, shall have the power to grant the special exceptions heretofore authorized and in addition, may authorize the following:

- (1) The vertical extensions of a building existing at the time of enactment of this chapter to such height as to original drawings of said building indicated, provided such building was actually designed and constructed to carry the additional stories necessary for said height limit.
- (2) Permit the erection or structural alteration, in a district where such use is permitted, of a grain elevator, gas holder or other industrial structure to a height above the limit for such district.
- (3) Permit the enclosure of an existing open front porch where said enclosure is in character with the adjoining neighborhood.

(Ord. No. 600, § 15.567, 2-21-2005)

Sec. 38-58. Conditions of approval.

In authorizing a variance or exception, the board of zoning appeals may, in addition to the specific conditions of approval called for in this chapter, attach hereto such other conditions regarding the location, character, landscaping, or treatment reasonably necessary to the furtherance of the intent and spirit of this chapter, and the protection of the public interest.

(Ord. No. 600, § 15.568, 2-21-2005)

Sec. 38-59. Procedures.

The following procedure shall be required:

- (1) An appeal for variance from any ruling of the building inspector or other administrative officer administering any portion of this chapter may be taken by any person or any governmental department affected or aggrieved.
- (2) An application for special exceptions authorized by this chapter may be taken by any person or governmental department affected.
- (3) The board of appeals shall not consider any application of appeal without the payment by the applicant or appellant to the city treasurer of a fee as determined from time to time by resolution of the city council. Such application or appeal shall be filed with the building inspector, who shall transmit the same together with all plans, specifications and other papers pertaining to the application or appeal, to the board of appeals. Appeals fees will be set by city council resolution.
- (4) When an application or appeal has been filed in proper form and with the required data, the secretary of the board shall immediately place the application or appeal upon the calendar for hearing and cause notices to be served stating the time, place, and object of the hearing. Such notices shall be served personally or by mail at least seven days prior to the date of such hearing, upon the application or appellant, and the building inspector and owners of record property within 300 feet of the premises in question, which notices, if by mail, shall be addressed to the respective owners of record at the address given in the last assessment roll. Any party may appear at such hearings in person, or by agent or attorney.
- (5) Upon the day for hearing any application or appeal, the board of zoning appeals may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it

deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons already heard from need not be notified of the time of resumption of hearing unless the board of zoning appeals so decides. The decision of the board of zoning appeals expires within one year of the date of decision unless the project is under construction and complies with the building permit.

(Ord. No. 600, § 15.569, 2-21-2005)

Sec. 38-60. Decisions.

The board of zoning appeals shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the board of zoning appeals' decision shall be transmitted to the applicant or appellant and to the building inspector. Such decision shall be binding upon the building inspector and observed by him and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the board of zoning appeals. A decision of the board of zoning appeals shall not become final until the expiration of five days from the date such decision is made unless the board of zoning appeals shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

(Ord. No. 600, § 15.570, 2-21-2005)

Sec. 38-61. Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector certifies to the board of zoning appeals after notice of appeal shall have been filed with him, that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the board of appeals by the circuit court on application, after notice to the building inspector.

(Ord. No. 600, § 15.571, 2-21-2005)

Sec. 38-62. [Variance application expiration].

If a building permit is not obtained within one year from the date of the appeal, the variance application for permit shall expire. If the building permit is allowed to expire from no progress, the variance application for permit shall expire. To review the variance, appellant must repeat the variance process.

(Ord. of 8-20-07)

Secs. 38-63—38-90. Reserved.**ARTICLE III. DISTRICT REGULATIONS****DIVISION 1. GENERALLY****Sec. 38-91. Zoning districts.**

For the purposes of this chapter, the city shall be divided into ten classes of zoning districts which shall be known as:

- (1) R-1 Single-Family Residential.
 - (2) R-2 Two-Family Residential.
 - (3) R-3 Mixed Residential.
 - (4) R-4 Mobile Home Park.
 - (5) CBD Central Business District.
 - (6) GBD General Business District.
 - (7) TBD Tourist Business District.
 - (8) LID Light Industrial District.
 - (9) WLID Waterfront Light Industrial District.
 - (10) PRD Public Recreation District.
- (Ord. No. 600, § 15.031, 2-21-2005)

Sec. 38-92. Zoning map.

The boundaries of these districts are hereby established as shown on a map entitled "St. Ignace Zoning Map" which accompanies and is hereby made a part of this chapter. Except where referenced on said map on a street line, or other designated line by a dimension, the district boundary lines follow lot lines or the center lines of streets or alleys. (Where it is not designated by

dimension the district boundary shall be deemed to be 150 feet back from the nearest parallel street line.)

(Ord. No. 600, § 15.032, 2-21-2005)

Sec. 38-93. Lot divided by a zoning district.

Where a lot is divided by the zoning map, it may be used in the manner least restricted.

(Ord. No. 600, § 15.033, 2-21-2005)

Sec. 38-94. Zoning affects every structure and use.

Except as hereinafter specified, no building, structure, or premises shall be used or occupied and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the district in which it is located.

(Ord. No. 600, § 15.041, 2-21-2005)

Sec. 38-95. Restoring unsafe buildings.

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

(Ord. No. 600, § 15.042, 2-21-2005)

Sec. 38-96. Mixed occupancy.

Before issuing a building permit for any structure for any premises intended for a combination of dwelling and commercial or dwelling and industrial usage or which would result in an increased area devoted to business or industrial usage within a building partly occupied as a dwelling, the building inspector shall refer the plans to the fire chief and the regional health office and request their respective reports as to any hazards that exist or may be expected to exist, and their recommendations as to desirable additional provisions or changes in the interest of safety shall be complied with before issuance of a permit, where mixed occupancy includes residential units, the side and rear yard and area requirements of residential zones shall be met to be in compliance with the single state construction code.

(Ord. No. 600, § 15.043, 2-21-2005)

Sec. 38-97. Required area or space.

No lots in common ownership and no yard, court, parking area, or other spaces shall be so divided, altered, or reduced to make said area or dimension less than the minimum required under this chapter. If already less than the minimum required under this chapter, said area or dimension shall not be further divided or reduced. Where the plot plan presented in the application for a permit includes more than one recorded lot, the building inspector, or his deputy, shall execute an affidavit in which the facts with reference to the use of said lots shall be stated and shall cause the same to be recorded in the office of the county register of deeds, the cost of recording to be borne by the applicant.

(Ord. No. 600, § 15.044, 2-21-2005)

Sec. 38-98. Traffic visibility across corner lots.

In any residence zone district on any corner lot, no fence, structure, except utility poles or planting over 36 inches in height except trees, shall be erected or maintained within 20 feet of the corner property line so as to interfere with traffic visibility across the corner.

(Ord. No. 600, § 15.045, 2-21-2005)

Sec. 38-99. Existing lots.

The use of any existing lot is allowed without approval of the board of zoning appeals, provided the lot is in single ownership with no common ownership contiguous property and meets setbacks, lot coverage, etc., but not lot size.

(Ord. No. 600, § 15.046, 2-21-2005)

Sec. 38-100. Height and area zoning exceptions.

The height and area requirements of all zones shall be subject to the following exceptions: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, penthouses, stacks, stage towers or scenery lofts, flour mills, food processing plants, television antennae, tanks, water towers, radio towers, ornamental towers, monuments, cupolas, domes and spires, necessary mechanical appurtenances, or additions to exist-

ing buildings which now exceed the height limitations of the zone district up to the height of the existing building.

(Ord. No. 600, § 15.047, 2-21-2005)

Sec. 38-101. Essential services.

Essential services as defined in section 38-5 shall be permitted in all classes of zoning districts.

(Ord. No. 600, § 15.048, 2-21-2005)

Sec. 38-102. Establishing grades and drainage.

(a) Any building requiring yard space shall be located at such elevation that a minimum sloping grade of not less than one-tenth of one percent shall be maintained to cause the flow of surface water to run away from the walls of the building to the front and rear property lines, or to the front or rear line only where the property is located on a natural slope.

(b) On large lots and parcels, of one-half acre or more in area, buildings must be located on the property so as to avoid interference with the natural flow of surface water or special means must be provided to care for such drainage.

(c) The grades at the front and rear of any property shall be established so that water runoff from such property will be accepted by whatever drainage structures, natural drainage course, or body of water exists adjacent to such property.

(d) When a new building is constructed adjacent to an existing building, the existing established grade of each such existing adjacent building shall be considered in determining the grade of the new building, and a reasonable average grade in relation to all adjacent established grades shall be used.

(Ord. No. 600, § 15.049, 2-21-2005)

Sec. 38-103. Relation of building to front lot line.

(a) The front line or face of all structures hereafter erected in all zones, shall be parallel to the front lot line, or shall be at an angle to the front lot line approved by the building inspector, for one of the following purposes:

- (1) To relate to or take advantage of an unusual natural feature or topography on the parcel of land;

- (2) To take advantage of a natural view, provided due consideration is given to preserving the natural view, of existing adjacent building;
- (3) To relate to or take advantage of a parcel of land which has nonparallel lot lines;
- (4) To conform to a pattern already established by existing adjacent building;
- (5) To establish a pattern involving two or more buildings within one parcel of land.

(b) In any case, where the front or face of a structure is not parallel to the front lot line the setback distance on any side of said structure shall be measured from the appropriate lot line to the nearest edge of said structure.

(Ord. No. 600, § 15.050, 2-21-2005)

Sec. 38-104. Building structures.

All structures within the city must comply with all city building ordinances and the single state construction code.

(Ord. No. 600, § 15.051, 2-21-2005)

Sec. 38-105. Open space preservation requirements.

Any residential development may be developed, at the option of the land owner, utilizing the requirement of the State of Michigan Open Space Preservation Act, Public Act No. 179 of 2001 (MCL 125.5847).

(Ord. No. 600, § 15.052, 2-21-2005)

Secs. 38-106—38-120. Reserved.

DIVISION 2. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 38-121. Description of district; permitted uses.

In any R-1 district no building or part thereof shall be erected, altered, or used on any lot or other parcel of land in whole or in part used for other than any one or more of the following specific uses:

- (1) One-family dwellings. All dwellings shall have not less than four habitable rooms

and one complete bathroom. Each bathroom shall contain a toilet which is connected with a public sewer, or suitable septic tank provided public sewer is not available.

- (2) Churches provided the buildings are located at least 30 feet from any property line.
- (3) Municipal, state, and federal administrative and service buildings and other essential service buildings where located at least 30 feet from any property line.
- (4) Children's playgrounds, provided that any buildings shall be located at least 30 feet from any property line.
- (5) Funeral homes, public parks, libraries, museums, schools, and art galleries may be authorized by the board of appeals in the R-1 residential district if such use will not be detrimental to adjoining properties and provided that adequate off-street parking is provided. No building erected for such use shall be closer than 50 feet to any property line.
- (6) Accessory buildings in this district shall include one private garage building, detached, for vehicles owned by the occupants, plus one additional one-story building not to exceed 480 square feet in area, and so constructed as not to interfere with the light or ventilation of any other structure. Attached garages shall be treated as part of the main dwelling unit except as pertaining to minimum floor space area and volume.
- (7) Accessory uses shall be permitted when located on the same lot as the residential use, provided that the dwelling conforms to all requirements of the district, that no more than one person not a resident of the dwelling is employed therein, that no more than one-half of the floor area of one story of the dwelling is devoted to such accessory use, that stock in the trade not produced on the property is not kept or sold, that no mechanical or electrical equipment which would create a nuisance to

the adjacent neighborhood is used, and that adequate parking in accordance with the terms of this chapter is provided. Accessory uses shall include:

- a. Customary home occupations such as an artist, author, beauticians, handicraft work and agricultural and horticultural pursuits, including the sale of such products made or grown on the premises and not purchased for resale.
- b. The offices of a physician, dentist, attorney, architect, or other similar professional person.
- c. Keeping domestic animals on a lot used for residential purposes when limited to household pets, maintained only for the residence and not for sale and when confined in facilities not located between the street and main buildings and which are clean, healthful, and inoffensive to the residents of adjoining property, provided that the board of appeals may upon application hear and determine complaints and may limit them in keeping with the sanitary precautions necessary to prevent offensive odors, pollution of water supply, and the spread of infection and disease.
- d. Private garages for the housing of motor vehicles owned by the occupants of a dwelling, provided that no more than one commercial vehicle exceeding 1½ tons shall be kept on such lot without the permit of the board of appeals.

- (8) State licensed residential facilities in compliance with section 36 of Public Act No. 207 of 1921 (MCL 125.5836).

(Ord. No. 600, § 15.081, 2-21-2005)

Sec. 38-122. Floor space area and volume.

Floor space area and volume in the R-1 residential district, measured on the outside perimeter, exclusive of breezeway, porch, garage, and basement, shall be as follows:

- (1) Each one-family dwelling shall be at least 24 feet wide.

- (2) A one-family dwelling shall contain a minimum total floor area of 1,000 square feet and minimum volume of 8,000 cubic feet. (Ord. No. 600, § 15.082, 2-21-2005; Ord. of 8-20-07)

Sec. 38-123. Height.

No building in the R-1 district shall exceed 35 feet in height. No garage or accessory building either attached or detached shall be more than 50 percent higher than the dwelling located on the lot and no case more than 35 feet.

(Ord. No. 600, § 15.083, 2-21-2005)

Sec. 38-124. Rear yard.

In the R-1 district there shall be a rear yard having a minimum depth of 25 feet.

(Ord. No. 600, § 15.084, 2-21-2005)

Sec. 38-125. Side yard.

(a) Every single dwelling in the R-1 district shall have two side yards, the width of which shall be a minimum of eight feet on one side and ten feet on the other side, measured from the closest side of the eave overhang of the building involved, provided however, no eight-foot side yard shall abut another eight-foot side yard. Where the side lines are not at right angles to the street, the building inspector may modify such yard requirements so that the side yard will average at least eight feet in width on the other side, but in no instance shall the wider yard be so modified that it will become too narrow for the passage of a motor vehicle into said premises over that side. Corner lots in the R-1 district shall have a minimum side yard of 20 feet on the street side.

(b) Side yard requirements for nonresidential buildings which are allowed in the R-1 residential zone shall be as provided in section 38-121.

(Ord. No. 600, § 15.085, 2-21-2005)

Sec. 38-126. Setback.

(a) There shall be a setback line of not less than 30 feet from the front lot line; provided, that where 50 percent or more of all property, according to front feet abutting one side of a street between two intersecting streets, or between one

intersecting street and the end of the street in question, is built up with buildings having an average setback line which is more or less than 30 feet, that no building hereafter erected or structurally altered shall project beyond the average setback line so established; provided further, that in the case of corner lots, the setback lines shall be as established by the building inspector in such a manner as to best blend with the setback and yard requirements of the surrounding properties.

(b) Accessory building, including unattached garages, shall be placed not less than three feet from the side lot line and rear lot line measured from the closest side of eave overhang, when placed at least ten feet from the farthest rear line of the building. Unattached garages may be placed in conformance with the same setback requirements as the main dwelling provided the same side yard requirements as the main dwelling are met and provided they are located a minimum of ten feet from any other building. However, garages located less than ten feet from any building shall be constructed in accordance with the single state construction code for attached garages.
(Ord. No. 600, § 15.086, 2-21-2005)

Sec. 38-127. Lot dimensions.

All lots in the R-1 district shall have a minimum frontage of 80 feet, and if the lot occupied by said residence has both sewer and water, the minimum lot area for residence in this district shall be 10,400 square feet; if such has either sewer or water, but not both, the minimum lot size shall be 11,200 square feet; and if neither sewer nor water are provided, the minimum lot size shall be 12,000 square feet.
(Ord. No. 600, § 15.087, 2-21-2005)

Sec. 38-128. Lot coverage.

No lot in the R-1 district shall be occupied by buildings to an extent greater than 25 percent of the total lot area.
(Ord. No. 600, § 15.088, 2-21-2005)

Sec. 38-129. Rear dwellings prohibited.

No buildings to the rear of the principal buildings on the same lot in the R-1 district shall be used for residential purposes.
(Ord. No. 600, § 15.089, 2-21-2005)

Secs. 38-130—38-150. Reserved.

DIVISION 3. R-2 TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 38-151. Description of district; permitted uses.

In any R-2 residential district, no building or part thereof shall be erected, altered, or used on any lot or other parcel of land in whole or in part used for other than any one or more of the following specific uses:

- (1) Any use permitted in the R-1 single-family residential district as specified in section 38-121.
- (2) Two-family dwellings. All two-family dwellings shall contain not less than four habitable rooms for the second unit. There shall be at least one complete bathroom in each unit which is connected to a public sewer, or suitable septic tank provided public sewer is not available.
- (3) Non-family apartments as described in article IV of this chapter, sections [38-359—38-363]. No non-family apartment may be placed within 300 feet of an existing rental dwelling or on a contiguous lot in this district.
- (4) Non-family single or two-dwelling unit buildings (non-family houses or duplexes, boarding houses) as described in article IV of this chapter, sections [38-359—38-363]. No non-family single dwelling unit (boarding house) or non-family duplex will be allowed within 900 feet on the same street, or on a lot contiguous with an existing boarding house or other non-

family dwelling unit, including but not limited to employee housing, group houses, halfway houses and shelters.

(Ord. No. 600, § 15.121, 2-21-2005; Ord. No. 564, 12-5-2016)

Sec. 38-152. Floor space area and volume.

Floor space area and volume in the R-2 residential district, measured on the outside perimeter exclusive of breezeway, porch, garage, and basement, shall be as follows:

- (1) Each one-family dwelling unit shall be at least 24 feet wide.
- (2) A one-family dwelling shall contain a minimum total floor area of 800 square feet and a minimum volume of 6,400 cubic feet.
- (3) Each two-family dwelling unit shall be at least 24 feet wide.
- (4) A two-family dwelling unit shall contain for one dwelling unit, a minimum floor area of 800 square feet for each dwelling unit consisting of 6,400 cubic feet each; and for the other dwelling unit, a minimum floor area of 400 square feet and a minimum volume of 3,200 cubic feet, plus an additional floor area of 100 square feet and an additional volume of 800 cubic feet for each habitable room in excess of two.

(Ord. No. 600, § 15.122, 2-21-2005; Ord. of 8-20-2007)

Sec. 38-153. Height.

No building in the R-2 residential district shall exceed 35 feet in height. No garage or accessory building either attached or detached in the R-2 residential district shall be more than 50 percent higher than the dwelling located on the lot and in no case more than 35 feet.

(Ord. No. 600, § 15.123, 2-21-2005)

Sec. 38-154. Rear yard.

In the R-2 residential district, there shall be a rear yard having a minimum depth of 25 feet.

(Ord. No. 600, § 15.124, 2-21-2005)

Sec. 38-155. Side yard.

(a) In the R-2 residential district, every one-family and two-family dwelling shall have two side yards, the width of which shall be a minimum of five feet on one side and ten feet on the other side measured from the closest side of the eave overhang of the building involved. Provided, however, no five-foot side yard shall abut another five-foot side yard. Where the side lines in the R-2 residential district are not at right angles to the street, the building inspector may modify such yard measurement so that the side yard will average at least five feet in width on one side and not less than eight feet in width on the other side, but in no instance shall the wider yard be so modified that it will become too narrow for the passage of a motor vehicle into and upon said premises over that side. Corner lots in the R-2 residential district shall have a minimum side yard requirement of 20 feet on the street side.

(b) Side yard requirements for nonresidential buildings which are allowed in the R-2 residential zone shall be as provided in section 38-121.

(Ord. No. 600, § 15.125, 2-21-2005)

Sec. 38-156. Setback.

(a) In the R-2 residential district, there shall be a setback line of not less than 25 feet from the front lot line; provided, that where 50 percent or more of all property, according to front feet abutting one side of a street between two intersecting streets or between one intersecting street and the end of the street in question, is built up with buildings having an average setback line which is more or less than 25 feet, that no building hereafter erected or structurally altered shall project beyond the average setback line so established; provided further that in the case of corner lots the setback lines shall be as established by the building inspector in such a manner as to best blend with the setback and yard requirements of the surrounding properties.

(b) Accessory buildings, including unattached garages, in the R-2 residential district shall be placed not less than three feet from the side lot line and rear lot line, measured from the closest side of eave overhang, of the building involved when placed at least ten feet from the farthest

rear line of the building. Unattached garages in the R-2 residential district may be placed in conformance with same setback requirements as the main dwelling provided the same side yard requirements as the main dwelling are met and provided they are located a minimum of ten feet from any other building. However, garages in the R-2 residential district located less than ten feet from any building shall be constructed in accordance with the single state construction code for attached garages.
(Ord. No. 600, § 15.126, 2-21-2005)

Sec. 38-157. Lot dimensions.

All lots in the R-2 residential district shall have the minimum frontage of 55 feet, and if the lot occupied by said residence has both sewer and water, the minimum lot area for residence in this district shall be 7,100 square feet; if such has either sewer or water, but not both, the minimum lot size of 8,600 square feet; and if neither water nor sewer are provided, the minimum lot size shall be 8,600 square feet.
(Ord. No. 600, § 15.127, 2-21-2005)

Sec. 38-158. Lot coverage.

No lot in the R-2 residential district used for a one-family or two-family dwelling shall be occupied by buildings to an extent greater than 35 percent of the total lot area.
(Ord. No. 600, § 15.128, 2-21-2005)

Sec. 38-159. Rear dwellings prohibited.

No buildings to the rear of the principal buildings on the same lot shall be used for residential purposes in the R-2 residential district.
(Ord. No. 600, § 15.129, 2-21-2005)

Secs. 38-160—38-180. Reserved.

DIVISION 4. R-3 MIXED RESIDENTIAL DISTRICT

Sec. 38-181. Description of district; permitted uses.

In any R-3 residential district, no building or part thereof shall be erected, altered, or used on

any lot or other parcel of land in whole or part, used for other than any one or more of the following specific uses:

- (1) Any use permitted in the R-2 residential district, as specified in section 38-151.
- (2) Multifamily dwelling. All multifamily dwellings shall contain for each dwelling unit, a minimum floor area of 500 square feet and a minimum volume of 3,200 cubic feet, plus an additional floor area of 100 square feet and an additional volume of 800 cubic feet for each habitable room in excess of two. Common areas shall be prorated and credited toward the square footage of the dwelling unit.
- (3) Non-family apartments as described in article IV of this chapter, sections [38-359—38-363]. No non-family apartment may be placed within 300 feet of an existing R3 zoned rental dwelling or on a contiguous lot without a zoning variance.
- (4) Non-family one and two unit dwellings (non-family houses or duplexes, boarding houses) as described in article IV of this chapter, sections [38-359—38-363]. Unless a zoning variance is granted, no non-family single unit dwelling (boarding house) or non-family duplex will be allowed within 900 feet on the same street, or on a lot contiguous with an existing boarding house or other non-family dwelling unit, including but not limited to employee housing, group houses, halfway houses and shelters.

(Ord. No. 600, § 15.161, 2-21-2005; Ord. No. 564, 12-5-2016)

Sec. 38-182. Floor space area and volume.

Floor space area and volume in the R-3 residential district, measured on the outside perimeter, exclusive of breezeway, porch, garage, and basement, shall be as follows:

- (1) Each dwelling unit shall be the same width as specified in section 38-152(1) and (3).

- (2) A one-story dwelling shall contain floor space and volume as specified in section 38-152(2).
 - (3) A two-family dwelling shall contain floor space and volume as specified in section 38-152(4).
 - (4) A multifamily dwelling shall contain, for each dwelling unit, a minimum floor area of 500 square feet.
- (Ord. No. 600, § 15.162, 2-21-2005)

Sec. 38-183. Height.

No building in the R-3 residential district shall exceed 35 feet in height. No garage or accessory building in the R-3 residential district, either attached or detached, shall be more than 50 percent higher than the dwelling located on the lot and in no case more than 35 feet.

(Ord. No. 600, § 15.163, 2-21-2005)

Sec. 38-184. Rear yard.

In the R-3 residential district there shall be a rear yard having a minimum depth of 25 feet.

(Ord. No. 600, § 15.164, 2-21-2005)

Sec. 38-185. Side yard.

(a) In the R-3 residential district every one-family and two-family dwelling shall have two side yards as specified in section 38-155(1).

(b) Every multifamily dwelling in the R-3 residential district shall have two side yards, each of which shall have a minimum width of 25 feet; provided, that if a parking area is established in one of the side yards, the distance from the edge of the parking area to the closest side lot line shall not be less than 15 feet; provided, that the board of zoning appeals may grant a variance in these side yard requirements when in its opinion such variance would not be detrimental to adjoining properties.

(c) Side yard requirements for nonresidential buildings which are allowed in the R-3 zone shall be as provided in section 38-121.

(Ord. No. 600, § 15.165, 2-21-2005)

Sec. 38-186. Setback.

(a) There shall be a setback line in the R-3 residential district of not less than 25 feet from the front lot line; provided, that where 50 percent or more of all property, according to front feet abutting one side of a street between two intersecting streets or between one intersecting street and the end of the street in question, is built up with buildings having an average setback line which is more or less than 25 feet, that no building hereafter erected or structurally altered shall project beyond the average setback line so established; provided further, in the case of corner lots, the setback lines shall be as established by the building inspector in such a manner as to best blend with the setback and yard requirements of the surrounding properties.

(b) Accessory buildings, including unattached garages, in the R-3 residential district, shall be placed in conformance with section 38-126(2) when used in conjunction with a single or two-family dwelling; multiple-family garages must meet the same rear yard, side yard, and setback requirements as the multiple-family dwelling unit.

(c) Multiple-family developments with two or more structures in the R-3 residential district shall be built so that no structure is closer than 30 feet to any other structure in the development.

(Ord. No. 600, § 15.166, 2-21-2005)

Sec. 38-187. Lot dimensions.

All lots in the R-3 residential district shall have a minimum frontage of 55 feet, and if the lot occupied by said residence has both sewer and water, the minimum lot area for residence in this district shall be 7,100 square feet; and if such has either sewer or water, but not both, the minimum lot size shall be 9,250 square feet; and if neither sewer or water are provided, the minimum lot size shall be 9,900 square feet; provided that no multiple-family dwelling shall be placed on any lot with frontage less than 100 feet nor area less than 15,000 square feet.

(Ord. No. 600, § 15.167, 2-21-2005)

Sec. 38-188. Lot coverage.

No lot in the R-3 residential district used for one-family, two-family or multifamily dwelling shall be occupied by buildings to an extent greater than 35 percent of the total lot area. (Ord. No. 600, § 15.168, 2-21-2005)

Sec. 38-189. Reserved.

Editor's note—An ordinance adopted Aug. 20, 2007, repealed § 38-189, in its entirety. Prior to amendment, § 38-189 pertained to rear dwellings prohibited and derived from Ord. No. 600, § 15.169, adopted Feb. 21, 2005.

Secs. 38-190—38-210. Reserved.

DIVISION 5. R-4 MOBILE HOME PARK DISTRICT

Sec. 38-211. Description of district.

The R-4 district is composed of areas suitable for residential development. The R-4 district is limited to the prefabricated types of single-family mobile dwellings units and other uses characteristics of a residential area. The regulations of the R-4 district are designed to permit a density of population and an intensity of land use in those areas which are served by a central water and sewer system and which abut or are adjacent to such other uses, buildings, structures, or amenities which support, complement, or serve such a density or intensity. (Ord. No. 600, § 15.201, 2-21-2005)

Sec. 38-212. Permitted uses.

Uses by right in the R-4 district shall be as follows:

Mobile home park.
(Ord. No. 600, § 15.202, 2-21-2005)

Sec. 38-213. Mobile home park regulations.

All mobile home parks developed in the R-4 mobile home park district shall conform to the following regulations:

- (1) All park shall comply with Public Act No. 96 of 1987 (MCL 125.2301 et seq.) which is the mobile home commission lot and the single state construction code.

- (2) Each mobile home park shall be served by a central water supply system and central sanitary sewage system.
- (3) All mobile home residential districts are required to be subject to special land use regulations as outlined in article V of this chapter.

(Ord. No. 600, § 15.203, 2-21-2005)

Secs. 38-214—38-230. Reserved.

DIVISION 6. CBD CENTRAL BUSINESS DISTRICT

Sec. 38-231. Description of district.

The central business district (CBD) is designed to provide for office buildings, retail stores, and personal service establishments, which normally occupy the prime retail frontage to service the comparison, convenience, and personal service shopping needs of the community. The central business district regulations are designed to promote convenient pedestrian shopping and stable retail development by encouraging a continuous retail frontage and by prohibiting outdoor automotive-related and outdoor business activities.

(Ord. No. 600, § 15.231, 2-21-2005)

Sec. 38-232. Permitted uses

In the central business district (CBD), no building, structure or part thereof shall be erected, altered, or moved upon a structure or parcel of land in said district, and no parcel of land shall be used, for any purpose other than one or more of the following:

- (1) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: food, drugs, liquor, furniture, clothing, dry goods, notions, and hardware.
- (2) Any personal service establishment which performs service on the premises within a completely enclosed building, such as, but not limited to, repair shops (watches, radio, television, shoes, etc.), tailor shops,

beauty parlors, barber shops, interior decorators, photographers, and dry cleaners.

- (3) Restaurants and taverns, where the patrons are served while seated within a building or attached deck area occupied by such establishment, and wherein said establishment does not extend as an integral part of, or accessory thereto any service of a drive-in or open front store.
- (4) Theaters or assembly halls when completely enclosed.
- (5) Offices and office buildings of an executive, administrative, or professional nature.
- (6) Banks, with drive-in facilities permitted.
- (7) Municipal buildings and governmental offices.
- (8) Offices and showrooms of plumbers, electricians, decorators, or similar trades, in connection with which not more than 25 percent of the floor area of the building or part of the building occupied by said establishment is being used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products, or merchandise, and provided that: ground-floor premises facing upon and visible from any abutting street shall be used only for entrances, offices, or display.
- (9) Newspaper offices and printing plants.
- (10) Storage facilities when incidental to and physically connected with any principal use permitted provided that such facility be within the confines of the building or part thereof occupied by said establishment.
- (11) Other uses which are similar to the above and subject to the following restrictions:
 - a. All business establishments shall be retail or service establishments dealing directly with consumers.

Goods produced on the premises shall be sold at retail from premises where produced.

- b. All business, servicing, or processing except for off-street parking or loading, shall be conducted within completely enclosed buildings.
 - c. Outdoor storage of commodities shall be expressly prohibited, except on the owners property.
- (12) Accessory structures customarily incidental to the above permitted uses.
 - (13) Any hotel or motel provided off-street parking requirements of article VIII of this chapter are met.
 - (14) Marinas and retail business in conjunction therewith.
 - (15) Boat docks, boat passenger terminals and parking facilities in conjunction therewith, but not including wholesale and warehousing activities.
 - (16) Dwelling units are allowed except on the ground floor store front and off-street parking must be provided in accordance with article VIII of this chapter. The number of units allowed shall be in accordance with section 38-182 and shall comply with the single state construction code.
 - (17) Non-family apartments as described in article IV of this chapter, sections [38-359—38-363].
- (Ord. No. 600, § 15.232, 2-21-2005; Ord. No. 564, 12-5-2016)

Sec. 38-233. General conditions.

(a) *Parking.* No off-street parking is required in the central business district (CBD), except as specified.

(b) *Height.* No building in the central business district shall exceed a maximum of 40 feet. Structures on the lake side of the street shall be a maximum of 20 feet.

(c) *Setback, side, and rear yards.* There shall be no front, side, or rear yard requirements in this area except that where a building is not constructed to the lot line, there shall be a side yard of not less than ten feet, and where a commercial site abuts a residential district there shall be a side yard of not less than 15 feet and a rear yard of not less than 25 feet.

(d) *Construction.* Construction shall comply with single state construction code. (Ord. No. 600, § 15.233, 2-21-2005)

Secs. 38-234—38-250. Reserved.

DIVISION 7. GBD GENERAL BUSINESS DISTRICT

Sec. 38-251. Description of district.

The general business district (GBD) is designed to provide for the general retail stores and service establishments of the community. The general business district regulations are designed to promote convenient shopping for motorists as well as pedestrians, with off-street parking being provided by each business. (Ord. No. 600, § 15.261, 2-21-2005)

Sec. 38-252. Permitted uses.

In the general business district (GBD), no building, structure, or part thereof shall be erected, altered, or moved upon any parcel of land in said district, and no parcel of land shall be used for any other purpose than for one or more of the following:

- (1) Any use permitted in the central business district (CBD) subject to the general provisions of this chapter.
- (2) Stores for carrying on the trade of electricians, plumbers, decorators, photographers, and similar trades.
- (3) Motor vehicle sales and service establishments, provided that no services except the retail sale of gasoline shall be allowed outside of a completely enclosed building and no outside storage of any vehicles, parts, or materials shall be allowed except for new or used vehicles receiving service.

- (4) Retail sale and operation service establishments which include a drive-in restaurants, open fruit markets and outdoor recreation facilities.
- (5) Parking facilities.
- (6) Storage of materials or goods to be sold at retail provided such storage is within a building or on owners property.
- (7) Other uses which are similar to the above uses.
- (8) Accessory structures customarily incidental to the above permitted uses.
- (9) Any hotel and motel.
- (10) Dwelling units are allowed except on the ground floor store front and off-street parking must be provided in accordance with article VIII of this chapter. The number of units allowed shall be in accordance with section 38-182 and shall comply with the single state construction code.
- (11) Non-family rental dwellings. Non-family apartments as described in article IV of this chapter, sections [38-359—38-363]. (Ord. No. 600, § 15.262, 2-21-2005; Ord. No. 564, 12-5-2016)

Sec. 38-253. General conditions.

(a) *Parking.* Off-street parking is required as provided in article VIII of this chapter.

(b) *Height.* No building in the general business district shall exceed a maximum of 40 feet. Structures on the lake side of the street in the general business district shall be a maximum of 20 feet.

(c) *Setback, side and rear yards.* There shall be no front, side or rear yard requirements in the general business district, except as is necessary to provide the required parking area; provided that where a building is not constructed to the lot line, there shall be a side yard of not less than ten feet and where a commercial site abuts a residential district, there shall be a side yard of not less than 15 feet and a rear yard of not less than 25 feet.

(d) *Exterior construction.* Exterior construction in the general business district shall comply with the single state construction code. (Ord. No. 600, § 15.263, 2-21-2005)

Secs. 38-254—38-270. Reserved.

DIVISION 8. TBD TOURIST BUSINESS DISTRICT

Sec. 38-271. Description of district.

The tourist business district (TBD) is designed to provide for the retail and service needs of tourists and the traveling public. The tourist business district regulations are designed to promote stable development of tourist businesses, with adequate parking and open space being required of each business. (Ord. No. 600, § 15.291, 2-21-2005)

Sec. 38-272. Permitted uses.

In the tourist business district (TBD), no building, structure or part thereof shall be erected, altered or moved upon any parcel of land in said district, and no parcel of land shall be used for any purpose other than one or more of the following:

- (1) Any hotel or motel.
- (2) Any restaurants or drive-in restaurant.
- (3) Any gasoline station limited to retail sales, and conducting only minor mechanical services incidental to the general servicing of vehicles. No paint or body shop, not more than three service stalls, which shall be completely enclosed, shall be allowed. Permits for fuel signs on light posts shall be included in the site plan permitting process.
- (4) Any theater or public assembly building located completely within an enclosed building.
- (5) Any indoor or outdoor recreation facility in which the customers are participants rather than spectators.
- (6) Any retail store.
- (7) Any publicly owned building or facility.

- (8) Other uses which are similar to the above uses.
- (9) Accessory structures which are customarily incidental to the above permitted uses.
- (10) Single family dwellings to comply with R-1 conditions.
- (11) Marinas and retail businesses in conjunction therewith.
- (12) Boat docks, boat passenger terminals, and parking facilities in conjunction therewith, but not including wholesale and warehousing activities.
- (13) Multifamily residential to comply with the conditions in this division in all regards except for floor space area and volume which must comply with R-3 conditions, section 38-182.
- (14) Two-family residential to comply with R-2 conditions in accordance with article III, division 3, of this chapter.
- (15) Non-family rental dwellings. Non-family apartments as described in article IV of this chapter, sections [38-359—38-363]. Non-family one and two unit dwellings (non-family houses or duplexes, boarding houses) as described in article IV of this chapter, sections [38-359—38-363]. (Ord. No. 600, § 15.292, 2-21-2005; Ord. No. 564, 12-5-2016; Ord. of 08-21-2017(1))

Sec. 38-273. General conditions.

The general conditions in the tourist business district shall be the same as section 38-253, except height is limited to 40 feet on either street or lake side. (Ord. No. 600, § 15.293, 2-21-2005)

Secs. 38-274—38-290. Reserved.

DIVISION 9. LID LIGHT INDUSTRIAL DISTRICT

Sec. 38-291. Description of district.

The light industrial district (LID) is designed to accommodate the warehousing, light

manufacturing, and light industrial requirements of the community. The light industrial district regulations are designed to promote a stable industrial development which will be compatible with adjacent business and residential districts, by establishing adequate setback and screening provisions, and by limiting the types of manufacturing and industrial uses to those which do not produce excessive noise or air pollution. (Ord. No. 600, § 15.321, 2-21-2005)

Sec. 38-292. Permitted uses.

In the light industrial district (LID), no building, structure, or part thereof, shall be erected, altered, or moved upon any parcel of land in said district and no parcel of land shall be used for any purpose other than one or more of the following:

- (1) Warehousing and wholesale establishments, and trucking facilities.
 - (2) Lumber and building materials storage yards, and contractors plant and storage facilities.
 - (3) Bulk oil and fuel supply depots, established under approval of the state fire marshal and the state department of environmental quality.
 - (4) Manufacturing of goods and merchandise, such as millwork, planning mills, furniture manufacturing, machine shops, dairies, bakeries, electronics manufacturers, and craft or trade shops.
 - (5) Junkyards and salvage yards when completely enclosed by a six-foot solid fence or wall.
 - (6) Other uses which are similar to the above uses.
 - (7) Accessory structures which are customarily incidental to the above uses.
 - (8) Wholesale or retail sales operations incidental to the above permitted uses.
- (Ord. No. 600, § 15.322, 2-21-2005)

Sec. 38-293. General conditions.

The following are required of all uses in light industrial district:

- (1) *Screening.* All permitted uses, except parking and loading of vehicles incidental to said uses, shall be conducted wholly within a completely enclosed building, or within a yard completely enclosed by a six-foot high solid fence or wall when such uses are normally conducted outdoors; provided that no outdoor uses other than parking and loading, incidental to a use in an enclosed building, shall be conducted within 200 feet of an adjacent commercial zone or within 400 feet of an adjacent residential zone.
- (2) *Pollution.* No use shall be allowed which, although permitted as to type of use, will produce pollution in the form of smoke, gases, particular matter, odors, or noise in such a manner as to be detrimental to the adjacent industrial uses or nonindustrial districts.
- (3) *Height.* No structure shall exceed a height of 45 feet.
- (4) *Setback.* There shall be a setback line of not less than 25 feet from the front lot line; provided that where 50 percent or more of all property according to front feet abutting one side of a street between two intersecting streets, or between one intersecting street and the end of the street in question, is built up with buildings having an average setback line which is more or less than 25 feet, then no building hereafter erected or structurally altered shall project beyond the average setback line so established; provided further, that in the case of corner lots, the setback lines shall be as established by the building inspector in such a manner as to best blend with the setback and yard requirements of the surrounding properties.
- (5) *Side yard and rear yard.* There shall be two side yards and one rear yard of at least 25 feet each, provided that when

any side yard or rear yard is adjacent to a residential district, such side and rear yard shall be at least 50 feet.
(Ord. No. 600, § 15.323, 2-21-2005)

Secs. 38-294—38-310. Reserved.

DIVISION 10. WLID WATERFRONT LIGHT INDUSTRIAL DISTRICT

Sec. 38-311. Description of district.

The waterfront light industrial district (WLID) is designed to accommodate mainly water related light industrial development. The waterfront light industrial district regulations are designed to promote and capitalize the potential of water transportation and bulk oil storage facility without creating any nuisance in the form of noise or air as well as taking from the aesthetic value of the environment.
(Ord. No. 600, § 15.351, 2-21-2005)

Sec. 38-312. Permitted uses.

In the waterfront light industrial district (WLID), no building, structure or part thereof shall be erected, altered, or moved upon any parcel of land in said district, and no parcel of land shall be used for any purpose than one or more of the following:

Any use permitted in the light industrial district (LID), section 38-292, except junkyards and salvage yards and subject to general provisions of this division.
(Ord. No. 600, § 15.352, 2-21-2005)

Sec. 38-313. General conditions.

The general conditions in the waterfront light industrial district shall be the same as the light industrial district (LID), section 38-293, with the following changes:

- (1) *Height.* No structure shall exceed the height of 35 feet.
- (2) *Hazardous wastes.* No materials may be stored within the district which appear on the current critical materials register

or the hazardous wastes register as compiled by the state department of environmental quality.
(Ord. No. 600, § 15.353, 2-21-2005)

Secs. 38-314—38-330. Reserved.

DIVISION 11. PRD PUBLIC RECREATION DISTRICT

Sec. 38-331. Description of district.

The public recreation district (PRD) is designed to provide for the recreational needs of residents and tourists. The public recreation district regulations are designed to protect and promote the stable and adequate development of areas with recreation development potential and also to provide adequate protection of neighboring land uses.
(Ord. No. 600, § 15.381, 2-21-2005)

Sec. 38-332. Permitted uses.

In the public recreation district (PRD), no building or structure shall be erected, altered, or moved upon any parcel of land in said district and no parcel of land in said district shall be used for any purpose other than public recreation.
(Ord. No. 600, § 15.382, 2-21-2005)

Sec. 38-333. General conditions.

The following conditions are required of all uses in the public recreation district:

- (1) *Screening.* All active recreation activities and facilities which involve balls and other such equipment must have proper screening from the neighboring district.
- (2) *Setback, side and rear yard.* There shall be a setback, side yard, and back yard line of no less than 25 feet each; provided that when any side or rear yard is adjacent to a residential district, such side and back yard shall be at least 50 feet.
(Ord. No. 600, § 15.383, 2-21-2005)

Secs. 38-334—38-350. Reserved.

ARTICLE IV. SUPPLEMENTARY REGULATIONS

Sec. 38-351. Conversion of older dwellings.

Conversion of older and spacious single-family dwellings into more than one-family units is permitted provided they meet the minimum floor space area standard of the zoning district in which they are located, except said conversion is not allowed in the R-1 district.

(Ord. No. 600, § 15.481, 2-21-2005)

Sec. 38-352. Lot accessibility.

No dwelling unit shall be built on a lot unless the lot abuts upon a public street or upon a permanent unobstructed access easement of record to a public street. Such easement of record shall have a minimum width of 20 feet, excepting where an access easement of record of less width existed prior to the adoption of this chapter.

(Ord. No. 600, § 15.482, 2-21-2005; Ord. of 8-20-2007)

Sec. 38-353. Accessory building or use prohibited without a principal building or use.

No accessory building or use shall be used or engaged in prior to the establishment of the principal building or use upon the premises except as a construction facility for said principal building. Such construction facility use shall terminate upon completion of the principal building or buildings upon the premises.

(Ord. No. 600, § 15.483, 2-21-2005)

Sec. 38-354. Water and sewage requirements.

Every structure hereafter erected for dwelling purposes shall be provided with potable water and adequate sewage facilities.

(Ord. No. 600, § 15.484, 2-21-2005)

Sec. 38-355. Lavatory requirements.

No outside toilets shall hereafter be erected except such as may be temporarily needed during construction on the premises.

(Ord. No. 600, § 15.485, 2-21-2005)

Sec. 38-356. Accessory uses.

Any building erected as a garage or in which the main portion is a garage in the public recreation district shall in no case be occupied for dwelling purposes unless it is auxiliary to a residence already being occupied upon the premises or unless it complies with all the provisions of this chapter relating to buildings for residential purposes.

(Ord. No. 600, § 15.486, 2-21-2005)

Sec. 38-357. Keeping of animals.

The keeping of more than three dogs and/or cats, the keeping of pigeons having free access outside their cages, or the keeping of poultry, pigs, hogs, horses, or livestock is prohibited within or upon any properties used primarily for residential purposes. Such keeping of animals prior listed within or upon any area located within 132 feet of such aforesaid properties is also prohibited. However, any litter of dogs or cats which causes the aforesaid limit of three to be exceeded shall not constitute a violation of this provision for a period of four months after birth. It is further provided that no more than two such litters shall be allowed to so remain on the aforescribed premises within any consecutive 12-month period. The regulation for horses and mules are subject to the horse regulations in article III of chapter 4.

(Ord. No. 600, § 15.487, 2-21-2005)

Sec. 38-358. Bed and breakfast operations and regulations (residential districts).

(a) A bed and breakfast shall be considered under this chapter to be a single-family residential structure and shall not be treated as a hotel or other facility serving transient tenants.

(b) Bed and breakfast operations shall be confined to the single-family dwelling unit which is the principal dwelling unit on the property. Parking provided for a bed and breakfast operation shall be in compliance with section 38-492(3)k. No premises shall be utilized for a bed and breakfast operation unless the following conditions are met:

- (1) *Minimum exits.* There shall be at least two exits to the outdoors from such premises.

- (2) *Size of sleeping rooms.* Rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant to a maximum of four occupants per room.
- (3) *Smoke detectors.* Each sleeping room used for a bed and breakfast operation shall have a separate smoke detector alarm, installed in accordance with the applicable building codes.
- (4) *Lavatory facilities.* Lavatory and bathing facilities shall be available to all persons using a bed and breakfast operation.

(c) The dwelling unit in which the bed and breakfast is located shall be the principal residence of the owner, and said owner shall live on the premises when the bed and breakfast operation is active. In addition, the bed and breakfast operation shall meet the following conditions:

- (1) *Number of sleeping rooms.* A bed and breakfast operation in the R-2 and R-3 districts shall be limited to five sleeping rooms for use in the bed and breakfast operation and three sleeping rooms in the R-1 zoned district.
- (2) *Guest register.* Every operator shall keep a list of the names of all persons staying at the bed and breakfast operation.
- (3) *Length of stay.* The maximum stay for any occupant of the bed and breakfast sleeping rooms shall be 14 consecutive days.
- (4) *Public nuisance.* Bed and breakfast operation shall not be permitted whenever the operation endangers, or offends, or interferes with the safety or rights of others so as to constitute a public nuisance as defined in article V of chapter 12, regarding nuisances.

(d) No bed and breakfast will be allowed in residential zoned districts at a dwelling unit located within 300 feet of an existing bed and breakfast operation.

(Ord. No. 600, § 15.488, 2-21-2005)

State law reference—Bed and breakfast, MCL 125.1504b.

Sec. 38-359. Non-family dwellings, one or two units (houses or duplexes), boarding houses, shared houses, group houses.

Any non-family single unit dwelling (house) or non-family two dwelling unit building (duplex) requires one full bath per four persons, kitchen facilities that include a minimum of one stove or range, one sink and one refrigerator per eight persons, with a minimum seven-foot-six-inch-ceiling height and must provide no less than 240 gross square feet within the building per occupant in R2, central business and general business districts and on R3 zoned property, and no less than 200 gross square feet per occupant in the tourist business district.

No non-family single unit (boarding house) or non-family duplex will be allowed within 900 feet on the same street, or on a lot contiguous with an existing boarding house or other non-family dwelling unit, including but not limited to employee housing, group houses, halfway houses and shelters in the R2 zoning district or on R3 zoned property without a zoning variance. (Ord. No. 564, 12-5-2016)

Sec. 38-360. Non-family dwellings, three or more units (apartments).

Non-family dwellings of three or more units (apartments) must provide one bathroom per four persons, and kitchen facilities that include a minimum of one stove or range, one sink and one refrigerator per eight persons, with a minimum seven-foot-six-inch-ceiling height, and no less than 240 gross square feet per occupant in the R2, central and general business districts and on R3 zoned property, and no less than 200 gross square feet per occupant in the tourist business district. No apartment may be placed within 300 feet of an existing rental dwelling or on a contiguous lot in the R2 zoning district or on R3 zoned property without a zoning variance. (Ord. No. 564, 12-5-2016)

Sec. 38-361. Appearance and upkeep.

Upkeep of building and grounds is the responsibility of the owner of any non-family dwelling including but not limited to, employee

housing, group houses, halfway houses, and shelters. Each non-family dwelling must be kept in good condition by the building owner, set forth in chapter 12, article III, which includes but is not limited to these requirements:

- (1) Rotting, soiled, or otherwise degraded siding, window and other exterior trim must be cleaned or replaced promptly, as warranted by the material used (e.g., wood or vinyl);
 - (2) Exterior of the building must be repainted if greater than 30 percent of the exterior paint is peeling or damaged;
 - (3) Roof, porches and stairs must be in good repair;
 - (4) Interior window treatments (blinds, shades, curtains, drapes and other window treatments) that can be seen from the exterior of the building must be uniform and must be provided by the building owner, and flags, rugs, paper, cardboard or other material not intended for use as window treatments may not be placed over windows if visible from the exterior of the building;
 - (5) No towels, laundry, coats, rugs or other moveable items may be hung on window sills, railings, or on other surfaces visible from the exterior of the building;
 - (6) Lawns must be kept in good condition and kept neat as set forth in chapter 12, environment, article III;
 - (7) Trash may only be placed within designated receptacles and may only be placed on the street as scheduled by the waste removal company.
- (Ord. No. 564, 12-5-2016)

Sec. 38-362. Non-family rental dwellings existing prior to adoption of this section.

Following adoption of the ordinance from which this section derives, previously permitted non-family apartments that are within 300 feet on the same street or on contiguous lots, which were granted a certificate of occupancy showing that building codes and standards were met at the

time of their opening may continue as rental dwellings, provided they are upgraded to meet the size and amenity standards required by this article.

Previously permitted non-family one and two unit buildings that are within 900 feet on the same street or on contiguous lots, which were granted a certificate of occupancy showing that building codes and standards were met at the time of their opening may continue as rental dwellings provided they are upgraded to meet the size and amenity standards required by this article.

(Ord. No. 564, 12-5-2016)

Sec. 38-363. Registration, certification, and inspection for rental units.

All rental dwellings in the city must be registered and certified by the owner to be in compliance with all city ordinances, all Michigan Code regulations, including chapter 6 buildings and building regulations and chapter 38 zoning. Registration and certification of a rental unit shall occur yearly. The property owner shall re-register and certify each rental dwelling with the city 30 calendar days prior to the expiration of the registration of the rental dwelling.

Registration fees will be set and updated as needed by city council.

Inspection will assure compliance with city ordinances relating to building codes and zoning ordinances. All non-transient rental dwellings shall be inspected by the designated city official at least once every three years. Prior to conducting inspections of currently occupied rental dwellings the city may issue a temporary certificate of compliance. The inspection shall not, however, eliminate the owner's responsibility to register and certify such rental dwellings every year. Nothing in this section shall preclude the inspection of any rental dwelling more frequently than once every three years.

(Ord. No. 564, 12-5-2016)

Secs. 38-364—38-390. Reserved.

ARTICLE V. SPECIAL LAND USES*

Sec. 38-391. General description.

The city may provide special land use permits in any zoning district only after review by the city planning commission and approval by the city council. Consideration for the issuance of a permit shall be contingent upon full compliance with all provisions of this chapter and with Public Act No. 207 of 1921 (MCL 125.581 et seq.), city or village zoning. (Ord. No. 600, § 15.731, 2-21-2005)

Sec. 38-392. Special land use application.

The following items should be included in a special land use application:

- (1) Applicant's name and address;
- (2) Statement identifying the landowner, if not the applicant, and the applicant's relationship to the landowner (i.e., land contract, purchaser, optionee, or delegated agent);
- (3) Property boundary map and legal description;
- (4) Existing uses and structures on the land;
- (5) Description of the existing zoning on the parcel and properties immediately adjacent;
- (6) An analysis of the planning implications of the proposed development, including (but not limited to) estimated future population and the impact of population on community facilities such as schools and parks; an economic market study justifying the need for any proposed commercial, office, or industrial facilities; a traffic analysis which relates the trip generation from the proposed development to existing street volume capacities;
- (7) A site plan, at least in preliminary form, depicting the general land use arrangement or scheme of the proposed development;
- (8) Applicable documents from relevant state, federal and county and/or private sources and agencies;
- (9) A fee shall be charged to the applicant, paid to city treasurer. The fee shall be determined from time to time by resolution of city council.

(Ord. No. 600, § 15.732, 2-21-2005)

Sec. 38-393. General standards for special land use.

Each parcel of property proposed for development as a special land use shall meet the following site eligibility requirements:

- (1) The characteristics of the site shall be suitable for the proposed special use including topography, soil drainage characteristics, vegetation, site and location, historic buildings, scenic views or other unique features.
- (2) The special land use is warranted by the better design and amenities incorporated in the proposed that would not be feasible under any other standard zoning classification.
- (3) The special land use is consistent with the intent and purpose of this chapter.
- (4) The special land use must be compatible with the adjacent land uses and the natural environment.
- (5) The special land use must be compatible with the capacity of the public services and facilities affected by the land use.
- (6) The special land use must be designed to protect the public health, safety and welfare.

(Ord. No. 600, § 15.733, 2-21-2005)

Sec. 38-394. Performance requirement.

In consideration and review for a decision regarding a special land use, the planning commission and city council shall consider the following standards. Based upon these standards and any other applicable site plan provisions and state, federal, and local codes, the planning commission may recommend denial or approval,

*State law reference—Special land uses, MCL 125.584a.

and the city council may deny or approve a final special land use. Whenever terms such as compatibility, adequacy or other similar terms are used they shall be interpreted as determined by the planning commission and city council based upon staff reports, petitioner information and experience of the council and commission.

- (1) *Land use type, mix, locations.* The proposed locations and mix of land uses within the special land use shall be compatible with surrounding land uses and zoning so as to have minimal adverse impacts on surrounding uses or potential uses, while also enhancing those nearby land uses. The land uses shall be appropriate for physical characteristics of the site; such as soil conditions, topography, etc. Existing or planned public facilities such as streets, sanitary sewers, storm sewers, and similar facilities shall be adequate for the proposed land use mix.
- (2) *Setbacks, greenbelts and buffers.* Exterior setbacks shall be provided for any type of use mix or physical development. Where proposed uses differ in type and density from neighboring uses outside the special land uses, adequate greenbelts and landscaping buffers shall be provided. Greenbelts fronting on major streets shall

be encouraged for commercial developments to reduce or mitigate visual impacts of such development.

- (3) *Internal land use arrangement.* Land uses within the special land use shall be arranged for compatibility with one another, and for adequate buffering between uses where such uses vary in type and density.
- (4) *Site utilities, easements, facilities.* Common properties and easements shall be provided such that streets, utilities and open spaces are accessible to occupants of the special land use site. Agreements and written provisions shall be provided to the city demonstrating that these facilities will be improved, operated and maintained in a manner consistent with other special land use approval standards, such that owners or occupants of the special land use property may continue to enjoy site facilities and amenities upon completion of the project and into the future.
- (5) *Traffic circulation.* Vehicular, pedestrian, and nonmotorized circulation allowing safe, convenient and well-defined circulation within the site and to the site shall be provided. Particular consideration will be given to plans using service drives or shared ingress and egress approaches that reduce the total number of access ways on the site.
- (6) *Off-street parking.* Off-street parking shall be provided sufficient to meet minimum requirements by land use type as required in article VIII of this chapter. Upon recommendation of the planning commission, the city council may require additional or reduced parking where a particular use or use mix is expected to generate greater or lesser parking needs.
- (7) *Public streets and facilities.* Any streets that are to be dedicated to the city upon completion of the project shall meet the minimum requirements of the city subdivision regulations. Utilities and streets proposed for dedication as city facilities shall meet construction requirements and specifications as established by the city.
- (8) *Drainage plans.* A drainage plan shall be provided showing adequate underground drainage facilities and/or above ground retention facilities for a 100-year storm event performance standard.
- (9) *Consolidated open space.* Consolidated open space shall be provided and commonly accessible for any special land use. In determination of the amount of such open space to be provided the planning commission shall consider the natural features of the site, the estimated number of residents in the special land use, the estimated number of employees in the special land use, and other factors relevant to the need for open space.
- (10) *Special features.* Natural, historical, scenic and architectural features of the property in the district shall be preserved, protected, created or enhanced whenever possible.
- (11) *Building height, bulk, and character.* The planning commission shall review and approve proposed height, bulk, and visual character of any and all structures and buildings for the special land use project. Height, bulk and character of structures may be reviewed with regard to scenic views, and in consideration of the relationship of proposed structures to existing or proposed structures on site, or within 300 feet off-site of the special land use property. Wherever a structure is proposed that will be greater than two stories or 30 feet, graphic illustrations of the visual impacts of such a structure from off-site locations shall be provided at accurate scale and dimensions by the developer.
- (12) *Dwelling unit density.* The planning commission shall review and approve final dwelling unit density for residential developments in the special land use. The density standards shall be based upon consideration of: existing or proposed density of surrounding properties; availabil-

ity of planned open space on the special land use property; capacity of city utilities; streets and other such facilities; relationship to other planned nonresidential land uses on the site or in the vicinity of the special land use property; overall density standards for residential development in the city.

(13) *Signs.* All signs shall meet the provisions of article X of this chapter.

(14) *Other.* Any and all other requirements as may be requested by the planning commission or city council.

(Ord. No. 600, § 15.734, 2-21-2005)

Sec. 38-395. Public hearing.

(a) Upon receipt of an application for a special land use which requires a decision on discretionary grounds, a notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet, except that the notice shall be given not less than five days and not more than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit of spatial area owned or leased by different individuals, partnerships, businesses or organization, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

- (1) Describe the nature of the special land use request.
- (2) Indicate the property which is the subject of special land use request.
- (3) State where and when the special land use request will be considered.

(4) Indicate when and where written comments will be received concerning the request.

(5) Indicate that a public hearing on the special land use request will be held, stating the time and place for such hearing.

(b) At the initiative of the city council or upon the request of the applicant for special land use authorization, or a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required for a notice of request for special land use approval as provided in subsection (a) of this section shall be held before a decision on the special land use request which is based on discretionary grounds. If the applicant or the city council requests a public hearing, only notification of the public hearing need be made. A decision on a special land use request which is based on discretionary grounds shall not be made unless notification of the request for special land use approval, or notification of a public hearing on a special land use request is given as required by this section.

(c) The city council may deny, approve, or approve with conditions, requests for special land use approval. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.

(Ord. No. 600, § 15.735, 2-21-2005)

Sec. 38-396. Wind turbine generators (WTGS), commercial installations.

(a) *Intent.* The intent of this section is to establish special use permit standards for reviewing proposals for wind turbine generators to produce electrical energy. Wind turbine generators require treatment as a special use because:

- (1) Wind turbine generators are large structures, projecting up to 400 feet in height, dominating the skyline in local situations,

and multiple units may be constructed in a concentrated area (e.g., wind energy farm).

- (2) Wind turbine generators are a relatively new technology and are intended to provide electrical energy from wind forces as opposed to fossil fuel combustion (oil, gas, coal).
- (3) Wind turbine generators require special sites with favorable wind and land surface conditions not necessarily limited to a zoning district.
- (4) Wind turbine generators influence the landscape and, therefore, require special consideration to fit into areas where other uses are present or allowed.

(b) *Site standards.* In considering authorization of wind turbine generators, the planning commission shall apply the standards of this article and the following specific standards:

- (1) *Legal ownership.* The application/owner shall provide documentation to the planning commission that clearly establishes legal ownership of the wind turbine generators, the wind turbine generator proposed site and, if applicable, license or lease agreements authorizing the applicant to operate the wind turbine generator. The applicant/owner, its agents, successors and assignees shall report to the planning commission any change in the legal ownership or lessee of the wind turbine generators within 30 days of the effective date of the change.
- (2) *Minimum site area.* The minimum eligible site area shall be 20 acres, but a minimum of five acres of site area is required for each wind turbine generator proposed within an eligible property.
- (3) *Setbacks.* Setbacks from the lot line must equal at least one-half the heights of the tower, including the height of the blade in its vertical position.
- (4) *Maximum noise level.* The level of noise generated by any wind turbine generator shall not exceed 72 decibels as measured on the dB(A) scale, measured at the lot line from the nearest wind turbine generator, including downwind. The applicant/owners shall provide certification, before and after construction, that such standard is met.
- (5) *Lighting of towers.* Lighting the wind turbine generator shall require the applicant to make application to the Federal Aviation Administration to apply for lighting standards that are in compliance with the legal minimums for FAA requirements.
- (6) *Clearance.* The lowest point of the arc created by rotating blades shall be at least 20 feet above ground level at the tower location.
- (7) *Freestanding structures.* Permitted wind turbine generators shall be freestanding structures, without guy wires, cables or anchoring mechanisms extending beyond the structure's mounting foundation.
- (8) *Security.* Towers shall be secured or protected to prohibit access by unauthorized persons. A security fence may be required if determined to be in the best interest of the community. A sign of not more than ten square feet containing an address and a telephone number for emergency calls and informational inquiries shall be posted.
- (9) *Accessory building.* No accessory buildings or structures will be permitted except those structures directly necessary and part of the wind turbine generators.
- (10) *Visible surface.* Said wind turbine generators shall have a surface that is or be painted so as to be, nonreflective and an unobtrusive color approved by the planning commission to blend with the surroundings. No advertising or promotional messages will be painted or affixed to the wind turbine generators or accessory buildings.
- (11) *Maintenance.* The applicant/owner shall maintain wind turbine generators and accessory structures in such a manner that they remain safe and structurally sound. Applicant/owner shall provide certification of the structural integrity every

ten years by a registered professional engineer licensed and insured in the state.

- (12) *Abandonment/cessation of operation.* Provision shall be made for removing wind turbine generators when no longer utilized for power generating purposes, unless approval for another use is granted by the city. The planning commission shall require an applicant/owner to provide an irrevocable bank letter of credit with the city, or provide an insurance bond satisfactory to the planning commission, to assure the removal of wind turbine generators as prescribed owners. Removal of the wind turbine generator and related structures may be ordered by the city if the wind turbine generators cease operation for their original use or are abandoned for any reason. Removal shall occur no later than six months after notification by the city.

- (13) *City's professional costs.* The applicant/owner may be required to deposit funds to cover costs associated with the city's use of engineering, legal, planning or other consultants during review of applicants under the provisions of this section.

(c) *Application requirements.* Each wind turbine generator special use permit application shall include:

- (1) A site plan of the property showing locations of overhead electrical transmission wires or distribution lines, whether utilized or not; the location of the wind turbine generators with specific dimensions, including the entire area through which the rotor may pass; and the location of all occupied dwelling units within 300 feet of the wind turbine generator site.
- (2) A project description showing at a minimum the following:
 - a. Construction plans and specifications for proposed wind turbine generators and their anchoring systems,

certified as structurally safe by a registered professional engineer licensed and insured in the state.

- b. Height above grade of the wind turbine generators.
- c. Diameter of the rotor.
- d. Tower type.
- e. A visual impact analysis, prepared by the applicant/owner using mock up, photo montage or other graphic depiction, to show the anticipated visual appearance of the wind turbine generators from important vantage points in the surrounding area. If multiple units are proposed or planned for the same view plan in the future, the cumulative impact of all proposed and planned units shall be addressed as provided in this subsection.

(d) *Mitigation of impact to surrounding properties.* Based on the visual impact analysis provided along with consideration of other information in the application, the planning commission may set parcel, lot area or footprint parameters and/or limit the wind turbine generator height. The planning commission shall consider the possible adverse impact of the wind turbine generator on properties surrounding the eligible lot and require additional setbacks, buffering, burial of utilities, access roads, etc., if necessary, to mitigate these adverse impacts to the extent possible and promote public health, safety and general welfare.

(Ord. No. 600, § 15.736, 2-21-2005)

Secs. 38-397—38-420. Reserved.

ARTICLE VI. CONDOMINIUMS*

Sec. 38-421. Purpose.

This article shall be utilized to regulate and control the development of condominium units and condominium subdivisions within the city.
(Ord. No. 600, § 15.811, 2-21-2005)

*State law reference—Condominium act, MCL 559.101 et seq.

Sec. 38-422. Condominium subdivision approval.

Pursuant to authority conferred by section 141 of the condominium act, Public Act No. 59 of 1978 (MCL 559.101 et seq.), all condominium subdivision plans must be approved by the planning commission. In determining whether to approve a condominium subdivision plan, the planning commission shall consult with the zoning administrator, city attorney, city engineer and utilities superintendent regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the condominium act. The master deed of any site condominium shall not be recorded with the register of deeds unless it has the prior approval of the city. A copy of the master deed shall be placed on file in the zoning administrator's office. In the event that this requirement is not complied with and a master deed is recorded without the proper approvals, the city, through its attorney, shall record an affidavit of noncompliance and the building inspector shall issue a stop work order for the project. (Ord. No. 600, § 15.812, 2-21-2005)

Sec. 38-423. Definitions.

The following terms are defined both in the context of the condominium act and in a manner intended to make comparison possible between the terms of this chapter and the subdivision control regulations in article III of chapter 16, with the condominium act.

Condominium Act means Public Act No. 59 of 1978 (MCL 559.101 et seq.).

Condominium subdivision plan means the site, survey and utility plans; floor plans; and sections as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and approximate size of common elements.

Condominium unit means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.

Front yard setback shall be equal to the distance between the front yard area line and the condominium dwelling.

Lot means the same as "homesite" and "condominium unit".

Master deed means the condominium document recording the condominium project as approved by the planning commission to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

Rear yard setback shall be equal to the distance between the rear yard area line and the condominium dwelling.

Side yard setback shall be equal to the distance between the side yard area line and the condominium dwelling. (Ord. No. 600, § 15.813, 2-21-2005)

Sec. 38-424. Condominium subdivision plan (required content).

All condominium subdivision plans shall include the information required by section 66 of the condominium act (MCL 559.166) and the following:

- (1) A survey plan of the condominium subdivision.
- (2) A floodplain plan, when appropriate
- (3) A site plan showing the location, size, shape, area and width of all condominium units.
- (4) A utility plan showing all sanitary sewer, water, and storm sewer lines and easements granted to the city for installation, repair and maintenance of utilities.
- (5) A street construction, paving, and maintenance plan for all private streets within the proposed condominium subdivision.

- (6) The condominium project developer or proprietor shall furnish the zoning administrator with the following: One copy of the recorded master deed, one copy of all restrictive covenants.
 - (7) A storm drainage and stormwater management plan, including all lines, swales, drains, basins and other facilities.
- (Ord. No. 600, § 15.814, 2-21-2005)

Sec. 38-425. Easements for utilities.

The condominium subdivision plan shall include all necessary permits and easements granted and accepted by the city for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits, and other installations of a similar character for the purpose of providing public utilities, including conveyance of sewage, water and stormwater runoff across, through and under the property subject to said easement, and excavating and refilling ditches and trenches necessary for the location of said structures. Sanitary sewage lift stations, booster pumps or any other installations required to provide service to the condominium subdivision, outside of public lines and structures shall be the property of the condominium association. This includes all electrical connections, service requirements, or other utility service brought into the property. All maintenance and costs incurred with these utility sites shall be the responsibility of the condominium association. City ownership of these utility sites will only be taken if these utilities are also used to add customers outside of the condominium subdivision. The city manager and public works director will set forth guidelines if this situation occurs.

(Ord. No. 600, § 15.815, 2-21-2005)

Sec. 38-426. Private streets/public streets.

(a) If a condominium subdivision is proposed to have private streets, they shall be developed to the minimum design, construction, inspection, approval, and maintenance requirements of the subdivision design standards in article III of chapter 16, in all aspects, except width. Minimum width of the right-of-way shall be 24 feet and the design must be approved by the city engineer. In

addition, all private streets in a condominium subdivision shall have a paved driving surface such as asphalt or concrete. This shall not apply to driveways leading to residences from the private street. There shall also be a road maintenance plan submitted to the planning commission for any private street or drive.

(b) All streets or roads which will be turned over to the city shall, at a minimum, conform to the standards and specifications promulgated by the city under article III of chapter 16, regarding subdivision design standards. In addition, all streets destined to become public streets or roads in a condominium subdivision shall have a paved driving surface of asphalt or concrete. All names of streets or roads shall be approved by the city.

(Ord. No. 600, § 15.816, 2-21-2005)

Sec. 38-427. Encroachment prohibited.

Encroachment of one condominium unit upon another, as described in section 40 of the condominium act (MCL 559.140), shall be prohibited by the condominium bylaws and recorded as part of the master deed.

(Ord. No. 600, § 15.817, 2-21-2005)

Sec. 38-428. Relocation of boundaries.

The relocation of boundaries, as described in section 48 of the condominium act (MCL 559.148), shall conform to all setback requirements of this chapter and shall be approved by the zoning administrator and the planning commission, and these requirements shall be made part of the bylaws and recorded as part of the master deed.

(Ord. No. 600, § 15.818, 2-21-2005)

Sec. 38-429. Subdivision of condominium units.

Single-family detached condominiums shall conform to the R-1 (low density) zoning district, article III, division 2, of this chapter. Building condominiums (multifamily buildings) shall conform to the requirements of the R-3 (multifamily) district, article III, division 4, of this chapter, including minimum square footage, parking requirements and building setbacks. Setbacks can be modified by the planning commission.

(Ord. No. 600, § 15.819, 2-21-2005)

Sec. 38-430. Mobile home condominium projects.

Mobile home condominium projects shall conform to all requirements of this chapter and shall be located only in a mobile home park and conform to all requirements of the mobile home commission act, Public Act No. 96 of 1987 (MCL 125.2301 et seq.).
(Ord. No. 600, § 15.820, 2-21-2005)

Sec. 38-431. Appeal procedure.

Appeal requests for this article shall be governed by the rules of the board of zoning appeals according to article II, division 2, of this chapter.
(Ord. No. 600, § 15.821, 2-21-2005)

Secs. 38-432—38-460. Reserved.

**ARTICLE VII. ADULT BOOKSTORES,
ADULT THEATERS, LIVE
ENTERTAINMENT, AND CABARETS**

Sec. 38-461. Definitions.

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

Adult bookstore means an establishment wherein more than 20 percent of its stock in trade is comprised of books, magazines, and other periodicals having, as their dominant theme, matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this article, or an establishment with a segment or section devoted to the sale or display of such material.

Adult theater means an enclosed building used for live performances or presenting material by means of motion pictures, video tapes or receivers, photographic slides, or other similar means of projection or display, which performances or material is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this article, for observation by patrons therein.

Cabaret means any place wherein food or any type of alcoholic or other beverage is sold or given away on the premises, the operator of which place may or may not hold a yearly license to sell such beverages by the glass.

Live entertainment means the presentation of acts which are presented live for the enjoyment of the audience.

Person means an individual person, copartnership, firm, corporation, society, club, association, or other business or private entity.

Specified anatomical areas means:

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

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal.
 - (2) Acts of human masturbation, sexual intercourse, or sodomy.
 - (3) Fondling or other erotic touching of human genitals or a human pubic region, buttock, or female breast.
- (Ord. No. 600, § 15.801, 2-21-2005)

Sec. 38-462. Prohibition.

(a) No person, in the city, shall own, operate or maintain, or permit to be owned, operated or maintained, an adult bookstore or adult theater, as defined in this article.

(b) No person shall present or allow to be presented, or participate in, any live acts of entertainment which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas as herein defined.

(c) No person owning, operating, managing or employed by or within a cabaret shall dance, perform or serve food, beverages or alcoholic liquors while displaying or allowing to be visible specified anatomical areas, as defined in this article, or allow any other person to do so.

(d) No person owning, operating, managing or employed by or within a cabaret shall, by means of dancing, acting or otherwise moving about, perform specified sexual activity, as defined in this article, or allow any other person to do so.

(e) No person owning a cabaret, or his agent or employee, shall knowingly permit any exhibition or advertising, in connection with any establishment prohibited under this section, to be displayed in any manner which is visible from any public street or highway, which exhibition or advertising depicts, describes or relates to specified sexual activities or specified anatomical areas, as defined in this article.
(Ord. No. 600, § 15.802, 2-21-2005)

Sec. 38-463. Zoning compliance.

No person shall operate an adult bookstore or cabaret, or place of live entertainment until he shall have complied with the requirements of the provisions of this article and other applicable ordinances of the city.
(Ord. No. 600, § 15.803, 2-21-2005)

Secs. 38-464—38-490. Reserved.

ARTICLE VIII. PARKING AND LOADING AREAS

Sec. 38-491. Location.

All off-street parking required by this chapter for residential purposes shall be provided on the same lot with the principal building, and parking space required for commercial and industrial uses shall be on the same lot or within 300 feet of it.
(Ord. No. 600, § 15.451, 2-21-2005)

Sec. 38-492. Requirements.

Whenever parking is required by this chapter it shall be provided according to the following schedule:

(1) Residential.

- a. Housing for the elderly: One for each four units; should units revert to general occupancy, then 1½ spaces per unit.
- b. Residential, one- and two-family: Two for each dwelling unit.
- c. Residential, multiple family: One for each dwelling unit plus one-half space per bedroom.
- d. Mobile home parks: Two for each mobile home.
- e. Non-family apartments and houses, boarding or employee housing: One space for each dwelling plus one space per bedroom (sleeping room) must be provided by the rental dwelling owner, either on the lot of the rental dwelling or at another location assigned to the occupants.

(2) Institutional.

- a. Hospitals and sanitariums: One for each bed.
- b. Homes for the aged and convalescent homes: One for each three beds.
- c. Churches or temples: One for each three seats or six feet of pews in the main unit of worship.
- d. Elementary and junior high schools: One for each one teacher, employee, or administrator.
- e. Fraternity or sorority: One for each five permitted active members.
- f. High schools: One for each one teacher, employee, or administrator, and one for each ten students.
- g. Private clubs or lodges: One for each three persons allowed within the maximum occupancy load as established by the fire marshal.

- h. Stadium and sports arena or similar outdoor place of assemble: One for each three seats or six feet of benches.
- i. Theaters and auditoriums, multi-purpose rooms: One for each three persons allowed within the maximum occupancy load as established by the fire marshal.

(3) *Commercial.*

- a. Auto wash: One for each one employee, in addition, reservoir parking equal in number to five times the maximum capacity of the auto wash for automobiles awaiting entrance to the auto wash will be provided. Maximum capacity of the auto wash for the purpose of determining the required reservoir parking shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time which shall be determined by dividing the length of feet of each wash line by 20.
- b. Beauty parlor or barber shops: Three spaces for each chair.
- c. Bowling alleys: Five for each bowling lane.
- d. Dance halls, roller rinks, exhibition halls, and assemble halls without fixed seats: One for each three persons allowed within the maximum occupancy load as established by the fire marshal.
- e. Establishments for sale and consumption, on the premises, of beverages, food, or refreshment: One for each three persons allowed within the maximum occupancy load as established by the fire marshal.
- f. Furniture and appliance, household-equipment repair shops, showroom of a plumber, decorator, electrician, or similar-trade, shoe repair and other similar uses: One for each 800 square feet of useable floor area.

(For that floor area used in processing, one additional space shall be provided for each two persons employed therein.)

- g. Gasoline service stations: Two for each lubrication stall, rack or pit, and one for each gasoline pump.
- h. Laundromats and coin-operated dry cleaners: One for each two machines.
- i. Miniature golf course: One space per hole plus three spaces for employees.
- j. Mortuary establishments: One for each 50 square feet of assembly room useable floor space, parlors, and slumber rooms.
- k. Motel or hotel: One for each rental unit, plus two additional spaces for management and/or service personnel.
- l. Motor vehicle sales and service establishments: One for each 200 square feet of useable floor area of sales room and one for each auto-service stall in the service room.
- m. Pool hall or club: One for each three persons allowed within the maximum occupancy load as established by the fire marshal.
- n. Retail stores except as otherwise specified herein: One for each 150 square feet of useable floor area.

(4) *Offices.*

- a. Banks: Six for each lobby teller cage or window.
- b. Business offices or professional offices except as indicated in the subsection (4)c. of this section: One for each 300 square feet of useable floor area.
- c. Professional offices of doctors, dentists or similar professions: One for each 100 square feet of useable floor area in waiting room, and one for each examining room, dental chair.

(5) *Industrial.*

- a. Wholesale and warehouse establishments: One for every one employee in the largest working shift, or one for every 1,700 square feet of useable floor space or whichever is greater.
- b. Industrial or research establishments: One space on site for every two employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.

(Ord. No. 600, § 15.452, 2-21-2005; Ord. No. 564, 12-5-2016)

Sec. 38-493. Standards.

(a) Each parking space shall contain not less than 160 square feet exclusive of aisles, entrances and exits.

(b) Except for residential uses, all off-street parking shall be surfaced with a hard surface as approved by the city.

(Ord. No. 600, § 15.453, 2-21-2005)

Sec. 38-494. Special exceptions.

The board of zoning appeals may without proof of unnecessary hardship, but after a public hearing, grant any applicant a variance in the requirements of this article if the board finds from the evidence presented that the variance requested will not be of a substantial detriment to adjacent property and will not materially impair the intent or purposes of this chapter or the public interest.

(Ord. No. 600, § 15.454, 2-21-2005)

Secs. 38-495—38-520. Reserved.**ARTICLE IX. FENCES****Sec. 38-521. Purpose.**

The purpose of this article is to regulate the installation, location, height and maintenance of fences and walls in the city.

(Ord. No. 600, § 15.741, 2-21-2005)

Sec. 38-522. Definitions.

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

Construction site barrier means a temporary fence erected to protect a construction site from vandalism and unauthorized entry, including soil erosion barriers as required by the health department or the state department of environmental quality. Construction site barriers do not require a permit unless the barrier will be in place for more than one year.

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

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

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

Front lot line means, in the case of an interior lot, the line separating said lot from the street. In the case of a corner lot or double frontage lot, the line separating said lot from that street which is designated as the front street in the plat, or as the address of the property in question.

Landscaping (vegetation) means decorative plant material (trees, shrubs, flowers, etc.) when used to enhance the yards or surfaces of a property or parcel. Landscaping does not require a permit.

Temporary. Any fence intended to be used for a limited amount of time or duration of an event. (Ord. No. 600, § 15.742, 2-21-2005; Ord. of 06-20-2016)

Sec. 38-523. General requirements for all zoning districts.

(a) Fences located within a side or rear yard shall not exceed six feet in height, same measured from the surface of the ground. Side yard shall be from the front building line to the back property line.

(b) Fences and similar barriers shall not be located in the front yard except as follows: Fences up to four feet in height may be located in the front yard. This is from the front building line to the front lot line and also across the front lot line.

(c) On any corner lot, no fence, structure, except utility poles or plantings over 36 inches in height, except trees, shall be erected or maintained within 20 feet of the corner property line so as not to interfere with traffic visibility across the corner.

(d) No wall or fence shall have barbed wire, razor wire, an electric current, concertina wire, nor any other similar material. Similar material shall be determined by the building inspector.

(e) Fences, walls and similar protective barriers shall not in any way obstruct or encroach upon any public street, sidewalk, or alley right-of-way.

(f) Fences may be constructed of steel, iron, wood, masonry or other durable material. Temporary, seasonal snow fences are allowed from November 1 through April 30 with no permit required. Within the CBD and GBD temporary fences are allowed only by written city approval.

(g) Fences shall be maintained plumb and true with adequate support and in a safe and sightly manner. The owner of the fence shall remove or repair a fence that is dangerous, dilapidated or otherwise in violation of this article or other city ordinance.

(h) Fences, walls, and similar protective barriers up to 25 feet in total length which are designed to serve as privacy screens and are located in the side or rear yard at least eight feet from any property line may be up to eight feet in height.

(i) If a fence runs perpendicular to a lake, the fence cannot run past the ordinary high water mark.

(j) All fences shall have the finished side facing in the following manner:

(1) On the street side, finished side facing out, towards street.

(2) On side or rear yards, shall be at owners option.

(k) Exceptions to this article. This article shall not apply to or regulate the construction of fences on public property for security purposes.

(l) Existing fences may continue to be maintained without material change but may not be replaced or altered without a permit in accordance with this article.

(Ord. No. 600, § 15.743, 2-21-2005; Ord. of 06-20-2016)

Sec. 38-524. Application process.

Any person desiring to construct, or cause to be constructed, any fence or wall for which a permit is required as defined in this article, shall first apply to the city building inspector for a permit. Permit fees shall be established by the city council by resolution. Application for a permit shall include any and all information requested by the building inspector to determine whether or not the construction of such fence or wall will violate any portion of this chapter or any state statute.

(Ord. No. 600, § 15.744, 2-21-2005)

Secs. 38-525—38-550. Reserved.

ARTICLE X. SIGNS*

Sec. 38-551. Title and purpose.

This article shall be known as the City of St. Ignace Sign Ordinance the purpose of which to regulate signs so as to provide a framework within which the identification and information signs can serve to enhance the overall physical appearance of the city. It is the intent of this article to prohibit any signs not allowed.

(Ord. No. 611, 4-16-2007)

***Editor's note**—Ord. No. 611, adopted Apr. 16, 2007, repealed Art. X, §§ 38-551—38-559, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Art. X pertained to similar subject matter and derived from Ord. No. 600, §§ 15.772—15.780, adopted Feb. 21, 2005.

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

Sec. 38-552. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terms, such as lot line, front yard, and similar words shall be defined in this chapter.

Abandoned signs. A sign which no longer applies to the property where it is placed one year or more after the purpose of the sign has ended, and that the intent to abandon the sign is present. If a non-conforming sign is abandoned, the non-conforming use shall cease after one year.

Air activated graphics or signs. Air activated signs means those signs which are inflated or inflatable, as well as those which are activated by wind or forced air or gas.

Balloon sign (a.k.a. inflatable device) A sign that is an air inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or a structure, and equipped with a portable blower motor that provides a constant flow of air into the device. Balloon signs are restrained, attached or held in place by a cord, rope, cable or similar method

Banners. A temporary sign composed of cloth, canvas, plastic, fabric or similar lightweight, nonrigid material that can be mounted to a structure with cord, rope, cable, or a similar method or that may be supported by stakes in the ground.

Billboard. A type of freestanding sign.

Blade sign (a.k.a. feather sign, teardrop sign, and flag sign). A temporary sign that is constructed of cloth, canvas, plastic, fabric, or similar lightweight, non-rigid material and that is supported by a single vertical pole mounted into the ground or on a portable structure.

Electronic message sign. An electrical sign utilizing lights going and off periodically for conveyance of information.

Exterior sign. A sign which is outside the walls of a building.

Flag. A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as a symbol or emblem, or as a decoration.

Flashing sign. Any lighted or electrical sign which emits light in sudden intermittent bursts.

Freestanding (or ground) sign. A sign supported by permanent uprights or braces in the ground.

Ground floor wall area. Shall be computed by multiplying the width of the wall times a ground floor height of 15 feet.

Height. The permitted height of signs shall be measured from the existing or finished grade directly beneath the sign.

Illuminated sign. Means any sign which is directly lighted by an electrical source, internal or external.

Internal sign. A sign located on any interior surface of a building, including doors and windows, that is visible from the exterior.

Mural. A mural is any piece of artwork painted or applied directly on a wall, ceiling or other large permanent surface. A distinguishing characteristic of mural painting is that the architectural elements of the given space are harmoniously incorporated into the picture.

Non-conforming sign. Any sign legally erected or displayed prior to the effective date of this article or subsequent amendments thereto which does not conform with the standards of this article.

Off-premises sign. A sign that advertises or otherwise directs attention to a product sold, service provided, or an activity that occurs on a different parcel than where the sign is located.

Overhanging sign. A sign which is affixed to any building or structure any part of which extends beyond the building wall and the sign surface is perpendicular to the building or structure wall, or a sign attached to a post at one end, where the sign face is perpendicular to the post.

Permanent sign. A sign of durable material anchored or secured to a building, accessory structure, or the ground.

Portable sign. A sign not permanently affixed, anchored, or secured to the ground or a structure on the lot it occupies, including trailered signs, tripod, and sandwich board or tent signs.

Projecting sign. A sign attached to and projecting more than 18 inches from the face of a wall or building, but does not project above the parapet or eave line of the building.

Roof mounted sign. A sign which is located upon or over the roof of a structure or in the case of a building with a mansard roof, a sign which is above the deck line of the mansard roof.

Sign. A sign means any structure or wall or other object used for the display of any message. A sign is a structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any such message or image is afforded public visibility from out of doors, on behalf of and for the benefit of any product place, activity, individual firm, institution, profession, association, business or organization.

Sign area. The sign area shall be defined as the maximum height multiplied by the maximum width of the sign components including any frame or other material or color or open spaces forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. Both sides of a sign structure may be used for sign purposes, provided the notices have a 180-degree back to back relationship. In the case of a broken sign (a sign with open spaces between letters) the total surface area shall be measured by multiplying the height of the individual letters or combination of letters by the distance between the outer edges of two furthest letters.

Temporary sign. Any sign intended to be erected or displayed for a limited amount of time and not intended to be permanent. This includes signs constructed of cardboard, plastic or other

material mounted on wire stakes, portable tent signs, signs constructed of durable material mounted on posts in the ground and signs made of paper, cardboard plastic or other pliable material affixed to posts, windows, trees, walls or other structures.

Wall sign. A display sign which is painted on or attached directly to a building wall and the sign surface is parallel to the building wall and has a structural framework.

(Ord. No. 611, 4-16-2007; Ord. of 06-20-2016; Ord. of 08-21-2017(1))

Sec. 38-553. General provisions.

The following provisions shall apply to all signs in the city.

Pre-existing nonconforming signs. Any sign that conformed with a sign ordinance in effect at the time said sign was displayed may be maintained, subject to the provisions herein contained.

Sign design, construction and materials. The intent is to achieve signing of neat and readable copy, careful construction and durability so as to reduce maintenance costs and to prevent dilapidation. Sign design shall be prepared by sign professionals or others who in the opinion of the designated city official are capable of producing professional results. Sign construction shall be by a person or persons whose principal business is building construction or related trade including those whose principal business is the manufacture and installation of signs, or others capable of producing professional results. Sign materials (including those for framing and support) shall be representative of the type and scale of materials used on the building or buildings which the sign identifies. Signs shall be constructed out of durable materials such as slate, marker board, stainless steel, aluminum, aluminum composite, laminate plastic, or medium density overlay plywood painted with enamel paint. Materials selected for permanent signs shall be durable and capable of withstanding weathering over the life of the sign with reasonable maintenance.

- (1) *Signs over a right-of-way.* Any sign which overhangs a dedicated public right-of-

way shall require the approval of the unit having jurisdiction over that right-of-way and shall comply with all local provisions as well.

- (2) *Sign maintenance.* All signs shall be maintained in a clearly legible condition and shall be kept in good repair. Wall mounted signs, overhanging signs and projecting nameplates shall be thoroughly secured to the building by metal anchors, bolts, supports, rods, or braces. Any permanent sign which is determined structurally or electrically unsafe by the building inspector shall be removed or repaired within ten days of notification of hazard at owner's expense subject to procedures as provided in section 38-558. A temporary sign found by the building inspector to be in an unsafe condition must be removed by the owner with three days after notice to do so. Signs which are an emergency hazard shall be removed immediately upon notification.
- (3) *Abandoned signs.* Any sign or sign structure now or hereafter existing which no longer advertises a bona fide business conducted or product sold, or an abandoned sign, shall be removed at the expense of the property owner within 120 days after the cessation of business after cessation of the business at that location as provided in the permit provisions of section 38-558.
- (4) *Signs constituting a traffic hazard.* No sign shall be located so as to obstruct or impair driver vision at driveways and/or intersections. A sign shall not obstruct the view or effectiveness of any official traffic sign, traffic signal or traffic marking. Signs which by reason of their location, shape, size, or color can be confused with an official traffic sign, signal, or marking shall not be permitted where a traffic hazard is created by such signs. All such determination shall be made by the chief of police.
- (5) *Obstruction to doors, windows, sidewalks, and fire escapes.* No sign shall be erected,

re-located or maintained so as to prevent free ingress and egress from any door, window, sidewalk or fire escape.

- (6) *Signs constituting a public nuisance.* Where a sign is determined to be a public nuisance, as defined in environment chapter 12 of the Code, such signs shall be abated in accordance with procedures provided in section 12-135, of the city Code.
- (7) *Numerical sign on a principal building.* According to article II of chapter 28, section 28-31.
(Ord. No. 611, 4-16-2007; Ord. of 08-21-2017(1))

Sec. 38-554. Allowed signs.

The following signs are permitted in all districts except where restrictions are indicated in accordance with provisions of this section and shall not require permits for erection.

- (1) Signs of a branch of local, state, or federal government, including traffic or similar regulatory devices, or signs required to be maintained or posted by law or governmental order, rule or regulation.
- (2) Flags must be mounted or flown on flag poles that are securely attached to the premises or permanently anchored into the ground. Flags shall not obstruct doors, windows, sidewalks or fire escapes. (See section 38-553(5).)
- (3) Permanently installed emblems, plaques, cornerstones, markers, tablets, and the like constructed of durable material such as bronze, stone, slate or other long-lasting or engraved material.
- (4) Free-standing signs placed at the perimeter of a lot, at driveway entrances and exits, limited to one per driveway entrance and one per driveway exit, must not obstruct clear vision of roadway or sidewalks by those entering or exiting the property, not to exceed two feet x six feet.

- (5) Permanent signs on accessory structures. The total sign area per each accessory structure may not exceed 20 percent of the mounting wall of the structure.
 - (6) Boundary signs, signs not visible from public areas, interior signs, required signs. Signs:
 - a. Placed along the boundary lines of a residential property which do not exceed four square feet per sign and are no more frequent than two signs per 100 feet of frontage;
 - b. Not visible to motorists or pedestrians on any road, alley, water body, public lands, or adjacent parcels;
 - c. Located inside a building (including within display window areas);
 - d. Required signs which may or shall be located within the parcel, under authority of this article site plan approval;
 - e. Required signs, under authority of any statute or ordinance, which are located along any county, city, village road; state and federal highway, and private road;
 - f. Which are legal postings as required by law.
 - (7) Murals.
(Ord. No. 611, 4-16-2007; Ord. of 08-21-2017(1))
- Sec. 38-555. Temporary signs.**
- Non-illuminating exterior temporary signs may be erected in accordance with the regulations of this section and shall not require permits for erection.
- (1) Temporary signs. Temporary signs with a maximum area of six square feet per side are permitted. These signs must be constructed and mounted as noted in section 38-553, general provisions, may be placed no more than 90 days prior to the event, and shall be removed within ten days following the day of that event and may not be placed on city property in the DDA Zone without permission of a city administrator.
 - (2) Signs which are paper flyers or posters mounted with staples, tacks, tape or other non-permanent fasteners placed on private property with permission of the property owner or on a pole, window, or other surface belonging to the property owner may be placed 30 days prior to an event and removed within ten days of the end of the event. These temporary signs may not be placed on city property without written permission of a city administrator.
 - (3) Portable signs are permitted where a commercial use is present or at special event locations. These signs are to be removed each day at the close of business or at the end of the special event and are not to obstruct public rights-of-way. In the DDA Zone, each commercial building with one or more operating businesses shall be limited to one such sign and the total sign area shall not exceed six square feet per side with no more than 12 square feet aggregate. Portable signs may not be placed on city property without permission of a city administrator.
 - (4) Banners.
 - a. Banners on commercial property. These banners shall not exceed 32 square feet and must be in good repair. Such banners must be attached safely to the premises. There shall be no more than two banners per side of any commercial building or deck and no more than six banners per business property.
 - b. Banners over a city or state right-of-way. Banners over a city or state right-of-way, such as those announcing functions occurring within the city limits that are sponsored by non-profit organizations, service groups, or city-sanctioned special events may be placed for no more than ten days. The maximum width

of banners are to be set by the public works department and erection of these banners is subject to approval by the city manager.

- (5) Blade sign, feather sign, teardrop sign not to exceed 24 square feet, not to exceed 12 feet in height, must be placed on or behind property line, must not obstruct clear vision of roadway or sidewalk, maximum four per property. (Ord. No. 611, 4-16-2007; Ord. of 06-20-2016; Ord. of 08-21-2017(1))

Sec. 38-556. Signs requiring a permit.

The following signs may be erected, altered or re-located in accordance with regulations of this section and subject to permit requirements of section 38-558.

Permanent free standing signs. Permanent free standing signs must be set back at least eight feet from any public street unless otherwise stated, and may be double-faced with an aggregate maximum square footage consistent with the zoning district standards.

- (1) *R-1 and R-2 districts.* One sign allowed for each dwelling unit comprising a maximum of nine square feet each and a maximum height of 15 feet. Setback shall be at the property line.
- (2) *R-3 and R-4 districts.* One sign allowed for each multiple-family complex or mobile home park comprising a maximum of 20 square feet and maximum height of 15 feet. Setback shall be at the property line.
- (3) *Public recreation, waterfront industrial, and industrial districts.* One freestanding and one wall sign allowed per business or use comprising a maximum of 100 square feet and maximum height determined by structure size in each zoned district. Setback shall be at the property line.
- (4) *Tourist business district.* First sign comprising a maximum of 160 square feet for the first 300 feet of highway frontage. A second sign comprising a

maximum of 128 square feet shall be allowed per business provided a minimum spacing of 300 feet is adhered to from the first sign. Maximum sign height shall be according to structure height in that district. Setback shall be at the property line.

- (5) *Central business and general business districts.* Signs in these districts shall be governed by the following:

- a. Projecting signs over sidewalk. Maximum of five feet projecting, maximum size 20 square feet and maximum height of ten feet. Minimum ten feet of clearance above walkway.
- b. Cornices. Maximum of eight feet projecting over sidewalk.
- c. Overhang signs. Maximum of five feet projecting over sidewalk, maximum of 20 square feet in area, and minimum of ten feet of clearance above walkway.
- d. Canopies. Same restrictions as overhangs with the exception of seasonal canopies which may have minimum of eight feet of clearance above walkway. Seasonal canopies must be removed between the months of December through March.
- e. The number of signs on the front of each business shall be limited to one projecting or overhanging sign and wall mounted sign or signs with aggregate square footage not to exceed 25 percent of the ground floor wall area on which they are mounted. Wall mounted signs shall be mounted no higher than the height of the facade of the building upon which they are mounted. In addition, one portable temporary sign per business property can be permitted as stated in section 38-555(3).
- f. Free-standing signs. Any free standing sign shall not obstruct visibility of roadway entry and exit, or

pedestrian walkway. Free standing signs shall be mounted on or behind the property line, shall be securely anchored into the ground and shall not exceed 60 square feet per side on the west side of State Street (side opposite the water), shall not exceed 100 square feet on the east side of State Street (water side) and shall conform to sign spacing in the tourist business district, section 38-556(4). Maximum sign height shall be no higher than structure height in that zoned district.

- g. Signs on the rear of buildings. No new signs shall be placed on the railroad grade until the recreation pathway plan is adopted. If no recreation pathway plan is adopted by 2019, signs on property on the railroad grade will be allowed as for other property in the DDA Zone.
- (6) Wall mounted signs on the rear of property other than on the RRG as described in (g) above, in all districts. Total area not to exceed 25 percent of the ground floor wall area of the mounting wall. Such signs shall be mounted no higher than the height of the facade of the building upon which they are mounted.
- (7) Off-premises or billboard signs. Off-premises or billboard signs are subject to planning commission approval and applicable fees established by city council to cover cost and must meet all the requirements as specified in sections 38-558 and 38-559. Off-premises signs on or visible from BL I-75 must hold a State of Michigan permit as described by the Michigan Department of Transportation, and meet all State of Michigan standards prior to application to the city for an off-premises sign permit. No new off-premises signs shall be allowed in the DDA district following adoption of this article. New off-premises signs in other districts shall be limited to one per parcel. One off-premises sign may be allowed for multiple businesses developed by a single

organization (such as a business association, chamber of commerce, or other similar association) or a governmental agency. All off-premises signs shall be anchored securely into the ground.

Application procedure for off-premises signs is listed in section 38-558(b)(2). Appeals of rulings is described in section 38-559.

- (8) Signs on a property under development. Signs with a total area not to exceed 50 square feet and a maximum height of ten feet may be permitted on a site currently being developed. Signs may be erected after the building permit for the construction project has been issued.

Signs shall be removed within 30 days following final inspection and issuance of certificate of occupation by the building department, city manager, or his designee.
- (9) Exterior electronic message signs. Permit will be included with zoning permit for a business that has a drive-through passageway for motorized vehicles or that has outdoor fuel pumps or other equipment requiring a permit from the city. Number of permitted signs, dimensions and height to be included in the site plan. Signs must be in compliance with section 38-553, general provisions.
- (10) Internal electronic message signs aggregate square footage not to exceed 25 percent of the ground floor wall or window space which they occupy.

(Ord. No. 611, 4-16-2007; Ord. of 08-21-2017(1))

Sec. 38-557. Non-conforming signs.

It is the intent of this article to recognize that the eventual elimination, as expeditiously as it is reasonable, of existing signs and their supporting structures that are not in conformity with the provisions of this article, is as much a subject of health, safety, and welfare as is the prohibition of new signs that would violate the provisions of this chapter. It is also the intent of this article that any elimination of non-conforming signs shall be effected so as to avoid any reason-

able invasion of established private property rights. To expedite this intent, no non-conforming sign:

- (1) Shall be changed to another non-conforming sign.
- (2) Shall have any changes made to the material used to construct the sign without a request for a new permit.
- (3) Shall be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign, except for safety reasons.
- (4) Shall be established after the activity, business or usage to which it relates has been discontinued.
- (5) Shall be re-established after damage or destruction, if the estimated expense or reconstruction exceeds 50 percent of the appraised total replacement cost, as it determined by an authorized agent of the city.

(Ord. No. 611, 4-16-2007; Ord. of 08-21-2017(1))

Sec. 38-558. Administration and enforcement.

(a) *Administration and enforcement.* The city manager or his designee, which is the building inspector, unless otherwise changed by the city manager, shall have the duty and authority to administer and enforce the provisions of this section.

(b) *Permits and procedures.* No signs identified in section 38-556 shall be erected, altered, or relocated unless a permit for the sign is obtained from the city building inspector in accordance with the following regulations:

- (1) *Off-premises signs.* Following passage of these amendments, off-premises signs on or visible from a state or federal highway, including BL 75, require a State of Michigan permit or written exemption prior to application for the off-premises sign permit from the city of St. Ignace. Off-premises signs identified in section 38-552 shall require review and approval by the planning commission before a new

city permit may be issued. Such review may accompany the site plan review where new development is proposed. Once an off-premises sign is placed, a review by the building inspector or official designated by the city administration shall occur within 30 days to confirm that the sign conforms to the permit. A non-compliant sign shall be removed or brought into compliance within 30 days of notification. Off-premises sign permits issued by the city may not be sold or conveyed to other businesses, entities or parties. Any sign that is out of compliance with this article must be brought into compliance before a new city permit may be issued.

- (2) *Application for sign permit.* An application for a sign permit shall contain the following information as indicated on the application form.

- a. Name, address and telephone number of the applicant and the property owner.
- b. Location of building, structure or lot to which the sign is to be attached or erected.
- c. Position of the sign in relation to near by buildings, structures, other on-site and property lines.
- d. Two drawings of the proposed sign(s) to be erected on the site shall be submitted upon application for review by the building inspector and in those cases where planning commission review is required, ten days prior to scheduled site plan review.
 1. Height of the sign above the ground and support structure(s).
 2. Area and dimensions of sign surface.
 3. Lettering of sign drawn as it will appear on the erected sign need not be in the style of the finished sign, but must be

printed in the size and of a weight approximating that of the final constructed sign.

- e. If deemed necessary by the building inspector, a copy of stress sheets and calculations showing the structure as designed for dead load and wind pressure in accordance with regulations adopted by the building department.
 - f. Name and address of the person, firm, corporation or association erecting the structure.
 - g. A certificate of insurance may be required for installation of freestanding or overhanging signs.
 - h. Such other information as the building or planning commission may require to show full compliance with this and all other applicable laws of the City of St. Ignace and the State of Michigan.
 - i. At the discretion of said building inspector, when in his opinion the public safety requires it, the application containing the aforesaid material shall, in addition, bear the certificate or seal of a registered architect or engineer as a condition to the issuance of a permit.
- (3) All other signs permitted in this ordinance and which are not identified in section 38-558 shall not require permits but shall be regulated as provided in this article.
- (4) *Servicing.* No permit shall be required for ordinary servicing, repainting of existing sign or cleaning of a sign if sign ownership does not change. No permit is required for a change of words or pictures on a sign that is designed for periodic change, e.g., a chalk board sign or bulletin board. A new permit is required if a new permanent face is attached to the sign or if ownership of the sign changes.

(c) *Permit fee.* As established by the city council. All permits issued for the erection of a sign shall become invalid unless the work authorized by it shall have been commenced within six months after its issuance.

(d) *Interpretation and conflict.* The standards and provisions of this ordinance shall be interpreted as being the minimum requirements necessary to uphold the purposes of this ordinance. Whenever this ordinance imposes a higher standard than required by other regulations, ordinances or rules, or by easements, covenants, or agreements, the provisions of this ordinance shall govern. When the provisions of any other statutes impose higher standards, the provision of such statutes shall govern.

(e) *Planning commission's approval.* In cases where the city planning commission is empowered to approve certain signs under the provisions of this ordinance, the applicant shall furnish such surveys, plans, or other information as may be reasonable required by said commission for the proper consideration of the matter.

- (1) The planning commission shall investigate the circumstances of each case and shall notify such property owners, or occupants within 300 feet of the property, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.
- (2) The planning commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this article.

(f) *Standards for sign review.* In reviewing signs as provided in section 38-557 the planning commission shall consider the following standards as a basis for establishing setback, location, placement of signs:

- (1) Visibility of vehicular and pedestrian traffic off site and on the site.
- (2) Impact upon visibility of traffic signals, regulatory signs and other traffic safety or control devices.

- (3) Visibility and legibility of signs for drivers and or pedestrians.
- (4) Negative impact of signs upon adjacent properties and their signage.
- (5) Negative visual impact of lighting and appearance of signs upon nearby residential areas.
- (6) Particular site characteristics such as yard areas, landscaping, topography, and the like.
- (7) Any off-premises sign shall conform in size to other allowed signs for the zoning district in which the sign is placed. Following passage of these amendments, only one off-premises sign permit may be issued per property and no new off-premises permits shall be issued in the DDA Zone. (See section 38-556(7).)

(g) *Changes and amendments.* The city council may from time to time, on recommendation from the planning commission or on petition or upon council initiative, amend, supplement, or change the regulations herein.
(Ord. No. 611, 4-16-2007; Ord. of 08-21-2017(1))

Sec. 38-559. Appeals.

(a) The zoning board of appeals shall have the power to authorize, upon appeal, specific variances from the various requirements specified in this sign ordinance and to extend the term to continue non-conforming signs otherwise provided for herein.

(b) Applications for zoning board of appeals authorization as provided for herein shall be submitted to the city manager or his designee on a form supplied for such purposes and shall be processed in the following manner:

- (1) The zoning board of appeals shall hold a public hearing or hearings on the subject application. The notice of a public hearing shall be posted not less than ten days in advance, in writing, by first class mail to such property owners or occupants located within 300 feet of the property which is the subject of the application. After public hearing procedures, the

zoning board of appeals may grant approval of the application. Said approval shall be in writing with any conditions or reasons for rejection, if it be so, which authorization shall be sent promptly to the city manager or his designee and to the applicant.

(c) All of the following conditions in the judgment of the zoning board of appeals shall exist before any authorization as provided for in this chapter shall be granted. Any such authorization granted shall:

- (1) Not be contrary to the public interest or the general intent and purpose of this chapter.
- (2) Not cause substantial adverse effect to properties in the immediate vicinity or in the sign district where the authorized deviation is located.

(d) *Special findings.* If all of the foregoing conditions can be satisfied, an authorization for a sign variance may be granted when the zoning board of appeals determines that any one of the following special findings can be clearly demonstrated:

- (1) There are exceptional or extraordinary circumstances or conditions which apply to the property in question.
- (2) That such deviation is necessary for the preservation of a substantial property right possessed by other properties within the same sign district.

(Ord. No. 611, 4-16-2007)

Secs. 38-560—38-590. Reserved.

ARTICLE XI. NONCONFORMING USES AND BUILDINGS*

Sec. 38-591. Nonconforming uses.

The lawful use of any land or building or other structure together with the land on which it stands, existing at the time of adoption of the ordinance from which this article is derived, may

***State law reference**—Nonconforming uses and structures, MCL 125.583a.

be continued although such does not conform with the provisions hereof; but if such nonconforming use is discontinued for two years, notwithstanding the provisions of section 38-594, the future use of said premises shall thereafter be in conformity with the provisions of this article.

(Ord. No. 600, § 15.411, 2-21-2005)

Sec. 38-592. Expansion.

The nonconforming use of any premise, including land on which it stands, lawfully existing prior to the adoption of the ordinance from which this article is derived, may be extended throughout the building provided such building is not structurally altered or changed and provided such repairs that are made therein are required by law or ordinance, or that may be necessary for reasons of safety; or to secure the advantageous use of the building during its natural life, or to extend its erection to the full weight as originally intended and provided that no such repair, alteration, or reinforcement shall permit the use of such building or structure beyond its natural life.

(Ord. No. 600, § 15.412, 2-21-2005)

Sec. 38-593. Reversal of nonconforming uses.

Whenever the nonconforming use of any building, structure, or land has been changed to a conforming use, the use shall not thereafter be reverted to any nonconforming use.

(Ord. No. 600, § 15.413, 2-21-2005)

Sec. 38-594. Resumption of nonconforming uses after damage.

Nothing in this article shall prevent the reconstruction, repair or restoration and the resumption of use of any nonconforming building or structure damaged by fire, wind, flood, or the acts of God or the public enemy following the effective date of the ordinance from which this article is derived, wherein the expense of such restoration, reconstruction, or repair does not exceed 75 percent of the fair valuation of such building or structure at the time such damage occurred; provided that application for such

reconstruction, repair, or restoration is made within six months after such damage occurred; and provided that such reconstruction, repair, or restoration is completed within one year following the granting of a permit therefore, and the resumption of the use of said building or structure takes place within 30 days after completion; provided, however, that the board of zoning appeals may extend such period of time for the restoration, repair, and reconstruction of such building or structure when a national emergency or further acts of God shall prevent restoration of such building or structure within the time above prescribed.

(Ord. No. 600, § 15.414, 2-21-2005)

Sec. 38-595. Application and construction schedule.

Nothing in this article shall require any change in the erection or intended use of a building or structure, the construction of which shall have been diligently prosecuted for 30 days preceding the date of passage of the ordinance from which this article is derived, and for which plans are filed with the building inspector within 30 days following the date of passage of the ordinance from which this article is derived and the construction of which shall be completed within 12 months following the date of the passage of the ordinance from which this article is derived.

(Ord. No. 600, § 15.415, 2-21-2005)

Sec. 38-596. Unlawful use not authorized.

Nothing in this article shall be interpreted as authorization for or approval of the continuance of the use of a structure, land, or premises in violation of this article.

(Ord. No. 600, § 15.416, 2-21-2005)

Sec. 38-597. Nonconformance due to reclassification.

The foregoing provisions of this article shall also apply to buildings, structures, land and uses which hereafter become nonconforming due to the reclassification of districts under this article or any subsequent change in the regulations of this article.

(Ord. No. 600, § 15.417, 2-21-2005)

Secs. 38-598—38-700. Reserved.**ARTICLE XII. PLANNED UNIT DEVELOPMENT (PUD) STANDARDS****Sec. 38-701. Site design standards.**

In addition to the regulations set forth in Article V, Special Land Uses, the following are specific regulations and design standards for uses listed in said article, and shall be the minimum governing requirements for the protection of the public health, safety, and general welfare of the community.
(Ord. No. 609, 12-4-2006)

Sec. 38-702. Planned unit developments.

(a) *Purpose.* The purpose of the planned unit development (PUD) is to allow design and use flexibility on a given site while at the same time protecting present and future residents and public facilities from the adverse effects of unplanned or unregulated development. This approach allows the applicant to utilize innovative designs and methods to control the effects of development rather than having rigid numerical zoning standards dictate design parameters. The burden of proving a planned unit development is within the parameters and intent of this article is completely upon the applicant. The City of St. Ignace Planning Commission is to be the judge of whether or not the design contains sufficient safeguards as to make the effects of the development compatible with the intent of this article. It is the expressed intent of this section to allow such items as setbacks, yards, parking spaces, type of dwelling unit and use to be regulated on an overall impact or gross development basis rather than individually for each lot, use, or structure.

(b) *Uses permitted.* Compatible residential, commercial, and public uses may be combined in PUD districts provided that the proposed location of the commercial or industrial uses will not adversely affect adjacent property, and/or the public health, safety, and general welfare. Building site area and other setback requirements of the residential district shall apply except as modified in subsections (d) and (e).

(c) *Types of PUDs.* There are two types of planned unit developments: Commercial and residential. Each type permits mixed commercial and residential uses but a commercial PUD consists of primarily commercial uses and a residential PUD consists primarily of residential uses. Both commercial and residential are permitted in any district as long as the public interest for the PUD outweighs the guidelines and provisions of the existing and in effect zoning ordinance provisions.

(d) *Application process.* An application for a PUD shall be submitted to the building official. This application shall include the following:

- (1) Applicant's name and address.
- (2) Statement identifying the landowner, if not the applicant, and the applicant's relationship to the landowner.
- (3) Property boundary map and legal description.
- (4) Existing uses and structures on this land.
- (5) Description of the existing zoning on the parcel and properties immediately adjacent.
- (6) An analysis of the planning implication of the proposed development, including estimated future population and the impact of population on community facilities such as schools and parks; an economic market study justifying the need for any proposed commercial, office, or industrial facilities; and a traffic analysis.
- (7) A site plan, at least in preliminary form, depicting the general land use arrangement or scheme of the proposed development.

(e) *Request procedure.* Upon receiving a request for a PUD, the planning commission shall meet with the city officials and review the application. After the initial review, the planning commission shall hold a public hearing. A public hearing notice will be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to all persons whose property

is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet. Notice shall be given not less than 15 days before the date of public hearing.

(f) *Planning commission recommendation.* Recommendations of the planning commission will be sent to the city council for their final approval, disapproval or approval with supplementary conditions. The city council will employ the same best interests test for approval. A decision will be made within 60 days of the planning commission meeting.

(g) *Termination.* If not acted upon within one year, approval of the PUD request will be terminated.

(Ord. No. 609, 12-4-2006)

Sec. 38-703. [Article V remains as otherwise adopted.]

In all other respects, said Article V, Special Land Use, as amended, shall remain as heretofore adopted.

(Ord. No. 609, 12-4-2006)

Sec. 38-704. Communication tower.

(a) *Purpose.* This section shall be known as the City of St. Ignace Communication Tower Ordinance the purpose of which to regulate and control the erection of communication towers within the City of St. Ignace.

(b) *Definitions.*

Communication tower. A radio, telephone, cellular telephone or television relay structure of skeleton framework, or monopole attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.

(c) *Performance standards.*

- (1) The tower must be setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the city engineer that the structural integrity

of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall incur all cost associated with city engineering review.

- (2) All towers must meet any and all governmental regulations, i.e. FAA, FCC, etc.
- (3) All towers, including equipment buildings, shall be enclosed with a six-foot high fence.
- (4) No towers are permitted in the R-1, R-2, GBD, central or TBD districts.
- (5) There shall not be displayed advertising or identification of any kind attached to the tower, fence or buildings intended to be visible from the ground or other structures, except as required for emergency purposes.
- (6) Existing on-site vegetation shall be preserved to the maximum extent possible.
- (7) Height is not to exceed 150 feet, measured from the ground. The zoning board of appeals shall review requests for towers that exceed 150 feet.
- (8) A building permit is required for any tower. Planning commission review is required prior to a permit being issued. A public hearing is not required for the planning commission review, however, an appropriate fee shall be charged, amount to be set by city Council.
- (9) A condition of every approval of a communication tower facility shall be adequate provision for removal of all or part of the facility by users and owners when the facility has not been used for 120 days or more. Failure to remove an unused communication tower after the 120 day period shall result in a daily penalty of \$500.00. The owner or user of any tower shall notify the city of St. Ignace within ten working days after abandonment.

- (10) Temporary, mobile, towers such as television newscasters shall be exempt from the provisions of this article.
- (11) The applicant shall provide verification that the antennae mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- (12) Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to front or side property lines than thirty (30) feet. Nothing shall prevent an applicant from applying to the board of appeals for a setback variance.
- (13) Accessory structures shall not exceed two hundred (200) square feet of gross building area.
- (14) Towers with antennae shall be designed to withstand a uniform wind loading as prescribed by the building code.
- (15) Co-location required. The applicant must include a statement in the application that includes a provision stating space on a proposed tower will be made available to future users when technically possible.
- (16) Radio, television or similar towers less than 25 feet are excluded from the provisions of this Ordinance.

(d) *Appeal procedure.* Appeal requests for this section of the zoning ordinance shall be governed by the rules of the zoning board of appeals.

(e) *Penalty.* This section to be included in Ordinance No. 582, "Civil Infraction". Either the building inspector and/or the city police are hereby designated as the authorized city official to issue municipal civil infraction citations or a municipal civil infraction violation under this article permits for erection.

(Ord. No. 612, §§ I—V, 9-17-2007)