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Reading, MI General Ordinances

CHAPTER 152: ZONING

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GENERAL PROVISIONS

§ 152.001 TITLE.

This chapter shall be known as the City of Reading Zoning Ordinance.

(Ord., § 101, passed 6-11-2002)

§ 152.002 COMPLIANCE.

No structure or part hereof shall be located, erected, constructed, reconstructed, altered, converted or enlarged and maintained, nor shall any structure or land be used or be designed to be used except in full compliance with provisions of this chapter.

(Ord., § 102, passed 6-11-2002) Penalty, see § 152.999

§ 152.003 PRIOR CONSTRUCTION STARTS.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in plans, construction, or designated use of any structure on which actual construction was lawfully begun prior to the effective date of this chapter or subsequent amendment thereto.

(Ord., § 103, passed 6-11-2002)

§ 152.004 PURPOSES.

This chapter is based upon the City Master Plan adopted in the year 2000 and is intended to promote the health, safety, and general welfare: to encourage the use of lands in accordance with their character and adaptability; to limit the improper use of land; to avoid overcrowding of population; to provide adequate light and air; to lessen congestion on the public streets and roads; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public improvements; and to conserve expenditure of public funds for public improvements and services to conform with the most advantageous use of land, resources, and properties, and with reasonable consideration of, among other things, the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of the land, buildings, and population development as studied and recommended by the Planning Commission and endorsed within regulations enacted by the City Council.

(Ord., § 104, passed 6-11-2002)

§ 152.005 INTERPRETATION.

The provisions of this chapter shall be considered minimum standards within each zoning district and shall not preclude establishment of higher or more restrictive standards during authorization of any special use permit, where higher standards are deemed necessary by the Planning Commission to achieve the intent and purposes of this chapter.

(Ord., § 105, passed 6-11-2002)

§ 152.006 VALIDITY AND SEVERABILITY.

Sections of this chapter shall be deemed severable and should any section, division, or provisions hereof be declared by a court of competent jurisdiction to be invalid, such holding shall not affect the validity of this chapter as a whole or any part thereof, other than the part declared to be invalid for whatever reason. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this chapter invalid as to a particular lot, parcel of land, condominium unit, building or structure not included in said ruling.

(Ord., § 106, passed 6-11-2002)

§ 152.007 SCOPE.

(A) Where any standard imposed by this chapter upon any lot, parcel, condominium unit, building, or structure is either more or less restrictive from any other ordinance of the city, the requirement which imposes a higher standard shall apply.

(B) This chapter is not intended to abrogate, covenant, or private agreement affecting real

property; provided that where this chapter imposes a higher standard or condition than the private agreement, the provisions of this chapter shall govern.

(C) Every use of land, building, or structure built, altered, relocated, enlarged, or demolished in any manner which requires a building permit after the effective date of this chapter, shall be subject to all regulations contained herein which are applicable to the zoning district in which the use of land, building, or structure is located.

(D) Building setbacks and lot areas existing at the effective date of this chapter shall not be reduced below the minimum requirements of this chapter. Setbacks and lots created after the effective date of this chapter shall meet at least the minimum requirements established herein.

(Ord., § 107, passed 6-11-2002)

§ 152.008 NOTICE REQUIREMENTS.

Except as and unless otherwise provided in this chapter, notice of proposed rezoning and amendments shall be given as follows.

(A) *Proposed rezoning of an individual property or of ten or fewer adjacent properties.* If a proposed rezoning involves an individual property or ten or fewer adjacent properties, the Planning Commission shall:

(1) Publish a notice in a newspaper of general circulation within the city not less than 15 days prior to the date of the public hearing at which the proposed rezoning will be considered stating the public hearing's time, date, and place;

(2) Send a copy of the notice stating the nature of the rezoning request and the time, date, and place of the public hearing by first-class mail or personal delivery to the person requesting the rezoning and 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 of the boundary of the property in question, regardless of whether the property or occupant is located within the zoning jurisdiction. If a tenant's or other occupant's name is not known, the term "occupant" may be used; and

(3) In addition to the foregoing the notice shall do all of the following:

(a) Describe the nature of the request;

(b) Indicate the property or properties that is or are the subject of the request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used; and

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

(B) *Proposed rezoning of 11 or more adjacent properties.* If a proposed rezoning involves 11 or more adjacent properties, the Planning Commission shall:

(1) Publish a notice in a newspaper of general circulation within the city not less than 15 days prior to the date of the public hearing at which the proposed rezoning will be considered stating the public hearing's time, date, and place; and

(2) In addition to the foregoing the notice shall do all of the following:

- (a) Describe the nature of the request;
- (b) Indicate the property or properties that is or are the subject of the request; and
- (c) Indicate when and where written comments will be received concerning the request.

(C) *Amendments or supplements to this chapter.*

(1) A proposed amendment or supplement shall be first submitted to the Planning Commission, which shall hold at least one public hearing. Notice of the public hearing shall be given as follows:

(a) As to the proposed rezoning of an individual property or the proposed rezoning of ten or fewer adjacent properties, notice of the public hearing shall be given as provided in division (A) of this section;

(b) As to the proposed rezoning of 11 or more adjacent properties, notice of the public hearing shall be given as provided in division (B) of this section;

(c) As to any other proposed amendment or supplement to this chapter, notice of the public hearing shall be given by publication in a newspaper of general circulation within the city not less than 15 days prior to the date of the public hearing at which the proposed amendment or supplement will be considered. The notice shall state the public hearing's time, date, and place.

(2) As to any proposed amendment or supplement to this chapter, notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport that registers its name and mailing address with the City Clerk Treasurer for the purpose of receiving the notice of public hearing.

(3) Each notice of a public hearing on a proposed amendment or supplement to this chapter shall include the places and times at which the proposed text and any maps of this zoning ordinance may be examined.

(4) Following a public hearing on a proposed amendment or supplement to this chapter the Planning Commission shall transmit a summary of comments received at the hearing together with the proposed amendment or supplement to this chapter, including any zoning maps and recommendations, to the City Council.

(D) *Protest petitions; super majority required.* A proposed amendment or supplement to this chapter is subject to a protest petition. If a protest petition is filed, approval of the proposed amendment or supplement to this chapter shall require a two-thirds affirmative vote. The protest petition must be presented to the City Council before final legislative action is taken on the proposed amendment or supplement and shall be signed by one or more of the following:

(1) The owners of at least 20% of the area of land included in the proposed change;

(2) The owners of at least 20% of the area of land included with an area extending outward 100 feet from any point on the boundary of the land included in the proposed change; or

(3) Publicly owned land shall be excluded in calculating the 20% land area requirement in divisions (D)(1) and (2) above.

(Ord. passed 4-12-2011)

§ 152.009 CONSTRUCTION OF LANGUAGE; DEFINITIONS.

(A) The following rules of construction apply to the text of this chapter.

(1) The particular shall control the general.

(2) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

(3) Words used in the present tense shall include the future, and words used in the singular number shall include the plural and the plural the singular.

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words not herein defined shall have the meaning customarily assigned to them.

ACCESSORY BUILDING OR STRUCTURE. A structure customarily incidental and subordinate to the principal structure and located on the same zoning lot as the principal building.

ACCESSORY USE. A use customarily incidental and subordinate to the principal use of the land or building and located on the same zoning lot as the principal use.

ACTUAL CONSTRUCTION. The installation of a building foundation in conformance with this chapter and the County Building Code at the time of construction.

ADJACENT (LOT OR PARCEL). A lot or parcel which abuts another parcel or is directly across or directly on the opposite side of a public street right-of-way or private easement from another lot or parcel.

AGRICULTURE. Any land or building used for pasturage, floriculture, dairying, horticulture, viticulture, and livestock and poultry husbandry.

ALLEY. Any dedicated public right-of-way, affording secondary means of access to abutting property not intended for general vehicle use nor as the primary means of access to property.

ALTERATIONS. Any change, addition, or modification in construction, or type of occupancy, any change in the structural members of a building, such as load-bearing walls, columns beams, girders, the consummated act which may be referred herein as ***ALTERED*** or ***RECONSTRUCTED***.

AUTOMOBILE REPAIR. General repair, engine rebuilding, or reconditioning of motor vehicles; collision service collision service such as body, frame, or fender straightening or repair; glass and trim shops; and painting.

AUTOMOBILE SERVICE STATION. A structure used for the retail sale or supply of fuels, lubricants, air, water, and other operating commodities for motor vehicles or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles and including space for storage, motor repair servicing, but not including bumping, painting, or refinishing.

BASEMENT. A portion of a building partly below grade, accessible from the interior of the building and affording headroom for standing, and having more than one-half of its height below grade.

BOARDING (OR ROOMING) HOUSE. A dwelling other than a hotel or motel, where meals and lodging are provided for compensation to three or more persons by pre-arrangement, but not for

transients.

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

BUILDING CODE. The Building Code of Hillsdale County, as amended.

BUILDING HEIGHT. The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the **HEIGHT** may be measured from the average ground level of the grade at the building wall.

BUILDING INSPECTOR. The building official of Hillsdale County or his or her authorized representative.

CLINIC. Any establishment where human patients are examined or treated by professional medical personnel, but not hospitalized overnight.

CLUB. An organization of persons for special purposes or interests for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit, and open only to members, and not the general public.

COMMON LAND. A parcel(s) of land with improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by owners or occupants of individual buildings in a subdivision or condominium projects.

CONDOMINIUM UNIT. The portion of a condominium project or site condominium subdivision which is designed and intended for separate ownership and use, as described in a master deed creating the project, regardless of intended use. The owner of a **CONDOMINIUM UNIT** also owns a share of the common land or common elements described in the master deed. The terms **CONDOMINIUM UNIT** and **SITE CONDOMINIUM** shall be considered the equivalent of "lot" for the purpose of this chapter with respect to lot size, minimum lot width, maximum lot coverage, and maximum floor area ratios.

CONGREGATE HOUSING. A dwelling unit(s) provides shelter and service for elderly persons. This may include meals, housekeeping, and personal care assistance. Such a facility offers a semi-independent lifestyle, but does not provide on-site intensive health care, nursing, the dispensing of medications and so on.

CORRECTIONAL FACILITY. Any lot or parcel and/or buildings intended for use as a prison, reformatory, jail, or detention facility for youth or adults, including so-called halfway houses in which persons convicted of crime reside under supervision of a guard or counselor.

COUNCIL. The City Council of Reading.

CUL-DE-SAC. A dead-end street or private access easement that ends in a circular section which provides for vehicle turnaround.

DAY CARE FACILITY. A facility for the care of children under 18 years of age, as licensed and regulated by the state under Public Act 116 of 1973, being M.C.L.A. §§ 722.111 through 722.128, and the associated rules of the State Department of Social Services. Such organizations are further defined as follows.

(a) **CHILD CARE CENTER.** A facility, other than a private residence, receiving more than

12 preschool or school age children for group care for periods of less than 24 hours a day, and where parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. **CHILD CARE CENTER** does not include Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

(b) **FAMILY DAY CARE HOME.** A private home in which one but not more than six minors are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

(c) **GROUP DAY CARE HOME.** A private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks in a calendar year.

DECELERATION LANE. An added roadway lane that permits vehicles to slow down before turning, which is adjacent to but not part of a through or moving lane of a public street.

DENSITY. The number of dwelling units developed per acre of land, excluding public street rights-of-way or right-of-way included in a private street easement.

DETENTION BASIN FOR STORM WATER. A storm water holding facility intended to hold and gradually release storm water into an established public drainage course.

DISTRICT. A portion of the city within which on a uniform basis, certain uses of land and buildings are permitted, as set forth in this chapter, or within which certain lot areas are established or within which a combination of such aforesaid conditions are applied.

DRIVE-IN ESTABLISHMENTS. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or drive-up window for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

DWELLING, MULTIPLE-FAMILY. A building used or designed as a residence for three or more families living independently of each other, and subject to the same aesthetic compatibility and other standards as outlined for single-family dwellings below.

DWELLING, SINGLE-FAMILY. A detached residence designed or occupied by one family only with housekeeping and cooking facilities, complying with the following standards.

(a) The dwelling shall contain a minimum of seven hundred (720) square feet of living area and comply with BOCA Property Maintenance Codes for minimum allowance.

(b) The dwelling shall have a minimum width of 24 feet along any exterior side elevation of the principal living area, exclusive of porches not a part of the main living area.

(c) The dwelling shall have a minimum floor-to-ceiling height of seven and one-half feet.

(d) The dwelling shall be connected to a public sewer and public water supply.

(e) The dwelling shall comply in all respects with the County Building Code.

(f) The dwelling shall comply in all respects with applicable fire codes and regulations and other applicable ordinances.

(g) The dwelling shall be firmly attached to a frost-free foundation constructed on the site in accordance with the County Building Code and, in the case of manufactured housing, in accordance with the specifications of the manufacturer. Except in an approved mobile home park, all manufactured or mobile homes shall be set upon a masonry foundation. Metal skirting shall not be allowed.

(h) The dwelling shall contain storage space either in a basement or closet spaces or in a separate, fully enclosed structure on the site, which aggregate storage space shall be not less than 15% of the interior living area of the dwelling.

(i) All dwelling shall be aesthetically compatible in design and appearance to other dwellings in the neighborhood with not less than two exterior doors, with one being in the front of the home and the other being either in the rear or side of the home.

(j) All dwellings shall have a stone, brick, block concrete, or wood foundation coextensive with the perimeter of the structure, not including minimal projections or cantilevers, or in the case of a dwelling which has a foundational support not coextensive with the perimeter of the structure, a wall or skirting material constructed to be coextensive with the perimeter of the structure and similar in appearance to a stone, brick, block, concrete, or wood foundation to give the appearance of a standard foundation. Said foundation wall shall be durably constructed to last the life of the structure, and shall be installed prior to issuance of a certificate of occupancy.

(k) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by the state law or otherwise specifically required in the ordinances of the city.

DWELLING, TWO-FAMILY. A detached building designed for or occupied exclusively by two families living independently of each other, and subject to the same aesthetic compatibility, and other standards as outlined for single-family dwellings above.

DWELLING UNIT. One or more rooms with independent cooking facilities designed as a unit for residence by one family.

DWELLING UNIT, ATTACHED. Any dwelling unit that shares a common interior wall with another dwelling unit.

DWELLING UNIT, DETACHED. Any dwelling unit which does not share a common wall with another dwelling unit.

ESSENTIAL SERVICE. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of overhead or underground gas, electrical, steam, or water distribution or transmission systems, collection, communication, supply, or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, telephone exchange buildings, public utility or municipal buildings, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public health or safety or general welfare, shall be permitted as authorized or regulated by law and other ordinances of the city in any use district, it being the intention thereof to except such erection, construction, alteration, and maintenance from the application of this chart.

FAMILY. One or two persons or parents, with their direct descendants and adopted children (and including the domestic employees thereof) together with not more than two unrelated persons living together in the whole or part of a dwelling comprising a single housekeeping unit.

FENCE. An accessory structure intended for use as a barrier to property ingress or egress, a screen for privacy from objectionable view or noise, or for decorative purposes.

FLEA MARKET. A space, lot, or building where three or more persons or vendors sell to the general public new or used goods, furniture, antiques, crafts, novelties, or other merchandise.

FLOOD or FLOODING. A general and temporary condition or partial or complete inundation of typically dry land from an overland flow of water or water accumulation as a result of a rainstorm.

FLOOD HAZARD AREA. Land which, on the basis of available flood information, is subject to a 1% chance of flooding in any given year.

FLOOR AREA, GROSS. The sum of all floors of a building measured from the outside dimensions of such building. Unenclosed porches, courtyards, open patios, or deck shall not be considered as part of the **GROSS FLOOR AREA**, except when they are used for commercial purposes such as for display of merchandise.

FLOOR AREA, USEABLE. Gross floor area less interior spaces used for hallways, closets, mechanical and electrical equipment, storage, stairwells, and restrooms. **USEABLE FLOOR AREA** shall be the basis on which to determine required vehicles parking spaces under terms of this chapter.

FOSTER CARE FACILITY. An establishment which provides supervision, assistance protection and personal care, in addition to room and board, to persons. A **FOSTER CARE FACILITY** is other than a home for the aged or nursing home licensed under Public Act 139 of 1956, as amended, or a mental health hospital licensed under Public Act 151 of 1923, as amended.

GARAGE, COMMERCIAL. A facility available to the public or operated for financial gain and used for storage, repair, rental, serving, washing, sale, or equipping motor vehicles.

HISTORIC DISTRICT. An area or group of areas in near proximity that contain one or more resources that are related to history, archaeology, or the culture of the city. The city may establish one or more **HISTORIC DISTRICTS**.

HOME OCCUPATION. An incidental and secondary use of a dwelling unit for business purposes.

HOTEL. A building containing guestrooms in which lodging is provided with or without means for compensation and which is open to transient [or] permanent guests or both, and where no provision is made for cooking in any guest rooms. A **HOTEL** may include a restaurant or a cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

JUNK. Any discarded material or article including but not limited to scrap metal, scrapped, abandoned, or junked motor vehicles, machinery equipment, paper, glass, containers, and structures. It shall not include, however, refuse or garbage kept in a proper container for the purpose of prompt disposal.

JUNK YARD. An open area where waste, used, or second-hand materials are bought and sold, exchanged, stored, packed, disassembled, or handled, including but not limited to scrap iron and other metal, paper, rags, rubber tires, and bottles. A **JUNK YARD** includes automobile wrecking

yards and includes any area of more than 200 square feet for storage, keeping, or abandonment of junk, but does not include materials stored entirely within enclosed buildings.

KENNEL, COMMERCIAL. Any lot or premises on which more than four or more dogs, cats, or other household pets are either permanently or temporarily boarded or bred or sold.

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

LOT. Land which is vacant or occupied by a building and its accessory buildings together with such yards and open spaces as are required under the provisions of this chapter. This term includes a site condominium unit. All **LOTS** hereafter created must conform to requirements of this chapter, unless they have been recorded in the County Register of Deeds and were in conformance with the zoning requirements then in effect.

LOT, ACCESS. Any lot hereafter created shall have direct access to a public street, must have the required minimum lot width abutting the public street, and conform to minimum lot area requirements of this chapter.

LOT AREA. The total horizontal area within the lot lines exclusive of any portion of the right-of-way of any public street.

LOT, CORNER. A lot at the junction of and fronting on two or more intersecting street rights-of-way.

LOT COVERAGE. The part or percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

LOT, DOUBLE FRONTAGE. An interior lot having frontages on two more or less parallel streets, as distinguished from a corner lot.

LOT DEPTH. The mean horizontal distance from the front lot line to the rear lot line.

LOT, FLAG. A lot created having less than the required lot as specified herein. If such lot has been created in violation of this chapter or prior zoning ordinances of the city, it may not be used for any new use or for constructing a building until and unless it conforms to the requirements of this chapter.

LOT LINES. The property lines bounding the lot as defined herein.

(a) **FRONT LOT LINE.** In the case of a lot abutting upon one public or private street, the line separating such lot from such street right-of-way.

(b) **REAR LOT LINE.** The lot line that is opposite and most distant from the front lot line of the lot.

(c) **SIDE LOT LINE.** Any lot line not a front lot line or a rear lot line. A **SIDE LOT LINE** separating a lot from another lot or lots is an interior **SIDE LOT LINE**.

LOT OF RECORD. A lot which actually exists in a subdivision plat or recorded site condominium subdivision as shown in the Register of Deeds of the county or has lawfully been assigned a property tax identification number.

LOT WIDTH. The mean horizontal distance between the side lines, measured at right angles to the side lot lines. Where side lot lines are not parallel the lot width shall be considered the average

of the width between such side lot lines.

MASTER DEED. The set of documents recorded and which contain a condominium plan, and covenants, bylaws, easement descriptions, survey, and related documents pertaining to ownership units, limited and general common elements of a condominium project developed or to be developed under terms of Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, as amended.

MASTER PLAN. The document containing development policies, future land use plan and related plans, together with supporting documentation, as most recently adopted by the City Planning Commission pursuant to Public Act 285 of 1931, being M.C.L.A. §§ 125.3801 et seq., as amended.

MOBILE HOME. Any vehicle or building without motive power designed functionally as a dwelling unit and for periodic movement upon a highway as defined and regulated by the Mobile Home Commission Act, being M.C.L.A. §§ 125.2301 through 125.2350. This term shall include those vehicles commonly referred to as a trailer, house trailer, trailer coach, or manufactured housing, but shall not include those vehicles commonly referred to as travel trailers or recreational vehicles.

MOTEL. A series of attached, semi-detached, or detached rental units containing bedroom, bathroom, and closet space wherein such a unit has a separate individual entrance leading directly from the outside of the building.

NONCONFORMING STRUCTURE. A building or portion thereof lawfully existing at the effective date of this chapter, or amendments thereof, and that does not conform to the provisions of the ordinance in the district in which it is located.

NONCONFORMING USE. Any pre-existing use of land or building which does not conform to requirements of this chapter at this time of the adoption of this chapter or amendments thereto, to the regulations other than height, area, and yard requirements for the district in which it is located. A **LAWFULNONCONFORMING USE** is a use that when established was conforming to zoning ordinance requirements then in effect and may be continued exactly as it existed at the time it was established. An **ILLEGAL NONCONFORMING USE** is one which when established was in violation of the zoning regulations then in effect and shall be considered a nuisance per se and shall immediately be discontinued.

OFF-STREET PARKING AREA. A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering as to provide access for entry and exit for the parking of more than two automobiles.

PRINCIPAL BUILDING. A building in which is conducted the main use of the lot upon which it is situated.

PRINCIPAL USE. The main lawful use to which the premises are devoted and the main purpose for which the premises exist.

PUBLIC, PAROCHIAL, AND PRIVATE SCHOOLS. Institutions offering courses in general education not operated for profit.

PUBLIC STREET. Any right-of-way by easement or ownership operated by the city, County Road Commission, or the State Department of Transportation. No part of any such right-of-way shall be considered when determining compliance with required building setback, lot area, or other dimensional requirement of this chapter.

REAL VALUE (a.k.a. **MARKET OR TRUE CASH VALUE**). The assessed value multiplied by the city assessment factor.

RECREATIONAL VEHICLE. A self-propelled vehicle designed as a travel unit for occupancy as a temporary or seasonal living unit, and not exceeding 300 square feet in area. A **RECREATIONAL VEHICLE** is not a dwelling under term of this chapter.

REFUSE STORAGE SPACE. Any exterior area, which is not a principal permitted use, for placement of container structures or other receptacle intended for temporary storage of solid waste materials.

SETBACK LINE. A line defining the minimum front, side, and rear yard requirements outside of which no building or structure may be located.

SEWERS, PUBLIC. A public sewer system shall be defined as a system of pipes and structures including pipes, channels, conduits, manholes, pumping station, sewage or waste treatment works, diversion and regulatory devices, out-fall structures, and appurtenances, collectively or severally, actually used or intended for use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating, or otherwise handling sanitary sewage of such a nature as to be capable of adversely affecting the public health; operated and maintained by the general public, residential district or area, firm, or corporation.

SIGN. Any structure or natural object such as a tree, rock, and the ground itself or device attached thereto or planted or represented thereon, which is used to attract attention to any object, product, place, activity, person, institution, organization, or business and which includes any letter, word model, banner, flag, pennant, insignia, device, or representation used as or which is in representation of an announcement, direction, or advertisement. For the purposes of this chapter, the word **SIGN** does not include the flag, pennant, or insignia of this nation, state, city, or other political unit, or any political, charitable, or civic or like campaign or event, nor does it include legal notices, address, or official signs of any governmental agencies.

SIGN, OUTDOOR ADVERTISING. Any sign situated on privately owned land on which appears pictorial or written information about a commercial enterprise which is not a principal permitted use or permitted accessory use on the same lot or parcel. **OUTDOOR ADVERTISING SIGNS** are not permitted in the city, unless licensed by the state.

SITE CONDOMINIUM SUBDIVISION. A division of land intended for ownership as a condominium unit under provisions of Public Act 59 of 1978, being M.C.L.A. §§ 559.101 through 559.272, as amended, which is not subject to provisions of Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended.

SITE PLAN. A scaled drawing or set of drawings illustrating existing conditions on land and all proposed improvement to the land, and which meets all requirements of this chapter.

STREET. A public dedicated right-of-way, other than an alley, which affords traffic circulation and principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected which requires permanent location on the ground or attachment to something having such location on the ground, but not limited to all buildings, freestanding signs, and utility power transmission poles, and not including sidewalks, drives, fences, and patios.

SUBDIVISION (or **PLAT**). Divisions of land pursuant to Public Act 288 of 1967, being M.C.L.A. §§ 560.101 through 560.293, as amended, for which plans are drawn and recorded in

conformance with said Act and ordinances of the city.

TOURIST HOME. A dwelling in which lodging is provided by a resident family in its home for compensation, mainly for transients. A ***TOURIST HOME*** may be called a bed and breakfast establishment. A ***TOURIST HOME*** is not a hotel, motel, or a boarding house.

TRAVEL TRAILER. A vehicle designed as a travel unit for occupancy as a temporary or seasonal living unit, capable of being towed by a passenger automobile or a light-duty truck, and not exceeding 300 square feet in area.

YARDS. The open spaces on the same lot with a principal building between the principal building and the nearest lot line and unoccupied and unobstructed from the ground upward, except for accessory structures and uses or such projections as are expressly permitted by this chapter.

(a) ***YARD, FRONT.*** A yard extending the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.

(b) ***YARD, REAR.*** An open space extending the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

(c) ***YARD, SIDE.*** An open space between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard.

VARIANCE, DIMENSIONAL. A relaxation or modification of any dimensional requirement contained in this chapter based on specific practical difficulty, as determined by the Zoning Board of Appeals, and which is not self-imposed as a result of action(s) by the landowner or applicant.

VARIANCE, USE. A use allowed in any zoning district that is not otherwise permitted. A use variance by the City Zoning Board of Appeals is not permitted under terms of this chapter.

ZONING ADMINISTRATOR. The City Manager of the City of Reading shall be appointed as Zoning Administrator. The City Manager may designate a subordinate to undertake administrative and enforcement duties under terms of this chapter.

ZONING BOARD. The Planning Commission of the City.

ZONING BOARD OF APPEALS. The City Zoning Board of Appeals created under authority of Public Act 207 of 1921, being M.C.L.A. §§ 125.3101 et seq., as amended, and continued under the authority of Public Act 110 of 2006.

ZONING DISTRICT. A portion of the city within which certain unique regulations apply uniformly under provisions of this chapter.

(Ord., § 202, passed 6-11-2002; Ord. passed 4-12-2011)

DISTRICT REGULATIONS

§ 152.020 ZONING MAP.

A map, entitled City of Reading Official Zoning Map, is hereby adopted and incorporated as part of this chapter (see Appendix A). The Official Zoning Map shall be kept on file available for examination at City Hall.

(Ord., § 301, passed 6-11-2002)

§ 152.021 ZONING DISTRICTS.

(A) The city is hereby divided into districts stated in this chapter as shown by the district boundaries on the Zoning Map.

(B) The districts are known as the following:

R-1	Low Density Residential District
R-2	Moderate Density Residential District
R-3	High Density Residential District
O	Office District
B-1	Highway Commercial District
B-2	Central Business District
I-1	Industrial District
I-2	Industrial Park District

(Ord., § 302, passed 6-11-2002)

§ 152.022 INTERPRETATION OF DISTRICT BOUNDARIES.

District boundaries shown within lines of streets, streams, and transportation rights-of-way shall be deemed to coincide unless approximately lot or property lines, said lines shall be deemed to coincide unless otherwise indicated. When location of a district boundary is uncertain, the Board of Appeals shall interpret the exact location of the district boundary.

(Ord., § 303, passed 6-11-2002)

§ 152.023 ZONING OF ANNEXED AREAS.

Any area annexed to the city shall, immediately upon such annexation, be automatically classified as an R-1 (Residential District) until a zoning map for said area has been adopted by the Council.

(Ord., § 304, passed 6-11-2002)

§ 152.024 INTENT OF DISTRICTS.

The intent and purposes of the districts are set forth below.

(A) *R-1 (Low Density Residential Districts)*. The R-1 Low Density Residential District is designated principally for single-family residential use and uses normally associated with residential neighborhoods. Buildings with two to four dwelling units may be permitted by special use permit,

subject to yard area and other requirements of this chapter. Commercial and industrial uses are excluded in order to reduce excessive noise, traffic, and congestion.

(B) *R-2 (Moderate Density Residential District)*. This district is intended for moderate density placement of single-family and multiple-family residential use. Buildings with two to eight dwellings may be permitted by special use permit, subject to yard area and other requirements of this chapter and subject to location in accordance with the adopted Master Plan for the city.

(C) *R-3 (High Density Residential District)*. This district is intended for high density residential and multiple-family use, subject to location in accordance with the adopted Master Plan for the city.

(D) *O (Office District)*. This district is intended for limited area adjacent to the Central Business District and portions of Main Street and Michigan Avenue. This district will encourage adaptive reuse of older buildings and large homes. It is expected that such allowing adaptive use will coincide with restoration of those buildings and homes in a historically correct manner.

(E) *B-1 (Highway Commercial District)*. This district is intended to provide for various commercial establishments offering accommodations, supplies, and services requiring visibility to this district, and should be located along a major street or state highway. This district should be visible from and access directly to major thoroughfares and should encourage grouping of various facilities into centers and discourage dispersion and strip development of these activities.

(F) *B-2 (Central Business District)*. This district is intended to encompass the retail, service, and office establishments that form the Downtown Business District and which provide retail convenience and comparison goods and service for the trade area. The nature and high density and intensity of commercial and related uses in this district eliminate the necessity for yard and lot requirements. Only uses that are compatible in such a higher density environment are permitted.

(G) *I-1 (Industrial District)*. The I-1 Industrial District is designed to provide suitable space for industrial uses which are primarily of a manufacturing and assembling character, to operate in a safe, non-objectionable, and efficient manner, without adverse effects on the residential and commercial areas in the city. Provisions for visual and sound buffers are required as well as reasonable separation by distance between industrial uses and residential uses in the vicinity.

(H) *I-2 (Industrial Park District)*. The I-2 Industrial Park District is limited to the area included in the established City Industrial Park. The standards for this district parallel private land use covenants in place for the entire industrial park property, excepting provisions herein for visual and sound buffer wherever an industrial use is adjacent to existing or planned residential land use.

(Ord., § 305, passed 6-11-2002)

§ 152.025 DISTRICT AREA, YARD, HEIGHT, AND BULK REQUIREMENTS.

(A) *Intent*. The minimum lot area, minimum width of lot, minimum front yard, and minimum width of each side yard, minimum rear yard, maximum rear yard, maximum structure height, and maximum lot coverage for each district shall be in accordance with the Schedule of Regulations table in division (B) below.

(B) *Schedule of regulations*.

<i>Schedule of Regulations</i>

<i>Zoning District</i>	<i>Minimum Lot Area (Sq. ft.)(1)</i>	<i>Minimum Lot Width</i>	<i>Setbacks (Front/Sides/Rear)</i>	<i>Maximum Height</i>	<i>Maximum Lot Coverage</i>
<i>R-1 Residential</i>					
1-family dwelling	9,600	66 ft.	20/10/35	25 ft.	25%
1-family dwelling	15,000(2)	100 ft.	30/15/35	25 ft.	15%
2-family dwelling	7,600(3)	100 ft.	30/15/35	25 ft.	25%
3–4 family dwelling	7,600(3)	120 ft.	40/20/40	30 ft.	25%
<i>R-2 Residential</i>					
1-family dwelling	7,200(3)	66 ft.	20/10/30	25 ft.	25%
2-family dwelling	6,000(3)	80 ft.	20/10/30	25 ft.	30%
3–6 family dwelling	5,000(3)	120 ft.	40/20/40	35 ft.	35%
<i>R-3 Residential</i>					
1-family dwelling	7,200(3)	66 ft.	20/10/30	25 ft.	25%
2-family dwelling	6,000(3)	80 ft.	20/10/30	25 ft.	30%
3–8 family dwelling	4,000(3)	120 ft.	40/20/40	35 ft.	35%
9+ family dwelling	4,000(3)	140 ft.	40/20/40	35 ft.	35%
<i>O Office</i>	6,000(3)	66 ft.	20/10/35	30 ft.	40%
<i>B-1 Highway Commercial</i>	12,000(3)	80 ft.	50/10/30(4)	30 ft.	40%
<i>B-2 Central Business</i>	No minimum	None	0/0/0	35 ft.	100%
<i>I-1 Industrial</i>	40,000(3)	200 ft.	75/50/50(4)	40 ft.	50%
<i>I-2 Industrial Park</i>	40,000	150 ft.	50/15/15(5)	40 ft.	50%
(1) For all residential districts, the minimum lot area shown is per dwelling unit					
(2) Without public sanitary sewer, but with an approved on-site septic tank and drain field					
(3) Not permitted unless served by public sanitary sewer					
(4) If abutting residential use and area are planned for residential use, the required minimum setback shall be increased by 50% of the amount stated					
(5) 50 feet if abutting or facing any residential use or residential zoning district					

(Ord., §§ 307, 307.1, passed 6-11-2002)

§ 152.026 HISTORIC OVERLAY DISTRICT.

(A) *Purpose.* The purpose of this section is to safeguard the heritage of the city by preserving a district in the city which reflects elements of its cultural, social, economic, political, or architectural

history; to stabilize and improve property values in such district; to foster civic beauty; to strengthen the local economy; and to promote the use of historic districts for the education, pleasure, and welfare of the citizens of the city.

(B) *Overlay District.* This Historic Overlay District shall be a superimposed district over the Zoning Map established by this chapter. The regulations of this Overlay District are in addition to any regulations in the underlying zoning districts. The regulations of this District supersede all conflicting regulations of the underlying zoning districts to the extent of such conflict and no further. The Historic Overlay map on the subsequent page shall establish the Overlay District.

(C) *Uses permitted.* Any land use permitted by right in the underlying zoning district shall be permitted in this Overlay District subject to the requirements of this Overlay District. Any land use permitted by special use permit in the underlying land use district shall be permitted in this Overlay District, subject to the standards, conditions, and approvals required for a special use permit in addition to the requirements of this Overlay District.

(D) *Use regulations.*

(1) Because of the unique historic character of the central business area of the city no development, preservation, and beautification will be permitted without a site plan approval by the Planning Commission.

(2) In addition to the requirements for preparation of a site plan, pursuant to division (E) of this section, the site plan shall also include:

(a) A rendering of exterior architectural features, along with a notation of materials and colors proposed to be used;

(b) A rendering of proposed signs, lamp posts, structures on sidewalks; and

(c) A rendering of the building, in relationship to the surrounding area, such as but not limited to adjacent buildings.

(3) At least two copies of the renderings shall remain as file copies with the site plan.

(E) *Historic standards.* In addition to the standards for site plan review, pursuant to division (F) of this section, standards shall also include the following consideration. In reviewing plans, the Planning Commission shall give consideration to:

(1) The historic or architectural value and significance and its relationship to the historical value of the surrounding area, using design guidelines which address exterior features of the building;

(2) The relationship of the exterior architectural features of the structure, including but not limited to signs, lamp posts, structures on sidewalks, to the rest of the structure and to the surrounding area; and

(3) The general compatibility of exterior design, arrangement, texture, and materials proposed to be used.

(a) The Planning Commission shall pass only on exterior features of a structure and shall not consider interior arrangements.

(b) In case an application for repair or alteration affecting the exterior appearance of a structure or for the moving or demolition of a structure which the Planning Commission deems so

valuable that the loss thereof will adversely affect the overall character of the historic area, the Planning Commission shall endeavor to work out with the owner an economically feasible plan for preservation of the structure.

(c) An application for repair or alteration affecting the exterior appearance of an historic structure, or for its moving or demolition, shall be approved by the Planning Commission if any of the following conditions prevail, and if in the opinion of the Planning Commission, the proposed changes will materially improve or correct these conditions.

1. The structure constitutes a hazard to the safety of the public or its occupants.
2. The structure is a detriment to a major improvement program which will be of substantial benefit to the community.
3. Retention of the structure would cause undue financial hardship to the owner.
4. Retention of the structure would not be in the best interest of the majority of the community.

(F) *Review procedure.*

(1) *Review procedure.* Review of a site plan shall be as provided for in § 152.106.

(2) *Site plan.* When reviewing a site plan, the site plan shall be approved if there is substantial compliance with the guidelines as set forth in this chapter. All decisions of the Planning Commission related to the historic preservation aspect of site plan reviews shall be appealed to the Zoning Board of Appeals, if the disagreement with a review decision is based on substantial evidence.

(Ord., § 308, passed 6-11-2002)

DISTRICT USES

§ 152.040 USES IN DISTRICTS.

Permitted and special land uses for each district are set forth in the District Use Schedule set out in §§ 152.041 through 152.048. Any use not expressly listed for a district is prohibited in that district. Special land uses require the review and approval of the Planning Commission subject to the provisions of §§ 152.105 and 152.106.

(Ord., § 306, passed 6-11-2002)

§ 152.041 R-1 (LOW DENSITY RESIDENTIAL DISTRICT).

(A) *Permitted uses.*

- (1) Single-family detached dwelling;
- (2) Home occupation;
- (3) Family day care home;

- (4) Essential services; and
- (5) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(B) *Special land uses.*

- (1) Agricultural;
- (2) Churches;
- (3) Cemeteries;
- (4) Swimming pool clubs;
- (5) Public, private, and parochial schools;
- (6) Publicly owned and operated libraries, parks, recreational facilities, community centers;
- (7) Golf courses;
- (8) Funeral homes, ambulance service;
- (9) Beauty parlor with a maximum of one operator, two chairs and in compliance with the schedule in § 152.068(C);
- (10) Real estate sales;
- (11) Tourist home;
- (12) Two-family dwelling;
- (13) Home occupation in single-family dwelling; and
- (14) Group day care home.

(Ord., § 306.1, passed 6-11-2002)

§ 152.042 R-2 (MODERATE DENSITY RESIDENTIAL DISTRICT).

(A) *Permitted uses.*

- (1) Multiple-family building, with three to eight dwelling units;
- (2) Two-family dwellings;
- (3) Convalescent homes;
- (4) Churches;
- (5) Family and group care facilities;
- (6) Swimming pool clubs;
- (7) Tourist homes;
- (8) Boarding, rooming, or lodging house;
- (9) Essential services; and

(10) Accessory buildings and uses customarily incidental to any of the above permitted uses.

(B) *Special land uses.*

- (1) Single-family detached dwelling;
- (2) Medical and dental clinics;
- (3) Mobile home park;
- (4) Public, private, and parochial schools;
- (5) Publicly owned and operated libraries, parks, recreational facilities, community centers;
- (6) Hospitals for humans;
- (7) Home occupation in single-family dwelling; and
- (8) Child care center.

(Ord., § 306.1, passed 6-11-2002)

§ 152.043 R-3 (HIGH DENSITY RESIDENTIAL DISTRICT).

(A) *Permitted uses.*

- (1) Multiple-family building, with up to eight dwellings per building; and
- (2) As permitted in the R-2 District.

(B) *Special land uses.*

- (1) Multiple-family building, with more than eight dwellings per building; and
- (2) As permitted by special use in the R-2 District.

(Ord., § 306.1, passed 6-11-2002)

§ 152.044 O (OFFICE DISTRICT).

(A) *Permitted uses.*

- (1) Abstracting service;
- (2) Accounting/bookkeeping;
- (3) Architectural/engineering/planning;
- (4) Banking/credit union;
- (5) Blueprinting/copy service;
- (6) General business offices;
- (7) Chiropractor/optometry/medical/dental, other health services;

- (8) Securities broker/insurance service;
- (9) Government services;
- (10) Locksmith;
- (11) Real estate broker;
- (12) Tailor/seamstress; and
- (13) Travel agency.

(B) *Special land uses.*

- (1) Advertising service-direct mail;
- (2) Antiques-retail;
- (3) Art gallery/music or photo studio;
- (4) Banking drive-up window;
- (5) Funeral home/mortuary;
- (6) Church/synagogue or place of worship; and
- (7) Television/radio/CATV studio.

(Ord., § 306.1, passed 6-11-2002)

§ 152.045 B-1 (HIGHWAY COMMERCIAL DISTRICT).

(A) *Permitted uses.*

- (1) Automobile service stations;
- (2) Eating and drinking establishments, both drive-in and non-drive-in types;
- (3) Motels;
- (4) Commercial indoor and outdoor amusement;
- (5) Self-service laundromats and dry cleaning establishments; and
- (6) Retail businesses that sell foods, drugs, liquor, and notions.

(B) *Special land uses.*

- (1) Radio and television sending or boosting stations;
- (2) Outdoor lawn and garden supplies and equipment;
- (3) Outdoor motor vehicle, trailer, boat sales and service;
- (4) Drive-in theaters;
- (5) Animal clinics and kennels;

- (6) Automobile sales and repair;
- (7) Professional offices and services;
- (8) Convalescent homes; and
- (9) Other similar and compatible uses as determined by the Planning Commission and approved as a special land use.

(Ord., § 306.1, passed 6-11-2002)

§ 152.046 B-2 (CENTRAL BUSINESS DISTRICT).

(A) Permitted uses.

- (1) Business services, including banks, loan offices, insurance offices, and real estate offices;
- (2) Indoor retail business which supplies commodities, such as but not limited to food, drugs, liquor, furniture, clothing, dry goods, notions, or hardware;
- (3) Offices and office buildings of an executive, administrative, or professional nature;
- (4) Personal services, such as but not limited to repair shops (watches, radio, television, shoe, and the like), tailor shops, beauty parlors, barber shops, photographers, and dry cleaners;
- (5) Eating and drinking establishments of a non-drive-in type;
- (6) Indoor commercial amusements;
- (7) Newspaper offices and printing shops;
- (8) Skilled trade services including plumbing, electrical, and heating;
- (9) Business schools, including but not limited to dance schools, music and voice schools, art studios;
- (10) Clubs, fraternal, and lodge halls;
- (11) One dwelling unit located above the ground floor in an existing commercial building;
- (12) Essential services including offices; and
- (13) Accessory structures customarily incidental to the above permitted uses.

(B) Special land uses.

- (1) Ambulance service;
- (2) Automobile service stations;
- (3) Automobile repair;
- (4) Small animal clinics, except kennel;
- (5) Offices; and
- (6) Other similar and compatible uses as determined by the Planning Commission and as

approved as a special land use.

(Ord., § 306.1, passed 6-11-2002)

§ 152.047 I-1 (INDUSTRIAL DISTRICT).

(A) *Permitted uses.*

- (1) Warehousing and wholesale sales establishments;
- (2) Vehicle sales and service;
- (3) Truck terminals;
- (4) Printing plants;
- (5) Building material sales;
- (6) Storage facilities for building materials, equipment, and supplies;
- (7) Research and testing laboratories;
- (8) Essential services including offices and maintenance depots;
- (9) Assembly of articles or merchandise from previously prepared materials;
- (10) Accessory buildings and uses customarily incidental to the above permitted uses;
- (11) Offices of an executive, administrative, or professional nature; and
- (12) Retail sales of products manufactured or processed on site. Sales are limited to 25% of gross floor area.

(B) *Special land uses.*

- (1) All manufacturing actually involving the conversion, treatment, or procession of raw material or previously processed material into another form;
- (2) Bulk fuel storage;
- (3) Sewage disposal plants;
- (4) Incineration plants;
- (5) Airports;
- (6) Sanitary landfills; and
- (7) Power generating plants.

(Ord., § 306.1, passed 6-11-2002)

§ 152.048 I-2 (INDUSTRIAL PARK DISTRICT).

(A) *Permitted uses.* Same as uses permitted in the I-1 Industrial District.

(B) *Special land uses.* Same as uses permitted by special land use in the I-1 Industrial District.
(Ord., § 306.1, passed 6-11-2002)

SUPPLEMENTAL REGULATIONS

§ 152.060 NONCONFORMITIES.

All nonconforming buildings and structures, nonconforming uses of land or structures, and nonconforming lots shall comply with the following provisions.

(A) *Intent of provisions.*

(1) Nonconforming uses, buildings, and structures, and nonconforming lots are incompatible with and often detrimental to nearby permitted uses, structures, and lots, and land in the zoning districts in which they are located; they cause disruption of the comprehensive land use pattern of the city; and they may inhibit present and future development of nearby properties.

(2) It is the intent of this chapter to limit expansion of nonconforming buildings and structures and to eliminate nonconforming uses.

(3) It is the intent of this chapter to limit expansion of nonconformities shall not further depart from requirements of this chapter. A variance shall not be granted by the Zoning Board of Appeals having the effect of increasing the degree of existing nonconformity.

(B) *General provisions.*

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

(2) Uses of land or structures existing prior to the enactment of this chapter, which are listed as special land uses in the district in which they are located, shall not be considered as nonconforming uses, but shall be deemed a conforming use in such district without further action. However, any expansion in conformance with this chapter shall require a special use permit issued by the Planning Commission.

(3) A nonconforming use may be changed to another nonconforming use only if the Planning Commission finds the proposed use to be more appropriate to the district than the existing nonconforming use.

(4) Any building or structure, parcel of land, or building and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall not thereafter be devoted to any use other than those uses which are permitted in the district in which the structure or land is located.

(C) *Nonconforming building and structure.* Any nonconforming building or structure may be continued subject to the following provisions.

(1) A nonconforming building or structure may not be enlarged or structurally altered in any manner which increases the nonconformity. Expansions of nonconforming buildings may be permitted by right, so long as any expansion or alteration conforms to all requirements of this chapter.

(2) Should any nonconforming building or structure be destroyed by any means to an extent of more than 50% of its true cash value, exclusive of the foundation, at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

(3) Should such building or structure be moved from the lot or parcel or relocated on the lot or parcel, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(D) *Nonconforming use of buildings.* Nonconforming uses of structures may be continued subject to the following provisions.

(1) A nonconforming use shall not be relocated from one parcel to another.

(2) When a nonconforming use of a building is discontinued or ceases to exist for six consecutive months, the building shall not thereafter be used except in conformance with the regulations in the district in which it is located.

(3) If the nonconforming use of land ceases for any reason for a period of more than 90 consecutive days, the nonconforming uses shall not be reestablished and any subsequent use of such land shall conform to the requirements of this chapter.

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

(E) *Nonconforming uses of land.* Nonconforming uses of land may be continued subject to the following provisions.

(1) A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) A nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

(3) If the nonconforming use of land ceases for any reason for a period of more than 90 consecutive days, the nonconforming uses shall not be reestablished and any subsequent use of such land shall conform to the requirements of this chapter.

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

(F) *Nonconforming lots.*

(1) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory structures may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. This provision shall apply even though such lots fail to meet the requirements for area, or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located. For existing lawful lots of record located within a zoning district other than R-1 or R-2, buildings on such lot shall require site plan review and approval by the Planning Commission. The Planning Commission shall seek to achieve conformance with requirements of this chapter, to the degree which it deems reasonable.

(2) If two or more contiguous lots or parcels or combinations of lots in single ownership are of record at the effective date of this chapter, [but] do not meet the requirements for lot width and area as established by this chapter, the lots or parcels shall be considered as one for the purpose of this chapter, and no portion of said lots or parcels shall be built upon or occupied except in conformance with requirements of this chapter, shall any division of the lots or parcels be made.

(Ord., § 401, passed 6-11-2002)

§ 152.061 ACCESSIBILITY TO PUBLIC STREET.

A zoning permit shall not be issued nor a site plan approved for any building or land use activity on a lot or parcel having less than the required lot width fronting on a public street, except in the case of a lawful nonconforming lot of record.

(Ord., § 402, passed 6-11-2002)

§ 152.062 HEIGHT EXCEPTIONS.

Exceptions to the maximum heights regulations for each district specified in §§ 152.041 through 152.048 of this chapter may be permitted subject to the following provisions:

(A) *Height limitations.* The limitations affecting the height of structures to the following appurtenance appendages and structures, provided they comply with all other provisions of this or any other applicable ordinance: parapet walls, chimneys, smokestacks, silos, church spires, flagpoles, radio and television towers, masts and aerials, penthouses for mechanical equipment and water tanks; and

(B) *Increases in building height.* Building height in excess of the height above average ground level allowed in any district may be permitted, provided minimum front, side, and rear yard depths are increased one foot of height, and provided that adequate fire protection can be demonstrated.

(Ord., § 403, passed 6-11-2002)

§ 152.063 APPLICATION OF YARD REQUIREMENTS.

The following provisions shall apply to the yard requirements specified in this chapter.

(A) *Setback lines.* All front, side, and rear yard setback lines shall be minimum perpendicular distance measured from the structure, excluding all projections not exceeding three feet in length from the structure wall to the respective front, side, or rear lot line; provided, however, the point of measurement of such front, side, or rear lot line shall be at a point within the subject lot and on a line which will measure not less than 20 feet in length and is parallel to the side of the structure from which the distance is measured.

(B) *Accessory structures.* All accessory structures in any district shall be subject to the same dimensional requirements affecting the principal structure; except, however, in residential districts, such accessory structure may be placed not less than three feet from any rear lot line or the rear yard portion of any side lot line; provided, however, no such structure shall be built closer than the minimum front yard or side yard setback required on the lot upon which the structure is proposed or

upon the contiguous lot closest to the location of such accessory structure, nor shall any structure be placed closer than the established setback from any street right-of-way.

(C) *Corner and double frontage lots.* Lots that abut on more than one street shall provide the required front yards along each street.

(D) *Yard for single building.* No space which for the purpose of a building has been counted or calculated as part of a side yard, or front yard, required by this chapter shall be counted or calculated to satisfy or comply with a yard requirement for any other building.

(E) *Nonresidential buildings.* Principal buildings of a nonresidential use hereafter constructed or uses hereafter established shall not be located or conducted closer to any lot line in any of the residential districts than a distance of 40 feet.

(Ord., § 404, passed 6-11-2002)

§ 152.064 ACCESSORY STRUCTURES AND USES.

Accessory structures and uses, except as otherwise permitted in this chapter, shall be subject to the following regulations.

(A) *Yard requirements.* All accessory structures in any district shall be subject to the same yard requirements affecting the principal structure; except, however, in residential districts, detached accessory structures may be placed not less than three feet from any rear lot line or the rear yard portion of any side lot line; provided, however, no such structure shall be built closer than the minimum front yard or side yard setback required on the lot upon which the structure is proposed or upon the contiguous lot closer to the location of such accessory structure.

(B) *Bulk requirement.* Accessory structures shall not occupy more than 25% of the required rear yard.

(C) *Placement of structure.* No detached accessory structure shall be located closer than ten feet to any principal building.

(Ord., § 405, passed 6-11-2002)

§ 152.065 VISIBILITY AT INTERSECTIONS.

In all districts no obstruction, including but not limited to structure, wall, fence, or planting in excess of 30 inches in height, shall be placed on any corner lot within 30 feet of the point of intersection of the two street right-of-way lines.

(Ord., § 406, passed 6-11-2002) Penalty, see § 152.999

§ 152.066 FLOODPLAINS AND FLOOD HAZARD AREAS.

(A) Notwithstanding any other provisions of this chapter, land subject to periodic flooding shall be used only for the following uses:

- (1) Agricultural uses, provided no structures are located within the area subject to flooding; and

(2) Recreational uses, provided no structures are located within the area subject to flooding.

(B) The location and boundaries of land subject to periodic flooding shall be determined by reference to the United States Soil Conservation Service, State Water Resources Commission, or other official authority.

(Ord., § 407, passed 6-11-2002)

§ 152.067 SUBSTANDARD LOTS.

No building permit shall be issued for the construction of any structure upon any lot within any district, which lot cannot meet the dimensional standards and requirements of such district and which lot was created after the enactment of this chapter, after the enactment of any amendment which affects such standards or requirements.

(Ord., § 408, passed 6-11-2002) Penalty, see § 152.999

§ 152.068 OFF-STREET PARKING.

(A) *Generally.* Off-street parking on all districts shall be provided in accordance with the following minimum specifications whenever any new use is established or an existing use is enlarged. Such off-street parking space shall be maintained and shall not be encroached upon by any structures or other uses so long as the principal structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this chapter.

(B) *Space requirements.* The minimum number of off-street parking spaces required are set forth in the schedule of off-street parking spaces in division (C) of this section. Where a use is not specifically mentioned, requirements for similar uses shall apply and shall be interpreted by the Board of Appeals.

(C) *Schedule of off-street parking spaces.*

<i>Uses</i>	<i>Required Spaces</i>
Assembly halls, churches, mortuaries, theaters, lodges, and clubs	1 per 3 seats or per 21 square feet of assembly space, whichever will require the largest number of parking spaces
Automobile service stations	1 per 50 square feet of office space plus 2 per hoist with a minimum of 5 spaces
Beauty or barber shops	2 for each beauty or barber chair
Boarding, rooming, or lodging houses	1 per bed or 1 per 100 square feet of gross floor space, whichever will require the larger number of parking spaces
Bowling alleys	7 per lane
Business services establishments except as otherwise specified	1 per 100 square feet of sales space on ground floor area not including loading and unloading space
Convalescent homes, home for the aged	1 per each 2 beds

Dwelling units	2 per dwelling
High schools	4.5 per classroom; or 1 per 3 permanent seats or per 63 square feet of assembly space in each assembly hall, whichever will require the largest number of parking spaces
Hotels	1 per rooming unit plus 1 for each employee
Industrial establishments	1 for each 2 employees in the largest working shift
Laundromats and coin operated dry cleaners	1 for each 2 machines
Medical and dental clinics	1.5 per 200 square feet of floor area with not less than 10 spaces
Miniature golf	3 for each 1 hole
Motels	1 per rooming unit plus 1 for each employee
Nursery, elementary, and junior high schools	1 per classroom plus 5; or 1 per 9 permanent seats
Personal service establishments, except as otherwise specified herein	1 per 30 square feet of sales area but with not less than 10 spaces
Poolrooms, archery, and other indoor amusement facilities	1 per 50 square feet of activity area
Professional offices of architects, attorneys, accountants, engineers, and the like	1 per 200 square feet of floor space with not less than 3 spaces
Restaurants and bars	1 per 2 seats
Retail store of appliances, furniture, motor vehicles, hardware, lumber, and building materials	1 per 300 square feet of sales area but with not less than 10 spaces
Retail stores, except as otherwise specified herein with a minimum of 5 spaces	1 per 100 square feet of sales area
Swimming pool clubs	1 for each member of family or individuals plus 1 for each employee

(C) *Location of off-street parking area.* All required off-street parking spaces, whether public or private, for nonresidential uses shall be on the same lot as the principal building to be served. If located in the B-2 Central Business District, required parking may be located within 300 feet of the building it is intended to serve as measured from the nearest point of the building to the nearest point of the off-street parking area. Within the B-2 District, public parking spaces may be counted toward the required parking spaces. Parking spaces required for dwelling units shall be located on the same lot as the dwelling unit.

(D) *Collective parking.* Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall be not less than the sum of the requirements for the various individual uses computed separately.

(E) *Requirements cumulative.* The parking requirements for all uses proposed on a parcel of land

shall be cumulative, unless the Planning Commission shall find that the parking requirements of a particular land use occurs at different hours from those of the other land uses such that such particular land use parking requirements can be advantageously used by other land uses, in which event the parking spaces for such particular land uses need not be required.

(F) *Off-street parking area design and construction.* Whenever a parking lot is constructed as required off-street parking, such parking lot shall be laid out and constructed in accordance with the following requirements.

(1) Each parking space shall constitute a net area of not less than 200 square feet. The total lot space, including access lanes, shall constitute at least 300 square feet per parking space.

(2) Ingress and egress points shall be located to minimize traffic congestion and avoid undue interference with pedestrian movement. There shall be no more than two clearly defined access ways abutting on any one street for each parking lot. Approval for the location of exits and entrances shall be obtained from the County Road Commission, City Planner, or City Engineer.

(3) Where a parking lot does not abut on a public street, there shall be provided an access drive leading to the parking area not less than 20 feet in width.

(4) Any off-street parking area shall be surfaced with a durable, dustless surface, and shall be graded and drained to eliminate surface water accumulation; and further shall be provided with a masonry retaining wall if necessitated by a difference in elevation with adjoining lots.

(5) Off-street parking area shall be surfaced with a durable, dustless surface, and shall be graded and drained to eliminate surface water accumulation; and further shall be provided with a masonry retaining wall if necessitated by a difference in elevation with adjoining lots.

(6) Off-street parking shall be no closer than five feet from each property line; provided, however, that a wood or metal fence may be constructed on the property line.

(7) The off-street parking area shall be subject to approval of the Planning Commission to ensure its adequacy, relation to traffic safety, and protection of the adjacent property.

(8) Any person desiring to establish a parking area as an accessory use in a residential district shall submit plans to the Planning Commission showing the location, size, shape, design, landscape, curb cuts, and other features of the parking lot.

(Ord., § 409, passed 6-11-2002)

§ 152.069 OFF-STREET LOADING.

Off-street loading shall be provided in accordance with the specifications in this section in all districts whenever any new use is established or an existing use is enlarged.

(A) *Space required.* Every building which requires the receipt or distribution by vehicles of material or merchandise shall provide off-street loading berths in accordance with the following:

(1) *Retail commercial uses.* All retail sales facilities exceeding 10,000 square feet in area shall provide two loading spaces plus one loading space for every 30,000 square feet of floor space over 10,000 square feet; and

(2) *Industrial and wholesale commercial.* All industrial and wholesale commercial land uses shall provide one loading berth for each 10,000 square feet of floor space, with a minimum of not

less than two loading spaces.

(B) *Site and access.* All loading spaces shall be located and designed to avoid traffic hazard to public use of all public rights-of-way or any required access aisles for off-street parking areas. Each loading space shall be not less than ten feet in width, 50 feet in length, and 15 feet in height.

(C) *Location of loading docks.* A loading dock shall not be located or positioned so as to be in direct line of sight with any dwelling unit. Screen walls or large evergreen trees may be used to screen direct view, subject to approval of a detailed site plan by the Planning Commission.

(Ord., § 410, passed 6-11-2002)

§ 152.070 SIGNS.

No sign shall be permitted except as herein provided.

(A) *General requirements.* In any district all signs shall comply with the following general requirements.

(1) There shall be no flashing, oscillating, or intermittent type or illuminated sign located within the city limits.

(2) No sign shall project over public rights-of-way except those established and maintained by the city, township, county, state, or federal governments.

(3) No sign shall project above the maximum height limitation for the district in which located.

(4) A zoning compliance permit shall be required for the erection, construction, or alteration of any sign, except as hereinafter provided, and all such signs shall be approved by the Zoning Administrator as to their conforming to the requirements of the district wherein such sign or signs are to be located and the requirements of this section.

(5) No sign shall resemble any official traffic control device or railroad sign or signal.

(6) No sign shall be placed nearer any street than one-half the minimum building setback line required for the zoning district in which the sign is to be located.

(7) All directional signs required for the purpose of orientation, when established by the city, township, county, state, or federal government shall be permitted in all districts.

(B) *Signs in residential districts.* No sign shall be permitted in the residential districts except as herein provided:

(1) One non-illuminated real estate or construction sign not exceeding eight square feet in area will be permitted on any property being sold, leased, or developed. Such sign will be removed promptly when it has fulfilled its function;

(2) One sign with a surface area not exceeding six square feet which identifies the use on the premises for any permitted or conditionally permitted use in the respective residential district in which the property is located; and

(3) One bulletin board not exceeding 18 square feet in area will be permitted in connection with any church, school, or similar public structure.

(C) *Signs in business and industrial districts.* In business and industrial districts, no sign shall be

permitted except as herein provided.

(1) One sign in connection with any legal commercial or industrial use or structure will be permitted on the premises of the business, provided such sign carries no information beyond the name, symbol, and nature of the business; provided that, if said commercial use or structure faces more than one road, one sign shall be allowed on each road frontage.

(2) They shall contain no information or advertising for any product or service not sold or processed on the premises.

(3) They shall have an aggregate area not greater than one and one-half square feet for each foot of width of the principal building on the premises.

(Ord., § 411, passed 6-11-2002)

§ 152.071 MOBILE HOME PARK REGULATIONS.

(A) All mobile home parks shall comply with the Mobile Home Act of 1987, being Public Act 96 of 1987, being M.C.L.A. §§ 125.2301 through 125.2350.

(B) In addition, the following standards shall apply.

(1) No minimum area is required for a mobile home park development.

(2) Mobile home sites shall be at least 3,230 square feet in area. Setback requirements are determined by Rules 941 and 944 of the Mobile Home Code.

(3) Minimum widths of roadway within the park shall be as follows.

<i>Motor Vehicle Parking</i>	<i>Traffic Use</i>	<i>Minimum Pavement Width</i>
Parking prohibited	1-way road	13 feet
Parking prohibited	2-way road	21 feet
Parallel parking (1 side)	1-way road	23 feet
Parallel parking (2 sides)	1-way road	33 feet
Parallel parking	2-way road	31 feet
Parallel parking (2 sides)	2-way road	41 feet

(Ord., § 412, passed 6-11-2002)

§ 152.072 PROCEDURE FOR OBTAINING MOBILE HOME PARK APPROVAL.

(A) Pre-application conference(s) are held with the Zoning Administrator and Planning Commission to obtain information and guidance in preparing the application.

(B) Applications for the mobile home park are submitted with the site plans and descriptive statement to the City Manager.

(C) The City Manager shall distribute copies to the Planning Commission for review.

(D) A public hearing on the application and site plan before the Planning Commission is scheduled and held.

(E) The Planning Commission shall, following the public hearing, either approve the application as submitted, approved with conditions, or deny the application, specifying the reasons for denial.

(F) If approved, construction of the Mobile Home Park shall commence within one year following approval by the Department of Commerce.

(Ord., § 413, passed 6-11-2002)

§ 152.073 HOME OCCUPATIONS.

(A) A home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes. Home occupations may include but are not limited to art studios, dress making, professional offices of physicians, dentists, lawyers, engineers, architects, or teaching, with musical instruction limited to not more than two pupils at a time. However, a home occupation shall not be interpreted to include barbershops or beauty parlors; commercial stables or kennels; real estate offices; restaurants; or repair services.

(B) The following additional conditions shall be observed:

(1) The occupation is customarily carried on in a dwelling unit or in a structure or building accessory to the dwelling unit;

(2) The occupation is carried out by a member of the family residing in the dwelling unit with not more than one employee outside the family;

(3) The occupation is carried on wholly within the principal structure or accessory structure;

(4) There shall be no exterior display, exterior sign other than permitted by § 152.070, no exterior storage of material, and no exterior indication of the home occupation or variation from the residential character of the principal structure; and

(5) There shall be no commodity sold on the premises except that which was made on the premises.

(Ord., § 414, passed 6-11-2002)

§ 152.074 MULTIPLE-FAMILY DWELLINGS.

A multiple-family dwelling or building shall not be permitted unless served by a public sanitary sewer operated by the city.

(Ord., § 415, passed 6-11-2002)

§ 152.075 FENCES AND HEDGES.

Fences are permitted, subject to the following conditions.

(A) (1) Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater.

(2) On a corner lot in all residential districts, no fence or other obstruction to vision above a height of three and one-half feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular yard space formed by the intersecting street lines and a line joining points on such street lines 30 feet from the point of the street lines.

(B) Fences located within the required front yard setback shall not exceed 42 inches in height. Plant materials within ten feet of the front lot line shall not exceed 42 inches in height.

(Ord., § 416, passed 6-11-2002)

§ 152.076 TEMPORARY STRUCTURES.

Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six-month period by the Zoning Administrator. One renewal for an additional six months may be permitted if construction of the building is ongoing and timely. Using a basement as a dwelling unit before issuance of a certificate of occupancy for the total structure shall not be permitted.

(Ord., § 417, passed 6-11-2002) Penalty, see § 152.999

§ 152.077 JUNK YARDS AND SIMILAR STORAGE AREAS (INCLUDING AUTOMOBILE WRECKING).

All junk yards shall be completely screened from roads and adjoining lands by an opaque fence or wall eight feet or more in height, maintained in good condition, and of uniform color and appearance.

(Ord., § 418, passed 6-11-2002)

§ 152.078 “USE BY RIGHT” BUILDING ON A LOT.

In all residential districts, the following shall apply.

(A) Not more than one “use by right” building shall be placed on any lot of record.

(B) On unplatted property, not more than one “use by right” building shall be placed within the minimum lot areas established for residential uses in § 152.025(B).

(Ord., § 419, passed 6-11-2002)

ADMINISTRATION AND ENFORCEMENT

§ 152.090 ZONING CHAPTER ENFORCEMENT OFFICIALS.

The City Council shall appoint a Zoning Administrator and such other officials as it from time to time determines by resolution to administer and enforce this chapter and to initiate and prosecute violations. The Zoning Administrator is hereby expressly authorized to issue municipal civil infractions for violation of this chapter.

(Ord., § 501, passed 6-11-2002; Ord. passed 4-12-2011)

§ 152.091 ZONING COMPLIANCE AND BUILDING PERMITS.

(A) *Generally.* No building or structure, or part thereof, shall be hereinafter located, erected, constructed, reconstructed, altered, converted, or enlarged or moved unless a zoning compliance permit shall have first been issued for such work, without a compliance permit having been obtained from the Zoning Administrator. Once a zoning compliance permit is approved, a building permit may be applied for from the Building Inspector of the county.

(B) *Zoning compliance permit.*

(1) The City Council shall establish a compliance permit fee that shall be paid to the city when the zoning compliance permit application is filed with the Zoning Administrator.

(2) For portable accessory structures of less than 100 square feet of area, or for other construction projects where the Building Inspector has determined that no building permit is required, no compliance permit shall be required.

(C) *Zoning compliance permit application.* A compliance permit application is to be submitted to the Zoning Administrator and shall comply with the following requirements:

(1) All applications for compliance permits shall be accompanied by plans showing the following:

(a) The actual shape, location, and dimensions of the lot;

(b) The shape, size, and locations of all buildings or structures to be erected, altered, or moved and of any building or other structures already on the lot;

(c) The existing and intended use of the lot and of all structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate; and

(d) Such other information concerning the lot or adjoining lots as may be essential in determining whether the provisions of this chapter are being observed.

(2) The owner of the premises shall sign the application or an authorized agent.

(D) *Compliance permit fee.* Fees for the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter shall be collected by the Zoning Administrator in advance of issuance. The amount of such fees may be established by resolution of the Council.

(E) *Building permit issuance.* Whenever the buildings, structures, and uses as set forth in the application have been issued a zoning compliance permit and, if required, obtained site plan approval, the County Building Official may issue the applicant a building permit. Where action of the Board of Appeals or the Planning Commission is required in any case, as set forth in this

chapter, the Zoning Administrator shall not issue a zoning compliance permit unless approval has been granted. In any case where a permit is refused, the reason(s) shall be stated in writing to the applicant.

(F) *Zoning compliance permit expiration.* For any zoning compliance permit for which no work is commenced within six months following the date of issuance, said permit shall expire by limitation and fees forfeited. A reapplication and payment of the fee is required upon expiration of any permit previously issued, subject to the provisions of all ordinances in effect at the time of renewal.

(Ord., § 502, passed 6-11-2002)

§ 152.092 CERTIFICATE OF OCCUPANCY.

(A) No land, building, or part thereof shall hereafter be occupied by or for any use unless and until a certificate of occupancy shall have been issued by the County Building Official.

(B) The following shall apply in the issuance of any certificate: until a certificate has been issued no person shall occupy or use any structure hereafter constructed, reconstructed, moved, altered, or enlarged; or [missing text]

(Ord., § 503, passed 6-11-2002)

§ 152.093 AMENDMENTS.

The City Council may, from time to time, on recommendation from the Planning Commission, or on its own motion or petition, amend, supplement, modify, or change this chapter in accordance with and subject to the provisions of Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 through 125.3702. Any petition for or request for an amendment or supplement to this chapter, other than by the City Council, as a prerequisite to the acceptance or consideration of such a petition or request, shall be accompanied by a fee that is from time to time set by resolution of the City Council. The fee so paid shall be used to defray the expense of publishing the required notices and the other expenses of the Planning Commission and Council associated and incurred in connection with the consideration of the petition.

(Ord., § 505, passed 6-11-2002; Ord. passed 4-12-2011)

SPECIAL LAND USE/SITE PLAN REVIEW REQUIREMENTS AND PROCEDURES

§ 152.105 SPECIAL LAND USES.

(A) *Generally.*

(1) The formulation and enactment of this chapter is based upon the division of the city into districts in each of which are permitted compatible uses; however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts, but because of their

actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the city.

(2) Such uses, on account of their peculiar location need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

(B) *Authority to grant permits.* The Planning Commission, as hereinafter provided, shall have the authority to grant special use permits, subject to such conditions of design, operation, and safeguards as the Planning Commission may determine for all special land uses specified in the various district provisions of this chapter.

(C) *Application and fee.* The application for any special land use permit permissible under the provisions of this chapter shall be made to the Planning Commission through the Zoning Administrator by filing an official special land use permit application form, submitting a site plan in accordance with § 152.106, and depositing the required fee as established by resolution of the City Council, except that no fee shall be required of any governmental body or agency. No part of such fee shall be returnable to the applicant.

(D) *Application and site plan requirements.* An application for a special land use permit shall include the applicant's name and address in full, a statement that the applicant is the owner of the property, and a site plan as specified in and in conformance with § 152.106.

(E) *Public hearing.* The Planning Commission shall hold a public hearing upon any application for a special land use permit. The special land uses and activities that are eligible for approval are those that are specified as such in the various district provisions of this chapter. Upon receipt of an application for a special land use which requires discretionary decision:

(1) The city shall publish notice of the request in a newspaper of general circulation within the city;

(2) Notice of the request shall also be sent by mail or personal delivery to:

(a) The owners of property for which approval is being considered;

(b) All persons to whom real property is assessed within 300 feet of the property for which approval is being considered, regardless of whether the assessed property is located within the zoning jurisdiction; and

(c) To the occupants of all structures within 300 feet of the property for which approval is being considered, regardless of whether the occupant is located within the zoning jurisdiction; provided that, if the name of the occupant is not known, the term "occupant" may be used in making notification under this section.

(3) The notice shall be given not less than 15 days before the date the application will be considered for approval. The notice shall do all of the following:

(a) Describe the nature of the request;

(b) Indicate the property that is the subject of the request by including a listing of all existing street addresses within the property; provided, that street addresses do not have to be created and listed if no such addresses exist within the property on the date the request is submitted, in which case other means of identification may be used;

(c) State when and where the request will be considered; and

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

(F) *Required standards and findings for making determinations.* The Planning Commission shall review the site plan submitted in accordance with § 152.106 for proposed conditional uses in terms of the following standards and required findings, and shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot, or parcel meets or does not meet these standards.

(1) Development standards applying to all proposed conditional uses include:

(a) The proposed special land use shall be harmonious with and in accordance with the general objectives, intent, and purposes of this chapter;

(b) The proposed special land use shall be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general area;

(c) The proposed special land use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal; or the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;

(d) The proposed special land use shall not be hazardous or disturbing to existing or future neighboring uses; and

(e) The proposed special land use shall not create excessive additional requirements at public costs for public facilities and service.

(2) Development standards applying to specific proposed special land use: a special land use permit shall not be issued for the uses specified in this division unless complying with the site development requirements as herein specified. The Planning Commission may impose additional conditions and safeguards when deemed necessary by that body in accordance with this division (F).

(G) *Determination and imposition of conditions.* If the facts in the case do not establish beyond a reasonable doubt that the findings and standards set forth in this chapter will apply to the proposed use, the Planning Commissions shall not issue a special land use permit. In approving a special land use permit the Planning Commission shall impose such conditions of use as it deems necessary to protect the best interest of the city and achieve the objectives of this chapter.

(H) *Approval, approval with conditions or denial of special land use permit.* Upon holding a public hearing and the finding that the requirements of divisions (C) through (E) above have been satisfactorily met by the applicant, the Planning Commission shall within 30 days approve, approve with conditions, or deny the special land use application. If approved, the special land use permit shall be issued to the applicant. The Zoning Administrator shall not issue a zoning compliance permit until a copy of the special land use permit, signed by the Planning Commission Secretary, has been received.

(I) *Voiding of special land use permit.*

(1) A special land use permit shall become null and void upon any of the following occurrences:

(a) Construction or use of the property has not commenced in accordance with the requirements, conditions, and safeguards of the permit within 365 days of the date on which it was granted;

(b) Progress toward completion of the development for which the special land use permit was granted is not continuous and ongoing. For purposes of this division (I), **CONTINUOUS AND ONGOING** shall mean the performance of regular work during a Monday through Saturday workweek without interruption that exceeds 14 continuous calendar days or a total of ten workdays within any 30-day period; or

(c) There is a violation of a requirement, condition, or safeguard of the special land use permit.

(2) No special land use permit may be terminated or cancelled except upon a determination by the Planning Commission's written findings of fact following a duly noticed public hearing that one or more of the grounds for termination set forth in division (I)(1) above exists. Notice of the public hearing at which consideration will be given to the termination of a special land use permit shall be given as follows.

(a) The city shall publish notice of the hearing in a newspaper of general circulation within the city.

(b) Notice of the hearing shall also be sent by mail or personal delivery to:

1. The owners of property for which a special land use permit has been granted;

2. All persons to whom real property is assessed within 300 feet of the property for which a special land use permit has been granted, regardless of whether the assessed property is located within the zoning jurisdiction; and

3. To the occupants of all structures within 300 feet of the property for which a special land use permit has been granted, regardless of whether the occupant is located within the zoning jurisdiction; provided, that if the name of the occupant is not known, the term "occupant" may be used in making notification under this section.

(3) The notice shall be given not less than 15 days before the date of the hearing. The notice shall do all of the following:

(a) Describe the reason(s) for the proposed termination;

(b) Indicate the property that is the subject of the hearing by including a listing of all existing street addresses within the property; provided, that street addresses do not have to be created and listed if no such addresses exist within the property on the date the request is submitted, in which case other means of identification may be used;

(c) State when and where the hearing will be held and the matter considered; and

(d) Indicate when and where written comments will be received concerning the issues involved.

(Ord., § 601, passed 6-11-2002; Ord. passed 4-12-2011)

§ 152.106 SITE PLAN REVIEW AND APPROVAL.

(A) *Generally.* It is recognized by this chapter that there is value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in

conserving natural features. Toward this end, this chapter requires site plan review by the Planning Commission for certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, and on adjacent land usage.

(B) *Buildings, structures, and uses requiring site plan.* The Zoning Administrator shall not issue a zoning compliance certificate nor shall the Building Inspector issue a building permit for the construction of the buildings and structures identified in this section unless a site plan has been reviewed and approved by the Planning Commission and such approval is in effect:

- (1) Any special land use;
- (2) A multiple-family building containing three or more dwelling units;
- (3) More than one multiple-family building on a lot, parcel, tract of land, or on a combination of lots under one ownership;
- (4) A mobile home park;
- (5) An office in any residential district; and
- (6) Any gasoline service station abutting a residential district.

(C) *Application and fee for site plan review.* Any person may require a request for a site plan review by the Planning Commission by filing with the Zoning Administrator a completed application upon the forms furnished by the and payment of a fee established by resolution of the city. Fees applicable to site plan reviews for planned unit developments and conditional uses are waived in lieu of fees established by resolution of the City Council for these purposes. As an integral part of said application, the applicant shall file at least ten copies of the site plan.

(D) *Planning Commission review of site plan.* Upon receipt of complete application materials from the Zoning Administrator, the Planning Commission shall undertake a study of the same and shall, within 30 days, approve, approve with conditions, or deny such site plan, advising the applicant in writing of the decision. Any site plan failing to meet requirements of this chapter shall be denied and the reasons for denial set forth in the minutes of the Planning Commission meeting at which the decision to deny was made.

(E) *Required data for site plan.* Every site plan submitted to the Planning Commission shall be in accordance with the following requirements.

- (1) Every site plan submitted, except site plans required for uses as prescribed in division (E) (2) below, shall be drawn to a readable scale and shall include the following:
 - (a) The name of the applicant, scale used, a north arrow, the date prepared, and the name and address of the preparer if other than the applicant;
 - (b) All property boundaries and dimensions thereof; the location and use of all existing and proposed structures;
 - (c) The location of all existing and proposed streets, parking lots, driveways, utilities, and other improvements to be constructed or used as a part of the project; and
 - (d) The current zoning classifications on the subject property and all adjacent property.
- (2) Site plans submitted for the following conditional uses shall be subject to the requirements of this division (E):

- (a) Travel trailer parks;
- (b) Mobile home parks;
- (c) Automobile service stations;
- (d) Hotels or motels;
- (e) Drive-in business;
- (f) Automobile repair garages;
- (g) Drive-in theaters;
- (h) Junk yards;
- (i) Bulk oil storage;
- (j) A multiple-family building structure containing three or more dwelling units;
- (k) More than one multiple-family building on a lot, parcel, or tract of land, or on a combination of lots under one ownership;
- (l) An office in any residential district; and
- (m) Any gasoline service station abutting a residential district.

(3) Site plans submitted for the uses prescribed in division (E)(2) above shall be submitted in accordance with the following requirements.

(a) The site plan shall be of a scale not to be greater than one inch equals 20 feet nor less than one inch equals 200 feet, and of such accuracy that the Planning Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity.

(b) The property shall be identified by lot lines and location, including dimensions, angles, and size, and correlated with the legal description of said property. Such plan shall further include the name and address of the property owner, developer, and registered design professional that prepared the site plan.

(c) The site plan shall show the scale, north point, topography (at least two-foot contour intervals), and natural features such as woodlots, streams, rivers, lakes, grains and similar features.

(d) The site plan shall show existing humanmade features, such as buildings, structures, high tension towers, pipelines, and existing utilities such as water and sewer lines, excavations, bridges, culverts, drains, and easements, and shall identify adjacent properties and their existing uses.

(e) The site plan shall show the location, proposed finished floor and grade line elevations, size of the proposed principal and accessory buildings, their relation one to another and to any existing structure on the site, the height of all buildings, and the square footage of floor space. Site plans for residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit types.

(f) The site plan shall show the proposed streets, driveways, sidewalks, and other vehicular and pedestrian circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking area and the identification of service lanes and service parking.

(g) The site plan shall show the proposed location, use and size of open spaces, and the location of any landscaping, fences, or walls on the site. Any proposed alteration to the topography and other natural features shall be indicated. The site plan shall further show any proposed location of connections to existing utilities and proposed extensions thereof.

(F) *Standards for site plan review.*

(1) In reviewing the site plan, the Planning Commission shall ascertain whether the proposed site plan is consistent with all regulations of this chapter and state and federal law. Further, in consideration of each site plan the Planning Commission shall find that the provisions of divisions (D) and (E) above as well as provisions of the zoning district in which said have been satisfactorily met by the applicant. Decisions rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in this chapter. A site plan shall be approved if it contains the information required in division (E) above and is in compliance with this chapter, the conditions imposed pursuant to this chapter, other applicable ordinances, and state and federal statutes.

(2) In addition, each of the following standards shall apply.

(a) The use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of the adjacent property and the surrounding area.

(b) The use shall not inappropriately change the essential character of the surrounding area.

(c) The use shall not interfere with the natural environment of the vicinity.

(d) The use shall not interfere with the general enjoyment of the adjacent property.

(e) The use shall represent an improvement to the use or surrounding area in general, yet also be in keeping with the natural environment of the site.

(f) The use shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through excessive production of traffic, noise, smoke, odor, fumes, glare, or dust.

(g) Essential public facilities and services shall adequately serve the use, or it shall be demonstrated that the person responsible for the proposed use shall be able to continually provide for the services and facilities deemed essential to the use under consideration.

(h) The use shall not place demands on public services and facilities in excess of current capacity.

(i) The use shall be consistent with the intent and purpose of this chapter.

(G) *Approval of site plan.* Upon the Planning Commission approval of a site plan, the Commission shall file with the Zoning Administrator four copies thereof. The Zoning Administrator shall, within ten (4) days, transmit to the one copy to the Building Inspector, shall not issue a building permit until he or she has received a certified approved site plan. The site plan as approved by the Planning Commission shall become part of the official file record and subsequent actions relating to the activity authorized shall be consistent with the approved site plan.

(H) *Expiration of site plan approval.* The approved site plan shall expire, and be of no effect, 365 days after the date of approval if site or building construction improvements have not been commenced.

(I) *Revisions to approved site plan.* An approved site plan may be amended by the Planning Commission upon the request of the applicant. Such amendment shall be made upon application and in accordance with the procedure provided in this section. Any fees specified by City Council shall be paid in connection with such application.

(J) *Performance bond.* A performance bond may be required by the Planning Commission to insure the completion of required site improvements shown on the approved site plan. Such bond may be up to an amount equal to the estimated cost of the site improvement(s). The estimated cost of the site improvements shall be made in writing to the Planning Commission by a registered engineer or architect and shall be subject to review and approval of the City Engineer. The bond may be in the form of cash or irrevocable letter of credit from an insurance company or bank licensed to do business in the state or surety construction bond. The cash, letter of credit, or surety bond shall be placed on file with the City Clerk Treasurer. If cash, progressive release of funds on deposit may be given, provided the Zoning Administrator certifies progress toward project completion. Releases by the Clerk Treasurer shall be in not more than four installments.

(K) *Enforcement.*

(1) The Zoning Administrator shall through site inspections ascertain that implementation of any development undertaken is in accordance with the approved site plan, and notify the owner/developer and Planning Commission in writing of any discrepancies therewith. The Zoning Administrator shall issue an order to the owner/developer to conform to the approved site plan, listing matters not in conformance and requiring correction.

(2) Upon notification of discrepancies in the implementation of the approved site plan, the owner/developer shall have not more than 45 days to correct deficiencies listed by the Zoning Administrator. Thereafter, the Planning Commission may declare the performance bond forfeited and use the proceeds to make corrections on the development site.

(Ord., § 602, passed 6-11-2002)

ZONING BOARD OF APPEALS

§ 152.120 ESTABLISHMENT.

(A) Pursuant to Public Act 110 of 2006, the State Zoning Enabling Act, the City Zoning Board of Appeals created pursuant to Public Act 207 of 1921, being M.C.L.A. §§ 125.3101 et seq., as amended, is hereby continued in existence and shall continue to act as the City Zoning Board of Appeals, referred to in this chapter as the Zoning Board of Appeals or ZBA, subject to the referenced Public Act 110 of 2006. The Zoning Board of Appeals shall be constituted and appointed as provided by the State Zoning Enabling Act and shall be comprised of five regular members and two alternate members, each of which shall serve a term of three years except for members serving because of their membership on the Planning Commission or the City Council, whose terms shall be limited to the time they are members of those bodies. Except as otherwise provided by the State Zoning Enabling Act, all regular members serving on the Zoning Board of Appeals on the effective date of this chapter shall continue to serve the remainder of the term to which he or she was appointed pursuant to the previous Act.

(B) It is also provided that:

- (1) One member of the ZBA shall also be a member of the City Planning Commission;
- (2) One member of the ZBA may be a member of the City Council but shall not serve as chairperson of the ZBA;
- (3) A city employee or contractor may not serve as a member of the ZBA;
- (4) All regular and alternate members of the ZBA shall be selected from the electors of the city. The members selected shall be representative of the population distribution and of the various interests present in the city;
- (5) An alternate member may be called to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one or more meetings or for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest;
- (6) An alternate member called to serve shall serve on the case for which he or she is called until a final decision is made and shall have the same voting rights as regular member of the ZBA;
- (7) A member of the ZBA shall disqualify himself or herself from a vote in which the member has a conflict of interest. A member's failure to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office;
- (8) The City Council may remove a ZBA member for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing;
- (9) A vacancy on the Zoning Board of Appeals shall be filled for the remainder of the unexpired term in the same manner as the same appointment;
- (10) The Zoning Board of Appeals shall not conduct business unless the majority of the regular members of the Zoning Board of Appeals are present; and
- (11) A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the Council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission, or the City Council. However, the member may consider and vote on other unrelated matters involving the same property.

(Ord., § 701, passed 6-11-2002; Ord. passed 4-12-2011)

§ 152.121 INTENT.

The intent of the city in establishing and continuing the ZBA is to provide for nonuse variances, to provide a means for interpreting this chapter, and to provide a final means of administrative remedy for appeals of decisions made pursuant to this chapter. The purpose of this chapter is to provide guidelines and standards to be followed by the ZBA to act on matters where this chapter or state law gives jurisdiction to the ZBA.

(Ord. passed 4-12-2011)

§ 152.122 RULES AND PROCEDURES.

The ZBA shall establish fixed rules and regulations governing its procedures, meetings,

operations, and actions. These rules shall be made available to the public and shall be in conformance with this chapter, the State Zoning Enabling Act, being M.C.L.A. §§ 125.3101 through 125.3702 and the Open Meetings Act, being M.C.L.A. §§ 15.261 through 15.275.

(Ord. passed 4-12-2011)

§ 152.123 AUTHORITY OF THE ZONING BOARD OF APPEALS GENERALLY.

The ZBA shall have the authority to act on those matters where this chapter or state law provides for jurisdiction. The ZBA shall have the authority to interpret this chapter in accordance with the standards set forth in § 152.124. The ZBA shall have the authority to grant appeals from any administrative decision, determination, or action by the Zoning Administrator, Planning Commission, or the City Council pursuant to this chapter, in accordance with the standards set forth in § 152.125. The ZBA shall have the authority to grant nonuse variances to the strict application of this chapter in accordance, with the standards set forth in § 152.126. The ZBA shall not have the authority to grant use variances, change the zoning district classification of any property, or to amend this chapter in any way.

(Ord. passed 4-12-2011)

§ 152.124 INTERPRETATION OF THIS CHAPTER.

The ZBA shall have authority to hear and decide requests for interpretation of this chapter, including the Zoning Map, in accordance with the standards set forth in this section.

(A) *Application.* Any property owner may file an application for a zoning ordinance interpretation with the Zoning Administrator. Such application shall include a fee as established from time to time by the City Council. The City Council and the Planning Commission may also petition the ZBA for a Zoning Ordinance interpretation by filing an application with the Zoning Administrator, and in such case there shall be no fee required. The application shall contain, at a minimum, the following information:

- (1) Name and address of the applicant;
- (2) The property address and tax number for the property in question;
- (3) A plot plan showing the property boundary lines and dimensions, and the location and dimensions of existing and proposed structures; and
- (4) A written narrative that describes the issue on which the zoning ordinance is unclear or ambiguous and the nature and extent of the problem created by the language of the zoning ordinance.

(B) *Process.* The Zoning Administrator shall review the application for completeness. Once a completed application is received by the Zoning Administrator, he or she shall forward the application to the Secretary of the ZBA who shall schedule a meeting of the ZBA and place the application on the agenda of that meeting. Such meeting shall be held no sooner than 15 days and no more than 60 days from the date that notice of the meeting is provided pursuant to the next following division (C).

(C) *Notice of public hearing.* Upon receipt of an application for an interpretation of the zoning

ordinance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the application for interpretation involves a specific parcel, written notice stating the nature of the interpretation requested, and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery 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 of the boundary of the property in question. If a tenant's or other occupant's name is not known, the term "occupant" may be used.

(D) *Hearing.* At the hearing, a party may appear in person or by agent or attorney. The ZBA shall consider the application for a zoning ordinance interpretation at the public meeting. The ZBA shall allow for public comment on the application. The ZBA shall consider the application in regard to the standards set forth in division (E) below. The ZBA may request advice from the Zoning Administrator, the Planning Commission, the City Council, consultants for the city, and any other party whose knowledge or expertise may assist the ZBA with making an informed decision.

(E) *Standards.* In considering and acting upon a request for a zoning ordinance interpretation, the ZBA shall consider the following:

(1) Any interpretation issued by the ZBA shall be in keeping with the text as well as the spirit and intent of the Master Plan;

(2) Any interpretation issued by the ZBA shall be in keeping with the text as well as the spirit and Intent of the zoning ordinance, read as a whole;

(3) Any interpretation issued by the ZBA shall be in keeping with reasonable and/or practical interpretations that have been consistently applied in the administration of the ordinance;

(4) Any map or boundary interpretation shall be made based upon rules in the ordinance, and any relevant historical information;

(5) Any interpretation issued by the ZBA shall be related to an issue on which the zoning ordinance contains ambiguous, unclear, or conflicting language;

(6) No interpretation shall be issued for an issue on which the zoning ordinance is silent. The appropriate remedy for such issues is an amendment to the zoning ordinance in accordance with § 152.093; and

(7) Any interpretation issued will serve to protect the health, safety and welfare of the community, and shall not be injurious to adjacent and nearby properties.

(F) *Action.* When the ZBA finds that a request for a zoning ordinance interpretation complies with each standard set forth in division (E) above, the ZBA may approve the requested interpretation. When the ZBA finds that a request does not comply with one or more of the standards, then the ZBA shall deny the requested interpretation. The ZBA may approve a different interpretation than that which was requested, when it finds that the alternative interpretation complies with each standard.

(G) *Record.* The Secretary of the ZBA shall notify the Secretary of the Planning Commission of the ZBA's action on all requested interpretations. The Secretary of the Planning Commission shall maintain a public record of all interpretations approved by the ZBA.

(H) *Appeal of ZBA interpretation.* Any party aggrieved by an interpretation of the ZBA may

appeal to the County Circuit Court as provided in and subject to M.C.L.A. § 125.3606 and M.C.L.A. § 125.3607.

(Ord. passed 4-12-2011)

§ 152.125 APPEALS.

(A) *Generally.* The ZBA shall have the authority to hear and decide appeals that are taken by an aggrieved person or by an officer, department, board, commission, or bureau of the state or local government from any review, order, requirement, decision, or determination made by the Zoning Administrator, the Planning Commission, or the City Council, in the course of enforcing this chapter. The ZBA shall and does have the authority to grant nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance. In addition, a nonuse variance in this chapter may be applied for and granted under § 4 of the Uniform Condemnation Procedures Act, Public Act 87 of 1987, being M.C.L.A. §§ 213.54 et seq. The authority to grant variances from uses of land is restricted to and reserved by the City Council. An appeal shall only be heard by the ZBA if a complete application for an appeal is filed within 30 days of the date of the order, requirement, decision, or determination from which the appeal is sought. The effective date of the order, requirement, decision, or determination from which the appeal is sought is, in the case of the Zoning Administrator, the date it is issued and, in all other cases, the date on which the minutes of the meeting at which such order, requirement, decision, or determination from which the appeal is sought were approved.

(B) *Application.* An application for an appeal may be taken by any aggrieved person or by an officer, department, board, commission, or bureau of the state or local government from any order, requirement, decision, or determination made by the Zoning Administrator, the Planning Commission, or the City Council in the course of enforcing this chapter. In order for an application for appeal to be considered as a complete application for appeal, it shall conform to all of the following requirements:

(1) The application for an appeal shall be filed with the Secretary of the ZBA and the officer from whom the appeal is taken, the Zoning Administrator or the Chairperson of the Planning Commission or the Clerk of the City Council;

(2) The application shall be deemed to be filed on the date that the complete application is received by the Secretary of the ZBA;

(3) The application shall be made on forms provided by the Zoning Administrator. The applicant shall submit with the application for appeal filed with the Secretary of the ZBA a fee as established from time to time by the City Council. The application shall contain, at a minimum, the following information:

(a) Name and address of the applicant;

(b) The property address, tax number, and zoning district classification for the property in question;

(c) A site plan showing the property boundary lines and dimensions, and the location and dimensions of existing and proposed structures. The ZBA may, in its discretion, require that the applicant, at his or her expense, submit a detailed site plan prepared by a licensed surveyor or professional engineer when it determines that such a site plan is necessary in order for the ZBA to

make an informed decision; and

(d) A written narrative that describes the decision or action from which the appeal is sought, the particular relief that is sought, and the potential impact of the relief sought on adjacent and nearby properties, and that specifically addresses each standard set forth in division (E) below.

(4) Within 14 days of the date the complete application for appeal is filed, the officer from whom the appeal is taken shall deliver to the Secretary of the ZBA copies of all of the papers constituting the record upon which the decision was made.

(C) *Stay of proceedings.* A complete application for appeal that is timely filed shall have the effect of staying all proceedings in furtherance of the action being appealed, unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed except by a restraining order issued by the ZBA, or by a court of competent jurisdiction. The provisions of this division (C) shall not nullify a stop-work order validly issued by the Zoning Administrator or Planning Commission.

(D) *Notice of public hearing.* Upon receipt of an application for an appeal, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the appeal not less than 15 days before the public hearing. In addition, if the application for appeal involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery 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 of the boundary of the property in question. If a tenant's or other occupant's name is not known, the term "occupant" may be used.

(E) *ZBA review.* Once the Secretary of the ZBA is in receipt of the complete application and the complete record on which the decision was made, the Secretary shall schedule a meeting of the ZBA and place the appeal case on the agenda for that meeting. Such meeting shall be held no sooner than 15 days after publication and service of the notice on the person requesting the appeal, nor more than 60 days from the date that the application for appeal is received by the Secretary.

(1) The Secretary shall notify all parties entitled to notice of the date, time, and place of the meeting, at least 15 days prior to the meeting by first-class mail or personal delivery as provided in the preceding division (D).

(2) The appellant may be represented by a party who has a legal financial interest in the property (such as a purchase agreement) provided that the application for appeal contains an affidavit signed by the property owner(s) identifying the presenting party and the nature of the legal interest. An agent or attorney may also represent the appellant and other parties entitled to notice.

(3) The Chairperson of the ZBA may administer oaths to each person who speaks or who offers evidence or testimony at the public hearing. The Chairperson may compel the attendance of witnesses.

(F) *Standards for granting an appeal to the ZBA.* In reviewing the appeal, the ZBA shall consider the following standards:

(1) Did the order, requirement, decision, or determination comply with the Constitution and laws of the state and with the requirements of this chapter?

(2) Is the order, requirement, decision, or determination based upon proper procedure?

(3) Is the order, requirement, decision, or determination supported by competent, material and substantial evidence on the record?

(4) Is the order, requirement, decision, or determination a reasonable exercise of the authority granted by this chapter?

(G) *Decision on the appeal to the ZBA.* The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board, or commission made in the enforcement of this chapter. If the ZBA finds that all four of the standards set forth in division (F) above are satisfied, then it shall uphold the order, requirement, decision, or determination, and shall deny the appeal. If the ZBA finds that one or more of the required standards are not satisfied, it may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination. To that end, the ZBA shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. If the ZBA finds there is additional evidence available at its public hearing that was not available when the original order, requirement, decision, or determination was made, it may remand the issue back to the officer or body from whom the appeal was taken for a rehearing. The ZBA may impose conditions on an affirmative decision in accordance with the following requirements:

(1) Such conditions shall be designed to protect the natural resources, the health, safety, and welfare, and the social and economic well-being of:

(a) Those who will patronize the land use or activity under consideration;

(b) Residents, and the landowners immediately adjacent to the proposed land use or activity; and

(c) The community as a whole.

(2) Such conditions shall be related to the valid exercise of city authority and purposes that are affected by the proposed use or activity.

(3) Such conditions shall be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(H) *Finality of ZBA decision.* The decision of the ZBA in an appeal case shall be final. Any party aggrieved by the decision of the ZBA on such a case, and with proper standing, may appeal the decision of the ZBA to the Circuit Court for the county. Any appeal granted by the ZBA shall be valid for one year from the date of approval. If the use or construction authorized by a granted appeal does not commence within one year of the date of approval and, in the case of construction, is not completed within two years of the date of approval, the appeal shall become null and void and of no effect, with or without written notification by the ZBA.

(I) *Appeal of ZBA decision.* Any party aggrieved by a decision of the ZBA may appeal to the County Circuit Court as provided in and subject to M.C.L.A. § 125.3606 and M.C.L.A. § 125.3607.

(Ord. passed 4-12-2011)

§ 152.126 NONUSE VARIANCES.

(A) *Generally.* On appeal, the ZBA shall have the authority to grant nonuse variances from the

strict application of this chapter in cases where strict enforcement would cause undue hardship as a result of special circumstances that affect an individual property but which do not generally affect other properties in the same zoning district. Such nonuse variances shall be subject to the provisions of this section.

(B) *Application.* Application for a nonuse variance shall be made to the Zoning Board of Appeals by filing of not less than five copies of an application form with the Zoning Administrator. Fees are required to be paid in accordance with the fee schedule in effect as established by the City Council at the time the application is made. This information below shall be considered a minimum and the Zoning Administrator, in consultation with the Chairperson of the ZBA, may require additional information deemed necessary for the ZBA to make a fully informed decision on the application. The application shall include the following information:

(1) The applicant's name, address, and phone number;

(2) The address, parcel number, and current zoning district classification of the property;

(3) The application shall be executed by the owner(s) of the property. The applicant may be represented by a party other than the owner(s) who has a legal financial interest in the property (such as a purchase agreement) provided that the application contains an affidavit signed by the property owner(s) indicating the party and the nature of the legal interest. An agent or attorney may also represent the applicant;

(4) The application shall grant a right of entry onto the subject property to the Zoning Administrator, members of the ZBA, and representatives and designees of the city for the purpose of inspecting the property and reviewing the application;

(5) The address of the applicant and any other person that represents the applicant at the hearing to whom all correspondence regarding the application and variance process should be sent;

(6) A narrative description of the requested variance that describes the section(s) of this chapter from which the applicant is seeking a variance as relief; the nature and extent of the requested nonuse variance; and the potential impact of the requested nonuse variance on adjacent and nearby properties; and that specifically addresses the standards for granting a nonuse variance that are set forth in division (E) below;

(7) A plot plan showing:

(a) Property lines with dimensions;

(b) Location of existing and proposed structures with dimensions;

(c) Open yards as required by the applicable zoning district regulations; and

(d) Proposed walls, fences and landscaping.

(8) The ZBA may, in its discretion, require that the applicant, at applicant's expense, submit a detailed plot plan prepared by a licensed surveyor or professional engineer when it determines that such a plot plan is necessary in order for the ZBA to make an informed decision.

(C) *Submission of the application.* The application shall be filed with the Zoning Administrator, who shall review the application within 15 days of its receipt. In reviewing the application for completeness, the Zoning Administrator may consult with the Chairperson of the ZBA, the City Engineer, the City Planner, and any other parties whose input the Zoning Administrator deems necessary for the proper review of the application. If the Zoning Administrator finds that the

application is not complete, he or she shall return the application with a written explanation of the additional information that is required. Once the application is found to be complete, the Zoning Administrator shall forward the application to the Secretary of the ZBA who shall schedule a meeting of the ZBA and schedule the application for a public hearing at that meeting. Such meeting shall be held no sooner than 15 days and no more than 60 days from the date that notice of the meeting is provided pursuant to the next following division (D).

(D) *Notice of public hearing.* Upon receipt of an application for a nonuse variance, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the city and shall be sent to the person requesting the nonuse variance not less than 15 days before the public hearing. In addition, if the application for a nonuse variance involves a specific parcel, written notice stating the nature of the nonuse variance request and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery 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 of the boundary of the property in question. If a tenant's or other occupant's name is not known, the term "occupant" may be used. The notice shall contain:

- (1) A description of the nature of the nonuse variance request under the specific section of this chapter;
- (2) A legal description or address, and/or an approximate sketch of the property which is the subject of the request;
- (3) A statement of when and where the public hearing will be held to consider the request; and
- (4) A statement as to when and where comments will be received concerning the request.

(E) *Public hearing.*

(1) Any party other than the owner(s) that has a legal financial interest in the property (such as a purchase agreement or land contract) may apply for and present a nonuse variance request, provided that the application contains an affidavit signed by the legal property owner(s) of record attesting to the financial interest of the applying party and the nature of the legal interest that is held. The applicant, as well as other financially interested parties, including the owner(s), who request or oppose a nonuse variance may be represented by an agent or attorney.

(2) The Chairperson of the ZBA may administer oaths to each person who speaks, or who offers evidence or testimony at the public hearing. The Chairperson may compel the attendance of witnesses.

(3) The applicant and interested members of the public shall have the opportunity to address the ZBA and present evidence in regard to the application, in accordance with rules and procedures adopted by the ZBA from time to time. The ZBA may also take into consideration the testimony provided by the Zoning Administrator, the Planning Commission, and parties with relevant knowledge or expertise.

(F) *Standards for granting a variance.* In reviewing the request for a nonuse variance, the ZBA shall consider the application in regard to the criteria set forth below and in regard to any additional criteria imposed by case law or statutory law and shall make written findings of fact. No variance shall be granted by the ZBA unless its written findings of fact and the record show that each of the following standards is met.

- (1) There is a real and demonstrable hardship as evidenced by one of the following:

(a) Strict compliance with the requirements of this chapter will have the effect of unreasonably preventing the property owner from using the property for a purpose permitted by this chapter because of:

1. The exceptional narrowness, shallowness, or shape of a specific piece of property;
2. The exceptional topographic conditions;
3. Other extraordinary situation of the land or building; or
4. The use of property immediately adjoining the subject property.

(b) Strict compliance with the requirements of this chapter would be unnecessarily burdensome.

(2) The granting of the nonuse variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity and district, but which is denied to the property in question.

(3) The hardship arises from a unique, identified characteristic of the property and is not shared generally by other properties in the area and is not related to general conditions in the area of the property.

(4) The hardship arises from the physical characteristics of the property and is not a personal hardship.

(5) The hardship was not created, imposed, caused, or exacerbated by the applicant, and existed as of the effective date of this chapter or pertinent amendment thereto.

(6) The nonuse variance is directly related to the identified hardship and is the minimum necessary to afford relief from the hardship.

(7) The nonuse variance would result in substantial justice being done for the applicant and for other property owners in the district.

(8) The nonuse variance will not be injurious to the public health, safety, and welfare, and will not be contrary to the intent and purposes of this chapter.

(9) The nonuse variance will not significantly alter the character of the surrounding area.

(G) *Approval or denial of nonuse variance.* If the ZBA finds that all nine of the standards set forth in division (F) above are satisfied, then it shall approve the nonuse variance. If the ZBA finds that one or more of the required standards are not met, it shall deny the nonuse variance. The ZBA may approve a lesser nonuse variance if, in its opinion, the lesser nonuse variance will result in substantial justice being done, and if the lesser nonuse variance is in compliance with the nine standards set forth in division (F) above. The ZBA may impose conditions on an affirmative decision in accordance with the following requirements.

(1) Such conditions shall be designed to protect natural resources, the health, safety, and welfare, and the social and economic well-being of:

- (a) Those who will use the land use or activity under consideration;
- (b) Residents and landowners immediately adjacent to the proposed land use or activity; and
- (c) The community as a whole.

(2) Such conditions shall be related to the valid exercise of the city’s authority and purposes that are affected by the proposed nonuse variance.

(3) Such conditions shall be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(H) *Finality of decision.* The decision of the ZBA shall be final. Any party aggrieved by the decision of the ZBA on such a case and with proper standing, may appeal the decision of the ZBA to the Circuit Court for the county. Any nonuse variance granted by the ZBA shall be valid for one year from the date of approval. If the use or construction authorized by a nonuse variance does not commence within one year of the date, of approval and, in the case of construction, is not completed within two years of the date of approval, the appeal shall become null and void and of no effect, with or without written notification by the ZBA.

(I) *Reapplication.* An application for a nonuse variance that is determined to be substantially the same as a nonuse variance that has been denied by the ZBA shall not be filed and shall not be accepted by the ZBA within 12 months of the date of denial.

(J) *Appeal of the ZBA decision.* Any party aggrieved by a decision of the ZBA may appeal to the County Circuit Court as provided in and subject to M.C.L.A. § 125.3606 and M.C.L.A. § 125.3607.

(Ord. passed 4-12-2011)

REPORT TO GOVERNING BODY

§ 152.140 REPORT TO GOVERNING BODY.

(A) Following the enactment of this code, the City Planning Commission shall from time to time prepare and file with the City Council a report on the operations of this chapter, including recommendations as to amendments, supplements, or changes thereto.

(B) The effective date of this amendatory ordinance shall be upon publication as required by law. Passed in open Council meeting this _____ day of _____, 2007.

Mayor

Clerk

Date of first reading

Date of second reading:

Date passed:

Date published:

Effective date:

(Ord., § 802, passed 6-11-2002)

§ 152.999 PENALTY.

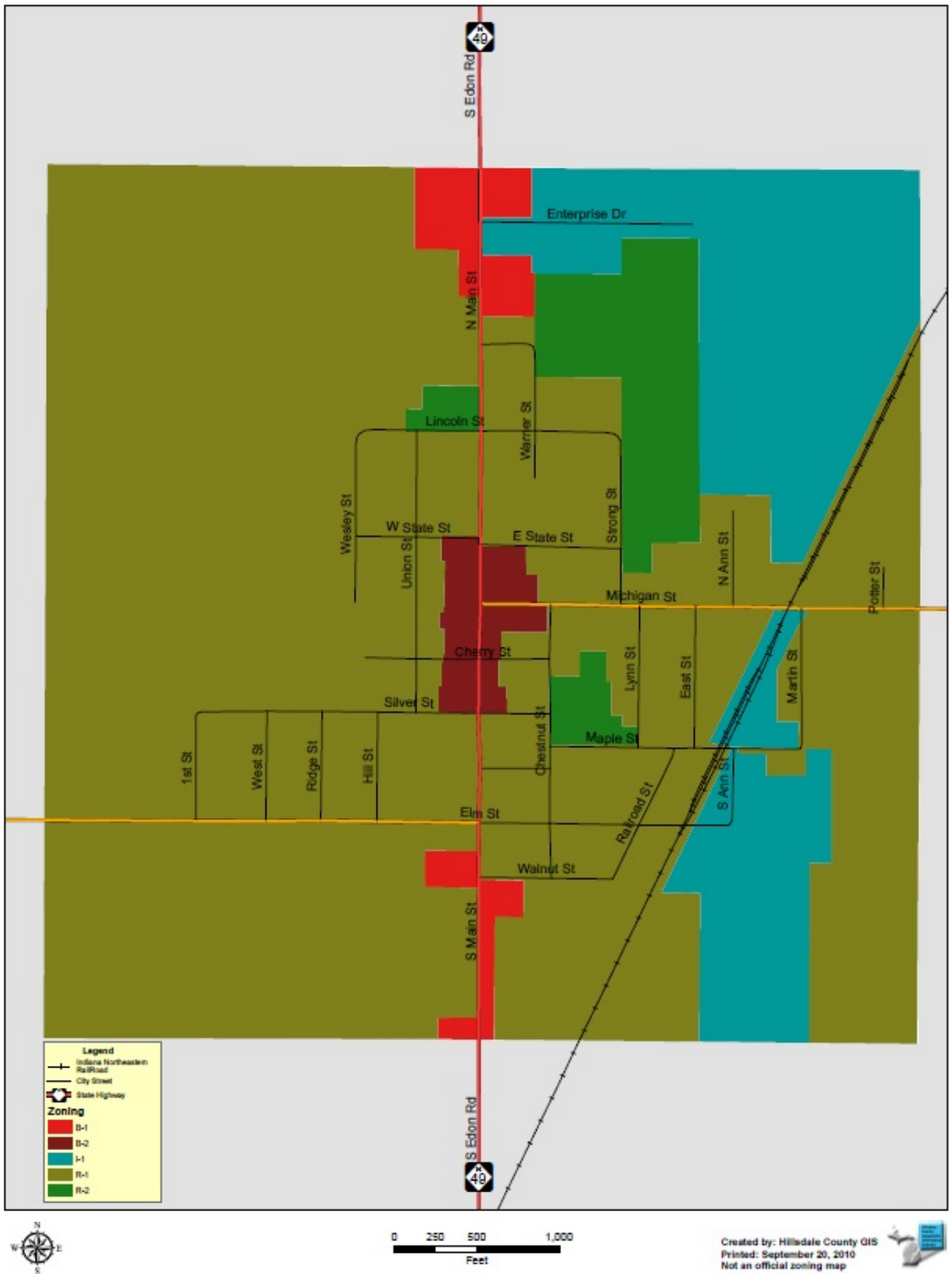
(A) *Nuisance per se.* Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of this chapter is declared to be a nuisance per se, and the same shall be ordered abated by the court upon a determination of responsibility for the municipal infraction.

(B) *Penalties and enforcement.* Any person, firm, or corporation that uses land or uses, erects, alters, razes, or converts a dwelling, building, or structure, including a tent or recreational vehicle, in violation of this chapter, shall, pursuant to Public Act 110 of 2006, being M.C.L.A. §§ 125.3101 through 125.3702, be deemed responsible for a municipal civil infraction. Upon the defendant being determined to be responsible or responsible “with explanation” for a municipal civil fraction, he or she shall pay a civil fine as determined by the court together with costs of the action which may include all expenses, direct and indirect, to which the city has put in connection with the municipal civil infraction, up to the entry of judgment. Costs of not more than \$500 shall be ordered.

(C) *Separate offense.* Each day that a violation of this chapter is continued and permitted to exist shall constitute a separate violation punishable upon an admission or determination of responsibility in the same manner as prescribed herein for the original offense.

(Ord., § 504, passed 6-11-2002; Ord. passed 4-12-2011)

APPENDIX A: ZONING MAP



Note: To view a printer-friendly version of the map in PDF, please click [HERE](#).

(Ord., passed 6-11-2002)