

TITLE XV: LAND USAGE, VOL. II

CHAPTER 152: ZONING CODE

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CHAPTER 152: ZONING CODE

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GENERAL PROVISIONS

§152.001 TITLE.

This chapter shall be known as the City Zoning Ordinance.
(Ord. A-38, § 1.01, passed 10-18-1988)

§ 152.002 PURPOSE.

The purpose of this chapter is to establish zoning districts in the city within which the use of land for agriculture, forestry, recreation, residence, industry, trade and additional uses of land may be encouraged, regulated or prohibited and for such purposes dividing the city into districts of such number, shape and area as deemed best suited to carry out the provisions of this chapter; and for each such district designating or limiting the location, the height, number of stories and size of dwellings, buildings and structures that may hereafter be erected or altered, and the specific uses for which dwellings, buildings

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and structures may hereafter be erected or altered; the area of yards, courts and other open spaces, and the sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures; and the maximum number of families which may be housed in buildings, dwellings and structures hereafter erected or altered. (Ord. A-38, § 1.02, passed 10-18-1988)

§ 152.003 INTERPRETATION; MINIMUM STANDARDS.

In their interpretation and application, any enforcement officer or agency, any court and any Board of Appeals member shall hold the provisions of this chapter to be minimum acceptable standards and requirements adopted for the promotion of the health, safety, security and general welfare of the city. (Ord. A-38, § 1.03, passed 10-18-1988)

§ 152.004 SCOPE OF APPLICATION; GREATER RESTRICTIONS.

This chapter shall affect and regulate the use and occupancy of all land and every structure in the city. Where this chapter imposes greater restrictions than those imposed or required by provisions of other laws, ordinances, private restrictions, covenants, deeds or other agreements, the provisions of this chapter shall control. (Ord. A-38, § 1.04, passed 10-18-1988)

§ 152.005 APPLICATION TO ALL STRUCTURES AND LAND; CONFORMANCE REQUIRED.

No structure, land or premises shall hereafter be used or occupied and no building shall be erected, moved, reconstructed, extended or altered except in conformity with the regulations and provisions of this chapter. (Ord. A-38, § 1.05, passed 10-18-1988) Penalty, see § 152.999

§ 152.006 DEFINITIONS; RULES OF CONSTRUCTION.

(A) *Rules of construction.* The following listed rules of construction shall apply to the text of this chapter.

- (1) The particular shall control the general.
- (2) Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

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(B) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY USE OR STRUCTURE. A use, building or structure of the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure.

AGRICULTURAL OPERATIONS. A contiguous tract of land which is directly farmed or used for commercial agriculture, including the sale of goods produced on the premises. An **AGRICULTURAL OPERATION** includes a farm dwelling and accessory buildings necessary for the storage or housing of farm implements, farm products or farm animals or used for the operation of the farm.

AMUSEMENT ESTABLISHMENTS. Establishments engaged in recreation related activities such as video and pinball games, pool halls and miniature golf and driving ranges.

A UTOMOBILE REPAIR. General repair, rebuilding, or reconditioning of engines or vehicles, collision service (including body repair and frame straightening), painting or upholstering, or vehicle steam cleaning and undercoating, as a business.

BASEMENT. A portion of a building located wholly or partially below grade, but not including any part thereof not so located.

BED AND BREAKFAST. A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room and breakfast in return for payment. **BED AND BREAKFASTS** are regulated as a home occupation in § 152.062.

BUFFER YARD. A strip of land, including any specified type and amount of planting or structures which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.

BUILDING. Anything which is constructed or erected, including a mobile home, having a roof supported by columns, walls or other supports, which is used for the purpose of housing or storing of persons, animals or personal property or carrying on business activities or other similar uses. A **BUILDING** includes any part thereof.

BUILDING HEIGHT. A vertical distance measured from the established grade to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. See figures in Appendix C.

BUILDING SETBACK. The measurement from the front lot line to the nearest point of the main wall of the building or structure. Steps may be located within the **BUILDING SETBACK**. Porches are considered as part of the building or structure and may not be located within the **BUILDING**

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SETBACK. See figures in Appendix C.

DISMANTLED OR WRECKED VEHICLE. Any vehicle which is self-propelled or intended to be self-propelled, and which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a drive-way approach or parking space for motor vehicles so as to serve patrons while in the motor vehicle, or within a building on the same premises and denoted to the same purpose as the drive-in service.

DWELLING. Any building or portion thereof which is occupied in whole or in part as a home residence, or sleeping place, either permanently or temporarily, by one or more families, but not including motels, hotels, tourist rooms or cabins.

(a) **DWELLING, SINGLE-FAMILY.** A building designed for use and occupancy by one family only.

(b) **DWELLING, TWO-FAMILY.** A building designed for use and occupancy by two families only.

(c) **DWELLING, MULTI-FAMILY.** A building designed for use and occupancy by three or more families.

DWELLING UNIT. One room or suite or two or more rooms designed for use or occupancy by one family for living and sleeping purposes with housekeeping facilities.

ESSENTIAL PUBLIC SERVICES. The construction, alteration or maintenance by private companies or public departments or agencies of the various transmissions, distribution or disposal systems that are essential for the preservation of the public health, safety or general welfare such as: gas, electricity, telephone, water and sewer. Also, this term includes all poles, wires, mains, drains, sewers, pipes, cables, traffic signals, hydrants and other similar equipment or accessories reasonably necessary to provide adequate service of those companies or agencies; but the term shall not include building or utility substations.

FAMILY. One or more persons living together as a single non-profit housekeeping unit, organized as a single entity in which the members share common kitchen facilities in a domestic relationship based on consanguinity, marriage, adoption or other domestic bond. This definition does not include any society, association, organization or any other group whose domestic relationship is of a transitional or seasonal nature or for an anticipated limited duration.

FAMILY DAY CARE CENTER. A private home in which one to six children are received for care and supervision, including those children under seven years of age in the

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resident family.

FILLING STATION. Any place where primary petroleum products such as gasoline, motor oil or diesel fuel are sold at retail.

HOME OCCUPATION, A gainful occupation traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place which conforms to the provisions in § 152.062. Bed and breakfast operations are included in the definition of **HOME OCCUPATIONS**.

KENNEL. Any land, building or structure where four or more cats or dogs are boarded, housed or bred as a business.

LOT. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of principal buildings and accessory structures or utilized for a principal use and accessory uses, together with such open spaces as are required by this chapter. See figures in Appendix C.

(a) **CORNER LOT.** A lot which has at least two contiguous sides abutting upon a street for their full length.

(b) **INTERIOR LOT.** A lot other than a corner lot.

(c) **THROUGH LOT.** An interior lot having frontage on two streets which do not intersect at a point contiguous to the lot.

LOT AREA. The total horizontal area within the lot lines of the lot. **LOT AREA** cannot include any part of a public right-of-way.

LOT LINES. The lines abutting a lot as defined herein. See figures in Appendix C.

(a) **LOT LINE, FRONT.** The line separating the lot from the street. In case of a corner lot or through lot, the lines separating the lot from each street.

(b) **LOT LINE, REAR.** Lot line which is opposite the front line. In the case of a corner lot, the **REAR LOT LINE** may be opposite either front lot line, but there shall only be one **REAR LOT LINE**. In the case of a lot with side lot lines converging at the rear, the **REAR LOT LINE** shall be an imaginary line parallel to the front lot line, not less than 20 feet long, lying farthest from the front lot line and wholly within the lot.

(c) **LOT LINE, SIDE.** Any lot line other than the front lot line or rear lot line.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds.

LOT WIDTH. Measured at the front building line.

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MAJOR STREET. A public or private street, the principal use or function of which is to provide an arterial route through traffic, with its secondary use or function the provision of access to abutting property.

MARINA. Establishments engaged in boat storage, sales and docking activities as well as accessory marine sales and repairs.

MAY. The act referred to is permissive.

MOBILE HOME. A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation.

MOBILE HOME PARK. A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for the incident uses of the occupancy of a mobile home.

MOTEL. A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by, automobile travelers. The term shall include any building or building groups designated as motor lodges, transient cabins or by any other title intended to identify them as providing lodging with or without meals for compensation on a transient basis.

PARKING AREA. An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, as an accommodation to clients, customers, visitors or employees. **PARKING AREA** shall include access drives within the actual parking area.

PLANNED UNIT DEVELOPMENT. A tract of land developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses (see §§ 152.175 et seq.).

PRINCIPAL OR MAIN USE. The main use to which the premises are devoted and the principal use for which the premises exist.

PUBLIC AND INSTITUTIONAL USES. Churches; accredited **public**, parochial or private schools; trade schools or colleges; hospitals; parks, non-profit recreational uses; libraries; government owned facilities; fire stations or similar uses providing services necessary to the community.

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RECREATIONAL VEHICLE. A vehicular transportable structure mounted on wheels that is self-propelled or towed by a motor vehicle. A travel trailer is designed to provide temporary living quarters for recreational, camping or travel use. This definition includes, but is not limited to, portable structures commonly known as: motor homes, travel trailers, travel homes, fold down campers, truck mounted campers, converted buses and fifth wheels.

SALVAGE YARD. Where junk, waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including unlicensed and dismantled or wrecked vehicles, used building materials, structural materials and equipment and other manufactured goods that are worn, deteriorated or obsolete.

SHALL. The act referred to is always mandatory and not discretionary.

SIGN. A name identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land and which is intended to direct attention to an object, project, place, activity, person, institution, organization or business.

STORY. The portion of a building between the surface of any floor at grade level and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

STREET. A right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, land, boulevard, highway, road or other thoroughfare, except an alley.

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including buildings, signs, billboards, fences, antennas, swimming pools, parking areas and sheds. A **STRUCTURE** includes any part thereof.

UNDERGROUND HOME. A residence with sides which are either partially or totally below grade designed as a complete living unit. An **UNDERGROUND HOME** shall include earth-bermed, earth sheltered and envelope homes and similar dwelling units.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

YARD. A required open space other than a court unoccupied and unobstructed by any building or structure or portion thereof from 30 inches above the general ground level of the lot upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any **YARD** subject to height limitations and requirements limiting obstruction of visibility. See figures in Appendix C.

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YARD, FRONT. A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and the main wall of the building or structure. In the case of waterfront lots, the yard fronting on the street shall be considered the **FRONT YARD**.

YARD, REAR. A yard, unoccupied except for accessory buildings, extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear wall of the main building.

YARD, SIDE. A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required **SIDE YARD** shall be measured from the nearest point of the side lot line to the nearest part of the main building. (Ord. A-38, Art. 2, passed 10-18-1988)

Cross-reference:

Definitions, see §10.05

Rules of interpretation, see §10.06

§ 152.007 SEVERABILITY.

In case any section or provision of this chapter shall be held to be invalid by a court of competent jurisdiction, the same shall not affect any other provision of this chapter, except so far as the provision declared to be invalid shall be inseparable from the remainder of any provision. (Ord. A-38, § 21.01, passed 10-18-1988)

§ 152.008 EFFECTIVE DATE.

This chapter shall become effective October 17, 1988, 30 days after adoption of the ordinance by the City Council. (Ord. A-38, § 21.02, passed 10-18-1988)

DISTRICT BOUNDARIES AND MAP

§ 152.020 DISTRICTS ESTABLISHED.

To carry out the purpose of this chapter, the city shall be divided into the following districts:

- (A) AG-1, agricultural;
- (B) R-1, low density residential;
- (C) R-2, medium density residential;

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(D) R-3, high density residential;

(E) C-1, core commercial;

(F) C-2, commercial/resort;

(G) 1-1, industrial; and

(H) PL-1, public lands district.

(Ord. A-38, § 5.01, passed
10-18-1988)

§ 152.021 OFFICIAL ZONING MAP; ADOPTION, IDENTIFICATION, AUTHORITY.

(A) *Provision for Official Zoning Map.* For the purpose of this chapter, the zoning districts as provided herein are bound and defined as shown on a map entitled Official Zoning Map of Lake City. The Official Zoning Map, with all explanatory matter thereon, is hereby made a part of this chapter. (Ord. A-38, § 5.03, passed 10-18-1988)

(B) *Identification of Official Zoning Map.* The Official Zoning Map shall be identified by the signature of the Zoning Administrator attested by the City Clerk, and shall have the following wording: "This is to certify that this is the Official Zoning Map referred to in the Lake City Zoning Ordinance of 1988," together with the effective date of this chapter. (Ord. A-38, § 5.04, passed 10-18-1988)

(C) *Authority of Official Zoning Map.* Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the City Clerk and open to public inspection, shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the city. (Ord. A-38, § 5.05, passed 10-18-1988)

§ 152.022 INTERPRETATION OF BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Official Zoning Map, the following rules shall apply:

(A) Where boundaries indicated as approximately following streets or highways, the center line of those roadways shall be construed to be those boundaries;

(B) Where boundaries indicated as approximately following city boundary lines or following lot

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lines, shall be construed as following those lines; and

(C) Where boundaries indicated as approximately parallel to the center lines of streets or highways, shall be construed as being parallel thereto and at such distance therefrom as indicated by given distance or scaled dimension. (Ord. A-38, § 5.06, passed 10-18-1988)

ZONING DISTRICTS; USES AND REQUIREMENTS

§ 152.035 SCOPE OF REGULATIONS; CONFORMANCE REQUIRED.

Except as herein provided, no structure shall be erected or altered nor shall any building or premises be used for any purpose other than is permitted in the district in which the building or premises is located. (Ord. A-38, § 5.02, passed 10-18-1988) Penalty, see § 152.999

§ 152.036 AG-1 AGRICULTURAL DISTRICT.

(A) *Intent and purpose.* This zoning district is intended for large lots or tracts of land in a rural setting. It is intended for agricultural, low density single-family residential use, and other specialized uses requiring relatively large tracts of land. This restriction is necessary to prevent development from proceeding without planning. If development and subdividing are to occur, they shall be preceded by appropriate planning and rezoning.

(B) *Permitted uses in AG-1.* The following uses are permitted by right within the AG-1 district:

- (1) Agricultural operations;
- (2) Home occupations (see § 152.062); and
- (3) Single-family dwellings.

(C) *Special uses in AG-1.* The following uses may be permitted by obtaining a special use permit in accordance with §§ 152.120 et seq.:

- (1) Airports;
- (2) Family day care centers;
- (3) Golf courses and country clubs;

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(4) Public and institutional uses;

(5) Salvage yards; and

(6) Veterinarian services or kennels.

(D) *Dimensional requirements for AG-1.* The use of land and buildings within this district shall meet the schedule of district regulations in Appendix A. (Ord. A-38, Art. 6, passed 10-18-1988) Penalty, see § 152.999

§ 152.037 PL-1 PUBLIC LANDS DISTRICT.

(A) *Intent and purpose.* This zoning district is intended for publicly owned land and facilities in the city. It is designed to permit publicly owned uses such as parks, playgrounds, schools and municipal buildings by right. Public entities shall include the city, county, public school district and non-profit organizations and societies.

(B) *Permitted uses in PL-1.* The following uses are permitted by right within the PL-1 district:

(1) Municipal buildings and facilities;

(2) Public fairgrounds;

(3) Public libraries;

(4) Public parks and recreational facilities; and

(5) Public schools and related facilities.

(C) *Dimensional requirements for PL-1.* The use of land and buildings within this district shall meet the following requirements.

(1) Buildings shall not be located closer than 30 feet to any property line located within a residential district.

(2) No building shall exceed 35 feet in height.
(Ord. A-38, Art. 6-A, passed 10-18-1988) Penalty, see § 152.999

§ 152.038 R-1 LOW DENSITY RESIDENTIAL DISTRICT.

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(A) *Intent and purpose.* This district is intended for large lot, low density residential development and related uses. The purpose of this area is to maintain the low density residential atmosphere of the community with large lots and low density uses. Forested areas, open spaces and scenic views are to be preserved as integral components of this area. Agricultural activities are allowed as a special use.

(B) *Permitted uses in R-1.* The following uses are permitted by right within the R-1 district:

- (1) Home occupations (see § 152.062); and
- (2) Single-family dwellings.

(C) *Special uses in R-1.* The following uses may be permitted by obtaining a special use permit in accordance with §§ 152.120 et seq.:

- (1) Agricultural operations;
- (2) Family day care centers;
- (3) Golf courses and country clubs;
- (4) Public and institutional uses; and
- (5) State licensed residential facilities.

(D) *Dimensional requirements for R-1.* The use of land and buildings within this district shall meet the schedule of district regulations in Appendix A.
(Ord. A-38, Art. 7, passed 10-18-1988) Penalty, see § 152.999

§ 152.039 R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.

(A) *Intent and purpose.* This district is intended primarily for single-family residential uses, together with schools, churches, parks and playgrounds. The regulations herein set forth are designed to encourage a residential environment of low density, single-family dwellings located on individual lots.

(B) *Permitted uses in R-2.* The following uses are permitted by right within the R-2 medium density residential district:

- (1) Single-family dwellings; and

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(2) Home occupations which conform to the definition of home occupation in § 152.006, and the home occupation requirements in § 152.062.

(C) *Special uses in R-2.* The following uses may be permitted by obtaining a special use permit in accordance with §§ 152.120 et seq.:

(1) Family day care centers;

(2) Home occupations; and

(3) Public and institutional uses.

(D) *Dimensional requirements for R-2.* The use of land and buildings within this district shall meet the schedule of district regulations in Appendix A. (Ord. A-38, Art. 8, passed 10-18-1988; Am. Ord. A-67, passed 11-9-1998) Penalty, see § 152.999

§ 152.040 R-3 HIGH DENSITY RESIDENTIAL DISTRICT.

(A) *Intent and purpose.* This district is intended to provide a sound and stable residential environment including medium density single-family and multi-family dwellings. It is intended to provide adequate land for potential high density, planned residential development. Permitted uses in this area are single- and multi-family dwellings, apartments, condominiums and planned unit developments (PUDs). Additional uses compatible with the residential character of the district are allowed under special conditions. The purpose of this district is to promote variety in housing style, design and cost to meet existing and future housing needs.

(B) *Permitted uses in R-3.* The following uses are permitted by right within the R-3 high density residential district:

(1) Single-family dwellings;

(2) Two-family dwellings;

(3) Multiple-family dwellings; and

(4) Home occupations which conform to the definition of home occupation in § 152.006, and the home occupation requirements in § 152.062.

(C) *Special uses in R-3.* The following uses may be permitted by obtaining a special use permit in accordance with §§ 152.120 et seq.:

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- (1) Family day care centers;
- (2) Home occupations;
- (3) Mobile home parks;
- (4) Planned unit developments; and
- (5) Public and institutional uses.

(D) *Dimensional requirements for R-3.* The use of land and buildings within this district shall meet the schedule of district regulations in Appendix A. (Ord. A-38, Art. 9, passed 10-18-1988; Am. Ord. A-68, passed 11-9-1998) Penalty, see § 152.999

§ 152.041 C-1 CORE COMMERCIAL DISTRICT.

(A) *Intent and purpose.* The C-1 districts are designed and intended to meet the day-to-day convenience shopping and service needs of city residents and visitors. It is the purpose of this district to accommodate commercial activities primarily offering goods and services required by city residents. This district also accommodates some resort retail and service operations.

(B) *Permitted uses in C-1.* The following uses are permitted by right within a C-1 district:

- (1) Retail food establishments, which supply groceries, fruits, vegetables, meats, dairy products, baked goods, confections or similar commodities for consumption off the premises;
- (2) Other retail businesses, such as, but not limited to: drug, variety, dry goods, clothing, notions, music, books, hardware or furniture stores which supply commodities on the premises;
- (3) Personal service establishments, which perform services on the premises, such as, but not limited to: barber, beauty or health shops, repair shops (i.e., shoes, radio, television, jewelry), photographic studios and self-service laundries and dry cleaning;
- (4) Office building for any of the following occupations: attorneys, architects, engineers, accountants, insurance agents, artists, doctors, dentists and similar professionals;
- (5) Banks and other financial offices;
- (6) Bowling alleys;
- (7) Public parking areas;

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(8) Restaurants, taverns and other eating or drinking establishments which provide food or drink on the premises; and

(9) Theaters.

(C) *Special uses in C-1.* The following uses may be permitted by obtaining a special use permit in accordance with §§ 152.120 et seq.:

(1) Apartments (second-floor apartments of commercial buildings);

(2) Public and institutional uses;

(3) Light manufacturing;

(4) Storage of contractor's equipment;

(5) Hotel rooms; and

(6) Residential condominiums.

(D) *Dimensional requirements for C-1.* The use of land and buildings within this district shall meet the schedule of district regulations in Appendix A. (Ord. A-38, Art. 10, passed 10-18-1988; Am. Ord. A-69, passed 3-8-1999) Penalty, see § 152.999

§ 152.042 C-2 COMMERCIAL/RESORT DISTRICT.

(A) *Intent and purpose.* The C-2 commercial districts are primarily designed and intended to meet the needs of the seasonal visitors in the city. It is the purpose of this district to accommodate small scale resort oriented commercial uses in a way that promotes convenient commercial facilities that are an extension, but not an integral part of the C-1 commercial district. Residential uses are also permitted in this district.

(B) *Permitted uses in C-2.* The following uses are permitted by right within a C-2 district:

(1) All uses permitted by right within the R-3 and C-1 districts, subject to the provisions of this district;

(2) Amusement establishments;

(3) Marinas; and

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(4) Motels.

(C) *Special uses in C-2.* The following uses may be permitted by obtaining a special use permit in accordance with §§ 152.120 et seq.:

- (1) Automobile car wash;
- (2) Drive-in restaurants;
- (3) Family day care centers;
- (4) Filling stations, including automobile repair; and
- (5) Public and institutional uses.

(D) *Dimensional requirements for C-2.* The use of land and buildings within this district shall meet the schedule of district regulations in Appendix A. (Ord. A-38, Art. 11, passed 10-18-1988) Penalty, see § 152.999

§ 152.043 1-1 INDUSTRIAL DISTRICT.

(A) *Intent and purpose.* This district is intended for warehousing and light to heavy industrial uses such as the manufacturing, processing, assembling, packaging or treatment of products from previously prepared materials. It is intended to prohibit residential uses and retail establishments as being incompatible with the industrial character of the district. Proper site planning shall be implemented to ensure that industrial development is compatible with adjacent lower density users.

(B) *Permitted uses in I-L* The following are the principal permitted uses by right within an I-1 district:

(1) Production, processing, assembling, packaging or treatment of such products as: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, garage and machine products;

(2) Production, processing, assembling, packaging, accessory sales or treatment of articles or products from the following previously prepared or semi-finished materials: bone, hair, plastic, fur, leather or wood, paper or cork, sheet metal or wire, tobacco, rubber, precious or semi-precious stones, and similar articles or products which are previously prepared or semi-finished;

(3) Manufacturing of pottery and ceramics;

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- (4) Manufacturing of musical instruments, toys, novelties or other small molded products;
- (5) Manufacturing and assembling of electronic instruments and equipment and electrical appliances and devices;
- (6) Laboratories including experimental, film, testing;
- (7) Trade skills or industrial schools and veterinary hospitals or clinics;
- (8) Public utility installations and buildings, including power, fuel, communications and water treatment;
- (9) Contractor's establishments;
- (10) Warehouses and wholesale establishments;
- (11) Automobile repair shops;
- (12) Building supplies; and
- (13) Other uses similar and with no more objectionable character to those permitted in this division (B).

(C) *Dimensional requirements for I-J.* The use of land and buildings within this district shall meet the schedule of district regulations in Appendix A.

(D) *General requirements for /-/.*

(1) Buildings and storage activities in this district shall be carried on in completely enclosed buildings. Storage may be permitted out-of-doors if the storage area is at least 100 feet from any residential district. All outdoor storage shall be properly screened by a fence or wall as provided for in § 152.068.

(2) If deemed necessary by the Zoning Administrator, the applicant shall sign an agreement that the use of the property will meet the following performance standards, or that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts for compliance to be borne by the applicant:

(a) All activities shall be carried on only in buildings conforming to the building code, and the operation shall be carried on in such a manner and with such precaution against fire and explosion

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hazards as to produce no explosion hazards as determined by the State Department of Labor to a use on an adjacent property. Flammable liquids other than fuels used for heating shall be stored in an entirely enclosed building which shall be used for no other purpose, or in underground tanks provided the storage building is not closer than 100 feet to any building occupied by one or more persons;

(b) There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by the use in such a manner as to create a public nuisance;

(c) The discharge of untreated industrial waste into a reservoir, pond or stream is prohibited. No effluent shall contain any acids, oils, dust, toxic metals, corrosives or other toxic substance in solution or suspension which would create odors, discolor, poison or otherwise pollute the stream in any way;

(d) There shall be no vibration which is discernible to the human senses beyond the property line of the site in which the use is conducted;

(e) There shall be no noise emanating from the operation which will be more audible beyond the boundaries of the site than the volume of traffic noise on the nearest adjacent street; and

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(f) There shall be no direct or sky-reflected glare exceeding 1.5 foot candles or which would be damaging to the human eye measured at the property line of the lot occupied by the use. This regulation shall not apply to lights used at the entrance or exit or service drives leading to a parking lot. Exterior lighting sources shall be directed away from any neighboring residential district. (Ord. A-38, Art. 12, passed 10-18-1988) Penalty, see § 152.999

§ 152.044 DIMENSIONS; DISTRICT REGULATIONS.

The use of land and buildings in all districts shall meet the height, setback and area regulations of the schedule of district regulations in Appendix A. (Ord. A-38, § 5.07, passed 10-18-1988) Penalty, see § 152.999

REGULATIONS

§ 152.055 ACCESS TO STREET.

Any lot of record created after the effective date of this chapter shall have frontage on a public or private street. (Ord. A-38, § 3.01, passed 10-18-1988) Penalty, see § 152.999

§ 152.056 ACCESSORY BUILDINGS.

(A) All accessory buildings shall be subject to the same front yard setback requirements as the principal building and shall not be closer than five feet to a side or rear lot line.

(B) No accessory building may be erected or used upon a lot on which there is no principal building or principal use.

(C) In residential districts, no accessory building or structure shall exceed a height of 20 feet.

(D) In residential districts, no accessory building shall exceed 50% of the square footage of the principal building.

(E) Pole buildings shall not be permitted in R-2 or R-3 residential districts.

(Ord. A-38, § 3.02, passed 10-18-1988) Penalty, see § 152.999

§ 152.057 BASEMENT DWELLINGS.

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The use of any basement as a residence or dwelling unit is prohibited in all districts (except as provided in § 152.071). This section shall not exclude underground homes or other similar dwelling units from locating in the city. (Ord. A-38, § 3.03, passed 10-18-1988) Penalty, see § 152.999

§152.058 CORNER LOT.

Any yard which abuts a street right-of-way shall meet the front yard requirements of the district in which it is located. No fence, structure or planting over 36 inches in height shall be planted or erected on the street side of a line drawn between two points each being 30 feet from the intersection of the rights-of-way of two intersecting streets. (Ord. A-38, § 3.04, passed 10-18-1988) Penalty, see § 152.999 *Cross-reference:*

Figures, see Appendix C

§ 152.059 DWELLING UNITS.

All dwelling units located outside of a mobile home park shall comply with the following conditions.

(A) Every dwelling unit shall meet the requirements of the district in which it is located, including living area requirements and area, height and dimension regulations.

(B) There shall be a minimum width throughout the entire length of the dwelling unit of 18 feet measured between the outside walls having the greatest length.

(C) All wheels, towing mechanisms and tongues of mobile homes shall be removed and none of the undercarriage shall be visible from outside the mobile home.

(D) Exterior building materials of all dwelling units shall extend to the foundation on all sides.

(E) All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the county, or if a mobile home shall be anchored to the foundation by an anchor system designed and constructed in compliance with the U.S. Department of Housing and Urban Development regulations entitled Mobile Home Construction and Safety Standards.

(F) All dwellings shall be connected to a public sewer system and water supply system or a well or septic system approved by the County Health Department.

(G) All dwellings shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential of more than one foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.

(H) All additions to dwellings shall meet all of the requirements of this chapter.

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(I) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined by the Zoning Administrator upon review of the plans submitted for a particular dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour or relief from the common or standard designed home.

(J) All mobile homes must meet standards for mobile home construction as contained in the U.S. Department of Housing and Urban Development (HUD) regulations entitled Mobile Home Construction and Safety Standards effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the city. (Ord. A-38, § 3.05, passed 10-18-1988) Penalty, see § 152.999

§ 152.060 ESSENTIAL PUBLIC SERVICES.

It shall be lawful for public utilities, municipal departments or commissions to erect, construct, alter or maintain essential public services including buildings, reasonably necessary for the furnishing of adequate services for the public health, safety and general welfare, in any zone, area or use district of the city; provided that the erection or construction of any or all above-grade construction consisting of necessary buildings and structures therefor shall be designed and erected to conform harmoniously with the general architecture and plan of the district in which it is to be erected and shall be subject to the approval of the Board of Appeals. (Ord. A-38, § 3.06, passed 10-18-1988)

§ 152.061 RESIDENTIAL FENCES.

- (A) Residential fences may be located along the property line.
- (B) Fences on all lots of record in all residential districts shall not exceed six feet in height and shall not extend toward the front of the lot nearer than the required minimum front yard.
- (C) Fences may be located in a front yard or in a side yard abutting a street provided that they do not exceed three feet in height.
- (D) Fences on lots of record shall not contain barbed wire, electric current or charge of electricity. (Ord. A-38, § 3.07, passed 10-18-1988) Penalty, see § 152.999

§ 152.062 HOME OCCUPATION REQUIREMENTS.

- (A) All home occupations, as defined in § 152.006, shall meet all of the following conditions:
- (1) The home occupation must be operated in its entirety within the principal dwelling and not within any garage or accessory building located upon the premises, except for incidental storage in use of a

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residential type garage;

(2) No person other than immediate members of the family residing on the premises shall be engaged in the occupation;

(3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

(4) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one sign, not exceeding three square feet in area, non-illuminated, and mounted flat against the wall of the main building;

(5) The occupation shall not involve any alteration or construction not customarily found in dwellings;

(6) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in a required front yard; and

(7) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises.

(B) The following uses shall be specifically excluded as a home occupation: automobile repair shops.

(C) Yard or garage sales are not considered home occupations and are provided for in § 152.072. (Ord. A-38, § 3.08, passed 10-18-1988) Penalty, see § 152.999

§ 152.063 LAKE SETBACKS.

No structure in excess of three feet in height shall be located closer than the existing established rear yard on all lake lots in the city as determined by the Zoning Administrator. In cases where no established rear yard exists, no structure in excess of three feet in height shall be located closer than 50 feet to the established legal lake level. (Ord. A-38, § 3.09, passed 10-18-1988) Penalty, see § 152.999

§ 152.064 OUTDOOR LIGHTING.

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(A) All outdoor lighting used to light a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences.

(B) Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on adjacent highways or adjacent property.

(C) All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type (except displays of time and temperature). Artificial light shall be stationary and constant in intensity and color at all times when in use.

(Ord. A-38, § 3.10, passed 10-18-1988) Penalty, see § 152.999

§152.065 PRINCIPAL USE.

Only one principal use shall be made of a lot (except second floor apartments as provided in § 152.041(C)) unless groups of apartment buildings or commercial or industrial buildings shall be deemed a principal use collectively. A single-family dwelling, other than a farm dwelling, shall constitute a principal use and only one single-family dwelling shall be permitted on a lot. (Ord. A-38, § 3.11, passed 10-18-1988) Penalty, see § 152.999

§ 152.066 PRIVATE ROADS.

(A) Private roads shall include all non-public roads providing access to three or more dwelling units.

(B) Maintenance, repair and liability for private roads shall be the responsibility of property owners adjacent to the private road and not the responsibility or liability of the city.

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(C) The construction of the roadway shall conform to the street standards and specifications adopted by the city. In the absence of city standards and specifications the roadway shall conform to County *Road Commission* standards entitled Missaukee County Road Commission Street Standards and Specifications: Procedures for Plat Development; provided that a bituminous surface shall not be required. (Ord. A-38, § 3.12, passed 10-18-1988) Penalty, see § 152.999

§ 152.067 SATELLITE DISHES, SOLAR PANELS AND WIND GENERATORS.

Freestanding solar panels, wind generators, satellite dishes or other antennas shall meet the setback requirements for accessory buildings. (Ord. A-38, § 3.13, passed 10-18-1988) Penalty, see § 152.999

§ 152.068 SCREENING.

All screening that is required by this chapter and referred to this section shall meet the following provisions.

(A) Screening shall not extend into or be located within any portion of an existing street right-of-way.

(B) Existing plant materials, fences or walls may be counted as contributing to the screening requirements. Screening shall be provided on each lot or parcel independent of adjoining uses or adjoining vegetative matter.

(C) Plant materials other than ground cover (up to three feet in height) shall not be placed closer than four feet from the property line. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.

(D) Evergreen trees shall be not less than three feet in height and shall be planted not more than 30 feet on centers.

(E) Deciduous trees shall be not less than six feet in height and shall be planted not more than 30 feet on centers.

(F) Deciduous shrubs shall be not less than three feet in height and shall be planted not more than four feet on centers.

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(G) The following trees and shrubs are suggested for use as required screening:

(1) Deciduous trees: ash, beech, birch, flowering crab, ginkgo (male), hackberry, hard maple, hawthorn, honeylocust, linden, magnolia, redbud, sycamore;

(2) Evergreen trees: cedar, fir, hemlock, juniper, pine, spruce; and

(3) Shrubs: cotoneaster, dogwood, euonymous, forsythia, hazelnut, honeysuckle, hydrangea, lilac, privet, Russian olive.

(H) The following trees are not permitted for use as required screening: box elder, soft maples (red-silver), elms, poplars, willows, horse chestnut (nut bearing), tree of heaven, catalpa, female ginkgo.

(I) The plantings shall be maintained in a neat and attractive manner commensurate with the adjoining area and shall maintain their density and screening effect throughout the calendar year.

(J) Walls or fences for screening purposes shall be at least four feet in height, but in no case shall the fence or wall be lower than the installation, structure or activity to be screened, unless that installation, structure or activity exceeds eight feet in height.

(K) All walls or fences for screening purposes shall be constructed of weather resistant, rust proof and easily maintained materials. (Ord. A-38, § 3.14, passed 10-18-1988) Penalty, see § 152.999

§ 152.069 VEHICLE STORAGE.

The storage or temporary parking of vehicles is permitted, provided that the storage or parking meets the following requirements.

(A) The non-commercial storage of not more than one recreational vehicle shall be permitted in agricultural or residential districts, provided that there shall be no limitation to the number that may be stored in an enclosed building. Provided also that the vehicle is parked in the side or rear not used as living or guest quarters and that it does not create a nuisance to a neighboring use.

(B) One recreational vehicle may be temporarily parked in any agricultural or residential district for the purpose of guest quarters for a period not to exceed ten continuous days or an aggregate period of 15 days in one month, provided that all wastewater and sewage is contained and carried off the lot to an approved sanitary disposal station.

(C) The storage of one or more dismantled, wrecked or unlicensed vehicles required to be licensed by the state within any district is expressly prohibited unless contained within a salvage yard or an enclosed structure.

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(D) Vehicles in excess of 9,500 pounds of gross vehicle weight shall not be temporarily or permanently parked or stored overnight in the R-2 or R-3 district. (Ord. A-38, § 3.15, passed 10-18-1988) Penalty, see § 152.999

§ 152.070 SWIMMING POOLS.

(A) Swimming pools may be installed in any district as an accessory use.

(B) All pools must meet the following conditions:

(1) Pools may be installed only in the side or rear yards of a lot in a residential district. Motels may install pools in the front yard. All yard requirements shall be met, except as provided in division (B)(4) below;

(2) A good quality fence not less than five feet in height shall be required. The support posts thereof shall be constructed in a permanent manner and in such a way as to last for the duration of the pool. These posts shall be spaced at intervals of not more than eight feet. The fence shall entirely enclose the pool;

(3) Every gate or other opening in the fence shall be designed, maintained and locked to prevent entry of persons except as permitted by the owner;

(4) Pools shall not be erected closer than five feet from the rear and side property lines of the lot. In the case of corner lots, the pool shall not be located closer than 20 feet from any property line abutting any street; and

(5) Pools may not occupy more than 40% of the area of the yard. In computing the area all other accessory structures shall be excluded.
(Ord. A-38, § 3.16, passed 10-18-1988) Penalty, see § 152.999

§ 152.071 TEMPORARY STRUCTURES INCIDENTAL TO CONSTRUCTION.

(A) Temporary accessory structures for uses incidental to construction work may be authorized by permit by the Zoning Administrator after issuance of a building permit for the proposed structure. The temporary permit shall specify the location of the temporary accessory structure. The temporary facility and all debris shall be removed within 15 days after completion or abandonment of the work.

(B) Basement dwellings may be used for residential purposes during the construction of a permanent dwelling provided a temporary permit is secured from the Zoning Administrator and approval is granted from the County Health Department.

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(C) The temporary permit shall terminate six months after the date of its issuance. However, the Zoning Administrator may renew the permit for additional six-month periods if construction of the principal structure has been progressing in a reasonable manner. (Ord. A-38, § 3.17, passed 10-18-1988) Penalty, see § 152.999

§ 152.072 YARD OR GARAGE SALES.

Yard or garage sales shall be permitted up to two times per year, provided the following conditions are met:

(A) The yard or garage sale shall not operate for more than five days in any given month;

(B) All signs advertising the sales shall not be displayed more than one day before the first day of the sale or more than one day after the final day of the sale; and

(C) All signs advertising the sales shall include the name, address and telephone number of the person or persons responsible for the advertising sign(s).
(Ord. A-38, § 3.18, passed 10-18-1988) Penalty, see § 152.999

OFF-STREET PARKING AND LOADING

§ 152.085 SCOPE.

In all zoning districts, off-street parking facilities for the parking of vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of this chapter, shall be provided as herein prescribed. (Ord. A-38, § 13.01, passed 10-18-1988)

§ 152.086 MEASUREMENT UNITS; DEFINITIONS.

For the purpose of determining the off-street parking and loading facilities required as accessory to a use, definitions and standards are established as follows.

(A) *Usable Floor Area (UFA)*. Used in determining parking requirements, *USABLE FLOOR AREA* shall mean the total area of all the floors of the building used by the principal activity as specified in the parking schedule, measured from the exterior faces of the building. The areas used for storage, mechanical equipment, stairwells or otherwise not occupied by people shall be excluded from the floor area calculation.

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(B) *Gross Floor Area (GFA)*. Used in determining loading requirements, *GROSS FLOOR AREA* means the total floor area used for the main and accessory activities and storage areas of the building served.

(C) *Employees*. Wherever the parking requirement is based on *EMPLOYEES*, it shall mean the maximum number of employees on duty on the premises at one time or on any two successive shifts, whichever is the greater.

(Ord. A-38, § 13.02, passed 10-18-1988)

Cross-reference:

Figures, see Appendix C

§ 152.087 APPLICATION AND DETERMINATION.

(A) Any application for a land use permit to construct a parking area shall include a site plan drawn to scale and fully dimensioned, showing the proposed design of the parking area and loading facilities to be provided in compliance with the provisions of this subchapter.

(B) The Zoning Administrator shall determine the minimum number of spaces required for accessory off-street parking by applying the schedule of parking requirements for the various uses. Where the computation results in a fractional space, it shall be counted as one additional space required.

(C) The Planning Commission may vary the parking requirements of this subchapter and Appendix B where it finds that due to the nature of the particular use, these requirements will not be adequate to provide sufficient parking or where the strict application of the requirements will result in an excess amount of parking related to the particular use.

(D) The Planning Commission shall have the authority to determine the off-street parking requirements of any use not specifically mentioned in the schedule in Appendix B.

(Ord. A-38, § 13.03, passed 10-18-1988)

§ 152.088 PARKING SPACE REQUIREMENTS.

The amount of off-street parking space required by type of use shall be determined in accordance with the schedule in Appendix B. (Ord. A-38, § 13.04, passed 10-18-1988) Penalty, see § 152.999

§ 152.089 DESIGN STANDARDS.

The off-street parking required by this subchapter and Appendix B shall be provided in accordance with the following requirements:

(A) Each parking space shall be at least ten feet in width and 18 feet in length; and

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(B) No parking or loading space shall be accessible to a street except by a driveway. (Ord. A-38, § 13.05, passed 10-18-1988) Penalty, see § 152.999

§ 152.090 PARKING IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

Every parking area in a commercial or industrial district shall meet the following requirements:

(A) Parking areas shall be effectively screened on any side which adjoins a residential district by an eight-foot landscaped buffer yard pursuant to § 152.068. No parking area shall be closer than eight feet to any residential property or district or closer than five feet to any street; and

(B) Every driveway and parking area shall be surfaced with a material that shall provide a durable, smooth and low dust surface. It shall be graded and drained so that all surface water flows to the nearest drain or drainage ditch.

(Ord. A-38, § 13.06, passed 10-18-1988) Penalty, see § 152.999

§ 152.091 JOINT USE OF PARKING FACILITIES.

(A) The joint use of parking facilities by two or more uses is encouraged whenever practical and satisfactory to each of the uses to be served. A reduction of individual parking requirements may be permitted by the Zoning Administrator in cases where neighboring uses have significantly different hours of operation from each other. However, each use shall provide a minimum of 50% of its individual off-street parking requirements.

(B) The Zoning Administrator may require, as a condition of approval, a copy of an agreement among participants to share parking facilities. The agreement shall specify the time period for which the arrangement is agreed to.

(Ord. A-38, § 13.07, passed 10-18-1988) Penalty, see § 152.999

§ 152.092 CONSTRUCTION; PERMIT REQUIRED.

A land use permit shall be obtained before a parking area may be constructed or enlarged. A site plan approved by the Planning Commission shall be submitted to the Zoning Administrator before issuance of a land use permit for a parking area with 20 spaces or more. (Ord. A-38, § 13.08, passed 10-18-1988) Penalty, see § 152.999

§ 152.093 OFF-STREET LOADING REQUIREMENTS.

(A) On the same premises with every building involving the receipt or distribution of vehicles,

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material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with street or parking areas.

(B) This loading and unloading space, unless completely and adequately provided for within a building, shall be a minimum area of ten feet by 50 feet, with 14-foot height clearance, and shall be provided according to the following schedule:

<i>Gross Floor Area in Square Feet</i>	<i>Loading and Unloading Spaces Required in Terms of Square Feet of Gross Floor Area</i>
0 - 2,000	None
2,000 - 10,000	One space
10,000 - 20,000	Two spaces
20,000 - 50,000	Three spaces
50,000 - 100,000	Four spaces
Each additional 100,000	Five, plus one space for each 100,000 square feet

(C) Off-street loading space area shall not be construed as, or counted towards, the supplying of area required as off-street parking space area. (Ord. A-38, § 13.09, passed 10-18-1988) Penalty, see § 152.999

SIGNS

§ 152.105 REGULATIONS FOR ALL DISTRICTS.

The following conditions shall apply to all signs erected or located in any use district.

(A) A land use permit shall be required for the erection, construction or alteration of any sign. All signs shall be approved by the Zoning Administrator to their conforming to the requirements of the zoning district they are located in and the requirements of this subchapter.

(B) No flashing, oscillating or intermittent type of illuminated sign or display shall be permitted in any zoning district.

(C) No sign shall be located in, project into or overhang a public right-of-way or dedicated public easement.

(D) Illumination of signs is permitted provided that the light from any illuminated sign shall be so shaded or directed that the light intensity is not objectionable to surrounding areas and is not hazardous to pedestrians or vehicle operators.

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(Ord. A-38, § 14.01, passed 10-18-1988) Penalty, see § 152.999
Cross-reference-Figures, see Appendix C

§ 152.106 REQUIREMENTS FOR SPECIFIC DISTRICTS.

(A) Residential districts.

(1) Signs shall indicate only the occupant(s), address and a special name or designation for the dwelling and lot. Signs may also include an identity sign of a customary home occupation.

(2) Signs shall not exceed three square feet in area.

(B) Commercial and industrial districts.

(1) Signs shall not exceed a total area of one and one-half square feet for each one lineal foot of building frontage, provided that the maximum total area of all permitted signs for any establishment shall not exceed 100 square feet.

(2) Flat wall signs may be located anywhere on the face of the building.

(3) All projecting or freestanding signs shall be 25 % smaller in area than a permitted wall sign and further must have a minimum clearance of eight feet above a sidewalk and 15 feet above alleys or driveways.

(4) Permitted freestanding or ground mounted signs may be located anywhere on the premises provided that the sign is not located closer than ten feet to any lot lines and does not obstruct pedestrian traffic or the clear vision of vehicle operators.

(5) Signs shall not project above the roof line.

(Ord. A-38, § 14.02, passed 10-18-1988) Penalty, see § 152.999

Cross-reference:

Figures, see Appendix C

SPECIAL USES

§ 152.120 PURPOSE AND SCOPE; SPECIAL USES.

(A) This section provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole.

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(B) This subchapter, together with previous references in other subchapters of this chapter, designate the requirements, procedures and standards which must be met before the following land uses can obtain a special use permit:

- (1) Agricultural operations;
- (2) Airports;
- (3) Apartments (second floor);
- (4) Automobile car wash;
- (5) Drive-in restaurants;
- (6) Family day care centers;
- (7) Filling stations;
- (8) Golf courses and country clubs;
- (9) Home occupations;
- (10) Mobile home parks;
- (11) Planned unit development (PUD);
- (12) Public and institutional uses;
- (13) Salvage yards;
- (14) State licensed residential facilities; and
- (15) Veterinarian services and kennels.

(Ord. A-38, § 15.01, passed 10-18-1988)

§ 152.121 PERMIT PROCEDURES.

The application for a special use permit shall be submitted and processed under the following procedures.

(A) An application shall be submitted to the Zoning Administrator on a form obtainable from the City Clerk or the Zoning Administrator. Each application will be accompanied by the payment of a fee in accordance with the adopted schedule of fees.

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(B) A complete site plan as specified in §§ 152.155 et seq. must be provided.

(C) The special use application together with all required data shall be transmitted to the City Planning Commission. The Planning Commission shall hold a public hearing of which the notice for such shall be given not less than five and not more than 15 days before the application will be considered. Publication of the hearing will be in a paper of community-wide circulation. Upon conclusion of the hearing and not more than 30 days thereafter the Planning Commission shall take final action on the application. Only upon approval, with or without modification, may a special use permit be issued by the Zoning Administrator.

(D) A special use permit shall be valid for one year from the date of issuance of the permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, the Zoning Administrator shall notify the applicant in writing of the expiration of the permit.

(E) The Zoning Board of Appeals shall have the authority to revoke any special use permit after it has been proved that the holder of the permit has failed to comply with the applicable requirements in this and other chapters. After written notice of revocation has been given by the Zoning Administrator, the use for which the permit was granted must cease within 60 days.

(F) No reapplication for a special use permit that has been denied shall be submitted, unless new facts or conditions arise which substantially modify the application or until the expiration of one year from the date of the denial. (Ord. A-38, § 15.02, passed 10-18-1988) Penalty, see § 152.999

§ 152.122 PERMIT STANDARDS AND CONDITIONS.

(A) The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on the proposed site will:

(1) Be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;

(2) Not be hazardous or disturbing to existing or intended uses in the same general area and will be an improvement to property in the immediate vicinity and to the community as a whole;

(3) Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, water and sewage facilities and schools;

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(4) Not create excessive additional requirements at public cost for public facilities and services;

(5) Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

(6) Be consistent with the intent and purpose of the zoning district in which it is proposed to be located; and

(7) Be in conformance with the current city master or land use plan.

(B) The Planning Commission may stipulate reasonable conditions and safeguards provided that they meet the standards of § 152.199.

(C) In authorizing a special use permit the Planning Commission may require that a bond of ample sum be furnished to ensure compliance with requirements, specifications and conditions imposed with the granting of the special use permit.

(Ord. A-38, § 15.03, passed 10-18-1988)

§ 152.123 REQUIREMENTS FOR SPECIFIC USES.

(A) The above general standards and requirements are basic to all uses authorized by special use permit.

(B) The specific and detailed requirements set forth in the following divisions relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements and the requirements of the district the use is located in.

(1) *Agricultural operations.*

(a) Minimum lot site shall be ten acres.

(b) No agriculturally related structure shall be located closer than 100 feet to any property line.

(2) *Airports.*

(a) Minimum lot size shall be ten acres.

(b) Airports shall be located a minimum of 500 feet from any R-2 or R-3 district.

(3) *Apartments (second floor).* Residential use of the second floor of a commercial building for the purpose of an apartment may be permitted, provided:

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- (a) The residential space has safe, convenient access independent of the commercial use;
 - (b) Two parking spaces are provided per dwelling unit.
- (4) *Automobile car wash.*
- (a) Minimum lot size shall be 15,000 square feet with a minimum street frontage of 100

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(b) There shall be provided around all sides of the site, except at entrances, exits and along sides of premises enclosed by buildings, a fence or wall at least five feet in height in order to intercept wind-blown trash and other debris.

(c) The auto wash shall be enclosed in a building except that steam cleaning or vacuuming may be permitted outside the building when the parcel does not abut a residential use or district.

(5) *Drive-in restaurants.*

(a) Driveway openings shall be located as far from street intersections as practical but in no case closer than 100 feet (measured from the nearest right-of-way line to the edge of the driveway).

(b) No drive shall be closer to any other drive than 75 feet.

(c) Vehicular circulation patterns into and out of these businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.

(d) All buildings shall be set back a minimum distance of 30 feet from any adjacent right-of-way line.

(e) All refuse containers shall be located in the rear yard and be screened from view by a six-foot high fence or wall of sound construction (see § 152.068).

(6) *Family day care centers.*

(a) No dormitory facilities shall be provided.

(b) Not more than one dwelling unit used for residential purposes may be provided on the site.

(c) There shall be provided on the site a usable outdoor play area at the rate of 50 square feet for each child not a member of the family, exclusive of required front yard, required side yard along a street, and of driveways and parking areas.

(d) The above-mentioned play area shall be provided with a fence at least five feet in height on all sides.

(7) *Filling stations.*

(a) All repair services shall be conducted wholly within a completely enclosed building.

(b) Minimum lot size shall be 15,000 square feet with a minimum width of 150 feet.

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(c) The proposed site shall be immediately accessible from a major street.

(d) The station pumps and service drives shall be considered part of the building, and the buildings and accessory structures shall maintain the minimum setbacks for the district it is located in.

(e) No driveway or curb cut for a driveway shall be located within ten feet of an adjoining property line.

(f) A solid fence or wall six feet in height shall be erected along all property lines abutting a residential district (see § 152.068).

(8) *Golf courses and country clubs.* Including accessory uses to a golf course such as eating or drinking establishments and retail sales directly connected with the conduct of the principal use.

(a) Driving ranges and miniature golf courses that are not accessory uses to golf or country clubs are specifically prohibited.

(b) Minimum lot size shall be at least 60 acres for nine holes and 110 acres for 18 holes.

(c) The site shall be immediately accessible from a major street and all ingress and egress shall be directly onto or from that street.

(d) The site should be located such that it enhances the surrounding uses and such that it does not interfere with any surrounding activities by creating a nuisance or hazards.

(e) No building shall be closer than 50 feet to any property line.

(9) *Home occupations.*

(a) The home occupation requirements in § 152.062 shall be met.

(b) The Planning Commission shall have the discretion to provide reasonable hours of operation to protect neighboring property owners.

(10) *Mobile home parks.*

(a) The mobile home park complies with all of the applicable requirements of the Mobile Home Commission rules, as amended, the mobile home parks and seasonal mobile home parks health standards, as amended, and Public Act 419 of 1976, now repealed' and replaced by M.C.L.A. §§ 125.2301 et seq., as amended.

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(b) All mobile homes shall be skirted within 30 days of placement within the mobile home park and must meet the standards of Public Act 419 of 1976, now repealed and replaced by M.C.L.A. §§ 125.2301 et seq., as amended.

(c) All mobile homes shall be anchored when installed in a mobile home park with only those systems which are approved by Public Act 419 of 1976, now repealed and replaced by M.C.L.A. §§ 125.2301 et seq., as amended.

(11) *Planned unit developments.* Planned unit developments may be permitted as a special use provided that the requirements and standards of §§ 152.175 et seq. are met.

(12) *Public and institutional uses.*

(a) All ingress and egress to the site shall be directly onto a major street or a marginal access service drive thereof.

(b) No building shall be closer than 35 feet to any property or street line.

(c) No building shall be erected to a height greater than that permitted in the district in which it is located unless the building is set back from the initial 35 feet an additional one foot for each additional foot above the district height limitation.

(d) The following principles shall be utilized to evaluate the proposed location of any institutional use. These principles are alterable, depending upon the specific conditions of each situation, but they shall be applied by the Planning Commission as general guidelines to help assess the impact of an institutional use upon the district in which it is proposed to be located.

1. Any institutional structure or use in a residential district should preferably be located at the edge of a residential district, abutting either a commercial or low density residential district, or adjacent to a public open space.

2. Motor vehicle entrance should be made on a major street, or as immediately accessible from a major street to avoid the impact of traffic generated by the institutional use upon a residential area.

3. Preferred site locations should offer natural or man-made barriers that would lessen the effect of the institutional use on a residential area.

(e) Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced for safety. All buildings storing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

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(13) *Salvage yards.*

- (a) The site shall be a minimum of five acres in size.
- (b) A solid fence or wall at least eight feet in height shall be provided around the entire periphery of the site to screen the site from surrounding property.
- (c) Fences or walls shall be of sound construction, painted, and otherwise finished neatly and inconspicuously (see § 152.068).
- (d) All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs or lighting shall be used or stored outside the fenced-in area.
- (e) All fenced-in areas shall be set back at least 100 feet from any street or property line.
- (f) The front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation (see § 152.068).
- (g) No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
- (h) Whenever the installation abuts upon property within a residential district, a setback of at least 200 feet in width shall be provided between the fenced-in area and that property. This setback shall contain plant materials, grass and structural screens of a type approved by the Planning Commission to effectively minimize the impact the installation has on the residential district (see § 152.068).

(14) *State licensed residential facilities.*

- (a) State licensed residential facilities shall only include those facilities defined and properly licensed by Public Act 218 of 1979 and Public Act 116 of 1973, being M.C.L.A. §§ 722.111-722.128, as amended, providing resident services for seven or more persons under 24-hour supervision.
- (b) The Planning Commission shall establish requirements for setback, lot size, side yard, parking, screening and other conditions necessary for the use to conform with the character of the adjacent neighborhood.

(15) *Veterinarian services and kennels.*

- (a) Minimum lot size shall be one acre for veterinarian services and five acres for kennels.

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(b) If there is regular overnight housing of animals, the animals shall be housed at least 100 feet from any adjoining property and at least 500 feet from any R-2 or R-3 district.

(c) The Planning Commission may require appropriate screening in conformance with § 152.068.

(Ord. A-38, § 15.04, passed 10-18-1988) Penalty, see § 152.999

NON-CONFORMING USES, STRUCTURES AND LOTS

§ 152.135 NON-CONFORMING USES.

Any lawful use existing at the time of the adoption or amendment of this chapter may be continued notwithstanding the fact that the use becomes non-conforming under the chapter as adopted or amended.

(Ord. A-38, § 4.01, passed 10-18-1988) *Cross-reference:*

Figures, see Appendix C

§ 152.136 NON-CONFORMING STRUCTURES AND LOTS.

Any structure or use which, when constructed, complied with the height, area, dimension and any other size regulations of the ordinance in effect at the time of its construction may continue notwithstanding the fact that the structure or use becomes nonconforming as to height, area, dimension or other regulations of this chapter as adopted or amended. (Ord. A-38, § 4.02, passed 10-18-1988)

Cross-reference:

Figures, see Appendix C

§ 152.137 CHANGE OF NON-CONFORMING USE.

A non-conforming use may be changed to another non-conforming use by authorization of the Planning Commission if the new use would markedly decrease the degree of non-conformance and would enhance the desirability of adjacent conforming uses. Whenever a non-conforming use is changed to a more restricted or conforming use, the use shall not thereafter revert to the prior non-conforming use. (Ord. A-38, § 4.03, passed 10-18-1988) Penalty, see § 152.999

§ 152.138 DISCONTINUANCE.

If a non-conforming use is discontinued for a period of one year, it may not thereafter be continued. No non-conforming use, if changed to a use permitted in the district in which it is located, shall be resumed or changed back to a non-conforming use. (Ord. A-38, § 4.04, passed 10-18-1988) Penalty, see § 152.999

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§ 152.139 EXPANSION OF NON-CONFORMING USES.

(A) A non-conforming use may be expanded throughout the structure in which it is conducted.

(B) Non-conforming uses which are not located within a building or structure may not be expanded to land not actually in use at the time of the adoption of this chapter or any amendment thereto.

(C) Non-conforming uses having multiple buildings or structures shall not be expanded by construction of an additional building or structure.

(Ord. A-38, § 4.05, passed 10-18-1988) Penalty, see § 152.999

§ 152.140 BUILDINGS AND USES UNDER CONSTRUCTION.

(A) Any structure or use lawfully in the process of completion at the time of the adoption of this chapter or any amendment thereto may be completed. Such structure may be used for the use specified in the building permit notwithstanding the fact that the use or the structure itself does not comply with the chapter as adopted or amended.

(B) For the purposes of this section, a building permit shall be valid for one year from the date of issuance of that permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, the building permit shall be deemed invalid.

(C) For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PROCESS OF COMPLETION. Includes the completed construction of footings and the pouring of concrete therefor. The preparation of architectural plans and drawings; purchase of land, leases, or materials; or the moving of earth are excluded from this term. (Ord. A-38, § 4.06, passed 10-18-1988)

§ 152.141 REPAIR AND RESTORATION.

(A) Only repairs and maintenance work required to keep a non-conforming structure in sound condition may be made.

(B) A structure or use damaged by the elements, public enemy or other casualty may be rebuilt or restored to its size prior to that damage and its use resumed if the cost of the restoration and repair does not exceed 50% of the appraised replacement cost of the building or use which was damaged. The Zoning Administrator shall make this determination. Persons aggrieved by the determination of estimated replacement cost by the Zoning Administrator may appeal that determination to the Board of Appeals.

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(C) A non-conforming structure or use may be rebuilt or reconstructed and resumed if the cost thereof exceeds the formula established in division (B) if the Board of Appeals has made the following determinations:

(1) The circumstances are such that the lot previously occupied by the non-conforming use cannot then be advantageously used for a use permitted in the district in which it is situated, and all repairs shall be commenced within one year from the time of the casualty. A building permit shall be first obtained; and

(2) Reconstruction of the structure or use and its resumption will not adversely affect adjacent properties or city residents for reasons of health, safety or general welfare.
(Ord. A-38, § 4.07, passed 10-18-1988) Penalty, see § 152.999

§ 152.142 NON-CONFORMING LOT WIDTH.

(A) Any lot platted in a subdivision established prior to October of 1988, the month and year in which the City Zoning Ordinance took effect, need only be 50 feet in width in order to qualify as a building site if all of the following requirements are met:

(1) Public water and sewer are available;

(2) Lot area is at least 5,000 square feet; and

(3) All other height, setback, and area requirements under Appendix A for R-2 medium density residential with public sewer are met.

(B) This section shall take effect upon publication in the manner prescribed by law.
(Ord. A-38, § 4.08, passed 10-18-1988; Am. Ord. A-54, passed 4-11-1994)

SITE PLAN REVIEW

§ 152.155 PURPOSE AND INTENT.

It is the purpose of this subchapter to require site plan approval for buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and land uses, and on the character of future development. It is further the purpose of this subchapter to achieve safe and convenient traffic movement and the conservation of natural features and resources. It is further the intent of this subchapter to delegate certain aspects of site plan review authority to the Planning Commission, within the standards and requirements set forth in this subchapter. (Ord. A-38, § 16.01,

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passed 10-18-1988)

§ 152.156 USES REQUIRING SITE PLAN APPROVAL.

The following buildings, structures and uses require site plan approval by the Planning Commission:

- (A) All special uses;
- (B) All commercial or industrial uses;
- (C) Parking lots containing 20 or more parking spaces; and
- (D) Multi-family dwellings.

(Ord. A-38, § 16.02, passed 10-18-1988) Penalty, see § 152.999

§ 152.157 SITE PLAN REQUIREMENTS.

Each site plan submitted shall contain the following information, unless specifically waived by the Planning Commission and Zoning Administrator, in whole or in part:

(A) The date, north arrow and scale. The scale shall be not less than one inch = 20 feet for property under three acres and at least one inch = 100 feet for those three acres or more;

(B) All lot and property lines are to be shown and dimensioned, including building setback lines on corner lots;

(C) The location and height of all existing and proposed structures on and within 100 feet of the subject property's boundary;

(D) The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas (show dimensions of a typical parking space), unloading areas, recreation areas, common use areas and areas to be conveyed for public use and purpose;

(E) The location and right-of-way width of all abutting roads, streets, alleys or easements;

(F) The name and address of the individual responsible for the preparation of the site plan;

(G) The name and address of the property owner or petitioner;

(H) A locational sketch drawn to scale;

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(I) Properties and respective zoning abutting the subject property;

(J) The location of all landscaping and the location, height and types of fences and walls;

(K) Size and location of existing and proposed utilities, including proposed connections to public sewer or water supply systems; and

(L) The location and size of all surface water drainage facilities.
(Ord. A-38, § 16.03, passed 10-18-1988) Penalty, see § 152.999

§ 152.158 REVIEW PROCEDURE.

(A) The proposed site plan shall be submitted in five copies to the Zoning Administrator. The Zoning Administrator shall keep one copy of the proposed site plan and deliver four copies of the proposed site plan to the Secretary of the Planning Commission.

(B) The Planning Commission shall study the site plan and shall within 60 days of its submittal to the Zoning Administrator either approve or disapprove the proposed site plan. If the site plan is disapproved, the reasons for the disapproval shall be stated.

(C) Upon approval of a site plan, at least two copies of the site plan as finally approved shall be signed and dated by the Secretary of the Planning Commission. One copy of the signed site plan shall be kept filed in the office of the Zoning Administrator and the other returned to the applicant.
(Ord. A-38, § 16.04, passed 10-18-1988)

§ 152.159 STANDARDS FOR REVIEW; REQUIRED PERMITS.

(A) In reviewing a site plan, the Planning Commission shall determine whether the applicant has established that the site plan is consistent with this chapter and in accordance with the adopted plan of the community and, more specifically, that:

(1) The movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe and convenient;

(2) The site plan is harmonious with, and not injurious or objectionable to, existing and projected future uses in the immediate area;

(3) The site plan shows the use will be adequately served by necessary improvements, including but not limited to sewage collection and treatment, potable water supply, storm drainage, lighting, roads and parking; and

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(4) The site plan is adequate to provide for the health, safety and general welfare of the persons and property on the site and in the neighboring community.

(B) The Secretary of the Planning Commission shall not sign the approved site plan until the applicant has submitted three copies of all permits which may be required by the county or the state for the construction of the use, such as, but not limited to, permits for on-site wastewater disposal, and permits required under the Soil Erosion and Sedimentation Act, Public Act 347 of 1972, being M.C.L.A. §§ 282.101-282.117, and the Inland Lakes and Streams Act, Public Act 346 of 1972. (Ord. A-38, § 16.05, passed 10-18-1988)

§ 152.160 APPROVAL REQUIRED FOR CONSTRUCTION OR USE.

(A) No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development which requires a site plan approval until an approved site plan has been signed by the Secretary of the Planning Commission.

(B) The Zoning Administrator shall not issue a land use permit for any use requiring site plan approval until an approved site plan has been signed by the Secretary of the Planning Commission. (Ord. A-38, § 16.06, passed 10-18-1988) Penalty, see § 152.999

PLANNED UNIT DEVELOPMENT

§ 152.175 PURPOSE.

It is the purpose of this subchapter to encourage more imaginative and livable housing environments through a planned reduction or averaging of the individual lot area requirements, provided that the overall density requirement for each district remains the same. A special use permit may be issued for the construction and occupancy of a planned unit development (PUD), provided that the standards, procedures and requirements set forth in §§ 152.120 et seq. and this subchapter can be met. (Ord. A-38, § 17.01, passed 10-18-1988)

§ 152.176 OBJECTIVES.

The following objectives shall be considered in reviewing any application for a special use permit for a PUD:

(A) To provide a more desirable living environment by preserving the natural character of open fields, stands of trees, water bodies, flood plains, hills and similar natural assets;

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(B) To encourage the provision of open space and the development of recreational facilities in a generally central location and within reasonable distance of all living units;

(C) To encourage developers to use a more creative and imaginative approach in the development of residential areas;

(D) To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs by avoiding natural obstacles in the residential site; and

(E) To encourage variety in the physical development pattern of the community by providing a mix of housing types.

(Ord. A-38, § 17.02, passed 10-18-1988)

§ 152.177 QUALIFYING CONDITIONS.

Any application for a special use permit shall meet the following conditions to qualify for consideration as a PUD:

(A) The PUD site shall be at least ten acres in area, shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit;

(B) Public water and sewer facilities shall be available or shall be provided as part of the site development, or, if approved by the County Health Department, alternate sources of water and sewer facilities shall be acceptable; and

(C) For each square foot of land gained through the reduction or averaging of lot sizes, equal amounts of land shall be set aside as open space.

(Ord. A-38, § 17.03, passed 10-18-1988)

§ 152.178 USES THAT MAY BE PERMITTED.

The following uses of land and structures may be permitted within a PUD, subject to the district limitations of the zoning district in which the proposed PUD is located:

(A) Single-family dwellings;

(B) Two-family dwellings;

(C) Multi-family dwellings;

(D) Recreation and open space such as parks, golf courses, swimming pools or other recreational facilities which are limited to the use of the owners or occupants of the lots located within the PUD; and

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(E) The Planning Commission may have the discretion to allow mixed use developments provided that no more than 20% of the land and floor area of the proposed PUD is devoted to a use that is not specifically permitted in this section. (Ord. A-38, § 17.04, passed 10-18-1988)

§ 152.179 LOT VARIATION AND DEVELOPMENT REQUIREMENTS.

The lot area for PUDs may be averaged or reduced from those sizes required by the zoning districts in which the proposed PUD is located upon compliance with the following procedures.

(A) The gross acreage proposed for a PUD shall be computed to determine the total land area available for development.

(B) The maximum number of lots or dwelling units that may be approved within a PUD shall be computed by subtracting 20% from the total gross area available for street right-of-way purposes and dividing the remaining net area available by the minimum lot area requirement of the appropriate zoning district.

(C) Under this procedure, individual lots may be reduced in area below the minimum lot size required, provided that the total number of dwelling units or lots created within the development is not more than the maximum number that would be allowed if the tract were developed under the minimum lot area requirements of the applicable zoning district.

(D) The developer may also request a maximum of up to a 20% increase in permitted density provided the increased density does not result in the creation of any of the following conditions:

- (1) Inconvenience or unsafe access to the PUD;
- (2) Traffic congestion in streets which adjoin the PUD;
- (3) An excessive burden on public services or utilities including schools which serve the PUD; or
- (4) Incompatibility with existing adjacent land uses.

(E) The front, side and rear yard requirements of the district in which the PUD is located shall serve as the building space standards for all PUDs, although the Planning Commission has the discretion of altering these standards where necessary.

(F) To ensure the PUD is compatible with adjacent land uses, there shall be a buffer zone

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surrounding the development. This buffer zone shall be left to the discretion of the Planning Commission to ensure uniformity with adjacent districts.

(G) Off-street parking shall be in accordance with §§ 152.085 et seq.

(H) Signs shall be in accordance with §§ 152.105 et seq.

(I) Street standards and specifications adopted by the city shall be complied with for all street improvements. In the absence of city standards and specifications, the street improvements shall conform to Missaukee County Road Commission Street Standards and Specifications: Procedures for Plat Development. (Ord. A-38, § 17.05, passed 10-18-1988) Penalty, see § 152.999

BOARD OF APPEALS

§ 152.190 MEMBERSHIP.

(A) The legislative body may act as a Board of Appeals upon all questions arising under this Zoning Ordinance, and in that event the legislative body may fix rules and regulations to govern its procedure sitting as a Board of Appeals.

(B) In the event that the legislative body so desires, it may appoint a Board of Appeals consisting of not less than five members, each to be appointed for a term of three years. Appointments for the first year shall be for a period of one, two and three years, respectively, so as to provide for the appointment of an equal number each year, depending on the number of members. Each member thereafter shall hold office for the full three-year term.

(Ord. A-38, § 18.01, passed 10-18-1988)

§ 152.191 POWERS AND DUTIES.

The Board shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of the Zoning Map. The Board may, by the concurring vote of two-thirds of its members, reverse or affirm, wholly or partly, or may modify any order, requirements, decision or determination as in its opinion ought to be made, and to that end shall have all powers of the officer from whom the appeal was taken. It may issue or direct the issuance of a permit. It shall also hear and decide all matters referred to it or upon which it is required to pass under this chapter. (Ord. A-38, § 18.02, passed 10-18-1988)

§ 152.192 MEETINGS; ATTENDANCE; RECORDS.

Meetings of the Board shall be held at the call of the Chairperson and at such other times as the

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Board may specify. The Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Secretary shall maintain a public record of the proceedings of the Board which shall be filed in the office of the City Clerk. (Ord. A-38, § 18.03, passed 10-18-1988)

§ 152.193 APPEALS; PROCEDURE.

(A) Appeals may be taken to the Board by any party aggrieved by a decision or order of the Zoning Administrator where it is alleged that there is error or misinterpretation in any order, requirement or decision made by the Zoning Administrator or other administrative agency in the carrying out of the provisions of this chapter.

(B) A notice of appeal specifying the grounds thereof shall be filed with the Zoning Administrator within ten days after the date of the action appealed from. That officer shall promptly transmit all records to the Board.

(C) An appeal shall stay all proceedings, decisions or orders unless that officer certifies to the Board that a stay would, in his or her opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except upon a restraining order by the Board or the Circuit Court. (Ord. A-38, § 18.04, passed 10-18-1988)

§ 152.194 HEARINGS.

(A) When an application for hearing or appeal has been filed in proper form and the required fee paid, the Zoning Administrator shall immediately place the same upon the calendar for hearing and serve required notices.

(B) Notice shall be published once in a newspaper of general circulation in the city at least five days prior to the hearing.

(C) Copies of the notice shall be served upon the applicant and the Secretary of the Board or other administrative officers from which the appeal is taken. Notice shall be given personally or by mail at least five days prior to the date of the hearing.

(D) A like notice shall be sent at least five days prior to the hearing to the owners of real property and the occupants of single- and two-family dwellings within 300 feet of the property in question. Notice shall be delivered personally or by mail addressed to the address given on the last assessment roll.

(E) Any interested party may appear and be heard at the hearing in person or by agent or attorney.

(F) Upon the date for hearing of any application or appeal, the Board may adjourn the hearing to a specified time and date in order to permit the obtaining of additional information or to cause further

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notices to be served. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of the hearing unless the Board decides otherwise. (Ord. A-38, § 18.05, passed 10-18-1988)

§ 152.195 DECISIONS.

(A) The Secretary shall record the grounds for each decision. The Board shall render its decision upon any matter within 120 days after the matter is heard.

(B) The Secretary shall keep minutes of the Board's proceedings. The grounds for the decisions of the Board shall be duly recorded.

(C) A copy of each decision shall be sent to the Zoning Administrator, Planning Commission and the applicant. No land use permit shall be issued by the Zoning Administrator until this decision is received.

(Ord. A-38, § 18.06, passed 10-18-1988)

§ 152.196 REVIEW OF ACTION.

The Board shall hear and decide appeals where it is alleged that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this chapter. (Ord. A-38, § 18.07, passed 10-18-1988)

§ 152.197 INTERPRETATION OF REGULATIONS.

The Board shall have the power to:

(A) Interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of the chapter;

(B) Determine the precise location of the boundary lines between zoning districts; and

(C) Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.

(Ord. A-38, § 18.08, passed 10-18-1988)

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§ 152.198 VARIANCES.

(A) The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, provided the Board finds reasonable evidence that the variance will not be detrimental to adjacent property and will not impair the intent and purposes of the chapter or the public health, safety and general welfare.

(B) In addition, the Board of Appeals must make the following findings:

(1) There are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the district affected;

(2) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the district; and

(3) The condition or situation of the property or the intended use is not of so general or recurrent in nature as to make reasonably practical an amendment of this chapter.
(Ord. A-38, § 18.09, passed 10-18-1988)

§ 152.199 CONDITIONS OF APPROVAL OF VARIANCE OR SPECIAL USE PERMIT.

(A) Reasonable conditions may be required with the approval of a variance or special use permit. The breach of any condition shall automatically invalidate the variance or special use granted.

(B) Conditions imposed shall meet all of the following requirements:

(1) Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole;

(2) Be related to the valid exercise of the police power and purpose which are affected by the proposed use or activity; and

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

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(Ord. A-38, § 18.10, passed 10-18-1988)

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§ 152.200 BOND.

In authorizing any variance or in granting any temporary use or permits, the Zoning Board of Appeals or the Zoning Administrator may require that a bond of ample sum be furnished to ensure compliance with requirements, specifications and conditions imposed with the granting of the temporary use permit or variance. (Ord. A-38, § 18.11, passed 10-18-1988)

§152.201 LIMITATION OF POWERS.

The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this chapter, nor to grant a change in the uses permitted in any district. (Ord. A-38, § 18.12, passed 10-18-1988)

§ 152.202 SCHEDULE OF HEARING FEES.

The City Council may establish by resolution a schedule of fees to be charged for hearings by the Board of Appeals. The fee shall be paid to the City Clerk before any action shall be taken on the petition for the hearing. The fee shall be retained regardless of the decision of the Board. (Ord. A-38, § 18.13, passed 10-18-1988)

ADMINISTRATION AND ENFORCEMENT

§ 152.215 STATE LAW APPLIES; APPOINTMENT OF ZONING ADMINISTRATOR.

(A) The provisions of this chapter shall be administered by the City Council in conformance with Public Act 207 of 1921, being M.C.L.A. §§ 125.581-125.590, as amended.

(B) The City Council shall appoint a Zoning Administrator to act as its officer to effect proper and adequate administration of this chapter. The term of appointment, compensation and any other conditions of employment shall be established by the City Council. For the purposes of this chapter, the Zoning Administrator shall have the power to issue citations and appearance tickets for violations of this chapter.
(Ord. A-38, § 19.01, passed 10-18-1988)

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§ 152.216 ZONING ADMINISTRATOR; DUTIES.

(A) All applications for sign permits or land use permits shall be submitted to the Zoning Administrator who may issue a land use permit when all applicable provisions of this chapter have been met. The Zoning Administrator shall be empowered to make inspections of buildings or premises to carry out his or her duties in the enforcement of this chapter.

(B) The Zoning Administrator shall record all non-conforming uses existing of the effective date of this chapter for the purpose of carrying out the provisions of §§ 152.135 et seq.

(C) Under no circumstances is the Zoning Administrator permitted to make changes in this chapter nor to vary the terms of this chapter in carrying out his or her duties.
(Ord. A-38, § 19.02, passed 10-18-1988)

§ 152.217 LAND USE PERMIT.

(A) A land use permit shall be obtained from the Zoning Administrator prior to the occupancy, construction, use or change of use of any of the following:

(1) Occupancy or use of vacant land (including parking lot construction) or of a building hereafter erected or structurally altered. A permit will not be required if the proposed structure does not exceed a total of 100 square feet, although every structure, regardless of size, must meet all of the requirements of the district in which it is located;

(2) Any change in use or enlargement of a non-conforming use or building; or

(3) The construction, erection or structural alteration of a sign.

(B) In all cases where a building permit is required, written application for a land use permit shall be made prior to the application for the building permit and in all cases shall be made not less than ten days prior to the time when a new, changed or enlarged use of a building, structure or premises is intended to begin.

(C) Application for a land use permit shall contain all information required for site plan approval (as in § 152.157), unless specifically waived by the Planning Commission and Zoning Administrator.

(D) In all cases where a site plan is required pursuant to § 152.156, a land use permit shall not be given unless and until the site plan is approved by the Planning Commission and signed by the Secretary of the Planning Commission.

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(E) Where a sewage disposal system is to be a part of the construction, or a change in an existing sewer system is required, the Zoning Administrator shall not issue a land use permit until a permit for the construction of a new system, or approval of the existing system has been issued by the County Health Department.

(F) Accessory buildings or structures, when erected at the same time as the principal building or structures on a lot shown on the application therefor, shall not require a separate land use permit.

(G) A record of all applications for a land use permit shall be kept on file by the Zoning Administrator.

(H) Fees for the issuance of a land use permit shall be fixed from time to time by resolution of the City Council.

(I) A land use permit shall be valid for one year from the date of issuance of the permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one-year period, the Zoning Administrator shall notify the applicant in writing of the expiration of the permit. (Ord. A-38, § 19.03, passed 10-18-1988) Penalty, see § 152.999

§ 152.218 VIOLATIONS; CORRECTION.

(A) Violations of any provisions of this chapter are declared to be a nuisance per se. Any and all building or land use activities considered possible violations of the provisions of this chapter observed by or communicated to a city official or employee shall be reported to the Zoning Administrator.

(B) The Zoning Administrator shall order correction, in writing, of all conditions found to be in violation of this chapter. The order shall be mailed or personally delivered to the owner as shown on the tax rolls.

(C) All violations shall be corrected within a period of 30 days after the order to correct is issued or a longer period of time, not to exceed six months, as the Zoning Administrator shall determine necessary and appropriate. A violation not corrected within this period shall be reported to the City Council who is hereby authorized to and shall initiate procedures to eliminate that violation.

(D) Every person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this chapter shall be guilty of maintaining a nuisance per se.

(E) The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.
(Ord. A-38, § 19.04, passed 10-18-1988) Penalty, see § 152.999

§ 152.219 AMENDMENT PROCEDURES.

(A) *Procedure.* The Planning Commission, either on its own initiative, or upon petition by any

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interested person or public body, may schedule a public hearing for amendments of this chapter.

(B) *Fees.* The City Council shall establish, by resolution, fees for zoning amendment petitions. The fee shall be paid in full at the time of application and no part of this fee shall be returnable to the petitioner. Fees shall not be required for amendments proposed or requested by any government agency or body.

(C) *Information required.* In the case of district boundary amendment requests, the petition must contain the signatures of the petitioners and the title holders and any other person having a legal interest in the land and shall contain the following information if a change in the zoning district boundaries is sought:

- (1) A precise legal description of the boundaries of the property requested to be zoned;
- (2) A scaled map of the property, correlated with the legal description, and clearly showing the property's location;
- (3) The change desired;
- (4) The reasons therefor;
- (5) The petitioner's interest in the property, and, if the petitioner is not the owner, the name and address of the owner(s); and
- (6) A description of the proposed development and use of the property if the petition is granted.

(D) *Notices.*

(1) The Planning Commission shall authorize notice of the proposed amendment upon payment of the required fees.

(2) The Planning Commission shall set a time and place for at least one public hearing, notice of which shall be published in a newspaper of general circulation in the city not less than 15 days prior to the public hearing.

(3) In the case of district boundary amendment requests, notice of the public hearing shall be given to the owner of the property in question and to property owners within 300 feet of the property proposed to be rezoned.

(E) *Findings of fact required.* In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition.

- (1) The facts to be considered by the Planning Commission shall include, but shall not be

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limited to, the following:

- (a) Whether or not the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance;
- (b) The precedents, and the possible effects of those precedents, which might result from approval or denial of the petition;
- (c) The capability of the city or other government agencies to provide any services, facilities or programs that might be required if the petition were approved;
- (d) The effect of approval of the petition on the condition and value of property in the city or in adjacent civil divisions; and
- (e) The effect of approval of the petition on adopted master plans or development policies of the city and other governmental units.

(2) All findings of fact shall be made a part of the public records of the meetings of the Planning Commission.

(F) *Decision.*

(1) The Planning Commission shall forward its decision, a copy of the minutes of the public hearing and the proposed amendment to the City Council with its recommendation for approval or denial within 30 days of the date of the hearing.

(2) The City Council shall consider the amendment request, the Planning Commission's recommendations and all comments made at the public hearing, and shall make a decision to approve, deny or approve with conditions the request, stating the reasons for its actions.

(G) *Adoption.*

(1) The City Council may adopt the amendment at any regular meeting or at any special meeting called for that purpose with or without amendments that have been previously considered by the Planning Commission or at a public hearing.

(2) A majority vote of the members of the City Council shall be required to adopt any amendment.

(3) Amendments shall be effective upon adoption by the City Council, and shall be published in a newspaper of general circulation in the city within 15 days after adoption. (Ord. A-38, Art. 20, passed 10-18-1988)

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§ 152.999 PENALTY.

In addition to any other penalties contained herein, any person, firm or corporation which violates, disobeys, omits, neglects or refuses to comply with any provision of this chapter shall be guilty of a civil infraction, and upon being found responsible for a violation of this chapter shall be punished by a fine of not less than \$100, nor more than \$500, together with prosecution costs and court costs, in the discretion of the court. Each day that a violation occurs, or continues, shall constitute a separate offense. (Ord. A-38, § 19.05, passed 10-18-1988; Am. Ord. 19.05, passed 1-12-1998)

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