ORDINANCES

City of Port Huron
Code Enforcement Unit

ARTICLE VII
Administrative Hearings Bureau

§ 2-901. Definitions. [12-9-2013 by Ord. No. 1357]

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

ADMINISTRATIVE HEARINGS BUREAU — The Administrative Hearings Bureau established pursuant to this article and as provided in MCL 117.4q.

BLIGHT VIOLATION — The following:**[9-27-2021 by Ord. No. 21-007]**

(a) Any blight or blighting factors violation as set forth in § 22-34.

(b) A violation of the Property Maintenance Code as set forth in Chapter 10, Buildings and Building Regulations, Article II.

(c) Any violation as set forth in Chapter 10, Building and Building Regulations, Article V.

(d) Any violation as set forth in Chapter 52, Zoning.

BLIGHT VIOLATION NOTICE — A notice of a blight violation and may be in the form of a ticket or other written notice. Notices may be served and are deemed to be served on the date the notice was personally delivered, deposited in the United States Mail, personally left at the premises or posted on the premises.

§ 2-902. Administrative Hearings Bureau. [12-9-2013 by Ord. No. 1357]

The City hereby establishes an Administrative Hearings Bureau, pursuant to MCL 117.4q. The Administrative Hearings Bureau will consist of and operate through an individual administrative hearing officer or officers, as set forth in § 2-903.

§ 2-903. Administrative hearings officers. [12-9-2013 by Ord. No. 1357]

(a) Appointment and compensation. An administrative hearing officer shall conduct the adjudicatory hearings of the Administrative Hearings Bureau provided for herein. The City Manager shall appoint one or more hearing officers for a term of one year in the manner provided for the appointment of administrative officers in the City Charter; provided, all hearing officers shall be attorneys licensed to practice law in the State of Michigan for at least five years. Administrative hearing officers may be removed from their position for reasonable cause as set forth in MCL 117.4q prior to the expiration of their term. Compensation of administrative hearings officers shall be recommended by the City Manager and set by resolution of the City Council from time to time.

(b) Training. Before conducting administrative hearings, administrative hearings officers shall successfully complete a formal training program which includes the following:

(1) Instruction on the rules of procedure of the administrative hearings that they will conduct.

(2) Orientation to each subject area of the code violations they will adjudicate.

(3) Observation of administrative hearings.

(4) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

(5) The importance of impartiality in the conduct of the administrative hearing and adjudication of the violation.

(6) Instructions on the preparation of a record that is adequate for judicial review.

(c) Authority and duties. The authority and duties of a hearing officer shall include the following:

(1) Hearing testimony and accepting evidence that is relevant to the existence of a blight violation.

(2) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of a party or a party's attorney.

(3) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing.

(4) Issuing a determination whether a blight violation exists based upon the evidence presented at the hearing. The determination shall be in writing and shall include written findings of fact, a decision and an order. The City shall have the burden of establishing the responsibility of the alleged violator by a preponderance of the evidence. Unless the burden is met, the matter shall be dismissed. A decision and an order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence. If the alleged violator fails to appear, and the blight violation notice is sworn, a decision and order of default may be entered. A decision and order finding the alleged violator responsible for the violation shall include a civil fine, if any, or any sanctions or action with which the violator must comply, or both.

(5) Imposing reasonable and proportionate sanctions consistent with applicable code provisions and assessing costs upon a finding that the alleged violator is responsible for the alleged violation; provided a hearing officer shall not impose a civil fine in excess of $10,000, in the aggregate. The maximum monetary civil fine allowed under this section excludes costs of enforcement or costs imposed to secure compliance with City Code and are not applicable to enforce the collection of any tax imposed and collected by the City.

(6) In addition to fines and costs imposed, the hearing officer shall impose a justice system assessment of $10 for each blight violation determination. Upon

payment, the City shall transmit that assessment to the state treasury as required pursuant to MCL 117.4q(13).

§ 2-904. Blight violation notice. [12-9-2013 by Ord. No. 1357]

(a) Contents. The City shall issue a blight violation notice to an individual believed to be responsible for a blight violation. The blight violation notice must advise the individual of the nature of the alleged violation, the date of the inspection and the name of the inspector. The notice shall direct the named person to pay a civil fine for the violation or appear at a specific date and time for hearing before the Administrative Hearings Bureau as provided in this section at least 14 days after the date the blight violation notice is served.

(b) Admission of responsibility. If the alleged violator wishes to admit responsibility for the blight violation, the person may do so by appearing in person, by representation or by mail. If appearance is made by representation or mail, the Bureau may accept the admission as though the person personally appeared. Upon acceptance of the admission, a hearing officer may order any of the sanctions permitted pursuant to this article.

(c) Denial of responsibility or admission with explanation. If the alleged violator wishes to deny responsibility for the blight violation, or admit responsibility with an explanation, the person may do so by appearing in person on the date scheduled for the administrative hearing for the purpose of adjudicating the alleged violation.

(d) Prehearing removal or correction of blight violation (fix-it ticket). The blight violation notice may also designate a date by which if a person removes or corrects the blight violation, the inspector may dismiss the blight violation notice. The date of the correction, if any, set forth in the blight violation notice, must be at least 14 days prior to the Administrative Hearings Bureau hearing date. The decision as to whether this option for a prehearing removal or correction is included in the blight violation notice shall be made by the inspector based upon the nature of the violation, the history of prior violations or other relevant factors. At the request of the recipient of a blight violation notice, the inspector may also reschedule the hearing date to provide the person additional time to correct the violation where the person demonstrates a willingness to correct the violation.

(e) Fines. The fines for blight violations shall be set by resolution of City Council from time to time.

(f) Waiver of fines. After a decision set forth in § 2-905, the City may waive a fine for a blight violation for a first time offender if the offender corrects the violation.

(g) Service of a blight violation notice or rescheduled hearing date. A blight violation notice or a rescheduled hearing date may be served by any of the following methods:

(1) Delivering the notice to the owner personally or leaving the notice at his or her residence.

(2) Mailing the notice to such owner at his or her last known address by first-class mail.

(3) If the owner is unknown, posting the notice in some conspicuous place on the premises.

§ 2-905. Hearing. [12-9-2013 by Ord. No. 1357]

(a) Timing. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all nonemergency situations the alleged violator, if he or she requests, shall have at least 14 days after service of process to prepare for the hearing. For purposes of this subsection, "nonemergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first-class mail, the fourteen-day period begins to run on the day that the notice is deposited in the mail.

(b) Procedure. A party shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. A party may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. The rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the hearing officer, for the purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

(c) Decision. Any decision by a hearing officer that a blight violation does or does not exist constitutes a final decision and order for purposes of judicial review and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(d) Default. If at the time set for a hearing neither the recipient of a blight violation notice, nor his or her attorney of record, appears and the blight violation notice is properly completed and sworn, the administrative hearing officer may find the recipient in default and enter an order of default which includes the sanctions as permitted under § 2-903(c). A copy of the order of default must be served on the party by United States Mail.

(e) Petition to set aside default. The recipient of a notice of blight violation who is found to be in default may petition the administrative hearing officer to set aside the order of default and set a new hearing date, at any time, if the petitioner establishes that the petitioner was not provided with proper service of process. If the petition is granted, the administrative hearing officer must proceed with a new hearing on the underlying matter as soon as practical. An administrative hearing

officer may set aside any order entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the administrative hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or, at any time, if the petitioner establishes that the petitioner was not provided with proper service of process. If the petition is granted, the administrative hearing officer must proceed with a new hearing on the underlying matter as soon as practical.

§ 2-906. Appeal. [12-9-2013 by Ord. No. 1357]

(a) Time to appeal. A party may file a claim of appeal within 28 days after entry of the final decision and order by the hearing officer with the St. Clair County Circuit Court.

(b) Appeal bond. An alleged violator who appeals a final decision and order to circuit court shall post with the Administrative Hearings Bureau, at the time the appeal is taken, a bond equal to the fine and costs imposed. A party who has paid the fine and costs is not required to post a bond. If a party who has posted a bond fails to comply with the requirements of Supreme Court rules for an appeal to the circuit court, the appeal may be considered abandoned, and the Bureau may dismiss the appeal on seven days' notice to the parties. The Administrative Hearings Bureau must promptly notify the circuit court of a dismissal, and the circuit court shall dismiss the claim of appeal. If the appeal is dismissed or the decision and order are affirmed, the Administrative Hearings Bureau may apply the bond to the fine and costs. An appeal by the City must be asserted by the City's Attorney and a bond is not required.

(c) Review on appeal. An appeal to the circuit court shall be a review by the circuit court of the certified record provided by the Bureau. Pending appeal, and subject to the bond requirement provided for herein, the hearing officer may stay the order and any sanctions or costs imposed. Once an appeal is filed, and subject to the bond requirement provided for herein, the circuit court may stay the order and any sanctions or costs imposed. The circuit court, as appropriate, may affirm, reverse, or modify the decision or order of the Bureau, or remand the matter for further proceedings. The circuit court shall hold unlawful and set aside a decision or order of the hearing officer if substantial rights of an alleged violator have been prejudiced because the decision or order is any of the following:

(1) In violation of the Constitution or a statute, Charter, or ordinance;

(2) In excess of the authority or jurisdiction of the agency as conferred by statute, Charter, or ordinance;

(3) Made upon unlawful procedure resulting in material prejudice to a party;

(4) Not supported by competent, material, and substantial evidence on the whole record;

(5) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of

discretion; and/or

(6) Affected by other substantial and material error of law.

§ 2-907. Enforcement of order. [12-9-2013 by Ord. No. 1357]

(a) Payment. All fines and assessments ordered by an administrative hearing officer shall be paid to the City's Treasurer. Any fine, sanction, or cost imposed by an administrative hearing officer's order that remains unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures is a debt due and owing the City and, as such, may be collected in accordance with applicable law, and shall become a lien on the property and assessed as a single lot assessment against such property.

(b) Enforcement. After the expiration of the period in which judicial review may be sought, unless stayed by a court of competent jurisdiction, the findings, decision, and order of an administrative hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction, and may be enforced against assets of the owner other than the building or structure.

(c) Failure to comply. In any case in which a respondent fails to comply with an administrative hearing officer's order to correct a blight violation or imposing a fine or other sanction as a result of a blight violation, any expenses incurred by the City to enforce the administrative hearing officer's order, including but not limited to, attorney's fees, court costs, fines, fees, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or an administrative hearing officer, is a debt due and owing the City. Before an administrative hearing officer assesses any expense, the respondent must be provided notice that states that the respondent must appear at a hearing before an administrative hearing officer to determine whether the respondent has failed to comply with the administrative hearing officer's order. The notice must set the time for the hearing, which may not be less than seven days from the date that notice is served. Notice is sufficient if served by first-class mail and the seven-day period begins to run on the date that the notice is deposited in the mail.

(d) Remedies not exclusive. Nothing in this section prevents the City from enforcing or seeking to enforce any order of an administrative hearing officer in any manner, which is in accordance with applicable law.

§ 2-908. Administrative adjudication procedures not exclusive. [12-9-2013 by Ord. No. 1357]

Notwithstanding any other provision of this chapter, neither the Bureau's authority to conduct administrative adjudication procedures nor the institution of such procedures under this chapter precludes the City from seeking any remedies for blight violations through the use of any other administrative procedure or court proceeding where authorized by law. The City may elect to pursue a court proceeding to address an emergency situation where there exists an immediate threat to the public interest, safety or welfare.

§ 2-909. Rules and procedures. [12-9-2013 by Ord. No. 1357]

The City may establish rules and procedures necessary for the efficient operation of the Bureau. Such rules and procedures shall be made publicly available.

Chapter 10

BUILDINGS AND BUILDING REGULATIONS

GENERAL REFERENCES

Construction Board of Appeals — See Ch. 2, Art. IV, Div. 5.

Rehabilitation of blighted areas — See Ch. 16, Art. II.

Blight — See Ch. 22, Art. II.

Fire prevention and protection — See Ch. 24.

Floodplain management provisions of the State Construction Code — See Ch. 26.

Special assessments — See Ch. 40.

ARTICLE I
In General

§ 10-1. Violations as blight violations. [12-9-2013 by Ord. No. 1358; 9-27-2021 by Ord. No. 21-006]

Any violation of this chapter shall be treated as a blight violation, unless otherwise provided in this chapter.

§ 10-2. through § 10-30. (Reserved)

ARTICLE II
Single State Construction Code

§ 10-31. Adoption. [Code 1992, §§ 6-26, 10-140, 19-26, 22-31; 1-10-1994 by Ord. No. 1051; 10-27-1997 by Ord. No. 1133; 4-9-2001 by Ord. No. 1182; 8-13-2001 by Ord. No. 1185; 8-13-2001 by Ord. No. 1186; 8-13-2001 by Ord. No. 1187; 4-28-2003 by Ord. No. 1206; 5-10-2010 by Ord. No. 1310; 12-9-2013 by Ord. No. 1358]

(a) Pursuant to the provisions of the Single State Construction Code, in accordance with Public Act No. 230 of 1972 (MCL 125.1501 et seq.), the City assumes responsibility for the administration and enforcement of the state code throughout its corporate limits.

(b) The Michigan Building Code (including the Property Maintenance Code), the Michigan Electrical Code, the Michigan Plumbing Code, and the Michigan Mechanical Code are hereby adopted by reference pursuant to the Act cited in Subsection (a) of this section.

§ 10-32. Fees. [Code 1992, §§ 6-28, 10-50, 19-27, 22-32; 1-10-1994 by Ord. No. 1051; 10-27-1997 by Ord. No. 1128; 4-9-2001 by Ord. No. 1182; 8-13-2001 by Ord. No. 1185; 8-13-2001 by Ord. No. 1186; 8-13-2001 by Ord. No. 1187; 4-28-2003 by Ord. No. 1206; 12-9-2013 by Ord. No. 1358]

A fee schedule for permits and inspections under this article shall be set by resolution of the City Council from time to time.

§ 10-33. Penalty. [Code 1992, §§ 6-31, 19-30, 22-35; 8-13-2001 by Ord. No. 1185; 8-13-2001 by Ord. No. 1186; 8-13-2001 by Ord. No. 1187; 4-28-2003 by Ord. No. 1206; 12-9-2013 by Ord. No. 1358; 9-27-2021 by Ord. No. 21-006]

(a) All violations of this article shall constitute a blight violation within the meaning of § 2-901.

(b) The imposition of any sentence shall not exempt an offender from compliance with this article.

(c) The penalty for a blight violation shall not prohibit the City from seeking injunctive relief against a violator or such other appropriate relief as may be provided by the law.

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

(e) The rights and remedies provided in this section are cumulative and in addition to any other remedies provided by law.

§ 10-34. through § 10-70. (Reserved)

ARTICLE III
Swimming Pools

§ 10-71. Purpose. [Code 1975, § 8-229; Code 1992, § 27-1]

The purpose of this article is to establish standards governing the construction, maintenance, operation and use of public and private swimming pools.

§ 10-72. Supplement to other codes. [Code 1975, § 8-230; Code 1992, § 27-2]

The sections of this article shall be supplemental to other codes adopted by the City, and, unless otherwise specifically provided in this article, materials and construction shall conform to the requirements of the electrical code and the plumbing code.

§ 10-73. Definitions. [Code 1975, § 8-231; Code 1992, § 27-3]

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

APPROVED — Accepted or acceptable under an applicable specification stated or cited in this article or accepted as suitable for the proposed use under procedures and power of the administrative authority.

APPROVED TESTING AGENCY — An organization primarily established for the purpose of testing to approved standards and approved by the administrative authority.

BACKWASH PIPING — See "filter waste discharge piping."

BODYFEED — A filter aid fed into a diatomite-type filter throughout the filtering cycle.

CARTRIDGE FILTER — A filter using cartridge-type filter elements.

CHEMICAL PIPING — Piping which conveys concentrated chemical solutions from a feeding apparatus to the circulation piping.

CIRCULATION PIPING SYSTEM — The piping between the pool structure and the mechanical equipment. Such system usually includes suction piping, face piping and return piping.

COMBINATION VALVE — A multiport valve intended to perform more than one function.

DESIGN HEAD — The total head requirement of the circulation system at the design rate of flow.

DIATOMITE (DIATOMACEOUS EARTH) — A type of filter aid.

DIATOMITE-TYPE FILTER — A filter designed to be used with filter aid.

FACE PIPING — The piping, with all valves and fittings, which is used to connect the filter system together as a unit.

FILTER — Any apparatus by which water is clarified.

FILTER AID — A nonpermanent type of filter media or aid, such as diatomite, alum, etc.

FILTER CARTRIDGE — A disposable or renewable filter element which generally employs no filter aid.

FILTER ELEMENT — That part of a filter which retains the filter media.

FILTER MEDIA — The fine material which entraps the suspended particles and removes them from the water.

FILTER RATE — The average rate of flow per square foot of filter area.

FILTER ROCK — Specially graded rock and gravel used to support filter sand.

FILTER SAND — A specially graded type of permanent filter media.

FILTER SEPTUM — That part of the filter element in a diatomite-type filter upon which a cake of diatomite or other nonpermanent filter aid may be deposited.

FILTER WASTE DISCHARGE PIPING — Piping that conducts wastewater from a filter to a drainage system. Connection to the drainage system is made through an air gap or other approved methods.

FIXED LADDER — A ladder which provides access to the pool at all times, is mounted on the outside of the pool wall and is not a safety ladder.

FRESHWATER — Those waters having a specific conductivity less than a solution containing 6,000 parts per million of sodium chloride.

gpm — Gallons per minute.

HIGH RATE RAPID SAND FILTER — A sand filter designed for flows in excess of five gallons per minute (gpm) per square foot.

INLET FITTING — The fitting or fixture through which circulated water enters the pool.

MAIN OUTLET — The outlet at the deep portion of the pool through which the main flow of water leaves the pool when being drained or circulated.

POOL — A swimming pool.

POOL DEPTH — The distance between the floor of the pool and the maximum operating water level.

POOL PLUMBING — All chemical, circulation, filter waste discharge piping, deck drainage and water-filling systems.

PORTABLE POOL — A prefabricated pool which may be erected at the point of intended use and which may be subsequently disassembled and reerected at a new location. It is generally installed on the surface of the ground and without excavation.

PRECOAT — In a diatomite-type filter, the initial coating or filter aid placed on the filter septum at the start of the filter cycle.

RAPID SAND FILTER — A filter designed to be used with sand as the filter media and for flows not to exceed five gpm per square foot.

RECEPTOR — An approved plumbing fixture or device of such material, shape and capacity as to adequately receive the discharge from indirect waste piping, so constructed and located as to be readily cleaned.

RETURN PIPING — That portion of the circulation piping which extends from the

outlet side of the filters to the pool.

SAFETY LADDER — A ladder which can be raised to the height of the pool rim or which has removable rungs or steps or which has a safety locking device, each of which serves the purpose of preventing access to the pool when not in use.

SALINE WATER — Those waters having a specific conductivity in excess of a solution containing 6,000 parts per million of sodium chloride.

SEPARATION TANK — A device used to clarify filter rinse water or wastewater, sometimes called a reclamation tank.

SKIM FILTER — A surface skimmer combined with a vacuum diatomite filter.

SUCTION PIPING — That portion of the circulation piping located between the pool structure and the inlet side of the pump and usually includes the following: main outlet piping, skimmer piping, vacuum piping and surge tank piping.

SURFACE SKIMMER — A device generally located in the pool wall which skims the pool surface by drawing pool water over a self-adjusting weir.

SWIMMING POOL — Any constructed or prefabricated pool used for swimming or bathing, over 24 inches in depth.

SWIMMING POOL, PRIVATE — Any constructed pool which is used as a swimming pool in connection with not more than four dwelling units and available only to the occupants and their private guests.

SWIMMING POOL, PUBLIC — Any swimming pool other than a private swimming pool.

TURNOVER TIME — The time, in hours, required for the circulation system to filter and recirculate a volume of water equal to the pool volume.

VACUUM FITTING — A fitting in the pool which is used as a convenient outlet for connecting the underwater suction cleaning equipment.

VACUUM PIPING — The piping from the suction side of a pump connected to a vacuum fitting located at the pool and below the water level.

WADING POOL — Any constructed or prefabricated pool used for wading and is 18 inches or less in depth.

WASTE PIPING — See "filter waste discharge piping."

WIDTH and/or LENGTH — The actual water dimension taken from wall to wall at the maximum operating water level.

§ 10-74. Application of zoning regulations.[1] [Code 1975, § 8-232; Code 1992, § 27-4]

All private outdoor swimming pools shall comply with all yard requirements for the zoning district in which they are located. A private outdoor swimming pool shall be considered as an accessory use in any residence district, and, in the application of yard requirements, the size of such pool shall be the outside measurements of the walls thereof and shall not include any cement or hard-surfaced areas adjacent to the pool.

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1. **Editor's Note: See also Ch. 52, Zoning.**

§ 10-75. Permit to construct or install. [Code 1975, § 8-233; Code 1992, § 27-5; 6-26-2017 by Ord. No. 17-005]

No person shall construct or install a swimming pool without first obtaining a permit from the Building Inspection Division of the Department of Planning. Any person legally entitled to apply for and receive such a permit shall make application therefor on forms provided for that purpose. Such application shall be accompanied by plans in duplicate and in sufficient detail, including plot plans with site grades, dimensioned and drawn to a scale of not less than one-eighth inch per foot, and showing at least the following:

(1) Property lines, easements and rights-of-way of record adjacent to the pool area.

(2) Existing structures, fencing, retaining walls and other relevant characteristics adjacent to the pool area.

(3) Proposed pool shape, dimensioned and located to show setbacks, side yards and clearance from existing structures adjacent to the pool area.

(4) Proposed mechanical equipment, pad, dimensions and location.

(5) Proposed deck work configuration showing its anticipated drainage.

(6) Anticipated overall drainage of the pool site.

(7) Volume, system flow rate in gallons per minute, and turnover in hours.

(8) Type and size of filtration system and means of waste disposal.

(9) Type and size of pool heater, if included, including method of venting and provisions for combustion air.

(10) Pool piping layout with all sizes shown and types of material to be used, and showing the location of the main outlet, surface skimmers and inlets.

(11) The water capacity of the pool pump in gpm at the design head with the size and type of motor indicated and identified as a self-priming or straight centrifugal.

(12) Means of adding makeup water.

(13) Size, length from source to heater, and routing of gas line.

§ 10-76. General construction and material requirements. [Code 1975, § 8-234; Code 1992, § 27-6]

Every pool shall be constructed so as to be watertight and easily cleaned and shall be made of nonabsorbent material and shall be free of cracks, loose joints and rough protruding edges.

§ 10-77. Overflow gutter; filtering of scum, splash and deck water. [Code 1975, § 8-235; Code 1992, § 27-7]

Each pool shall have an overflow gutter or other device at the high-water line which is designed so as to effectively remove scum or floating debris, and the construction of the

pool shall be such that all scum, splash and deck water shall not return to the pool, except through the filter system.

§ 10-78. Electrical requirements. [Code 1975, § 8-236; Code 1992, § 27-8]

(a) All electric wiring installed and provided for or used in conjunction with swimming pools shall be in conformity with the National Electrical Code.

(b) No electric wires or conductors shall cross, either overhead or underground, any part of a swimming pool wall closer than five feet, if underground, unless enclosed in rigid conduit, or within 10 feet, if overhead.

(c) All swimming pool lights must be watertight, self-contained units with their own ground connection running from a waterproof junction box to a proper grounding facility or medium. All underground electric wires supplying current to a light, within a distance of five feet of the pool wall, must be enclosed in rigid conduits.

(d) All metal fences, enclosures or railings near or adjacent to swimming pools, which might become electrically live as a result of contact with broken overhead conductors or from any other cause, shall be effectively grounded.

§ 10-79. Plumbing and drainage. [Code 1975, § 8-237; Code 1992, § 27-9]

(a) All pool water supply lines or drainage lines connected to the City water supply or sewer system shall conform with the City plumbing code.

(b) No pool drain shall be directly connected with the City sewer system. Emptying of pools shall be done using recirculating pump equipment, and the water shall be discharged to the residential drainage system.

§ 10-80. Recirculating system and appurtenances. [Code 1975, § 8-238; Code 1992, § 27-10]

(a) Swimming pools having a depth of less than 24 inches need not comply with this section. Swimming pools having a depth of 24 inches or more shall comply with this section.

(b) Each swimming pool shall be equipped with a recirculation system which shall consist of pumping equipment, hair and lint catcher, filters, together with the necessary pipe connections to the pool inlets and outlets, and facilities and pipe connections necessary for backwashing filters or clearing them.

(c) The entire recirculating system shall be capable of producing, within at least an eighteen-hour period, a turnover of the entire pool volume content against the maximum head possible. Sufficient filter area shall be provided to adequately filter the entire contents of the pool in 18 hours, with a maximum head loss across the filter of 10 feet of water.

(d) Recirculating systems shall contain a filter capable of meeting the following minimum basic requirements:

Type	Maximum Operating Rate (gallons per square foot)	Minimum Backwash Rate (gallons per square foot)
Rapid sand filter	5	10
High rate rapid sand filter	25	15
Diatomite filters	3	

(e) Cartridge or other type filters shall be designed so as to meet the performance standards of pressure filters.

(f) Pressure filters shall be equipped with readily accessible air relief valves, at the high point in the system.

(g) Recirculating systems shall provide an adequate and simple means of cleaning the filter media, either by backwash, sprayoff or manual cleaning or replacement of media. Backwash water shall be removed from the system.

(h) In order to determine the need of cleaning, water pressure gauges shall be provided so that the loss of head across the filter can be determined.

(i) A hair and lint catcher or strainer shall be installed on the inlet side of the circulating system to prevent hair, lint and other extraneous matter from reaching the pump and filters. The strainer shall be made of noncorrosive material and shall be easily accessible for cleaning and of adequate size.

§ 10-81. Germicidal, bacterial and algae control. [Code 1975, § 8-239; Code 1992, § 27-11]

(a) Adequate provision shall be made for positive germicidal or bacterial control in swimming pools, by the use of chlorine, bromine or such other disinfecting agents as may be approved by the Health Department, and in such manner and method as required by rules and regulations of the Health Department. Testing devices capable of accurately measuring such residue shall be provided.

(b) Where required, suitable chemicals for algae control shall be applied in swimming pools, in addition to bacteriological control chemicals.

§ 10-82. Fencing. [Code 1975, § 8-240; Code 1992, § 27-12; 4-28-2003 by Ord. No. 1207]

(a) All swimming pools constructed outside of a building shall be enclosed by a fence extending from the ground to a point at least four feet above any ground or at least four feet above any climbable stationary object within three feet of the fence. Such fence shall be one of the following types:

(1) A chainlink fence with mesh not exceeding 2 1/4 inches.

(2) A vertical board or pole fence, with boards or poles spaced not greater than two inches, and all horizontal members shall be on the pool side of the fence.

(3) A solid fence having a flush exterior.

(b) Gates for fences required by this section shall meet the requirements for fence construction, shall be self-closing and self-latching and equipped with a latch capable of securely holding the gate closed and mounted on the inside of the gate, not readily available for children to open. Service gates not ordinarily used for ingress or egress for swimmers need not be self-closing or self-latching.

(c) For the purpose of determining suitable alternate types of fences and gates, the Construction Board of Appeals is hereby granted the authority to make such rulings.

(d) Fences existing on February 26, 1973, which do not conform to this section shall be allowed to remain, providing they meet the following:

(1) The height requirements of Subsection (a) of this section.

(2) The gates conforming with Subsection (b) of this section.

(3) No openings are large enough for the passage of children.

At such time as such a fence requires replacement, all subsections of this section shall be complied with.

(e) The outer vertical wall of an aboveground swimming pool may be deemed an adequate enclosure, provided the upper rim of the wall must be not less than four feet above the underlying ground, and the wall must be without horizontal ribbing. The ladder to the pool shall be a safety ladder. An attached fixed ladder shall be enclosed in accordance with Subsection (a) of this section.

§ 10-83. Floodlights. [Code 1975, § 8-241; Code 1992, § 27-13]

All floodlights for a pool shall be so designed and used as to light the pool area and shall not be permitted to shine or reflect on adjoining property.

§ 10-84. Compliance; maintenance requirements. [Code 1975, § 8-242; Code 1992, § 27-14]

(a) No swimming pool shall be used, kept, maintained or operated in the City, except in accordance with and in compliance with this article, nor shall a pool be used, kept, maintained or operated in such a manner as to occasion a nuisance or be dangerous to life or a threat to health or safety.

(b) Pools shall be maintained in a clean, safe and sanitary condition at all times during the swimming season.

§ 10-85. Responsibility of owner. [Code 1975, § 8-243; Code 1992, § 27-15]

It shall be the responsibility of the owner of a pool to ensure that the pool is constructed, maintained and operated in accordance with this article and other applicable City ordinances.

§ 10-86. through § 10-120. (Reserved)

ARTICLE IV
Transfer of Ownership[2]

§ 10-121. Transfer of blighted property. [5-10-2010 by Ord. No. 1310]

(a) It shall be unlawful for the owner of any dwelling unit or structure who has received a notice and order to comply or upon whom a notice of violation has been served to sell, transfer, mortgage, lease, or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee, a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such notice and order to comply or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(b) The new owner of record shall enter into a work agreement with the City within 10 days from the date of closing for the purpose of immediate renovation of the structure. Such renovation shall be in accordance with all applicable state and local codes, including the Michigan Existing Housing Rehabilitation Code. The work agreement shall be recorded at the St. Clair County Register of Deeds and will be discharged at the time that a certificate of occupancy has been issued. The property owner shall be responsible for paying the cost of recording the work agreement.

(c) Anyone who fails to enter into a work agreement and comply with the provisions therein shall be deemed guilty of a misdemeanor or civil infraction as determined by the Building Official.

(d) Anyone who fails to obtain a certificate of occupancy prior to occupying or allowing occupancy of the property or any part of thereof shall be deemed guilty of a misdemeanor or civil infraction as determined by the Building Official.

§ 10-122. through § 10-150. (Reserved)

2. Editor's Note: Ord. No. 1310, adopted 5-10-2010, amended Art. IV in its entirety as set out herein. The former Art. IV pertained to property maintenance code and derived from the Code of 1975, § 8-43; Ord. No. 1017, adopted 9-23-1991; the Code of 1992, § 16-1; Ord. No. 1081, adopted 2-27-1995; Ord. No. 1137, adopted 11-10-1997.

ARTICLE V
Non-Owner-Occupied Certification

§ 10-151. Purpose. [Code 1992, § 16-31; 2-26-2002 by Ord. No. 1194; 1-24-2011 by Ord. No. 1319; 9-27-2021 by Ord. No. 21-006[3]]

(a) The City recognizes the importance to the general health, safety and welfare of all of its citizens, including its citizens who reside in non-owner-occupied residential structures. The City, therefore, also recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe non-owner-occupied residential structures in the City. This article is designed to promote the continued maintenance of quality and safe non-owner-occupied residential properties and to enhance and maintain property value of all properties and to reduce the causes of blight and other deleterious factors affecting neighborhoods.

(b) It is the City's policy that all non-owner-occupied residential structures must be registered with the City and a valid and current certification of compliance be in effect at all times a non-owner-occupied residential structure is being occupied. It is also the policy of the City that certification only be available for those non-owner-occupied residential structures which meet and maintain the minimum standards set by the City.

§ 10-152. Definitions. [Code 1992, § 16-32; 2-26-2002 by Ord. No. 1194; 6-13-2005 by Ord. No. 1251; 5-11-2009 by Ord. No. 1301; 1-24-2011 by Ord. No. 1319; 12-16-2013 by Ord. No. 1362]

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

AGENT — For the purposes of this article, the responsible local agent shall be an individual person who represents the owner, a real estate holding company, corporation, partnership or other legal entity and must have a place of residence in the state within 45 miles of the City limits. The responsible local agent shall be designated by the owner as legally responsible for operating such premises in compliance with all the provisions of the City codes and ordinances. The owner may act as the responsible local agent, provided he or she resides in the state and within 45 miles of the City limits. All official notices of the City may be issued to the responsible local agent, and any notice so issued shall be deemed to have been issued upon the owner of record.**[10-24-2016 by Ord. No. 16-004]**

APARTMENT — As defined in Chapter 52, Zoning, of the City Code of Ordinances.**[10-24-2016 by Ord. No. 16-004]**

APARTMENT BUILDING FOR STUDENTS — As defined in Chapter 52, Zoning, of the City Code of Ordinances.**[10-24-2016 by Ord. No. 16-004]**

BOARDINGHOUSE — An establishment or building where meals, lodging or both are provided for compensation with the following stipulations:**[10-26-2015 by Ord. No. 15-010; 10-24-2016 by Ord. No. 16-004]**

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3. Editor's Note: This ordinance also changed the title of this Art. V from "Rental Certification" to its current title.

(1) Rental shall be prearranged and without limitations or time periods involved.

(2) No cooking facilities shall be permitted in sleeping rooms.

(3) There shall not be more than four sleeping rooms per establishment.

(4) No more than one person shall occupy each sleeping room.

(5) Sufficient off-street parking shall be provided pursuant to Article VI, Off-Street Parking and Loading Requirements, of Chapter 52, Zoning. **[6-26-2017 by Ord. No. 17-005]**

(6) There shall be provided one toilet and bathing facility per two sleeping rooms.

(7) Boardinghouses are subject to the Rental Certification Ordinance and shall be licensed and inspected.

(8) Only allowed in the A-1 and A-2 Zones with a minimum site size of 10,000 square feet.

Boardinghouses are subject to all other City ordinances and applicable codes.

BUILDING OFFICIAL — The Chief Inspector of the City or authorized representative.

CERTIFICATION OF COMPLIANCE (or CERTIFICATION) — A certificate issued by the Rental Certification Division which certifies compliance with this article and the date of such certification.**[9-27-2021 by Ord. No. 21-006]**

DWELLING, ONE-FAMILY — As defined in Chapter 52, Zoning, of the City Code of Ordinances.**[10-24-2016 by Ord. No. 16-004]**

DWELLING, TWO-FAMILY — As defined in Chapter 52, Zoning, of the City Code of Ordinances.**[10-24-2016 by Ord. No. 16-004]**

EFFICIENCY UNIT — As defined in Chapter 52, Zoning, of the City Code of Ordinances.**[10-24-2016 by Ord. No. 16-004]**

FAMILY — As defined in Chapter 52, Zoning, of the City Code of Ordinances.**[10-24-2016 by Ord. No. 16-004]**

HE/HIS — Shall be synonymous with the terms "she," "it," and "they"; and the term "his" shall be synonymous with the terms "her," "its" and "theirs."

HOME SHARING — A dwelling unit that is shared on a temporary basis by unrelated persons or nonfamily members, regardless of whether consideration is exchanged.**[9-27-2021 by Ord. No. 21-006]**

HOUSING CODE and BUILDING CODE — The most recent standards of construction and maintenance for residential property in general and non-owner-occupied residential property in particular, as adopted by the City Council.**[9-27-2021 by Ord. No. 21-006]**

IMMEDIATE FAMILY — Any person who is the owner or the owner's current spouse, parent or grandparent, child or grandchild, brother or sister, mother-in-law or father-in-law, brother-in-law or sister-in-law, daughter-in-law or son-in-law, nieces or nephews, aunts or uncles. Adopted, half, and step members are also included in immediate family. Any other relative not mentioned in this definition is not considered immediate family.**[10-24-2016 by Ord. No. 16-004]**

INSPECTION GUIDELINES — Those guidelines as adopted by the City Council to be used by the Building Official in conducting inspections, setting forth the minimum requirements for dwellings inspected under this article.

LEASE — Any written or oral agreement that sets forth conditions concerning the use and occupancy of non-owner-occupied residential structures or non-owner-occupied residential units.**[9-27-2021 by Ord. No. 21-006]**

MANAGER — A person, partnership, firm or corporation that actively operates or manages a non-owner-occupied residential property for the owner.**[9-27-2021 by Ord. No. 21-006]**

MULTIFAMILY DWELLING UNIT — As defined in Chapter 52, Zoning, of the City Code of Ordinances.**[10-24-2016 by Ord. No. 16-004]**

MULTIFAMILY (NON-OWNER-OCCUPIED) DWELLING COMPLEX — A non-owner-occupied complex with 20 or more units on one site under one ownership and one identified complex name. May be separate tax parcel identification numbers or separate mailing addresses, but must be on one contiguous parcel of land in one identified area.**[9-27-2021 by Ord. No. 21-006]**

NON-OWNER-OCCUPIED RESIDENTIAL DWELLING OR UNIT — Any residential dwelling or unit constructed, intended, or currently used as habitable space in which the owner of the dwelling or unit does not reside regardless of whether consideration is exchanged. This term does not apply to any residential dwelling or unit which is the primary domicile of the owner and is temporarily unoccupied for a period of not more than 160 days. A residential dwelling or unit being sold on a land contract or similar instrument is not considered a non-owner-occupied residential dwelling or unit if: a) the land contract or similar instrument is recorded and a copy provided to the Planning Department as required under § 10-153; and b) the owner/seller does not obtain a deed in lieu of foreclosure or forfeiture or some other instrument or agreement pursuant to which the owner/seller may terminate the land contract without proceeding through forfeiture and/or foreclosure. Examples of non-owner-occupied residential dwellings or units include, but are not limited to, the following:**[9-27-2021 by Ord. No. 21-006]**

(1) A traditional lease with a written contract;

(2) A lease or rental arrangement with no written contract;

(3) A dwelling or unit where the owner does not reside, but any other person resides, regardless of whether the occupants are related to the owner;

(4) Whenever a residential dwelling or unit used for or intended for residential purposes is vacant or occupied by anyone other than the owner of record as shown in the records of the City Assessor, and the owner does not occupy the dwelling or unit, there shall exist a presumption that such dwelling or unit is a non-owner-occupied residential dwelling or unit regardless of whether monetary compensation is exchanged between the owner and the person(s) occupying the residential dwelling or unit. In addition, there shall be a presumption that the dwelling is non-owner-occupied if the property or unit was rented, leased, let, certified, or registered under this article within the last six months, and the owner has not properly applied for a change in use;

(5) Non-owner-occupied residential dwellings or units shall include the following

properties and/or the rental of any residential dwelling unit for less than 30 days, such as: home sharing, vacation rental or short-term rentals, and transient use or transient residential occupancy, even if the owner occupies the dwelling or unit at other times;

(6) A residential dwelling or unit being sold on land contract or similar instrument if: a) the land contract or similar instrument is not recorded and a copy provided to the Planning Department as required under § 10-153; and/or b) the owner/seller obtains a deed in lieu of foreclosure or forfeiture or some other instrument or agreement pursuant to which the owner/seller may terminate the land contract without proceeding through forfeiture and/or foreclosure.

A non-owner-occupied residential dwelling or unit rented for less than 30 days shall not be allowed in the R Zone. Any non-owner-occupied residential dwelling or unit must be certified and shall require a certification of compliance from the Rental Certification Division before the dwelling or unit can be occupied as a non-owner-occupied residential dwelling or unit. Prior to being occupied and at all times during occupation, all non-owner-occupied residential dwellings or units shall comply with all Code of Ordinances of the City of Port Huron and specifically as regulated by Chapter 10, Buildings and Building Regulations, and Chapter 52, Zoning, after a special approval use permit in certain zones with the City.

A non-owner-occupied dwelling or unit does not include hotels and motels as defined by Chapter 52, Zoning. A residential non-owner-occupied unit does not include a bed-and-breakfast facility as defined in Chapter 52, Zoning, for which a special approval use permit is required.

NON-OWNER-OCCUPIED RESIDENTIAL STRUCTURE — Any building or structure where a non-owner-occupied residential dwelling or unit is located.**[9-27-2021 by Ord. No. 21-006]**

OCCUPANTS (or TENANTS) — Tenants, lessees and/or persons residing in a non-owner-occupied residential dwelling or unit.**[9-27-2021 by Ord. No. 21-006]**

OWNER — Any person, firm or corporation having a legal or equitable interest in a non-owner-occupied residential structure.**[10-24-2016 by Ord. No. 16-004; 9-27-2021 by Ord. No. 21-006]**

PREMISES — Any lot or parcel of land that includes a non-owner-occupied residential structure.**[9-27-2021 by Ord. No. 21-006]**

RENT — Includes let, lease, barter or any other arrangement whereby persons permit non-owners to reside in a non-owner-occupied residential dwelling or unit, regardless of whether consideration is exchanged.**[9-27-2021 by Ord. No. 21-006]**

RENTAL CERTIFICATION DIVISION — The division of the City that is responsible for monitoring the registration and certification of residential non-owner-occupied dwellings and units within the City of Port Huron.[4]**[10-24-2016 by Ord. No. 16-004; 9-27-2021 by Ord. No. 21-006**

ROOMING HOUSE — Any dwelling occupied in such a manner that certain rooms, in

4. Editor's Note: The former definitions of "residential rental structure" and "residential rental unit," as amended, which immediately followed this definition, were deleted pursuant to Ord. No. 21-006, adopted 9-27-2021.

excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented, in return for some form of compensation, to persons outside of the family, without any attempt to provide therein or therewith, cooking or kitchen accommodations for individuals leasing or renting rooms. The number of such bedrooms leased or rented as rooms shall not exceed one. Rooming houses are only allowed in the A-1 and A-2 Zoning Districts. A rooming house shall only be allowed within an owner-occupied dwelling. Rooming houses are not subject to the Rental Certification Ordinance.**[10-26-2015 by Ord. No. 15-010]**

TO SECURE — To board up or otherwise make the premises inaccessible by anyone other than the owner or the City Building Inspection Division for a temporary purpose and then to glaze all windows and install proper locks for a permanent solution.**[10-26-2015 by Ord. No. 15-010; 6-26-2017 by Ord. No. 17-005]**

TRANSIENT USE or TRANSIENT RESIDENTIAL OCCUPANCY — Occupancy of a residential unit by any person other than the primary owner by concession, permit, right of access, license, gift or other agreement or compensation for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.**[9-27-2021 by Ord. No. 21-006]**

(1) Any non-owner-occupied residential dwelling or unit listed above or rented for less than 30 days shall not be allowed in the R Zone.

(2) Any non-owner-occupied residential dwelling or unit occupied unit must be certified under this article and shall require a certification of compliance before the dwelling or unit or house can be occupied as a non-owner-occupied residential dwelling or unit. Prior to being occupied and at all times during occupation, all non-owner-occupied residential dwellings or occupied units shall comply with all Code of Ordinances of the City of Port Huron and specifically as regulated by Chapter 10, Buildings and Building Regulations, and Chapter 52, Zoning, after a special approval use permit in certain zones with the City.

(3) A non-owner-occupied residential dwelling or unit does not include hotels and motels as defined by Chapter 52, Zoning. A residential non-owner-occupied unit does not include a bed-and-breakfast facility as defined in Chapter 52, Zoning, for which a special approval use permit is required.

VACATION RENTAL or SHORT-TERM RENTALS — A property in a dwelling unit or guesthouse intended for occupancy or that is occupied for transient use by any person other than the primary owner; or is otherwise occupied or utilized on a transient basis.**[9-27-2021 by Ord. No. 21-006]**

§ 10-153. Registration required. [Code 1992, § 16-33; 2-26-2002 by Ord. No. 1194; 1-24-2011 by Ord. No. 1319; 12-16-2013 by Ord. No. 1362; 11-9-2015 by Ord. No. 15-011; 10-24-2016 by Ord. No. 16-004; 9-27-2021 by Ord. No. 21-006]

Initial registration. The owner of any non-owner-occupied residential structure shall register each such structure with the City and shall designate a person, as defined in § 10-154, as the responsible local agent who shall be legally responsible for operating the non-owner-occupied residential structure and shall also be responsible for providing access to such premises for making the inspections necessary to ensure compliance with the terms of this article and all applicable codes and ordinances adopted by the City.

A certification shall not be issued unless an applicant complies with the registration sections of this article. The seller of a residential dwelling sold on a land contract, within 30 days of its execution, shall 1) record the land contract or memorandum of the land contract with the St. Clair County Register of Deeds; 2) provide a copy of the land contract or memorandum of land contract to the Planning Department; and 3) attest as to whether the seller obtained a deed in lieu of foreclosure or forfeiture or some other instrument or agreement pursuant to which the seller may terminate the land contract without proceeding through forfeiture and/or foreclosure.

§ 10-154. Responsible local agent. [Code 1992, § 16-34; 2-26-2002 by Ord. No. 1194; 6-13-2005 by Ord. No. 1251]

For the purposes of this article, the responsible local agent shall be an individual person who represents the owner, a real estate holding company, corporation, partnership or other legal entity and must have a place of residence in the state within 45 miles of the City limits. The responsible local agent shall be designated by the owner as legally responsible for operating such premises in compliance with all the provisions of the City codes and ordinances. The owner may act as the responsible local agent, provided he of she resides in the state and within 45 miles of the City limits. All official notices of the City may be issued to the responsible local agent, and any notice so issued shall be deemed to have been issued upon the owner of record.

§ 10-155. Period for registration of non-owner-occupied residential dwellings or units. [Code 1992, § 16-35; 2-26-2002 by Ord. No. 1194; 1-24-2011 by Ord. No. 1319; 9-27-2021 by Ord. No. 21-006]

Non-owner-occupied residential dwellings and units required to be registered pursuant to this article shall comply with the following:

(1) All existing non-owner-occupied residential structures shall be registered.

(2) All newly constructed non-owner-occupied structures shall be registered prior to the issuance of the certificate of occupancy by the City.

(3) A non-owner-occupied residential structure which is sold, transferred, or conveyed shall be reregistered by the new owner within 30 days of the date of the deed, land contract, or other instrument of conveyance with both the City's Rental Certification Division and the City's Assessor's office. All documents of conveyance, including land contracts, shall be recorded with the St. Clair County Register of Deeds office and a copy of the same or a memorandum of land contract shall be provided to the Assessor's office.

(4) All existing structures, buildings, dwellings and/or units which are converted to non-owner-occupied residential dwellings or units shall be registered, inspected, and certified prior to the date on which the property is first occupied.

§ 10-156. Registration forms and fee. [Code 1992, § 16-36; 2-26-2002 by Ord. No. 1194; 1-24-2011 by Ord. No. 1319; x6-26-2017 by Ord. No. 17-005; 9-27-2021 by Ord. No. 21-006]

(a) Applications for registration pursuant to this article shall be made in such form and

in accordance with such instructions as may be provided by the Rental Certification Division and shall include at least the following information:

(1) The name, address and telephone number of the applicant;

(2) The names, addresses, telephone numbers and dates of birth of all owners of the non-owner-occupied residential structure;

(3) The name, local address, telephone number and date of birth of the responsible local agent for the non-owner-occupied structure (which shall be updated by the owner if changes occur);

(4) The number of non-owner-occupied residential dwellings and units at each site, the address for each such dwelling and unit, and the number of occupants in each such dwelling and unit. If the property is a single-family dwelling, the owner must also provide the legal names and contact information of the occupants.

(5) An authorization appointing a responsible local agent signed by both the owner and the responsible local agent.

(b) A registration fee for each site where non-owner-occupied residential structures are located shall be paid at the time of registration. No post office box will be accepted as a legal address. A post office box, however, may be accepted as a mailing address for legal correspondence upon written request of the property owner and maintaining the legal street address on file with the City's Rental Certification Division. Upon registration, the Building Official or authorized representative shall inform the applicant of certification requirements. The fee for each registration shall be as set by resolution of the City Council from time to time. The owner shall be responsible for notifying the City of any change of address of either the owner or the responsible local agent.

§ 10-157. Registration term and renewal. [Code 1992, § 16-37; 2-26-2002 by Ord. No. 1194; 9-27-2021 by Ord. No. 21-006]

Registration pursuant to this article shall be made prior to the use or occupancy of any non-owner-occupied residential dwelling or unit within a non-owner-occupied residential structure except as otherwise provided by this article. The term of the registration shall be valid as long as ownership remains unchanged.

§ 10-158. Transfer of ownership. [Code 1992, § 16-38; 2-26-2002 by Ord. No. 1194; 1-24-2011 by Ord. No. 1319; 9-27-2021 by Ord. No. 21-006]

(a) It shall be unlawful for the owner of any non-owner-occupied residential structure who has received a notice of violation of any code or ordinance of the City, including notices that the number of non-owner-occupied dwellings or units within such structure exceeds that permitted by Chapter 52, which pertains to zoning, to transfer, convey, lease or sell, including by land contract, his or her ownership and/or interest in any way to another, unless such owner shall have first furnished to the grantee, lessee, vendee, or transferee a true copy of any notice of violation and shall have furnished to the Building Official a signed and notarized statement from the grantee, vendee, lessee, or transferee acknowledging the receipt of such notice of

violation and acknowledging legal responsibility for correction of the violation.

(b) The new owner, upon acknowledging and accepting property with outstanding code violations, must either correct code violations within 30 days of the transfer or, due to the extensive nature of the violations, may enter into a work agreement with the City within 10 days of the transfer in order to ensure repairs and renovations are made in accordance with all codes, ordinances and renovations standards established. Failure to do so may result in a declaration of the non-owner-occupied residential structure as a public nuisance, dangerous structure or blight. These time periods do not apply to property which has been determined by City Council to constitute a nuisance under § 10-211 and/or § 34-3 and is the subject of a demolition order, or is, at the time of the transfer, scheduled for a public hearing before City Council for such a determination.

§ 10-159. Certification required. [Code 1992, § 16-39; 2-26-2002 by Ord. No. 1194; 6-13-2005 by Ord. No. 1251; 5-11-2009 by Ord. No. 1301; 9-27-2010 by Ord. No. 1316; 1-24-2011 by Ord. No. 1319; 12-16-2013 by Ord. No. 1362; 6-26-2017 by Ord. No. 17-005; 9-27-2021 by Ord. No. 21-006]

(a) No person shall lease, rent or cause to be occupied, nor occupy, a non-owner-occupied residential dwelling or unit unless there is a valid certification issued by the City Rental Certification Division in the name of the owner and issued for the specific non-owner-occupied residential dwelling or unit that is occupied. Except to the extent restricted in § 10-178, the certificate shall be issued after an inspection by the Rental Certification Division which may include inspections by the Building Inspector, Mechanical Inspector, Housing Inspector, Electrical Inspector, Plumbing Inspector, and Fire Department Inspectors when fire inspectors have jurisdiction or other building officials to determine that each non-owner-occupied residential dwelling and unit complies with the provisions of the codes and ordinances of the City. Such inspections shall commence after the effective date of the ordinance from which this article is derived and shall continue until all non-owner-occupied residential dwellings and units have been inspected and continue, thereafter, as required for renewals.

(b) In addition to all other remedies provided for in this chapter, if a summary proceeding action is pending for a non-owner-occupied residential dwelling or unit, and when there is no current, valid registration for a non-owner-occupied residential dwelling or unit, no rent payments shall be accepted, retained, or recoverable by the owner or lessor of the non-owner-occupied residential dwelling or unit for the period of time in which the non-owner-occupied residential dwelling or unit was not registered under this article.

(c) Subject to the restriction in § 10-178, a certification may be issued for a two-year period on existing one-family and two-family non-owner-occupied residential dwellings and units and existing multifamily non-owner-occupied dwellings and units (three or more and any rooming house with one or more rooms, or boardinghouse) in accordance with the following:

(1) The City will issue a certification valid for those years if the inspector determines during the inspection that:

a. Any deficiencies discovered during previous inspections of the dwelling and/or unit have been corrected;

b. There are no major violations of the inspection guidelines for the dwellings and/or units. Major violations are those violations which, in the inspector's professional judgment, create a risk to the health or safety of the occupants;

c. A non-owner-occupied residential dwelling or unit located in a multifamily residential structure will receive a certification only if all residential units within the structure have a valid certification or are also entitled to receive a certification.

(2) Temporary, one-year certificate. The exterior condition of all non-owner-occupied residential dwellings or units are subject to compliance with other related City codes and ordinances, including § 10-31(b) (including International Property Maintenance Code) of this chapter, and Chapter 22, Article II, Blight. If conditions are not in compliance with other City codes and ordinances, but in the opinion of the rental inspector do not present an immediate health or safety hazard, a temporary, one-year certificate may be issued. The property owner must renovate the unit(s) to established standards outlined in an executed work agreement and in accordance with City codes and ordinances within one year and, upon completion, be eligible to receive a valid certification.

(3) Exemplary non-owner-occupied residential dwellings or units:

a. A non-owner-occupied residential dwelling or unit that has had both 1) no deficiencies during any inspection and 2) no valid complaints or code violations, for a period of four or more years, will receive the status of "exemplary non-owner-occupied residential dwelling or unit."

b. An exemplary non-owner-occupied residential dwelling or unit may be issued a certification for a four-year period instead of a two-year period provided in § 10-159(c).

c. An exemplary non-owner-occupied residential dwelling or unit may lose its status as the result of the occurrence of any deficiencies, valid complaints, or code violations during the four-year certification period.

(4) Probationary non-owner-occupied residential dwellings or units:

a. A non-owner-occupied residential dwelling or unit that has had more than one major deficiency, valid complaint or code violation during the period of its last rental certification will receive the status of "probationary non-owner-occupied residential dwelling or unit."

b. A probationary non-owner-occupied residential dwelling or unit may be issued a certification for a one-year period instead of the two-year period provided in § 10-159(c).

c. A probationary non-owner-occupied residential dwelling or unit may be removed from its status if it has both 1) no deficiencies during any

inspection, and 2) no valid complaints or code violations for a period of one or more years.

§ 10-160. Applicability to existing non-owner-occupied residential structures. [Code 1992, § 16-40; 2-26-2002 by Ord. No. 1194; 5-11-2009 by Ord. No. 1301; 1-24-2011 by Ord. No. 1319; 9-27-2021 by Ord. No. 21-006]

(a) This article applies to all non-owner-occupied residential structures and all non-owner-occupied residential dwellings and units within the City existing on the effective date of the article.

(b) Any non-owner-occupied residential structure or non-owner-occupied residential structure, dwelling, or unit which is a new construction or renovation which required a comprehensive inspection and which is issued a certificate of occupancy pursuant to an inspection after the effective date of the ordinance from which this article is derived will also be issued a certification simultaneous with the certificate of occupancy, and an inspection fee pursuant to § 10-162 shall not then be required. Non-owner-occupied residential structures which are new constructions shall comply with the registration requirement pursuant to § 10-155. Newly constructed non-owner-occupied residential dwellings or units will be issued a certification valid for four years and then must adhere to the reinspection and recertification process as set forth for all other non-owner-occupied units under this article.

§ 10-161. Inspections. [Code 1992, § 16-41; 2-26-2002 by Ord. No. 1194; 6-13-2005 by Ord. No. 1251; 5-11-2009 by Ord. No. 1301; 1-24-2011 by Ord. No. 1319; 6-26-2017 by Ord. No. 17-005; 8-13-2018 by Ord. No. 18-013; 9-27-2021 by Ord. No. 21-006]

(a) The enforcing officer for the City Rental Certification Division shall inspect the interior and exterior of non-owner-occupied residential dwellings and units for the purpose of conducting an initial inspection in the case of new certification, or on a periodic basis pursuant to this article for the purpose of a renewal. In such case, the inspection fee shall be set by resolution of Council, subject to the restrictions of § 10-162. The City Rental Certification Division may also conduct an inspection under any of the following circumstances:

(1) Upon receipt of a complaint from an owner or occupant that the premises is in violation of this article.

(2) Upon receipt of a report or a referral from the Police Department, other public agencies or departments, or any individual indicating that the premises is in violation of this article and which is based on the personal knowledge of the person making the report.

(3) If an exterior survey of the premises gives the enforcing officer probable cause to believe that the premises is in violation of this article.

(4) Upon receipt of information by the enforcing officer that a non-owner-occupied dwelling or unit is not registered with the City or certified by the City as required by this article.

(b) The owner or local agent shall be responsible for scheduling an inspection for the

renewal of certification. Owners of newly registered non-owner-occupied residential dwellings or units must call to schedule their own inspections. If an inspection is not scheduled, the following will take place:

(1) The inspector or Clerk shall notify the owner of a non-owner-occupied residential structure of the date and time such structure (including, if applicable, all non-owner-occupied residential dwellings and units therein) is to be inspected. Such notice may be personally delivered or may be sent by first-class mail.

(2) Upon receipt of the notice, the owner or local agent must either:

a. Appear at the date and time scheduled for the inspection or have a representative or the occupant at the site to allow complete access; or

b. Object within 10 days of the mailing or delivery of the notice and schedule an alternative date for the appointment within 30 days from the date identified in the initial notice.

(3) If an owner or occupant subsequently learns he or she will not be present for a scheduled appointment, the individual must provide the inspector with at least 48 hours' advance notice and must schedule a second inspection date within 30 days from the scheduled appointment. Failure to appear for a scheduled appointment without providing the notice shall require that a reinspection fee be paid for any rescheduled date and may result in the unit's certification expiring.

(c) The occupant of a non-owner-occupied single- or two-family dwelling unit may have the right to deny access for an interior inspection, provided that the following procedures are followed:

(1) The occupant must complete and submit an "access denied" form to the Rental Certification Division within the ten-day time frame. The occupant must contact the Rental Certification Division and request the "access denied" form. The form must be signed in the presence of City officials in the Planning Department or witnessed by an official notary prior to submission.

(2) The certification will be flagged as a one-year certificate due to "access denied" and a recheck scheduled for one year's time.

(3) If the dwelling or unit becomes vacant, it is the property owner's responsibility to schedule an inspection and to obtain certification prior to allowing occupancy.

(4) Failure to arrange for an inspection once the dwelling or unit becomes vacant shall be considered a blight violation.

(5) Allowing occupancy of a dwelling or unit without a valid certification after a vacancy shall be considered a blight violation.

(6) "Access denied" does not eliminate the requirement for an exterior inspection of the property. The inspector will complete an exterior inspection, and the certificate will not be issued unless the property meets all related codes,

including blight.

(d) During the inspection, the enforcing officer shall note any violations of this article or other sections of this Code and give notice of the violations to the responsible local agent in accordance with § 10-154. The enforcing officer shall direct the responsible local agent and owner to correct violations within the time set forth in the notice. A reasonable time for correcting violations shall be determined by the enforcing officer in light of the nature of the violations and all relevant circumstances but shall not exceed 60 days. Upon request of the person responsible for correcting violations, the enforcing officer may extend the time for correcting violations if the enforcing officer deems such action appropriate under all relevant circumstances, but not to exceed an additional 60 days.

(e) HUD Section 8 Housing or Michigan State Housing Development Authority (MSHDA) programs may be able to receive a waiver on an interior inspection for certification during the effective date of the lease agreement. Properties with a valid HUD Section 8 or MSHDA inspection certification must provide a copy of said certification to the Rental Certification Division in order to be exempt from the interior inspection requirements of this article. These properties are not exempt from exterior inspections and related code compliance. In addition, these properties will receive interior inspections from the City inspectors at least once every four years as part of the certification process.

§ 10-162. Annual operating fees. [Code 1992, § 16-42; 2-26-2002 by Ord. No. 1194; 5-11-2009 by Ord. No. 1301; 1-24-2011 by Ord. No. 1319; 9-27-2021 by Ord. No. 21-006]

(a) The annual operating fees for periodic inspection of each non-owner-occupied residential dwelling or unit and any other fees provided by this article shall be as adopted by resolution by the City Council and amended, as necessary, by resolution of the City Council. The annual operating fee shall cover the periodic inspection for the issuance or renewal of a certification, except that such fee shall not cover an inspection made pursuant to a final notice of violation issued under § 10-164(b).

(b) An administrative late fee of the unpaid balance shall be paid to the City by the person obligated to pay an annual operating fee under Subsection (a) of this section if such fee is not paid within 60 days from the billing date, as adopted by resolution of the City Council. After 90 days from the date of billing, those fees shall become a lien on the property as a single lot special assessment pursuant to § 40-19 and shall be collected as a special assessment.

(c) The non-owner-occupied inspection program as provided for in this article shall be operated by the City on a break-even basis. This means the annual operating fees charged shall be set at a rate to produce sufficient revenue to cover the actual, direct cost of administering the program. If the fees as set forth in this article or as amended exceed the actual, direct cost of administering the program, the City Council, by resolution, shall reduce the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the program. If at any time the fees being collected are insufficient to cover the cost of the program, the City Council, by resolution, shall increase the fees to an amount which shall produce sufficient revenue to cover the actual, direct cost of administering the

program. Fines and fees due to legal action, enforcement proceedings or blight violations as a result of noncompliance with this article are exempt and will not be included in this calculation.

§ 10-163. Issuance or renewal of certification. [Code 1992, § 16-43; 2-26-2002 by Ord. No. 1194; 6-26-2017 by Ord. No. 17-005; 9-27-2021 by Ord. No. 21-006]

(a) Between 60 and 30 days before the expiration date on the certification issued for a non-owner-occupied residential dwelling or unit, the owner shall apply to the City Rental Certification Division for the scheduling of an inspection for the issuance of a new certification for that non-owner-occupied residential dwelling or unit.

(b) Upon receipt of a timely request for an inspection for the purpose of the issuance or renewal of a certification, the City shall inspect the premises before the certification expires or is initially issued. Upon failure of the City to conduct an inspection prior to occupancy or expiration of the certification, the owner may rent the property until the City has conducted an inspection, and the owner will not be deemed in violation of § 10-159 during that time. If, however, the City's failure to inspect is due to the owner's, agent's or occupant's action, failure to act, or refusal to permit an inspection after reasonable notice of the intent to inspect, the owner shall not rent the property without a current certification as required by § 10-159.

§ 10-164. Notices and orders. [Code 1992, § 16-44; 2-26-2002 by Ord. No. 1194; 6-13-2005 by Ord. No. 1251; 1-24-2011 by Ord. No. 1319; 9-27-2021 by Ord. No. 21-006]

(a) Notice of violation. Whenever the Building Official or enforcing officer determines that there has been a violation of any section of this article, he or she shall give notice of such alleged violation and orders for correction of the violation as provided in this section, except this section shall not apply in any way to the prosecution of violations of § 10-161 or § 10-166 or violations of the registration requirements set forth in this article as such may be prosecuted without notice. Such notice shall:

(1) Be in writing.

(2) Include a statement of the conditions that constitute violations of this article.

(3) State the date of the inspection, the name of the inspector, the address of the dwelling, and the date set for reinspection.

(4) Specify a time limit for the performance of any act it requires.

(5) Notify the responsible local agent or the occupant, as the case may require, of his or her right to appeal from the notice or order to the Construction Board of Appeals.

(6) Be served upon the owner or the occupant, as the case may require, and on the responsible local agent and that such notice shall be deemed to be properly served if a copy thereof is i) served personally, or ii) sent by first-class mail to the last known address. Notice given to the responsible local agent is deemed as notice given to the owner.

(b) Final notice of violation. Upon observing the continued existence of a violation of this article or applicable code as stated in the notice of violation, the Building Official or enforcing officer shall send a final notice of violation and may issue an order to vacate sent by regular, first-class mail to the last known address of the owner, the occupant, and responsible local agent and shall:

(1) Specify the date of the inspection.

(2) Specify the address where the violation was found.

(3) Include the name, telephone number and signature of the inspector.

(4) Include a description of each violation observed by the inspector.

(5) State that each violation is a separate punishable offense.

(6) Order the premises to be vacated within a time to be set by the inspector, the length of which shall be determined by the extent of the danger to the occupants, but in no case shall it exceed 30 days, or alternatively:

a. Order correction of all violations within a time period not to exceed 30 days.

b. State that a reinspection will be made to determine whether all violations have been corrected by the specified date. A reinspection fee as adopted by resolution by the City Council and amended, as necessary, by resolution of the City Council will be required to be paid prior to a reinspection, and the owner or local agent shall be responsible for contacting the Rental Certification Division for scheduling the reinspection within 10 days of the date on the notice.

c. State that failure to comply with the notice will result in a fine for failure to correct the final notice of violation, or prosecution. The fine for failure to correct a final notice of violation shall be established by a resolution of the City Council.

d. Employ any other additional or optional corrective or enforcement measure as provided for under this Code or by law.

e. Each reinspection, as needed, will require an additional reinspection fee to be paid prior to a reinspection.

(c) Posting final notice of violation. Upon issuing a final notice of violation for a non-owner-occupied residential dwelling or unit or its accessory building, the City may affix a copy of the notice on the non-owner-occupied residential dwelling or unit or non-owner-occupied structure.

(d) Nuisance per se. Notwithstanding any section in this article to the contrary, any non-owner-occupied residential dwelling or unit that is found to be in such condition as to preclude habitation or threaten the health, safety or welfare of the occupants or community shall be considered a nuisance per se and, as such, subject to abatement in a manner prescribed by the Charter, state statute and/or law.

§ 10-165. Inspection guidelines. [Code 1992, § 16-45; 2-26-2002 by Ord. No. 1194; 5-11-2009 by Ord. No. 1301; 10-24-2016 by Ord. No. 16-004; 6-26-2017 by Ord. No. 17-005; 9-27-2021 by Ord. No. 21-006]

The City Rental Certification Division shall use the most current International Property Maintenance Code, as adopted by the State of Michigan, as inspection guidelines to be used in inspections relating to the enforcement of this article. The inspection guidelines are incorporated by reference and shall be effective upon adoption of the ordinance from which this article is derived. The adoption of the inspection guidelines shall not be construed to relieve the owner from compliance with any other requirements of codes adopted by the City, including but not limited to housing, electrical, building, plumbing, mechanical, blight, property maintenance, fire codes and zoning requirements as necessary due to renovations requiring permits.

§ 10-166. Harassment. [Code 1992, § 16-46; 2-26-2002 by Ord. No. 1194]

(a) Under this article, any tenant or other person who shall maliciously or vexatiously cause an inspection to be made for the purpose of harassing any individual, corporation or governmental agency when no violation is present or is de minimis shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished according to § 1-16.

(b) City inspectors are duly authorized to inspect properties in conjunction with this article. Inspectors shall not be harassed, stalked, threatened, hindered, assaulted or otherwise interfered with in the performance of their duties. Notwithstanding any other section in this article, a violation of this subsection shall be a misdemeanor punishable according to § 1-16. **[9-27-2021 by Ord. No. 21-006]**

§ 10-167. Appeal process. [Code 1992, § 16-47; 2-26-2002 by Ord. No. 1194; 1-24-2011 by Ord. No. 1319; 6-26-2017 by Ord. No. 17-005; 9-27-2021 by Ord. No. 21-006]

(a) If the owner disagrees with the opinion of the Building Official as to either the existence of an alleged violation or the period of time that will be reasonably required for the owner to correct the alleged violations as set forth in the notice of violation and order to repair given pursuant to this article, or a finding of a public nuisance under § 10-168(b), the owner may appeal to the Construction Board of Appeals, which is hereby designated to hear such appeals. An occupant of a non-owner-occupied residential dwelling or unit shall have standing to appeal any notice or order to vacate the dwelling.

(b) Any owner or occupant requesting such appeal shall file a written request therefor to the City Rental Certification Division within 10 days after the date of receipt of the notice of violation or within the time for taking any action indicated on a notice or order, whichever time is shorter, and on a form designated by the Rental Certification Division, and paying a nonrefundable application fee as set by resolution of the City Council.

§ 10-168. Revocation of certification. [Code 1992, § 16-48; 2-26-2002 by Ord. No. 1194; 6-13-2005 by Ord. No. 1251; 1-24-2011 by Ord. No. 1319; 8-13-2018 by Ord. No. 18-013; 9-27-2021 by Ord. No. 21-006]

(a) If the owner does not correct a violation of any section of this article, the Building Official or their designee shall revoke any existing certification and may bring an action to seek the enforcement of this article by abatement, mandatory injunction to cause correction of a violation, enjoinment of the violation to prevent an act or violation, the vacation of the premises by all occupants and its discontinuance as a non-owner-occupied residential structure and/or non-owner-occupied residential dwelling or unit, or such other action as provided for under this article. Any structure not in compliance with this article is deemed a nuisance per se. If a residential unit is vacant and not certified, or the certification has expired, or an inspection to certify has not been completed, then the unit may be yellow-tagged to signify that it may not be occupied until a rental inspection has been completed and/or a certificate has been renewed or issued.

(b) A certificate may be revoked if the property is declared a "public nuisance" by the City Manager, Police Chief, and the Building Official, or their designee, under this subsection based upon the conduct and activities within a rented property. Evidence of repeated code violations, including blight, or multiple valid police calls or incidences, illegal activity or other activity that threatens the health, welfare or safety of the surrounding residents, whether the result of the activities of the owner, the agent, the occupants, or their guests, may constitute a public nuisance under this subsection. A certificate revoked under this subsection shall be revoked for a minimum period of at least 12 months. Any property owner who wishes to challenge a finding of a public nuisance under this subsection may utilize the procedure set forth in § 10-167 to appeal said finding.

§ 10-169. Penalties. [Code 1992, § 16-49; 2-26-2002 by Ord. No. 1194; 1-24-2011 by Ord. No. 1319; 11-9-2015 by Ord. No. 15-011; 8-13-2018 by Ord. No. 18-013; 9-27-2021 by Ord. No. 21-006]

(a) Any violation of this article shall be considered a blight violation as provided for in § 2-901 of the City of Port Huron Code of Ordinances. Each day a violation continues shall be considered a separate offense. In the case of a multi-unit non-owner-occupied structure, each unit that is in violation of any provisions of this article shall be considered a separate offense.

(b) Any owner who has not paid in full any outstanding fees or fines to the City of Port Huron related to a non-owner-occupied residential dwelling or unit or structure, including any fees assessed as result of blight violations for a period of more than 90 days after either the date of issuance or the end of any appeal period if an appeal is filed, whichever is later, shall have all of their certifications on all other non-owner-occupied dwellings or units and structures automatically revoked.

(c) In addition to any other penalties, any owner who permits a non-owner-occupied residential structure or non-owner-occupied residential dwelling or unit to be occupied for more than 60 days after notice of an order to vacate shall be guilty of a separate misdemeanor.

(d) In addition to fine, imprisonment or corrective action to abate or enjoin the violation, the City's Attorney may seek to recover the costs of prosecution or other civil action in either district or circuit court. Pursuing any violation of this article as a blight violation with the Administrative Hearings Bureau shall not prohibit the

City from seeking compliance with this article via court action.

(e) Water may be shut off for non-owner-occupied residential dwellings or units for failing to have a current certification or failure to correct identified inspection violations, as follows:

(1) The Public Works Director, or any public works employee, shall shut off and seal the water valve to any one-, two-, or multiple-unit non-owner-occupied residential dwelling or unit upon request of the City Rental Certification Division whenever the property lacks a valid certification or fails to correct noted violations as required by ordinance.

(2) Water shall not be shut off until the dwelling or unit is vacant.

(3) Water shall not be turned on until a valid certification has been issued for the dwelling or unit and all fees and charges have been paid to date.

(4) Water service may be reinstated prior to the issuance of a certificate only in the event the owner provides a cash bond in the amount of $1,000 posted to the City Treasurer, upon the condition that the property will not be occupied prior to the issuance of a valid certificate.

(5) In the event that the said property is occupied prior to the issuance of a certification, the cash bond of $1,000 is forfeited, and notice of the same shall be given to the owner by regular, first-class mail.

(6) The owner may appeal the forfeiture to City Council, whose decision shall be final.

(7) The bond shall be returned to the owner, if it has not been forfeited, only upon the issuance of a certificate.

§ 10-170. Vacating and securing buildings. [Code 1992, § 16-50; 2-26-2002 by Ord. No. 1194; 6-13-2005 by Ord. No. 1251; 1-24-2011 by Ord. No. 1319; 9-27-2021 by Ord. No. 21-006]

The City Building Official may declare a non-owner-occupied residential structure or non-owner-occupied residential dwelling or unit to be unfit for human occupancy or entry (i.e., red-tagged):

(1) When a condition exists that constitutes an immediate threat to life or an immediate threat of serious injury to the person or any occupant.

(2) When an emergency or hazardous condition has not been corrected as ordered.

(3) When a vacant dwelling or vacant unit has not been secured as ordered in a notice of violation.

(4) As otherwise provided for in this article.

(5) When any other hazardous or dangerous or unsanitary condition exists as defined in any other code or ordinance adopted by the City. Examples of property conditions that may result in vacating of a building include, but are not limited to:

a. Lack of essential electrical service;

b. Lack of essential gas service;

c. Lack of essential water service;

d. Evidence of a lead hazard as demonstrated by a child with an elevated blood level who resides in or visits the dwelling as reported by the St. Clair County Health Department or other health agency;

e. Evidence of infestation by rodents or bugs;

f. Evidence of a sewage backup;

g. Evidence of active methamphetamine components, or other drug-related or hazardous materials; and

h. Evidence of other living conditions which are unsanitary and unfit for human habitation.

§ 10-171. Occupancy prohibited. [Code 1992, § 16-51; 2-26-2002 by Ord. No. 1194; 1-24-2011 by Ord. No. 1319; 9-27-2021 by Ord. No. 21-006]

No person shall occupy or permit or allow another person to occupy any non-owner-occupied structure or non-owner-occupied residential dwelling or unit which has been declared to be unfit for human occupancy or entry.

§ 10-172. Notice to vacate. [Code 1992, § 16-52; 2-26-2002 by Ord. No. 1194; 9-27-2021 by Ord. No. 21-006]

Upon declaring a non-owner-occupied residential structure or non-owner-occupied residential dwelling or unit to be unfit for human occupancy and entry, the City shall issue a notice to vacate to the occupants by certified mail and by posting the notice to vacate at an entry of each dwelling unit. The notice shall order the occupants to vacate the affected structure, dwelling, and/or units no later than 72 hours after such notice.

§ 10-173. Notice to secure. [Code 1992, § 16-53; 2-26-2002 by Ord. No. 1194; 9-27-2021 by Ord. No. 21-006]

Upon declaring a non-owner-occupied residential structure or non-owner-occupied residential dwelling or unit as unfit for human occupancy and entry, the City shall issue a notice to secure to the owner. The notice to secure shall order the owner to secure the structure, dwelling, and/or units, as applicable. The notice shall order the securing of a vacant structure or unit within 48 hours and the securing of an occupied dwelling or unit within 48 hours of becoming vacant.

§ 10-174. Posting of building unfit for human occupancy. [Code 1992, § 16-54; 2-26-2002 by Ord. No. 1194]

Upon issuing a notice to vacate or a notice to secure pursuant to this article, the City shall place signs upon or near the entryways to any dwelling or unit cited in the notice. The sign shall state the address or unit number of the structure or unit and the name of the owner. It shall inform the public that it is a violation of this Code to enter the building or

unit unless authorized in writing by the City.

§ 10-175. Securing by City. [Code 1992, § 16-55; 2-26-2002 by Ord. No. 1194]

If the owner has failed to comply with a notice to secure given pursuant to this article, the City may secure the structure or unit. The cost of such action shall be a personal debt of the owner to the City and may be assessed as a lien against the property as in a single lot special assessment pursuant to § 40-19 and may be collected as in a special assessment.

§ 10-176. Reliance on certification. [Code 1992, § 16-56; 2-26-2002 by Ord. No. 1194]

(a) Issuance of a certification pursuant to this article shall not constitute a guarantee or warranty of the habitability or complete compliance of the building or structure to code requirements, and the occupant of any non-owner-occupied residential dwelling or unit shall not rely on any certificate as such a guarantee or warranty by the City. The certification shall contain a notice to this effect. **[9-27-2021 by Ord. No. 21-006]**

(b) The City shall not assume any liability to any person by reason of the inspections required by this article or issuance of a certification.

§ 10-177. Authority of building official. [Code 1992, § 16-57; 2-26-2002 by Ord. No. 1194]

(a) This article shall not impair or diminish the authority of the building official or duly authorized representative to employ any alternative action or corrective measure provided for under any housing or building codes as adopted or recognized by the City, where applicable.

(b) This article shall not be construed so as to limit the application and enforcement of the City Zoning Ordinance in Chapter 52, the Blight Ordinance in Article II of Chapter 22, or housing and building codes adopted or recognized by the City which touch upon the maintenance of residential dwellings or the health, safety, and welfare of occupants residing in residential dwellings, where applicable.

§ 10-178. Rental certification hardship exception. [12-16-2013 by Ord. No. 1362; 10-24-2016 by Ord. No. 16-004; 9-27-2021 by Ord. No. 21-006]

In Zoning District R, Single-Family Residential District, and in Zoning Districts RO-1, Residential Rental Restriction Overlay Districts, where new owner-occupied residential structures are prohibited, no new certifications shall be issued except a certification obtained through the following procedure established for a hardship exception:

(1) Any property owner desiring a "hardship exception" must submit their request for a hardship exception in writing to the Planning Department for administrative review, which shall make a determination of whether a hardship exists as defined by this article. If denied, the applicant may appeal the decision to City Council.

(2) A "hardship" for purposes of this article shall be defined as the inability of the owner to purchase or pay for one or more of the following without the ability to obtain payment of rents on the subject property:

a. Medical care or a medical device for the owner or the owner's dependents;

b. Debts of the owner resulting from a mortgage, land contract or other loan used to purchase the subject property where there is no other available source to pay such debts; or

c. Debts of the owner due to child support, alimony, a tax lien, funeral expenses, or a judgment.

(3) A "hardship" shall also include the following circumstances: Where a homeowner owns property that is occupied by the owner and a change in the owner's personal circumstances requires a rental to preserve the financial stability of the owner. For example, this section would apply to a person who is required to temporarily relocate their residence for a period of time and needs to rent their home in their absence.

(4) The hardship exception allows the issuance of a certification for a period of 12 months or less, and only one appeal per property is permitted per year.

(5) Any owner who has already been renting property without having obtained the required certification is disqualified from seeking a hardship exception.

(6) It shall be the burden of the person seeking the hardship exception to provide proof of the hardship, including submission of financial documentation necessary for the administration to make a reasoned decision on the request.

(7) Any person requesting a hardship exception shall have a response from the administration within 30 days of the initiation of the request. If denied, the decision may be appealed to City Council, which shall issue a final and binding written decision.

(8) In an R Zone, a property granted a hardship exception shall not be allowed to rent the property or structure for less than 30 days or use the property as a vacation rental, home sharing, or other transient occupancy as defined in Chapter 10, Article V.

§ 10-179. Determination of prior nonconforming use. [10-24-2016 by Ord. No. 16-004; 9-27-2021 by Ord. No. 21-006]

(a) In zoning districts where a certification is no longer permitted by ordinance, a prior nonconforming use as a non-owner-occupied residential structure must be proven by the property owner by showing both that the property was registered and used as a non-owner-occupied residential structure as of the effective date of any such ordinance change.

(b) Where a property owner is able to establish a prior nonconforming use as set forth in Subsection (a) above, the City will consider the use to be abandoned where any of the following occur:

(1) The property owner fails to renew a certification and allows the certification to be expired for a period of 12 months or more;

(2) The property is occupied by the owner for a period of six months or more;

(3) The property is subject to a land contract and occupied by the land contract purchaser; or

(4) The property owner engages in any action manifesting a decision to voluntarily abandon the use of the property as a rental unit.

§ 10-180. through § 10-210. (Reserved)

ARTICLE VI
Dangerous Structures

§ 10-211. Nuisances; condemnation procedures. [Code 1975, § 8-1; Code 1992, § 6-46; 4-22-2002 by Ord. No. 1195; 5-10-2010 by Ord. No. 1310]

(a) No person shall maintain any structure which is unsafe; which is a menace to the health, morals or safety of the public; or which is a dangerous building. All such structures are hereby declared to be public nuisances.

(b) The City Council may, after notice to the owner and after holding a public hearing thereon, condemn any structure which is a public nuisance under Subsection (a) of this section. Such notice shall be given to the owner of the land upon which such structure is located and shall specify in what respects the structure is a public nuisance and require the owner to alter, repair, tear down or remove the structure within such reasonable time as may be necessary to do or have done the work required by the notice. The notice may also provide a reasonable time within which such work shall be commenced and a reasonable time within which such work shall be completed.

(c) If, at the expiration of any time limit specified in the notice given pursuant to Subsection (b) of this section, the owner has not complied with the requirements of such notice, the City Manager shall carry out the requirements of the notice. The cost of such abatement shall be charged against the premises and the owner thereof.

(d) The City Manager may abate any public nuisance defined in this section, if the public safety requires immediate action, without preliminary order of the City Council. Thereafter, the cost of abating such nuisance shall be charged against the premises and the owner thereof.

(e) In addition, the City may commence legal action against the owner of the premises for recovery of the full cost of abatement, including, but not limited to, demolition, making the premises safe, or maintaining the exterior of the structure or grounds adjoining the structure. A judgment in an action brought pursuant to this section may be enforced against assets of the owner other than the building or structure.

§ 10-212. through § 10-250. (Reserved)

ARTICLE VII
Foreclosed, Vacant and Abandoned Property Registration[5]

§ 10-251. Title. [9-27-2021 by Ord. No. 21-006]

This article shall be known as the "Foreclosed, Vacant and Abandoned Residential Property Registry Ordinance."

§ 10-252. Findings and purpose. [9-27-2021 by Ord. No. 21-006]

(a) The City Council finds that there are foreclosed, vacant, or abandoned residential properties in the City that are a public nuisance and that foreclosed, vacant, and abandoned residential properties that are not maintained and secured constitute a hazard to the public health, safety and welfare for the following reasons:

(1) These properties often become dilapidated because they are not maintained by the owners of the properties;

(2) These properties attract children, harbor vermin, and provide shelter for vagrants and criminals;

(3) These properties are more likely to be vandalized or be the target of arsonists;

(4) These properties provide a dumping ground for garbage, trash, and other debris; and

(5) These properties require an increased amount of City resources and staff time to maintain, secure, demolish, or otherwise respond to problems associated with them.

(b) The City Council finds that owners of foreclosed, vacant, and abandoned residential properties should be held accountable for the physical condition of their properties. At a minimum, the owners should prevent the properties from creating a blight upon the surrounding neighborhood and decreasing property values. The City Council also finds that a responsible local agent should be required for all properties not owned by persons or entities within a reasonable distance of the City in order to safeguard the properties and structures, assist City personnel with access for inspections, and accept notices concerning the properties.

§ 10-253. Definitions. [9-27-2021 by Ord. No. 21-006]

Unless the context indicates otherwise, the following words used in this article shall have these meanings:

ABANDONED PROPERTY — A parcel of real property that is unoccupied in any manner for a consecutive period of six or more months. Provided, property will be presumed to be abandoned property when mortgage, land contract, or tax foreclosure proceedings have been initiated for that property, no mortgage, land contract, or tax payments have been made by the property owner for at least 90 days, and the property has been unoccupied for at least 90 days. Property under construction is not considered

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5. Editor's Note: Former Art. VII, Foreclosed Property Registration, adopted 5-10-2010 by Ord. No. 1310, was superseded 9-27-2021 by Ord. No. 21-006.

abandoned if all appropriate building permits are issued, in force, and progress on construction is ongoing.

CHIEF BUILDING OFFICIAL — The official designated by the City to enforce building, zoning, or similar laws and this article, or his or her duty authorized representatives.

FORECLOSURE — The process by which a lien, mortgage, or security interest is enforced against a parcel of real property through sale or offering for sale of the real property to satisfy the debt or claim. For the purposes of this article, a parcel of real property for which there is any of the following shall constitute a foreclosed property:

(1) A notice of mortgage or delinquent tax foreclosure;

(2) A notice of forfeiture related to delinquent property taxes or a land contract;

(3) A notice of trustee's sale;

(4) A foreclosure sale of the real property where the title to the real property will transfer to the mortgage or a third party other than the mortgagor;

(5) A judgment of foreclosure of mortgage, land contract, or delinquent property taxes;

(6) A judgment of foreclosure of a claim or lien; or

(7) A transfer of title under a deed in lieu of foreclosure, deed in lieu of sale, deed in lieu of forfeiture, or any other similar instrument.

OWNER — Any person or entity with a recognized legal or equitable ownership or possessory interest in any real property, with or without accompanying actual possession thereof. The owner shall include, but not be limited to, a bank, a credit union, a trustee or financial institution which is in possession (in whole or in part) of the real property, or that is foreclosing a lien or mortgage interest in the property but may or may not have legal or equitable title. "Owner" also means any person or entity having charge, care or control of any real property as agent of the owner, as executor, administrator, trustee or guardian of the estate of the owner.

RESPONSIBLE LOCAL AGENT — An authorized representative of a person, corporation, partnership, firm, joint venture, trust, association, organization, or other entity who is an owner of property. "Responsible local agent" also includes a person or entity who is compensated by the owner to manage a property if that person or entity is properly licensed accordingly to manage property pursuant to Michigan law. The responsible local agent must have, and will be deemed to have, if designated by the owner of the property as the responsible local agent, the authority to do the following:

(1) Receive all official notices concerning housing, zoning, blight, dangerous buildings, and/or other matters concerning the property on behalf of the owner of a property. Any notice received by the responsible local agent shall be deemed to have been received by the property owner; and

(2) Provide access to the property for any inspection necessary to ensure compliance with the terms of this chapter.

SECURING — Taking such measures as may be directed by the City that render the property inaccessible to unauthorized persons, including, but not limited to, the repairing

of fences and walls, chaining or padlocking of gates, and repair of doors, windows and other openings.

VACANT PROPERTY — A parcel of real property that has been unoccupied for a period of 30 or more consecutive days or more, and is either:

(1) Subject to foreclosure as defined in this article;

(2) Has been abandoned by the owner;

(3) Is under a condemnation notice or order to vacate;

(4) Is not in compliance with applicable housing, electrical, mechanical, plumbing, or building codes;

(5) Has one or more broken or boarded windows;

(6) Is open to casual entry or trespass;

(7) Is deteriorating due to a lack of maintenance or neglect;

(8) Has a building or structure for which a building permit has expired that is partially completed and is not fit for human occupancy;

(9) Contains a building or structure that is structurally unsound;

(10) Has utilities disconnected or not in use;

(11) Has taxes in arrears for more than one year; or

(12) Is a potential hazard or danger to the safety of persons.

§ 10-254. Property registration required. [9-27-2021 by Ord. No. 21-006]

(a) An owner of a foreclosed, vacant, or abandoned residential property within the City shall register the structure with the Planning Department within 15 days of the earlier of:

  (1) The property becoming subject to foreclosure;

  (2) The property becoming a vacant property;

  (3) The property becoming an abandoned property; or

  (4) Notice being sent to the owner of the structure by the Planning Department that the structure has been declared a foreclosed, vacant, or abandoned residential property.

(b) An owner of a foreclosed, vacant or abandoned residential property may apply for a registration on forms provided by the Planning Department. The owner must pay the required registration fees. No registration is valid unless filled out accurately and completely, signed by the owner, and the proper fees have been paid. A registration fee once tendered may not be refunded or transferred. It is a violation of this article for an owner to provide inaccurate information on an application for a registration.

(c) The registration must contain the following information:

(1) The address of the foreclosed, vacant, or abandoned residential property;

(2) The date on which the property became foreclosed, vacant, or abandoned;

(3) The legal name, address, telephone number, and date of birth of the owner;

(4) The names, addresses, and telephone numbers of the members of any owner that is a limited liability company, and the dates of birth of the members if individuals;

(5) The names, addresses, and telephone numbers of the majority shareholders of any owner that is a corporation, and the dates of births of the majority shareholders if individuals;

(6) An acknowledgment of local responsible agent form signed by the local responsible agent, if required;

(7) Any additional information required by the Planning Department; and

(8) A statement allowing authorized staff of the City to enter the premises for purposes of inspection.

(d) Payment in full of all the following fines, fees, and debts relating to the property being registered that are owed to the City and are currently due or past due must be paid prior to obtaining a foreclosed, vacant, or abandoned residential property registration:

(1) Outstanding water or sewer bills;

(2) All charges for mowing, cleanup, weed, or debris removal; and

(3) Any fines, penalties, or debts of any sort arising from provisions of the housing code, including any blight violations.

§ 10-255. Amendment of registration information. [9-27-2021 by Ord. No. 21-006]

If any information submitted upon the application for issuance of a foreclosed, vacant or abandoned residential property registration changes, including a change in ownership, a majority change of members of an owner that is a limited liability company or a majority change of shareholders in an owner that is a corporation, the owner must notify the Planning Department within 10 days and submit an amended application. There shall be no fee to update information if done within 10 days; however, failure to update information within 10 days shall result in a late charge and is a violation of this article.

§ 10-256. Property registration valid for two years. [9-27-2021 by Ord. No. 21-006]

A foreclosed, vacant or abandoned residential property registration is valid for a period of two years from the date of issuance. A renewal foreclosed, vacant or abandoned residential property registration must be applied for at least 60 days prior to the expiration date. Failure to timely renew a property registration is a violation of this article and shall subject the property owner to late fees.

§ 10-257. Transfer of ownership. [9-27-2021 by Ord. No. 21-006]

The seller of a foreclosed, vacant or abandoned residential property must notify the Planning Department within 45 days of the sale or transfer and provide the name and address of the purchaser or transferee. The purchaser or transferee must apply for a property registration within 45 days of the sale or transfer, unless it is intended to be occupied as a single-family owner-occupied structure and has filed a principal residence exemption. No refunds or credits of fees will be given when there is a transfer of ownership. If a foreclosed, vacant or abandoned residential structure will be non-owner-occupied after a sale or transfer of the ownership, a certificate of compliance must first be obtained and all required fees must be paid.

§ 10-258. Responsible local agent. [9-27-2021 by Ord. No. 21-006]

For a foreclosed, vacant or abandoned residential property owned by a person or entity that resides more than 45 miles outside of the City, the property owner must designate a responsible local agent who resides within 45 miles of the City. If the responsible local agent is a corporation, limited liability company, partnership or other entity, the address of the registered office of the entity must be within 45 miles of the City.

§ 10-259. Duty to maintain and secure. [9-27-2021 by Ord. No. 21-006]

(a) An owner of a foreclosed, vacant, or abandoned residential property shall comply with all of the following maintenance and security requirements:

(1) The property and structure shall be maintained in a secure manner so as not to be accessible to unauthorized person, including, but not limited to, the closure and locking of windows, doors, gates, and any other openings of such a size that could allow a child or other person to access the interior of the property and/or structure.

(2) The property on which the structure is located shall be in compliance with Chapter 22 of this Code for grass and vegetation maintenance;

(3) The property shall be kept free of trash, junk, and debris as required by Chapter 22 of this Code;

(4) The structure shall be maintained in accordance with applicable sections of Chapter 22 of this Code;

(5) The property shall be kept free of any accumulation of newspapers, circulars, flyers, and notices except for those required by federal, state, or local law;

(6) The property and structure shall be maintained free of graffiti as required by Chapter 22, Article II, of this Code;

(7) The property shall be in compliance with Chapter 22, Article II, of this Code, as to unregistered, dismantled, or inoperable vehicles;

(8) All structures on the property shall be properly winterized so to prevent bursting of pipes; and

(9) Pools, spas, and other water features shall be covered by a safety cover

approved by the State Construction Code and shall comply with the minimum security fencing and barrier requirements.

§ 10-260. Monitoring. [9-27-2021 by Ord. No. 21-006]

Periodic monitoring, not less than once every 30 days, shall be conducted by the Chief Building Official or his or her authorized representatives to assure continuing compliance with the duties set forth in this article. A fee determined by resolution of the City Council shall be established to offset the cost of monitoring the foreclosed, vacant, or abandoned residential property. The monitoring fee will be billed quarterly in advance and is the responsibility of the owner. No refunds or credits of the monitoring fee will be given.

§ 10-261. Abatement. [9-27-2021 by Ord. No. 21-006]

If the owner fails to secure or maintain property as required under this section, such failure shall constitute a hazardous condition and is considered a nuisance. Within three business days after a notice to abate has been provided, the Chief Building Official or his or her authorized representative may abate the nuisance without giving further notice. The Chief Building Official or his or her authorized representative may abate the offending condition by arranging for City employees or private contractors to secure and board the structure, remove rubbish and debris from the premises, or make repairs to maintain the buildings and premises to conform to this section. The cost of abating the nuisance condition(s) is the responsibility of the owner and may be charged to the owner and against the property. The Chief Building Official or his or her authorized representative may abate a public nuisance without giving notice if the public health or safety requires immediate abatement.

§ 10-262. Appeal of abatement costs. [9-27-2021 by Ord. No. 21-006]

An owner assessed for abatement costs may appeal the assessment to the Construction Board of Appeals. On appeal, the Construction Board of Appeals shall determine whether the property was in violation of this article, whether the owner was provided with notice as required by this article prior to abatement of the nuisance (except for in the case of emergency abatement), and whether the costs charged to the owner and assessed against the property were properly calculated. An appeal shall be filed within 20 days after the City serves notice on the owner of the property that the costs will be charged to the owner and assessed against the property.

§ 10-263. Display of property contact information. [9-27-2021 by Ord. No. 21-006]

Residential properties that are foreclosed, vacant or abandoned shall be posted with a contact number that individuals can call to report problems or concerns to the Planning Department. The posting shall be no less than 18 inches by 24 inches, shall be in a font legible from a distance of 45 feet, and shall contain, along with the contact number of the Planning Department, the words "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall also contain the name and contact information of the owner of the property or the responsible local agent, if any, along with the words "IS RESPONSIBLE FOR THE MAINTENANCE OF THIS PROPERTY." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from

the street, or secured to the exterior of the building or structure facing the street to the front of the property. Exterior postings must be constructed of and printed with weather-resistant materials.

§ 10-264. Fees and charges. [9-27-2021 by Ord. No. 21-006]

(a) All fees applicable to this article shall be set from time to time by resolution of the City Council and shall include at a minimum:

(1) An annual registration fee charged to the owner at the time of registration of the foreclosed, vacant, or abandoned residential property;

(2) A failure to register fee charged to the owner for failing to register the foreclosed abandoned residential property as required by this article;

(3) A quarterly monitoring fee charged to the owner for periodic inspections by the Planning Department to assure continuing compliance with this article. A nonrefundable payment of the first three months of monitoring fees shall be prepaid by the owner at the time of registration;

(4) An inspection fee charged to the owner for any inspection caused by the owner's failure to comply with the maintenance and security duties set forth in this article; and

(5) Administrative charges may also be charged to the owner for search warrants, title searches, boarding and securing, removal of rubbish and debris, and preparation for prosecution.

(b) All fees collected from the foreclosed, vacant, or abandoned residential property registry shall be placed in a code enforcement fund. No part of the funds held in the code enforcement fund may be transferred into the general operating fund for any reason.

§ 10-265. Exception to requirement to pay registration fee. [9-27-2021 by Ord. No. 21-006]

Any property that has a current, valid foreclosed, vacant or abandoned residential property registration shall not be required to pay the registration fee required by the non-owner-occupied residential structure or unit registry ordinance.

§ 10-266. Failure to pay fees and charges. [9-27-2021 by Ord. No. 21-006]

If an owner fails to pay fees or charges due under the terms of this article, an invoice for the fees or charges will be submitted to the owner. If the owner fails to pay the invoiced charges within 30 days of mailing of the invoice, the City may cause the cost reflected in the invoice to be assessed against the property as a special assessment. The City may also institute an action against the owner for the collection of the costs in any court of competent jurisdiction. However, the City's attempt to collect such costs shall not invalidate or waive any lien filed against the property.

§ 10-267. Notice. [9-27-2021 by Ord. No. 21-006]

All notices required by Chapters 2, 10, 22, and 52 of this Code, including notice of any violations of this article or demand for abatement concerning a foreclosed, vacant or abandoned residential property, may be served upon the registered owner of record or upon the responsible local agent by either first-class mail, certified mail, or personal service and by posting a copy thereof in a conspicuous place on or about the structure affected by the notice.

§ 10-268. Disclaimer of liability. [9-27-2021 by Ord. No. 21-006]

The City shall not be liable to any person or entity by reason of this article or the issuance of a foreclosed, vacant or abandoned residential property registration. A property registration is not a warranty or guarantee that there are no defects in or on any foreclosed, vacant or abandoned property.

§ 10-269. Nuisance per se. [9-27-2021 by Ord. No. 21-006]

Vacant property and abandoned property which are in violation of this article are considered to be a nuisance per se and are subject to abatement in any manner prescribed by law.

§ 10-270. Penalties. [9-27-2021 by Ord. No. 21-006]

A violation of any provision of this article is a blight violation and is subject to enforcement by the procedures and penalties as provided in Chapter 2 of this Code. Each day that a provision of this article continues to exist is a separate offense.

§ 10-271. Severability. [9-27-2021 by Ord. No. 21-006]

If any provision of this article is determined to be unenforceable by a court, the remainder of this article shall be deemed severable and is to remain in full force and effect.

Chapter 22

ENVIRONMENT

GENERAL REFERENCES

Rehabilitation of blighted areas — See Ch. 16, Art. II.

ARTICLE I
In General

§ 22-1. Violations as blight violations. [12-9-2013 by Ord. No. 1359[1]]

(a) Any violation of Article II shall be treated as a blight violation, unless otherwise provided in this chapter.

(b) Any violation of Articles III and IV shall be treated as a municipal civil infraction, unless otherwise provided in this chapter.

§ 22-2. through § 22-30. (Reserved)

1. **Editor's Note: Ord. No. 1359, adopted 12-9-2013, amended Ch. 22 in its entirety to read as set out herein. Former Ch. 22, §§ 22-1, 22-31, 22-51 — 22-53, 22-76 — 22-83, 22-106 — 22-108, 22-141, 22-142, 22-161 — 22-177, 22-211 — 22-213, 22-246 — 22-249, pertained to similar subject matter and derived from the Code of 1975, §§ 35-1, 35-13 — 35-29, 35-41, 35-42, 35-44; the Code of 1992, §§ 30-1, 30-26 — 30-42, 30-66, 30-67, 30-69, 31-2 — 31-4, 34-1 — 34-3, 34-20 — 34-26, 34-36 — 34-39; Ord. No. 1089, § 2, adopted 6-12-1995; Ord. No. 1098, § 1, adopted 5-28-1996; Ord. No. 1151, adopted 7-13-1998; Ord. No. 1248, adopted 4-25-2005; Ord. No. 1302, 5-11-2009; Ord. No. 1309, adopted 5-10-2010.**

ARTICLE II
Blight

§ 22-31. Additional remedies. [12-9-2013 by Ord. No. 1359]

The penalties and remedies provided in this article for the elimination of blight and the abatement of nuisances and offensive conditions are in addition to any other penalty or remedy provided by ordinance, statute, or at common law. Any other penalty or remedy provided by ordinance, statute, or at common law shall not be construed as a limitation upon the penalties and remedies as provided in this article, nor shall the remedies and penalties provided in this article be construed as a limitation on any penalties or remedies available by other ordinance, statute, or at common law.

§ 22-32. Purpose. [12-9-2013 by Ord. No. 1359]

It is hereby found and declared that:

(1) Areas of the City are or may become blighted with the resulting impairment of taxable values upon which, in large part, City revenues depend;

(2) Such blighted areas are detrimental or inimical to the health, safety, morals, and general welfare of the citizens and to the economic welfare of the City;

(3) In order to improve and maintain the general character of the City, it is necessary to rehabilitate such blighted areas;

(4) The conditions found in blighted areas cannot be remedied by the ordinary operations of private enterprise with due regard to the general welfare of the public, without public participation;

(5) The purposes of this article are to rehabilitate such areas by eliminating blight and blight factors within all areas of the City for the protection of the health, safety, morals and general welfare of the City; to preserve existing values of other properties within or adjacent to such areas and all other areas of the City; and to preserve the taxable value of the property within such areas and all other areas of the City; and

(6) The necessity and the public interest for provisions set forth in this article are hereby declared as a matter of legislative determination to be a public purpose and for the protection of the health, safety and welfare of the residents of the City.

§ 22-33. Definitions. [12-9-2013 by Ord. No. 1359; 9-12-2016 by Ord. No. 16-003]

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

BUILDING MATERIALS — Means, but is not limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws or other materials used for construction.

COMMERCIAL BUILDING — Any building or structure used for business purposes,

including but not limited to office, retail, service and/or industrial building or structures.

DOMESTIC REFUSE — Food or animal waste and any waste consisting of combustible materials, such as paper, cardboard, yard clippings, wood or similar materials, generated in a dwelling. Domestic refuse shall be enclosed in sealed trash receptacles and located where it is not visible from any public street or sidewalk whenever possible, except during normal collection schedules.

GARDEN — An area of ground established for the growth of fruits, vegetables, herbs, shrubs or flowers.

JUNK — Means, but is not limited to, parts of machinery or motor vehicles, tires, automobile seats, shopping carts, appliances, upholstered furniture, remnants of wood, metal or any material of any kind whether or not the material could be put to any immediate reasonable use, or items not designed, manufactured, sold or intended for outdoor use. "Junk" also includes unused swimming pools, boats, campers, travel trailers, motorized homes, trailers of any type, and recreational equipment or vehicles that are not maintained in good condition and repair or are in an otherwise dilapidated condition.

JUNK VEHICLE — Any motor vehicle without current registration (unlicensed) for a period in excess of 15 days and shall include, whether so licensed or not, any motor vehicle which is inoperative for any reason. Junk vehicles will be tagged for removal within 48 hours or may be issued a fix-it ticket for certain lengths of time not to exceed 30 days.

LANDSCAPING — Those elements which enhance the appearance of land and buildings, including lawns, trees, shrubs and flowers.

LAWN — Grass or sod to hold the earth and to prevent dust and/or the establishment of noxious weeds.

NOXIOUS OR POISONOUS WEEDS — Includes Canada thistle (Cirsium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard, and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), giant hogweed (Heracleum mantegazzianum), ragweed (Ambrosia elatior l.), and poison ivy (Rhus toxicodendron), poison sumac (Toxicodendron vernix), or other plant which in the opinion of the City is regarded as a common nuisance.

OPEN STORAGE — The storage or accumulation of items which are visible from any public street, the sidewalk or from any adjoining property.

PARKING LOT — All areas set aside or designed for the parking of motor vehicles or the loading and unloading of motor vehicles on the premises or in conjunction with a shopping center and includes all driveways, aisleways or other areas supplementary thereto.

PROPRIETOR — Every owner, lessee, tenant, or other person having the right to possession of all or a portion of a shopping center or commercial building. Where there is more than one such person, all shall be jointly and severally obligated by the terms of this article.

SHOPPING CENTER — One or more commercial buildings, whether or not under common ownership, which are operated as an entity or in cooperation with one another

and which have common parking facilities.

UNINHABITABLE STRUCTURE — Any structure located in any zoning district within the City, which cannot be used for the purpose intended due to physical deterioration.

VACANT BUILDING — Any structure not in use or inhabited for the purpose intended.

§ 22-34. Causes of blight or blighting factors. [12-9-2013 by Ord. No. 1359; 9-12-2016 by Ord. No. 16-003]

It is hereby determined that the following uses, structures, activities, and conditions are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods and commercial areas. No person shall maintain or permit to be maintained any causes of blight or blighting factors upon any property in the City, whether owned, leased, rented, vacant, occupied, or otherwise described. Following are causes of blight or blighting factors:

(1) Open storage. Open storage or accumulation upon any property, street or alley of:

   a. Junk vehicles as defined in the article. Junk vehicles must be stored within a completely enclosed building or removed from the premises. If properly licensed and operable, a vehicle that is not currently in use may be located in the driveway, or other approved off-street parking area. Custom car covers are permitted on vehicles that are licensed and operable, but not tarps or plastic sheeting.

   b. Building materials unless such materials are for use in construction occurring upon such property and such construction is occurring under a valid and current building permit issued by the City.

   c. Junk, trash, debris, rubbish or refuse of any kind, except domestic refuse that is stored in a manner that does not create a nuisance for a period not to exceed seven days.

(2) Exterior of structure. The exterior of any structure not maintained as follows:

   a. Address/unit number with a minimum height of four inches and a minimum stroke width of 0.5 inch that contrasts with its background and is visible from the public way.

   b. No broken or cracked window panes; all windows fully glazed without inserts/ patches (including but not limited to cardboard or Plexiglas), or unsightly plastic on or around the exterior of windows. Windows, doors and open wall spaces shall not be boarded up for more than 30 days.

   c. Wood surfaces are clean, stained or painted with no chipping or peeling paint.

   d. Exterior surfaces are clean and free from accumulation of dirt, grime, or graffiti.

   e. Exterior, including siding and roof, is in good repair without missing, damaged or deteriorated materials, including, but not limited to, shingles, siding, fascia boards, trim, shutters, porch skirting, or similar appurtenances.

f. Roofs and roofing shingles are in good condition and not covered with tarps or other materials in excess of 30 days if repairs are being made.

g. Porches and stairs are stable and free of cracked boards or block with no blankets, tarps, or unsightly plastic/vinyl sheeting hanging on porches.

h. Materials used as a repair and/or replacement shall be of the same or similar material, including size, shape and color and shall be free from damage or defect.

(3) Structures. The following structures are not allowed:

a. Uninhabitable structures.

b. Vacant buildings not maintained in accordance with § 22-34(2). Vacant buildings must be kept securely locked to prevent entry thereto by the elements or by unauthorized persons.

c. Any partially completed structure unless such structure is in the course of construction in accordance with a valid and current building permit issued by the City and unless such construction is completed within a reasonable time defined as 12 months from date of issuance of building permit, along with any written extensions granted by the Building Inspector.

(4) Landscaping. Landscaping not meeting the following:

a. Does not create a visual barrier, safety or environmental hazard, contribute to conditions of erosion or blight or is a violation of City codes.

b. Ground surfaces covered with a lawn, as defined in § 22-33, except a paved or graveled driveway, approved parking area (in accordance with City codes), or garden area.

c. Shrubs maintained in a healthy condition and trimmed in a manner that provides a clear view of the front entrance and does not create a visual barrier or hazard.

d. Lawn maintained to prevent the establishment of noxious or poisonous weeds and vegetation with no accumulation of dead grasses, weeds, brush, underbrush, or similar vegetation. If a weed barrier material is used, it must be a product normally sold for that intended use, such as landscape fabric.

e. Lawn mowed regularly so as to not exceed eight inches in height.

f. Maintaining that portion of land adjacent to the property between the City sidewalk and curblines or edge of the roadway and the right-of-way areas, including lawn extensions and public alleyways.

g. Trees on private property will be maintained in a healthy condition and properly trimmed of dead or decaying limbs and not creating a safety hazard.

(5) Commercial. The following are additional causes of blight or blighting factors within commercial areas:

a. Buildings. The exteriors of all commercial buildings, or industrial buildings, or buildings located in any shopping center shall be maintained so as to present a neat and orderly appearance. There shall be no broken windows, and all windows shall be fully glazed without inserts or patches, painted surfaces shall be kept properly painted, block, brick or other siding in good repair with no holes, loose or missing pieces. There shall be no outside storage or display of any items whether offered for sale, disposal, junk, junk automobiles, or otherwise. Exterior paint/stain shall be free from chipping or peeling. Exterior surfaces shall be clean and free from accumulation of dirt, grime, or graffiti and all other appropriate measures shall be taken to properly maintain the buildings. Where buildings within a shopping center are owned by separate entities, the obligations of this section shall fall only upon those persons responsible for the maintenance of the particular buildings which are not being maintained in accordance with this section.

b. Landscaping. Pursuant to this article, the proprietor shall install and maintain landscaping on all areas of the shopping center or commercial building premises not occupied by buildings, sidewalks, parking lots, driveways and similar surfacing. The requirement of landscaping also is specifically applicable to those parts of highway rights-of-way adjoining the shopping center or commercial building premises and not actually used for travel purposes. Landscaping shall consist, at the minimum, of the establishment of a sod or other material to hold the earth and prevent dust and the establishment of noxious weeds. The proprietor shall maintain the landscaping and shall see that all lawns are mowed regularly, shrubs are appropriately trimmed and noxious weeds are eliminated.

c. Parking lots. Pursuant to this article, all parking lots shall be provided with pavement having a permanent, durable and dustless surface and shall be graded and drained so as to dispose of all surface water accumulated within the area. All cracks, potholes or other breaks in the parking lot surface shall be promptly filled and repaired by the proprietor. The proprietor shall provide for snow removal services, in order that the parking lot will be reasonably available for use by the public.

d. Trash removal. Pursuant to this article, the proprietor shall provide for the removal of all waste, trash, rubbish or refuse of all kinds from the shopping center at regular intervals. Such intervals shall not exceed one week, and trash collections shall be made more often if necessary to prevent the accumulation of refuse so as to create a nuisance. Between collections, the refuse shall be stored in covered containers constructed in such a way as to prevent escape of the refuse. Dumpsters and/or covered containers shall be kept enclosed or screened on all sides.

e. Trash, rubbish or debris, loose. Pursuant to this article, the proprietor shall be responsible for seeing to it that the premises of the shopping center or commercial building, including the parking lot and specifically including that part of any highway right-of-way adjoining the premises and not actually used for the travel of motor vehicles, are kept free of junk, trash, rubbish, debris or refuse of any kind. The proprietor shall see to it that the premises are cleaned of such debris or refuse or any such refuse which has blown on adjoining

property at least each day and shall take all reasonable steps to provide containers for discards and to order his or her employees and encourage the public to use them.

§ 22-35. Enforcement and penalty for § 22-34, except for § 22-34(4)d, 22-34(4)e, 22-34(4)f and 22-34(5)b. [12-9-2013 by Ord. No. 1359; 9-12-2016 by Ord. No. 16-003]

(a) The code enforcement administrator, or designees, shall enforce this article and shall periodically inspect the City for causes of blight or blighting factors within the City.

(b) The existence of any condition as described in § 22-34 shall be a blight violation, and the enforcement officer may cause the immediate issuance of a blight violation notice or citation. Reoccurrence of the same violation may result in additional blight violation citations for each day that the violation exists.

(c) Notwithstanding the issuance or nonissuance of a blight violation notice or citation, the owner and, if possible, the occupant of any property upon which any of the causes of blight or blighting factors as set forth in § 22-34, except § 22-34(4)d, 22-34(4)e, 22-34(4)f and 22-34(5)b may be notified in writing ("removal notice") to remove or eliminate such causes of blight or blighting factors from such property within the period of time designated in the notice as deemed appropriate by the enforcement officer. Such removal notice shall be served as provided in § 2-904(g) upon the occupant or owner. In addition, once the removal notice described in this subsection has been given, it shall be deemed sufficient notice for as long as the causes of blight described in the notice remain uncorrected. Additional time to remove the causes of blight or blighting factors may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

(d) Failure to comply with such notice by the owner and/or the occupant for the removal of the causes of blight or blighting factors within the time allowed may also constitute an additional blight violation for every day past the date of removal designated in the notice.

(e) If the City Manager, or his or her designee, determines that blight or blighting factors exist or the blight or blighting factors have not been removed after service of the removal notice as set forth in this article, the cause of the blight or blighting factors may be removed by the City upon the direction of the City Manager, or designee. In addition to all other remedies available, all of the costs of removal of such blight shall be billed to the owner or occupant of the subject property, and all invoices which remain unpaid for more than 30 days may become a lien on the property and assessed as a single lot assessment against such property.

(f) If a directive issued by the City Manager, or designee, pursuant to Subsection (e) of this section involves the demolition of any dwelling or other structure and such order is not complied with within 10 days after its issuance, the City Council shall hear such report from the City Manager, or designee, regarding the determinations previously made in the matter and based on such report shall make its determination whether to proceed with the proposed demolition and to issue such resolution as the

Council deems appropriate under the circumstances, including, but not limited to, the demolition of the structure by the City, and all of the associated demolition costs shall be billed to the owner or occupant of the subject property, and all invoices which remain unpaid for more than 30 days may become a lien on the property and assessed as a single lot assessment against such property. The owners of record title to the subject property, any lienholder and any land contract purchaser of such property shall be notified of the City Council hearing and shall be given the opportunity to be heard at the public hearing. Nothing in this subsection shall be construed to relieve the City Manager of his or her authority to order the immediate abatement or demolition of structures under emergency circumstances as otherwise provided in this Code.

§ 22-36. Enforcement and penalty for § 22-34(4)d, 22-34(4)e, 22-34(4)f and 22-34(5)b. [12-9-2013 by Ord. No. 1359; 9-12-2016 by Ord. No. 16-003]

(a) A violation of § 22-34(4)d, 22-34(4)e, 22-34(4)f and 22-34(5)b shall constitute a blight violation within the meaning of § 2-901. A blight violation notice may be issued to the occupant or owner of any lot or land found to be in violation of § 22-34(4)d, 22-34(4)e, 22-34(4)f and 22-34(5)b and shall be served as provided in § 2-904(g).

(b) A blight violation notice for a violation of § 22-34(4)d, 22-34(4)e, 22-34(4)f and 22-34(5)b, if it is the first notice for the calendar year, may include a date, no more than five days after issuance of the blight violation notice, by which, if a violator removes or corrects the blight violation, the inspector may dismiss the blight violation notice.

(c) If a violation of § 22-34(4)d, 22-34(4)e, 22-34(4)f and 22-34(5)b is not remedied within seven days from the issuance of the blight violation notice, in addition to any other sanctions provided under § 2-903, the City may enter the property and remove the unlawful growth of weeds, brush, or grass without further notice. All of the costs of removal of such unlawful growth shall be billed to the owner or occupant of the subject property, and all invoices which remain unpaid for more than 30 days may become a lien on the property and assessed as a single lot assessment against such property, provided that the original violation is sustained following the procedure set forth in § 2-905 and all appeals are exhausted.

§ 22-37. through § 22-60. (Reserved)

ARTICLE III
Trees

§ 22-61. Definitions. [Code 1975, § 35-13; Code 1992, § 30-26]

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

DEPARTMENT — The Parks Division of the City.

DIRECTOR — The Director, as appointed by the City Manager.

PARK — Includes all public parks having individual names and all areas owned by the City or to which the public has free access as a park.

PROHIBITED SPECIES — Any tree of the species of poplar (Populus sp.), willow (Salix sp.) and box elder (Acer negundo).

PUBLIC UTILITY — Any person owning or operating any pole, line, pipe or conduit located in any public street or over or along any public easement or right-of-way for the transmission of electricity, gas, telephone service or telegraph service.

STREET — All of the land lying between property lines on either side of all streets, highways and boulevards in the City.

TREE — Trees, shrubs, bushes and all other woody vegetation.

§ 22-62. Applicability. [Code 1975, § 35-14; Code 1992, § 30-27]

This article, except as otherwise specifically stated in this article, shall apply only to public streets, parkways, parks and other land publicly owned or controlled by the City.

§ 22-63. Enforcement. [Code 1975, § 35-15; Code 1992, § 30-28]

The Director shall be charged with the duty of enforcing this article, under the supervision of the City Manager.

§ 22-64. Control of trees located in streets and parks. [Code 1975, § 35-16; Code 1992, § 30-29]

The City Manager shall have control over all trees located within the street rights-of-way and parks in the City and the planting, care and removal thereof, subject to the regulations contained in this article.

§ 22-65. Planting, removing, pruning trees in streets or parks. [Code 1975, § 35-17; Code 1992, § 30-30]

The owner of land abutting on any street may, upon obtaining prior written permission of the Director, prune, spray, plant or remove trees in that part of the street abutting his or her land not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject. Where an owner of abutting property requests the removal of a tree, the Director is authorized, in his

or her discretion, to require, as a condition to granting approval for such removal, that such property owner make the removal in accordance with regulations established by the Department, assume all or any part of the costs of removing such tree, and also to require that the tree removed be replaced at some other nearby location by planting another tree, not necessarily of the same type.

§ 22-66. Planting strips on residence streets. [Code 1975, § 35-18; Code 1992, § 30-31]

On residence streets, the abutting owner or occupant may maintain a planting strip on the lawn extension between the sidewalk and curb and may plant flowers, trees and shrubbery therein in conformity with this article. No person shall willfully injure or destroy any grass, flower, tree or shrub upon any such planting strip or throw any papers, refuse or other thing thereon. No person shall drive an automobile, bicycle or other vehicle upon or over any such planting strip.

§ 22-67. Removal of dead, diseased and prohibited trees generally. [Code 1975, § 35-19; Code 1992, § 30-32]

Any and all dead trees and trees afflicted with any fatal or communicable disease shall be removed by the Department, with the approval of the City Manager. The City Manager is hereby authorized to direct the Department to remove any tree of a prohibited species.

§ 22-68. Removal of undesirable trees. [Code 1975, § 35-20; Code 1992, § 30-33]

(a) Trees may be removed which are not dead or infected with any disease when such trees are of an undesirable, though not prohibited, species, but only upon notice to the owner of the abutting property. If such owner shall file written objection with the City Clerk within 48 hours after service of such notice, a public hearing on such removal shall be had before the City Council, and the abutting owner shall be notified of the time and place of the hearing.

(b) The City Manager is hereby authorized to direct the Department to remove any tree growing within any street, park or public place when such tree interferes with fire hydrants, sewer and water mains, visibility of street intersections, traffic control devices or construction within street rights-of-way.

§ 22-69. Destruction of trees afflicted with Dutch elm disease. [Code 1975, § 35-21; Code 1992, § 30-34; 6-26-2017 by Ord. No. 17-005]

Every elm tree, regardless of species or variety, infected with the fungus Ceratostomella ulmi, popularly called Dutch elm disease, shall be cut and burned, if on public property, within 10 days after the City Manager shall learn of the condition and, if on private property, within 10 days after notice as specified in § 22-76(b). No person shall possess, sell, give away or transport any elm tree afflicted with the fungus Ceratostomella ulmi nor any wood from or parts of any tree so afflicted, except that wood, branches and roots of any tree so afflicted may be transported to a place for burning, if first sprayed thoroughly with an approved pesticide.

§ 22-70. Planting regulations. [Code 1975, § 35-22; Code 1992, § 30-35]

(a) No tree of any prohibited species shall be planted in any street or park, nor shall any such tree be planted on any private property within 50 feet of any street or sidewalk right-of-way or any sewer or sewer extension. Shade trees planted in any street right-of-way shall be spaced not less than 40 feet apart, except that trees may be planted less than 40 feet from an existing tree in the right-of-way, provided the existing tree has been approved for removal within a period of two years from the date of planting of the new tree. The owner of a single lot may, in order to provide a shade or ornamental tree in front of his or her lot, secure special permission from the Department to have a tree planted closer than 40 feet from an existing tree, but in no case shall such planting be within 30 feet of any existing tree within the right-of-way.

(b) No tree shall be planted in any planting strip between the street proper and the sidewalk where the distance between the back of the curb and the sidewalk is less than three feet in width. No tree shall be planted nearer to the intersection of any streets than 25 feet from the corner of such intersection.

§ 22-71. Tree protection generally. [Code 1975, § 35-23; Code 1992, § 30-36]

No person shall break, injure, mutilate, kill or destroy any tree or set any fire or permit any fire or the heat thereof to injure any portion of any tree. No toxic chemicals or other injurious materials shall be allowed to seep, drain or be emptied on, near or about any tree. No electric wires or any other lines or wires shall be permitted to come in contact with any tree in any manner that shall cause damage thereto, and no person shall attach any electric insulation to any tree. No person shall use any tree as an anchor, and no material shall be fastened to or hung on any tree. All persons having under their care, custody or control facilities which may interfere with the trimming or removal of any tree shall, after notice by the Department, promptly abate such interference in such manner as shall permit the trimming or removal of such tree by the Department.

§ 22-72. Excavations and driveways near trees. [Code 1975, § 35-24; Code 1992, § 30-37; 6-26-2017 by Ord. No. 17-005]

Excavations and driveways shall not be placed within six feet of any tree, without a written permit from the Director. Any person making such excavation or construction shall guard any tree within six feet thereof with a good substantial frame box to be approved by the Department, and all building materials or other debris shall be kept at least four feet from any tree. All persons desiring to make such excavation or construction shall deposit with the City a sum sufficient to cover the cost of inspection and any damage which may result therefrom.

§ 22-73. Impeding passage of water, air or fertilizer to roots. [Code 1975, § 35-25; Code 1992, § 30-38]

No person shall place within the street right-of-way any stone, brick, sand, concrete or other material which will, in any way, impede the full and free passage of water, air or fertilizer to the roots of any tree, except a sidewalk of authorized width and location.

§ 22-74. Protection from gas leaks. [Code 1975, § 35-26; Code 1992, § 30-39]

Gas pipes or mains within any public right-of-way or on any public property shall be

so maintained as to avoid any leakage therefrom. If a leak exists or occurs, it shall be reported to the owner of such pipe and main, and the leak shall be repaired within 24 hours. Any damage to trees resulting from the escape of gas from a pipe or main shall be repaired, and the cost of the work, including the cost of removal and the replacement of any tree, shall be levied against the owner of the pipe or main causing the damage.

§ 22-75. Trimming by public utilities. [Code 1975, § 35-27; Code 1992, § 30-40]

(a) The City Manager shall annually issue permits granting permission to public utilities to trim and keep trimmed all trees within the streets, alleys, parks and public places of the City, in such a manner as shall keep the overhead lines of such public utilities safe and accessible. Such trimming shall be done in accordance with approved practices and under the general direction of the Director.

(b) A permit issued under this section shall require reasonable prior notice to the City before any work is commenced thereunder. However, in an emergency requiring immediate maintenance work on the overhead lines of public utilities, prior notice of commencing work under the permit shall not be required. The term "emergency," as used in this subsection, shall be defined to mean the occurrence or happening of an event which could not be foreseen by the exercise of reasonable care and foresight, which might cause damage to the overhead lines of the public utilities.

§ 22-76. Trees on private property generally. [Code 1975, § 35-28; Code 1992, § 30-41]

(a) Every owner of any tree on private property overhanging any street or right-of-way within the City shall trim the branches so that such branches shall not obstruct the light from the streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. Such owner shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way. Shrubs and bushes located on the triangle formed by two right-of-way lines at the intersection of two streets and extending for a distance of 25 feet each way from the intersection of the right-of-way lines on any corner lot within the City shall not be permitted to grow to a height of more than three feet above the surface of the roadway, in order that the view of the driver of a vehicle approaching a street intersection shall not be obstructed. Trees may be planted and maintained in this area, provided all branches are trimmed to maintain a clear vision for a vertical height of 14 feet above the roadway surface.

(b) When the Director shall discover that any tree growing on private property within the City is afflicted with any dangerous and infectious insect infestation or tree disease, he or she shall forthwith serve a written notice upon the owner or his or her agent or the occupant of the property, describing the tree, its location and the nature of the infestation or tree disease and ordering the owner, agent or occupant to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken.

Such order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within 10 days after service thereof upon the owner, agent or occupant of the property on which the afflicted tree is located or within such additional time as may be stipulated in such notice.

(c) If the owner, agent or occupant of the property shall feel himself or herself aggrieved at an order of the Director requiring the treatment or destruction of any tree, he or she may, within 48 hours, make an appeal to the City Council, by communication filed with the City Clerk. The City Council shall hear such appeal at its next regular meeting, unless another time shall be set, and shall determine the matter under such expert advice as may be necessary.

(d) If the owner, agent or occupant of the property refuses to carry out the order of the Director within the time limit or, in case of an appeal, within five days after the Council shall have affirmed such order, the Director shall carry out the pruning, spraying or destruction of the trees or engage the work to be done and shall bill the owner, agent or occupant of the property for the cost thereof. If the owner of such property shall fail to pay such bill within 30 days after the bill has been rendered, the Director shall report the failure to pay to the City Council for collection as a single lot assessment against such property in accordance with Chapter 40, Special Assessments. The Director may, without serving such notice, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause trees growing on private property to be sprayed when he or she deems such spraying necessary on account of any infestation or disease or threat thereof.

(e) The Director and his or her assistants and employees shall have authority to enter upon private premises for the purpose of examining any tree for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree or injury to the tree, if done by the Director or under his or her direction in accordance with this article.

§ 22-77. Rules and regulations supplemental to article. [Code 1975, § 35-29; Code 1992, § 30-42]

The Director, subject to the approval of the City Manager, shall make such rules and regulations supplementary to this article and not in conflict with this article as he or she may from time to time deem necessary. Until changed pursuant to this section, the rules and regulations in effect at the adoption of this Code shall continue in effect. No person shall fail to obey any rule or regulation effective under this section.

§ 22-78. through § 22-90. (Reserved)

ARTICLE IV
Wells

§ 22-91. Definitions. [Code 1992, § 31-1]

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

NATURAL GAS WELL, PETROLEUM OIL WELL, GAS WELL and OIL WELL — Have the same meanings and definitions as given them respectively in the statutes of the state governing natural gas wells and petroleum oil wells.

WATER WELL — An opening in the surface of the earth for the purpose of obtaining groundwater monitoring the quantity of groundwater, obtaining geologic information on aquifers, recharging aquifers, purging aquifers, utilizing the geothermal properties of earth formations, or removing groundwater for any purpose, except the capture and channeling of water from an open spring at the surface of the earth or from a body of water at the surface.

§ 22-92. State law adopted. [Code 1992, § 31-2]

All statutes of the state regulating the sinking, maintenance and operation of water wells, natural gas wells and oil wells and the products thereof and rules and regulations made pursuant thereto are hereby adopted by reference, and any violations thereof occurring within the City shall be deemed a violation of this article.

§ 22-93. Abandonment. [Code 1992, § 31-3]

Whenever the owner or lessee of a water well, a natural gas well or a petroleum oil well determines to abandon the well, he or she shall notify the City Manager forthwith and shall see to it that such abandoned well is adequately plugged and sealed, as required by law or by the methods to be prescribed by the City Manager in such event. It shall thereafter be unlawful for any person to reopen such well or operate the well without first procuring a new permit from the City.

§ 22-94. Permit required. [Code 1992, § 31-4]

It shall be unlawful for any person, whether as owner or lessee of land or contractor or as employee or agent of either such owner, lessee or contractor, to drive a pipe or dig or bore a well or shaft into the earth for the purpose of finding water, natural gas or petroleum oil or any combination thereof or to operate any such well within the City without having first procured a permit from the City and such further permits as may be required and in the manner prescribed by law.

Chapter 52

ZONING

GENERAL REFERENCES

Buildings and building regulations — See Ch. 10.

Swimming pools — See Ch. 10, Art. III.

Rental certification — See Ch. 10, Art. V.

Businesses, including autowash establishments, drive-in restaurants, automobile fuel stations and massage establishments — See Ch. 12.

Community development, downtown development and housing development — See Ch. 16.

Blight — See Ch. 22, Art. II

Trees — See Ch. 22, Art. III.

Fire prevention and protection — See Ch. 24.

Floodplain management — See Ch. 26.

Land divisions and subdivisions — See Ch. 30.

ARTICLE I
In General

§ 52-1. Preamble. [Code 1975, § 39-1; Code 1992, § 32-1; 10-22-2007 by Ord. No. 1280]

In accordance with the authority and intent of Public Act 110 of 2006 (MCL 125.3101 et seq.), the City desires to provide for orderly development which is essential to the well-being of the community and which will place no undue burden upon developers, industry, commerce or residents. The City further desires to ensure the provision of adequate sites for industry, commerce, and residences; to provide for the free movement of vehicles upon the proper streets and highways of the City; to protect industry, commerce and residences against incongruous and incompatible uses of land and to promote the proper use of land and natural resources for the economic well-being of the City as a whole; to ensure the provision of adequate space for the parking of vehicles of customers using commercial, retail and industrial areas; and that all uses of land and buildings within the City be so related as to provide for economy in government and mutual support. The result of such purposes of this chapter, which relates to the City's land use plan, will promote and protect the public health, safety, comfort, convenience, and general welfare of the residents, shoppers, and workers in the City.

§ 52-2. Construction of language. [Code 1975, § 39-3; Code 1992, § 32-26]

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

(1) The particular shall control the general.

(2) If any difference of meaning or implication between the text of this chapter and any caption or illustration occurs, the text shall control.

(3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.

(4) Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

(5) A building or structure includes any part thereof.

(6) The phrase "used for" includes arranged for, designed for, intended for, maintained for, or occupied for.

(7) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(8) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either . . . or," the conjunction shall be interpreted as follows:

   a. The term "and" indicates that all the connected items, conditions, provisions, or events shall apply.

   b. The term "or" indicates that the connected items, conditions, or provisions, or

events may apply singly or in any combination.

(9) Terms not defined shall have the meanings customarily assigned to them.

§ 52-3. Definitions A through I. [5-24-2010 by Ord. No. 1311[1]; 6-25-2012 by Ord. No. 1337; 12-16-2013 by Ord. No. 1363]

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

ACCESSORY BUILDING — A subordinate building, permanently constructed or anchored securely to a concrete slab or the ground or similar type of cover the use of which is incidental to that of the main building, and which is located on the same parcel of property as the main building, including but not limited to detached garages, carports and storage sheds. A tent, canopy, polyethylene sheeting, canvas, tarp or similar type of structure is not considered an accessory building and is not allowed in any district. Any accessory building, including carports, when attached to the main structure, is considered part of the main structure and must meet the setback requirements of the main structure. Accessory buildings are not allowed on a residentially zoned property without a residence on the same property. The Building Inspector shall have the power to interpret this definition and determine whether or not a structure shall be approved as an accessory building. Buildings or structures not securely mounted to the ground are not considered accessory buildings and are not allowed in any district.**[9-28-2015 by Ord. No. 15-008]**

ACCESSORY USE — A use of land or a portion of the building customarily incidental and subordinate to the actual principal use of the land or building and located on the same parcel of property with such principal use of the land or building.

ADULT DAY-CARE CENTER — A facility, other than a private residence, operating as a business which provides care or supervision for one or more adults 18 years of age or older for periods of less than 24 hours a day, unattended by a relative or legal guardian, for more than four weeks during a calendar year. These centers, on February 1, 1999, do not need to be licensed by the state. However, all City codes and ordinances shall apply as to any commercial business.

ALLEY — A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATION — Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls, partitions, columns, beams, girders; any change in the location of a building; or any change which may be referred to as "altered" or "reconstructed."

ANIMAL SHELTER or ANIMAL HUMANE SOCIETY — A facility or building where common domesticated, non-livestock animals, are kept on a temporary basis until a home or other shelter is found. The primary shelter and sleeping accommodations for the animals shall be indoors. Outdoor pet activity areas which are supervised are

1. **Editor's Note: Ord. No. 1311, adopted 5-24-2010, amended § 52-3 in its entirety as set out herein. The former § 52-3 pertained to definitions and derived from the Code 1975, § 39-4; Code 1992, § 32-46; Ord. No. 1188, adopted 5-14-2001; Ord. No. 1253, adopted 10-10-2005; Ord. No. 1257, adopted 1-23-2006; Ord. No. 1262, adopted 3-27-2006; Ord. No. 1265, adopted 4-24-2006; Ord. No. 1280, adopted 10-22-2007.**

allowed and shall be screened by a minimum six-foot-high solid screening fence or wall. Landscaping must be maintained between the fence/wall and the property line. The animals must be kept in a clean sanitary condition and must be kept in an air conditioned and/or heated area. The animal must be fed and watered. The City animal control officer will have the right to inspect the business at will to check living accommodations. The facility must be a minimum of 500 feet from a residence.**[9-28-2015 by Ord. No. 15-008]**

APARTMENT — A room or suite of rooms in a multiple-family residential building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit. The dwelling unit in a multiple-family dwelling is defined as follows:

(1) ONE-BEDROOM UNIT — A dwelling unit consisting of not more than two rooms, in addition to kitchen and necessary sanitary facilities.

(2) TWO-BEDROOM UNIT — A dwelling unit consisting of not more than three rooms in addition to kitchen and necessary sanitary facilities.

APARTMENT BUILDINGS FOR STUDENTS — Apartment buildings for students are allowed on college or university campus sites when located on the same parcel of land with the institutional building. Each unit shall be built as an apartment as defined in this chapter. There shall be a maximum of two bedrooms in each residential apartment unit with a maximum of two occupants per bedroom or four occupants per unit. Apartments for students shall be registered, inspected, and certified in accordance with the Rental Certification Ordinance, Article V of Chapter 10 of the City Code of Ordinances, and shall be constructed and maintained in accordance with all other City codes and ordinances.**[10-24-2016 by Ord. No. 16-005]**

APARTMENT HOUSE — A residential structure containing three or more attached apartments.

ARCHITECTURAL FEATURES — The features of a building, including cornices, eaves, belt courses, sills, lintels, chimneys, decorative ornaments and uncovered stairways, stair treads, railings or landings.

AUTOMOBILE FUEL STATION — A building or structure designed or used for the retail sale of fuel such as gasoline or diesel (stored only in underground tanks), lubricants, air, water and other operating commodities for motor vehicles. It may also include automotive service and repair.**[9-28-2015 by Ord. No. 15-008]**

AUTOMOBILE SERVICE OR REPAIR FACILITY — A business that maintains, fixes, or restores automobiles. It may include engine and mechanical work, oil changes, lubricating, detailing, upholstery, as well as body work including auto refinishing or restoration, such as collision work, bumping, painting, overhauling, steam cleaning, or rustproofing. It may include the sales of automotive parts and accessories with or without the facilities for the installation of such commodities on or in such vehicles and space for facilities for temporary storage, minor repair, or servicing. A service or repair business may be part of an automotive sales business. All service or repairs must take place within a completely enclosed building. Any customers, employees, or service vehicles, parked on site, other than autos listed for sale, must be currently licensed. "Parts cars," including entire vehicles or chassis, used for parts, must be stored indoors or behind a solid six-foot-high screening fence; there may be no more than five such parts vehicles or chassis

on the premises at any given time.**[9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]**

AUTOMOBILE WASH ESTABLISHMENT — A building or portion thereof, the primary purpose of which is that of washing motor vehicles.

AUTOMOTIVE OR VEHICLE TOWING FACILITY — A business used to retrieve and/or store vehicles, including autos, trucks, boats, or motorhomes which have been immobilized or impounded due to an accident, improper parking, police seizure, etc. There shall be no more than 10 vehicles stored on the premises at any given time. All vehicles must be kept indoors or within a six-foot-tall solid screening fence. This fence shall conform to the setback regulations of the district in which it is located. Parking of any vehicles which are left overnight, including service vehicles, shall be parked indoors or within a six-foot-tall solid screening fence. No vehicles, stored or in service, may be left outdoors overnight in public view. All parking must conform to the zone in which the business is located. Vehicles may not be stored for more than 60 days.**[9-28-2015 by Ord. No. 15-008]**

AUTOMOTIVE SALES, NEW OR USED — A business that sells new or used automobiles, including indoor or outdoor sales space. All businesses must meet the requirements of the State of Michigan regulations for the sales of automobiles. Said business may or may not include service or repair and must follow this chapter.**[9-28-2015 by Ord. No. 15-008]**

BASEMENT — That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be defined as a story.

BED-AND-BREAKFAST FACILITY — An owner-occupied single-family dwelling used for transient guests that provides a sleeping room and breakfast in return for payment. This definition shall also include a tourist home.

BEDROOM — A room in a dwelling unit for or intended to be used for sleeping purposes by human beings with a minimum of 70 square feet in size and in conformance with the appropriate building code.

BILLBOARD — See standard off- and on-premises signs in Article VII of this chapter.

BLOCK — A tract of land bounded on all sides by streets, a railroad right-of-way, a waterway, unsubdivided acreage, or any other barrier to the continuity of development.

BOARDINGHOUSE — An establishment or building where meals, lodging or both are provided for compensation with the following stipulations:**[9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]**

(1) Rental shall be prearranged and without limitations or time periods involved.

(2) No cooking facilities shall be permitted in sleeping rooms.

(3) There shall not be more than four sleeping rooms per establishment.

(4) No more than one person shall occupy each sleeping room.

(5) Sufficient off-street parking shall be provided pursuant to Article VI of this chapter.

(6) There shall be provided one toilet and bathing facility per two sleeping rooms.

(7) Boardinghouses are subject to the Rental Certification Ordinance[2] and shall be licensed and inspected.

(8) Only allowed in the A-1 and A-2 Zones with a minimum site size of 10,000 square feet.

BOAT HOIST — An open structure for the purpose of seasonal, temporary storage of boats or watercraft. Hoist may include overhead cover, but may not include side covers or be enclosed. The hoist must not exceed one story and may not be permanent in nature. Boat hoists are allowed on the Black River, St. Clair River, Lake Huron and canals.

BOATHOUSE — An enclosed, covered accessory structure that provides dockage and/or storage of boats or personal watercraft. A boathouse is only allowed on the Black River and St. Clair River. They are not allowed on Lake Huron or the canals.

BUFFER STRIP — A greenbelt which also provides screening by means of continuous landscaping, solid masonry wall, screening fence, or other protective barrier of suitable material between conflicting districts or uses as required by ordinance, with a minimum height of five feet. For example, a buffer is required between a commercial or industrial district or use and a residential district or use.

BUILDABLE AREA — The space of a lot remaining after the minimum open space requirements of this chapter have been complied with.

BUILDING — An independent structure having a roof supported by columns or walls, intended and/or used for shelter or enclosure of persons or chattels. When any portion thereof is completely separated from every other part by division walls from the ground up and without openings, each portion of such building shall be deemed a separate building. This refers to both temporary and permanent structures and includes sheds, garages, greenhouses, gazebos, or other accessory structures.**[6-26-2017 by Ord. No. 17-007]**

BUILDING, MAIN; and BUILDING, PRINCIPAL — A building in which is conducted the principal use of the lot upon which it is situated and includes enclosed porches and covered porches as defined. A main building would include a dwelling on residential property or the building where the primary business is conducted on nonresidential property.**[6-26-2017 by Ord. No. 17-007]**

BUILDING PERMIT — The written authority issued by the Chief Inspector permitting the construction, removal, repair, moving, alteration or use of a building in conformity with this chapter.

BUILDING SETBACK LINE — The line which pertains to and defines those minimum building setback lines which are established parallel to the front street or right-of-way line and within which setback area no part of a building shall project or be located, except as otherwise provided for by this chapter.

CHIEF INSPECTOR — The Chief Building Inspector/Zoning Administrator of the City or his or her authorized representative.

CLINIC — A building or group of buildings where human patients are admitted, but not

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2. Editor's Note: See Ch. 10, Art. V, Rental Certification.

lodged overnight, for examination and treatment, with services available from more than one professional, such as a physician, dentist, or the like.

COMMERCIAL BOAT WELL — A boat well not utilized to store watercraft owned by the property owner for private use, rather seasonal boat storage provided for watercraft owned by individuals other than the property owner.

COMMERCIAL USE — The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of offices or recreational or amusement enterprises, or garage and basement sales conducted on residential premises for more than six calendar days during a given one-year period.

COMMISSION — The City Planning Commission. The term "Planning Commission" means the same.

CONDOMINIUM, RESIDENTIAL — Individual ownership of a dwelling unit in a multiple-family dwelling.

CONVALESCENT HOME and NURSING HOME — A home for the care of children, the aged or the infirm or a place of rest for those suffering bodily disorders, wherein three or more persons are cared for. Such home shall also conform to and qualify for license under applicable state laws.

COUNTRY CLUB — An organization of persons, having for its chief purpose the enjoyment by its members of lawful participation in outdoor sports and as to which such country club has provided its members with suitable grounds and equipment for the enjoyment and participation in such sports.

CULTIVATE — To propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.**[10-26-2020 by Ord. No. 20-007]**

DECK — An open, unenclosed structure located above existing grade level and elevated more than 30 inches high. Proper guardrails, steps and handrails are required pursuant to the building code.

DENSITY — The number of dwelling units developed on an acre of land, excluding publicly dedicated streets, parks and utility easements, if the easement is not usable for recreation purposes.

DISTRICT — A portion of the City within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under this chapter.

DORMITORY — A residential facility used for the living quarters for students, which is owned or managed by a public or private college or university, and which is to be distinguished from hotels, motels, and boardinghouses. Each living quarters or unit shall have at least one bedroom or sleeping quarters and one bathroom, within a minimum of 200 square feet. A living unit may or may not contain a kitchen or cooking facilities. A common cooking and dining area must be available on site, if the individual units do not have a kitchen. Each bedroom or sleeping quarters shall house a maximum of two students, and each living unit shall have no more than two bedrooms. The terms "dormitory" and "residence hall" are to be used synonymously. A dormitory must be located on the campus of the college or university property or within a radius of 1,500 feet of the college/university campus property line. The dormitory building must be

owned or managed by a public or private college or university. A dormitory shall be certified, registered, and inspected by the City of Port Huron Rental Inspection Division.**[8-14-2017 by Ord. No. 17-009]**

DRIVE-IN ESTABLISHMENT — A business or restaurant so developed that its principal retail or service character is dependent on providing a parking space for motor vehicles so as to serve patrons while parked in the motor vehicle. It is intended that in most situations the engine of the vehicle would be turned off. A drive-in establishment ordinarily will not have indoor facilities to service the customer, but may as an accessory use. Such establishments could be but are not limited to drive-in restaurants and movie theaters.

DRIVE-THROUGH ESTABLISHMENT and AN ESTABLISHMENT WITH A DRIVE-UP WINDOW — A business, bank, or restaurant with a drive-through facility or drive-up window used as an accessory use for the business. The primary function of such business is to serve the patrons while inside the principal building. The drive-through facility or drive-up window is used as a convenience for customers, and in most instances the motor of the vehicle is left on while the customer is being served.

DRIVE-THROUGH FACILITY and DRIVE-UP WINDOW — A station or window where customers can quickly order and pick up goods without leaving their vehicle. The vehicle is meant to be stopped for short periods of time with the motor running.

DWELLING, MULTIPLE — A building used for and as a residence for three or more families living independently of each other and each having their own cooking facilities therein, including apartment houses and townhouses, but not including manufactured home parks. A multiple dwelling of four or more stories in height shall be considered as a high-rise multiple dwelling.**[10-24-2016 by Ord. No. 16-005]**

DWELLING, ONE-FAMILY — A detached building occupied by one family and so designed and arranged as to provide living, cooking and kitchen accommodations for one family only. Also known as a "single-family dwelling." The dwelling unit shall be designed for residential use, complying with the following standards:

(1) It complies with the minimum square footage requirements for the district in which it is located.

(2) It has a minimum width across any front, side or rear elevation of 24 feet and complies in all respects with the Single State Construction Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Single State Construction Code, such federal or state standard or regulation shall apply.

(3) It is firmly attached to a permanent foundation constructed on site in accordance with the Single State Construction Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required by the applicable building code for single-family dwellings. If the dwelling is a manufactured home, as defined in this section, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the State Mobile Home Commission and shall have a perimeter wall

as required in this subsection.

(4) If a dwelling is a manufactured home, as defined in this section, each manufactured home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.

(5) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the County Health Department.

(6) The dwelling contains a storage capability area in a basement located under the dwelling or in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 15% of the square footage of the dwelling or 200 square feet, whichever shall be less.

(7) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides or, alternatively, with windowsills and roof drainage systems concentrating roof drainage along the side of the dwelling; with not less than two exterior doors, with one being in the front of the dwelling and the other being either in the rear or side of the dwelling; contains permanently attached steps connected to the exterior door areas or to porches connected to such door areas, where a difference in elevation requires the steps. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of 15 days from the receipt of notice of the Building Inspector's decision. Any determination of compatibility shall be based upon the standards set forth within the definition of the term "dwelling," as well as the character of residential development outside of manufactured home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of such area; or, where the area is not so developed, by the character of residential development outside of manufactured home parks throughout the City. 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.

(8) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required in this chapter.

(9) The dwelling complies with all pertinent building and fire codes. For a manufactured home, all construction and all plumbing, electrical apparatus and installation with and connected to the manufactured home shall be of a similar type and quality conforming to the Mobile Home Construction and Safety Standards, as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

(10) The longest side of the dwelling, being the natural front, shall be as closely parallel as possible to the street.

The standards of Subsections (1) through (10) of this definition shall not apply to a manufactured home located in a licensed manufactured home park, except to the extent required by state or federal law or otherwise specifically required in City ordinances pertaining to such parks.

DWELLING, ROW, TERRACE, AND TOWNHOUSE — A row of three or more attached dwelling units, not more than 2 1/2 stories in height, in which each dwelling has its own front entrance and rear entrance.

DWELLING, TWO-FAMILY — A dwelling occupied by two families, each provided with separate facilities for living accommodations. Also known as a "duplex dwelling."

DWELLING UNIT — A house or building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in no case shall a trailer coach, automobile chassis, tent or portable building be considered a dwelling. For mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this chapter and shall comply with the sections of this chapter relative to dwellings.

DWELLING UNIT SIZE OR AREA — The sum of the horizontal areas of the several floors of the dwelling measured from the interior face of the exterior walls. This area shall not include carports, open breezeways or porches, unfinished attics, basements, attached or detached garages, or accessory buildings.

EFFICIENCY UNIT — A dwelling unit consisting of one room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room providing a total of not less than 450 square feet of floor area.

EQUIVALENT LICENSE — Any of the following when held by a single licensee:**[10-26-2020 by Ord. No. 20-007]**

(1) Grower license of any class under both the MRTMA and MMFLA;

(2) Processor licenses under both the MRTMA and MMFLA;

(3) Secure transporter licenses under both the MRTMA and MMFLA;

(4) Safety compliance facility licenses under both the MRTMA and MMFLA; and

(5) A retailer license under the MRTMA and a provision center license under the MMFLA.

ERECTED — Built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like shall be considered a part of erection.

ESSENTIAL SERVICES — The erection, construction, alteration, or maintenance and operation by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment; and accessories in connection therewith as shall be reasonably necessary for the furnishing of adequate service by such public utilities or City departments or commissions or for the public health or general welfare, but not

including buildings other than such buildings as are primarily enclosures or shelters of such essential service equipment.

FAMILY — One or two persons or parents, with such persons' or parents' direct lineal descendants and adopted or foster children, and including the domestic employees thereof, together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of two or fewer persons living in such housekeeping unit shall be considered a separate family for purposes of this chapter.**[9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]**

FENCE — Any protective barrier or wall constructed of stone, wood, wire, concrete, vinyl or other building material. A fence also includes any landscape material such as shrubs placed as a hedge which at maturity provide a physical or visual barrier or obstacle exceeding three feet in height.

FLOOR AREA, GROSS — The sum of the gross horizontal areas of the several floors of the principal building, including enclosed porches, measured from the exterior faces of the exterior walls. Any space devoted to off-street parking or loading, basements, breezeways, unfinished attics, and open porches shall not be included.

FLOOR AREA, USABLE — That portion of the floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients, or patients, including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, utility or mechanical equipment rooms, or sanitary facilities. For a half story, the usable floor area shall be considered to be only that portion having a clear height above it of five feet or more.

GARAGE, COMMUNITY — A space or structure or series of structures for the storage of motor vehicles having no public shop or service operated in connection therewith, for the use of two or more owners or occupants in the vicinity.

GARAGE, PRIVATE — A space or structure suitable for the storage of motor vehicles having no public shop or service in connection therewith, for the use solely of the owner or occupant of the principal building on a lot or his or her family or domestic employees. A garage must be constructed of wood, concrete, vinyl composites or similar, permanent material. It shall not include a canvas, canopy, tarp, tent or other temporary material.

GARAGE, PUBLIC — A space or structure other than a private garage for the storage, care, repair or refinishing of motor vehicles; provided, however, that a structure or room used solely for the display and sale of such vehicles in which they are not operated under their own power, and in connection with which there is no repair, maintenance, or refinishing service or storage of vehicles other than those displayed, shall not be considered as a public garage for the purpose of this chapter.

GARAGE SALE, YARD SALE, PORCH SALE and BASEMENT SALE — A sale conducted on residential property for less than six calendar days during a given one-year period.

GRADE, BUILDING — The average elevation of the ground adjacent to the walls of a building.

GREENBELT — A strip of land which is planted with trees or shrubs acceptable in species and caliper to the Planning Commission.

GREENHOUSE — An enclosed structure with walls and roof made chiefly of transparent material such as regular glass or Plexiglas covered over a wood or metal framing in which flowers or vegetable plants are grown which require regulated climatic conditions. Structures covered with plastic/polyethylene sheeting, a tarp, or similar material is not allowed as a greenhouse.**[9-28-2015 by Ord. No. 15-008]**

HEIGHT, BUILDING — The vertical distance measured from the grade of the building to the highest point of the roof for flat roofs; to the deck line for mansard roofs; and to the mean height level (between eaves and ridges) for gable, hip and gambrel roofs. If dormers are located on the side of the roof, the height of the building shall be measured to the eave line of the roof of the dormer. Where a building is located upon a terrace, the height may be measured from the average ground level of the terrace at the building wall.

HIGH-RISE STRUCTURE — Any structure four or more stories in height.**[10-24-2016 by Ord. No. 16-005]**

HOME FOR THE AGED — Homes for the aged (HFA) are state-licensed facilities that provide personal care to persons who are aged 55 years old or older while an adult foster care (AFC) home can provide care to any adult in need of adult foster care services. Homes for the aged are licensed for 21 or more persons, unless they are operated as part of a nursing home. HFAs are prohibited from providing continuous nursing care, though a resident can receive hospice or continuous nursing services from an outside agency. HFAs must follow the licensing regulations of the State of Michigan. **[9-10-2018 by Ord. No. 18-017]**

HOME OCCUPATION — An activity carried out for gainful purposes by a resident of the dwelling and conducted as a customarily incidental use to the dwelling unit and further defined in § 52-695.

HOSPITAL — A building, structure or institution in which sick or injured persons, primarily inpatients, are given medical or surgical treatment and operating under license by the state health department.

HOTEL/MOTEL — A commercial establishment containing 10 or more rooms occupied as a temporary abiding place, for periods of 29 days or less, for transient individuals who are lodged with or without meals in rooms consisting of a minimum of one bedroom and a private bath, occupied for hire, and which provides hotel services such as maid service, the furnishing and laundering of linens, and a twenty-four-hour on-site manager. Any room that is rented to the same individual or group of individuals for more than 29 contiguous days shall be considered a residential rental unit, which is not allowed in the C-1 Zone, and must be rental certified by the City Rental Inspection Division in accordance with the Rental Certification Ordinance, Chapter 10, Article V, of the City Codes of Ordinances.**[10-24-2016 by Ord. No. 16-005]**

INDEPENDENT OR ASSISTED LIVING FACILITIES — Residential apartments for citizens over 55 years of age or individuals with a disability. These facilities may provide housing with or without personal care support services such as meals, medication management, personal services, house cleaning, and transportation. Apartments in these facilities are not required to have kitchens within the unit if there is a central cafeteria or dining area within the facility available to residents. Each apartment must have a private bathroom. If the facility is not licensed by the State of Michigan as an adult foster care home, home for the aged, nursing home, memory care facility, etc., then apartments

in said facility will need to be rental certified and inspected by the rental inspection division. A state-licensed nursing home, home for the aged, or adult foster care home shall not be considered an independent or assisted living facility. **[9-10-2018 by Ord. No. 18-017]**

INDUSTRIAL HEMP — Any part of the plant, whether growing or not, Cannabis sativa L. or the genus cannabis with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant regardless of moisture content. Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal and consumer products with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry-weight basis.**[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

§ 52-4. Definitions J through Q. [5-24-2010 by Ord. No. 1311[3]; 6-25-2012 by Ord. No. 1337; 12-16-2013 by Ord. No. 1363]

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

JAIL — A correctional institution used to detain persons who are in the lawful custody of the government, either accused persons awaiting trail or convicted persons serving a sentence.

JUNK — Any machinery, appliances, products, merchandise with parts missing or scrap metals or other scrap materials that are damaged, are deteriorated, or are in a condition which cannot be used for the purpose for which the product was manufactured.**[10-24-2016 by Ord. No. 16-005]**

JUNK VEHICLE — Any motor vehicle without current registration (unlicensed) for a period in excess of 15 days, and shall also include, whether so licensed or not, any motor vehicle which is inoperative for any reason.**[10-24-2016 by Ord. No. 16-005; 2-12-2018 by Ord. No. 18-003]**

JUNKYARD — Automobile wrecking yards, salvage areas or any area of more than 200 square feet for the storage, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof, but not including uses established entirely within enclosed buildings.

KENNEL; PET BOARDING FACILITIES; ANIMAL SHELTERS; or ANIMAL HUMANE SOCIETIES — Any lot or premises on which three or more dogs, cats, or other commonly kept domesticated animals, four or more months old, are kept either permanently or temporarily boarded for compensation.**[10-24-2016 by Ord. No. 16-005]**

LABORATORY — A facility with special equipment for doing scientific experiments, research, and tests; a place equipped for experimental study in a science or for testing and analysis; a place providing opportunity for experimentation, observation, or practice

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3. Editor's Note: Ord. No. 1311, adopted 5-24-2010, amended and renumbered the former §§ 52-4 through 52-6 as §§ 52-6 through 52-8.

in a field of study. "Medical or clinical laboratory" means a facility that does research or testing with pharmaceuticals or materials derived from the human body (such as fluids, tissues, or cells) for the purpose of providing information on diagnosis, prognosis, prevention, or treatment of disease; or a facility where tests are done on clinical specimens in order to get information about the health of a patient as pertaining to the diagnosis, treatment, and prevention of disease. A blood plasma donation center is considered a medical laboratory. Animal testing shall not be allowed. All laboratories must have the appropriate federal, state, or county licenses, and can only do legal experiments, testing, or research on legal substances.**[9-28-2015 by Ord. No. 15-008]**

LIVESTOCK — Those species of animals used for human food and fiber or those species of animals used for service to humans. "Livestock" includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. "Livestock" does not include dogs and cats.

LOT — A piece or parcel of land occupied or intended to be occupied by a building and any accessory buildings or by any other use or activity permitted thereon and including the open spaces and yards required under this chapter and having its frontage upon a public street or road either dedicated to the public or designated on a recorded subdivision. Provided that the owner of any number of contiguous lots may have as many of such contiguous lots considered as a single lot for the purpose of this chapter as he or she so elects, and in such case the outside perimeter of such group of lots shall constitute the front, rear, and side lot lines thereof. This latter parcel is then often referred to as a "zoning lot."

LOT AREA — The total horizontal area within the lot lines, as defined in this section, of a lot. For lots fronting or lying adjacent to private streets, lot area shall be interpreted to mean that area within lot lines separating the lot from the private street and not the center line of such street.

LOT, CORNER — A lot of which at least two adjacent sides abut for their full length upon a street, provided that such two sides intersect at an angle of not more than 135°. Where a lot is on a curve, if tangents through the extreme point of the street line of such lot make an interior angle of not more than 135°, it is a corner lot. For a corner lot with curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described in this definition.

LOT COVERAGE — The part or percent of the lot occupied by buildings or structures, including accessory buildings, enclosed porches, and covered porches.**[9-28-2015 by Ord. No. 15-008]**

LOT DEPTH — The mean horizontal distance from the center of the front street line to the center of the rear lot line.

LOT, DOUBLE-FRONTAGE (also known as a THROUGH LOT) — A lot, other than a corner lot, having frontage on two streets. For a row of double-frontage lots, one street will be designated as the front street for all lots in the plat and in the request for a building permit all buildings shall be addressed off of one street and the fronts of all buildings shall face that street. Each lot will have two front yards and the required minimum front yard setback shall be observed on both street frontages for any construction such as the main structure, fences, or accessory buildings, etc. Waterfront lots are also considered double-frontage lots. Setback requirements pursuant to § 52-621, Footnote b,[4] will apply to all buildings, accessory structures and storage of vehicles,

campers and recreational vehicles.

LOT, INTERIOR — A lot other than a corner lot with only one lot line fronting on a street.

LOT LINES — The boundary lines of a lot and is further defined as follows:

(1) FRONT LOT LINE — For an interior lot abutting on one public or private street, means the line separating the lot from such street right-of-way. For a corner or double-frontage lot, the front lot line shall be that line separating such lot from the street which is designated as the front street in the plat and/or in the request for a building permit.

(2) REAR LOT LINE — That lot line which is opposite and most distant from the front lot line of the lot. For an irregular lot, a line 10 feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of the rear yard. When none of these definitions are applicable, the Planning Commission shall designate the rear lot line.

(3) SIDE LOT LINE — Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

LOT OF RECORD — A lot which actually exists in a subdivision plat as shown on the records of the county register of deeds or a lot or parcel described by metes and bounds or other legal description, the description of which has been so recorded as of the date of the effective date of this ordinance (April 29, 2006), including approved lot splits as of that date.

LOT WIDTH — The horizontal distance between the side lot lines, measured at the two points where the building line, or setback line, intersects the side lot lines. A lot must abut a public right-of-way and must be the minimum width as required in Article III, Division 16, Schedule of Regulations,[5] for the zoning district in which the property is located.

MAJOR THOROUGHFARE — A main traffic artery designated on the City's land use plan as a major thoroughfare or a collector street.

MANUFACTURED HOME — A structure, transportable in one or more sections, which in the traveling mode is eight feet or more in width or 40 feet or more in length or, when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the Department of Housing and Urban Development and complies with the standards established under this chapter. For the purpose of this chapter, a mobile home shall be considered a manufactured home. A manufactured home does not include a recreational vehicle or travel trailer.

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4. Editor's Note: See the Schedule of Regulations, included as an attachment to this chapter.

5. Editor's Note: See the Schedule of Regulations, included as an attachment to this chapter.

MANUFACTURED HOME PARK — A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home and which is not intended for use as a temporary travel trailer park.

MANUFACTURED HOME SITE — A plot of ground within a manufactured home park designed for the accommodation of one manufactured home.

MARIHUANA — All parts of the plant Cannabis sativa L. or of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this chapter, marihuana does not include: **[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

(2) Industrial hemp; or

(3) Any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

MARIHUANA BUISNESS — Collectively, a marihuana establishment and marihuana facility. **[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

MARIHUANA ESTABLISHMENT — An adult-use marihuana commercial business operation licensed pursuant to the MRTMA and permitted to operate by City ordinance, including, but not limited to: **[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

(1) A grower.

(2) A processor.

(3) A secure transporter.

(4) A retailer (which for purposes of zoning shall include "additional retailer" as defined in Chapter 12 of the City Code of Ordinances).

(5) A safety-compliance facility.

(6) A microbusiness.

MARIHUANA FACILITY — A medical marihuana commercial business operation licensed pursuant to the MMFLA and permitted to operate by City ordinance, including, but not limited to:**[10-26-2020 by Ord. No. 20-007]**

(1) A grower.

(2) A processor.

(3) A secure transporter.

(4) A provisioning center.

(5) A safety-compliance facility.

MARIHUANA-INFUSED PRODUCTS — A topical formulation, tincture, beverage, edible substance, or similar product containing marihuana and other ingredients and that is intended for human consumption in a manner other than smoke inhalation. **[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

MARINA — A facility that is owned or operated by a person, extends into or over an inland lake or stream, and offers service to the public or members of the marina for docking, loading, or other servicing, such as refueling, of recreational watercraft.

MASSAGE ESTABLISHMENT — Any business which engages in the practice of massage therapy, as defined in this section, and which has a fixed place of business where a licensed massage therapist, licensed physical therapist, a licensed physician, or licensed chiropractor carries on any of the activities as defined in the definition of the term "massage or massage therapy." ("Licensed" means currently licensed by the State of Michigan.) A massage establishment includes but is not limited to a professional office of a licensed massage therapist, health club, health spa, or any physical fitness club, or salon that offers massage therapy on occasion or incidental to its principal operation. A massage establishment must conduct business in accordance to the regulations of Chapter 12, Article VIII, Massage Establishments, of the City Code of Ordinances.**[10-24-2016 by Ord. No. 16-005]**

MASSAGE or MASSAGE THERAPY — The treating of external parts of the body for remedial or hygienic purposes, consisting of stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage.**[10-24-2016 by Ord. No. 16-005]**

MASSAGE OUTCALL SERVICE — Any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment as defined in this section. A licensed massage therapist or licensed physical therapist may operate an outcall service and perform massage therapy at a client's home. The therapist may not operate massage therapy as a home occupation in the therapist's home.**[10-24-2016 by Ord. No. 16-005]**

MASSAGE THERAPIST, LICENSED — Any person currently licensed with the State of Michigan to practice massage therapy. A licensed massage therapist may operate an outcall service and perform massage therapy at a client's home. The therapist may not operate massage therapy as a home occupation in the therapist's home.**[10-24-2016 by Ord. No. 16-005]**

MEDICAL MARIHUANA HOME OCCUPATION — The cultivation of medical marihuana by a registered primary caregiver as defined in Section 3 of the Act, MCL § 333.26423(g), in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL § 333.26423(e), within a single-family dwelling that is the registered primary caregiver's primary residence and which cultivation is in conformity with the restrictions

and regulations contained in the Michigan Medical Marihuana Act and in the state regulations developed by the Michigan Department of Community Health (MCDH) or other agency responsible for developing such regulations. Subject to the requirements of this chapter and other applicable laws, medical marihuana home occupations are permitted only in single-family dwelling units and not in any multifamily or multi-unit units.**[4-26-2021 by Ord. No. 21-003]**

MMFLA — The acronym for the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333-27101 et seq.**[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

MOTEL — See the definition of "hotel/motel."

MOTOR HOME — A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to manufactured homes.

MRTMA — The acronym for the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27051 et seq.**[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

MULTIFAMILY RESIDENTIAL DEVELOPMENT — Housing complex with two or more multifamily dwelling structures, two or more single-family dwelling structures, or two or more duplex structures on one parcel of land. This can consist of renter or owner-occupied units. There must be at least two residential structures on the property to be considered a multifamily development. One building may be allowed on the property, if there are 10 or more owner-occupied units in the structure. Commercial use can occupy the first floor with a special permit from Planning Commission.**[9-28-2015 by Ord. No. 15-008]**

NONCONFORMING USE OR BUILDING — As follows:

(1) NONCONFORMING BUILDING — A building or portion thereof lawfully existing at the original effective date of the ordinance from which this chapter is derived or amendments thereto and which does not conform to the sections (e.g., setbacks, height, lot coverage, parking) of this chapter in the zoning district in which it is located.

(2) NONCONFORMING USE — A use which lawfully occupied a building or land at the effective date of the ordinance from which this chapter is derived or amendments thereto and that does not conform to the use regulations of the zoning district in which it is located.

NURSERY, PLANT MATERIALS — A space, building or structure or combination thereof for the storage of live trees, shrubs, or plants offered for wholesale or retail sale, including products used for gardening or landscaping. The definition of the term "nursery" within the meaning of this chapter does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

NURSING HOME, CONVALESCENT HOME, MEMORY CARE FACILITY, REST HOME or MEMORY CARE FACILITY — A state-licensed facility that provides organized nursing care and medical treatment or long-term care to seven or more unrelated individuals suffering or recovering from illness, injury, or infirmity, or assisting patients with Alzheimer's disease, dementia, and other types of memory

problems. **[9-10-2018 by Ord. No. 18-017]**

OFFICE — As follows:

(1) BUSINESS OFFICE — An establishment where administrative or clerical duties take place for a commercial entity.

(2) PROFESSIONAL OFFICE — A place of business of an individual whose occupation requires considerable college education or specialized study in order to be qualified for his or her profession. A license from the state or City is often necessary in order to operate such office. For purposes of this chapter, the following shall be considered a professional office: office of a medical doctor or dentist, chiropractor, licensed massage therapist or licensed physical therapist, attorney, architect, engineer, insurance agent, real estate brokerage, etc. The following shall not be considered a professional office: beauty salons or barber shops, tattoo establishments, veterinarian offices, psychic reading rooms, among others. When located in a residentially zoned district, a professional office shall be restricted from any retail sales of merchandise other than that of professional services. For professional offices that have received a special approval use permit to be located in the R-1 and A-1 Zones, a professional office may not be part of a residential structure.

For a list of those offices that can be used as a home occupation, see § 52-695, Home occupations.

OFF-STREET PARKING LOT — A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two automobiles and/or any paved vehicle circulation area excluding single- or two-family residential uses.

OPEN-AIR BUSINESS USES — Includes the following business uses:

(1) Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

(2) Retail sale of fruit and vegetables.

(3) Tennis courts, archery courts, shuffle-board, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.

(4) Bicycle, utility truck or trailer, motor vehicles, boats or home equipment sale, rental or repair services.

(5) Outdoor display and sale of garages, swimming pools, motor homes, manufactured homes, snowmobiles, farm implements, and similar products.

OPEN SPACE — Any area, open to the sky, on a lot not covered by a principal or accessory building.

OPEN STORAGE — The outdoor storage of building materials, sand, gravel, stone, lumber, equipment and other supplies.

PARKING LOT — See "off-street parking lot."

PARKING SPACE — An area of not less than nine feet wide by 20 feet long, for the parking of an automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

PATIO — An open unenclosed structure located at/on existing grade level and not elevated more than eight inches.

PET BOARDING FACILITY — A commercial business, other than a veterinarian clinic, where pets are kept overnight.**[9-28-2015 by Ord. No. 15-008]**

PLAYGROUND — Any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children, including, but not limited to, sliding boards, swing sets, teeterboards, beaches and all public parks.**[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

PORCH, COVERED — An open entrance with a covered roof and that is attached to the main building. Such covered porch shall be considered a part of the dwelling to which it is attached and shall meet all yard setback requirements for the structure itself.

PORCH, ENCLOSED — A covered entrance to a building or structure which is totally enclosed and projects out from the main wall of such building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached. An enclosed porch shall be considered a part of the dwelling to which it is attached and shall meet all yard setback requirements for the structure itself.

PORCH, OPEN — An uncovered entrance to a building or structure which projects out from the main wall of such building.

PROBATION OR PAROLE FACILITY — A residential facility that shelters or monitors individuals on probation or parole as required by law and that are not on probation for a capital offense or a sexual offense. Individuals on probation or parole for a capital or sexual offense are not allowed at these facilities. Facility must comply with the following:**[9-28-2015 by Ord. No. 15-008]**

(1) Meet State of Michigan standards, be under contract with the State of Michigan, and be accredited by the American Correctional Association, or receive funds or rent from the government to participate in a rehab, re-entry, or similar program.

(2) Must provide twenty-four-hour supervision.

(3) Must meet all applicable City and state codes regarding building safety and fire codes pertaining to residential living.

(4) Maximum capacity of facility shall be 80 individuals.

(5) Living arrangements may be dormitory style with a central sleeping area and common kitchen area or may be individual sleeping rooms with private bath and common kitchen area.

(6) A co-ed facility shall provide separate rooms for sleeping and separate bathroom facilities for each gender.

(7) The facility shall be certified by the State of Michigan or, at a minimum, certified

by the Building Inspection Division of the City under the appropriate codes and ordinances.

(8) Must be located within an M-1 or M-2 Zone after receiving a special approval use permit from the Planning Commission.

(9) May not be located within a radius of 1,500 feet of another probation or parole facility, a rehabilitation and recovery facility, a residential dwelling, a residential zoning district, a school, a shelter where children may reside, a day-care center, playground, or public park.

PROCESS or PROCESSING — The activity to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.**[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

PSYCHIATRIC HOSPITAL — An institution for the care and treatment of patients affected with acute or chronic mental illness. Also called "mental hospital."

PUBLIC UTILITY — Any person, firm, corporation, City department or board duly authorized to furnish and furnishing to the public, under City or state regulation, transportation, water, gas, electricity, telephone, steam, telegraph, or sewage disposal services.

§ 52-5. Definitions R through Z. [5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337; 12-16-2013 by Ord. No. 1363]

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

REHABILITATION AND RECOVERY FACILITY — A residential facility that rehabilitates or shelters 11 or more individuals who are receiving on-site counseling, treatment, or therapy, and are recovering from an addiction, abuse of a substance, including alcohol, illegal drugs, or prescription drugs, compulsive behavior, a mental disorder, or similar disorders. A rehabilitation and recovery facility must comply with the following:**[9-28-2015 by Ord. No. 15-008; 10-9-2017 by Ord. No. 17-015]**

(1) All of the rules required for a sober living home, except paragraph 5 and 9.

(2) Must provide twenty-four-hour on-site supervision.

(3) Must have a maximum capacity of 30 individuals.

(4) In a co-ed facility, there shall be separate rooms for sleeping and separate bathroom facilities for each gender.

(5) Must be located within an M-1 or M-2 Zone after receiving a special approval use permit from the Planning Commission, which must be renewed every two years.

REHABILITATION AND RECOVERY OFFICE — A nongovernmental office facility that provides professional counseling during normal business hours and all activities must be within a completely enclosed building. No residential activity is allowed. A rehabilitation and recovery office facility is only allowed within a C-1, I, M-1, or M-2

Zoning District. A rehabilitation and recovery office facility may not be operated as a recreational facility, private club, assembly hall, or similar use.

RENT — Let, lease, barter or any other arrangement whereby one person pays a consideration to another for the privilege of residing in a residential rental unit for any period of time.**[10-24-2016 by Ord. No. 16-005]**

RESIDENTIAL RENTAL STRUCTURE — Any building that contains one or more residential rental units.**[10-24-2016 by Ord. No. 16-005]**

RESIDENTIAL RENTAL UNIT — Any apartment, room, rooming house, boardinghouse, dwelling house, dwelling unit, or portion thereof or any condominium unit for which a person or group of persons pays rent directly or indirectly to the owner thereof for the purpose of a person to reside therein for any period of time. This definition includes one- and two-family dwellings, multiple and multifamily dwellings, apartment units, flats, rooming house rooms, and boardinghouses. All residential rental units must be rental certified and conform to the regulations in Chapter 10, Buildings and Building Regulations, of the City Code of Ordinances, specifically Article V, Rental Certification. A residential structure sold on a "land contract" is considered a residential rental unit requiring registration and a rental certification if the land contract is not recorded and a copy not provided to the Planning Director as required under § 10-153(a). A rental must conform to all City codes and ordinances.**[10-24-2016 by Ord. No. 16-005]**

(1) A "residential rental unit" shall include the following properties and/or the rental of any residential dwelling unit for less than 30 days such as:

   a. HOME SHARING — A dwelling unit that is shared by unrelated persons or nonfamily members, in exchange for any type of compensation to the owners of the property.

   b. VACATION RENTAL or SHORT-TERM RENTAL — A property in a dwelling unit or guesthouse intended for occupancy or that is occupied for transient use by any person other than the primary owner; or is otherwise occupied or utilized on a transient basis.

   c. TRANSIENT USE or TRANSIENT RESIDENTIAL OCCUPANCY — Occupancy of a residential unit by any person other than the primary owner by concession, permit, right of access, license, gift or other agreement or compensation for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

(2) Any residential rental unit must be rental certified and shall require a rental certification from the Rental Inspection Division before the residential dwelling unit or house can be used for any rental purpose. Any residential rental units shall comply with all Code of Ordinances of the City of Port Huron and specifically as regulated by Chapter 10, Buildings and Building Regulations, and Chapter 52, Zoning.

(3) A residential rental unit does not include hotels and motels as defined by this chapter. A residential rental unit does not include a bed-and-breakfast facility as defined in this chapter, for which a special approval use permit is required.

RESTAURANT, CARRYOUT — An establishment where food is prepared and served to a customer solely for the consumption off the premises.

RESTAURANT, DRIVE-IN — An establishment serving food and/or drink so developed that its retail or service character is dependent on providing spaces for motor vehicles so as to serve patrons food while parked in the motor vehicle. This type of restaurant may have seating facilities for dining, as an ancillary use.

RESTAURANT, SIT-DOWN — An establishment where food is prepared and served for consumption within the principal building, with or without carryout facilities. A drive-up window may be an accessory service facility for customers.

ROOM — In a multiple-family residential district, a living room, equal to at least 220 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways, and storage.

ROOMING HOUSE — Any dwelling occupied in such a manner that certain rooms, in excess of those used by the members of the immediate family and occupied as a home or family unit, are leased or rented, in return for some form of compensation, to persons outside of the family, without any attempt to provide therein or therewith cooking or kitchen accommodations for individuals leasing or renting rooms. The number of such bedrooms leased or rented as rooms shall not exceed one. Rooming houses are only allowed in the A-1 and A-2 Zoning Districts. A rooming house shall only be allowed within an owner-occupied dwelling. Rooming houses are subject to the Rental Certification Ordinance.[6] **[9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]**

SETBACK — The minimum horizontal distance required to exist between the front line of the building, excluding steps or unenclosed porches, and the front street or right-of-way line.

SETBACK, AVERAGE — The average line of setback allowed when placing a straight line drawn from the furthest projected corner of the main building on either side of the questioned lot.

SLEEPING OR LIVING QUARTERS — Of a night watchman, security guard, or caretaker may consist of a room containing sleeping and/or cooking facilities with a separate room for sanitary facilities (limit one room for each use). These quarters are intended for the use of security personnel who guard the premises or property upon which such quarters are located. Such quarters shall be subject to all local building codes for residential occupancy. One such quarters per commercial or industrial establishment is allowed. These quarters are not meant to be used as a rental unit to lease to someone not intended to guard the premises. A separate building may be constructed for these purposes. Any sleeping quarters shall not exceed 500 square feet in total size.

SLEEPING ROOM — See "bedroom."

SOBER LIVING HOMES (also known as THREE-QUARTER HOUSES) — Any residential facility occupied by more than three unrelated individuals that provides or purports to provide alcohol-free or drug-free housing to individuals recovering from substance use disorders. Such a facility may not be split into multiple units and will not be subject to the rental certification ordinance. The facility must comply with the

6. **Editor's Note: See Ch. 10, Art. V, Rental Certification.**

following: **[10-9-2017 by Ord. No. 17-015]**

(1) The facility must obtain a) a prevention or peer recovery and support substance use disorder license from the Michigan Department of Licensing and Regulatory Affairs (LARA), and any other license required by LARA, and must comply with all LARA rules; and b) must either be a member in good standing of the National Alliance for Recovery Residences (or local chapter) or receive a letter of support from the Chief Executive Officer of Region 10 PIHP.

(2) The facility must maintain and follow a written program that provides, at a minimum, the following:

a. An application and screening process for potential residents and rules and standards for admission into the program.

b. Maintenance of an alcohol- and illicit-drug-free environment.

c. Rules and procedures designed to assist in the residents' successful recovery from a substance abuse disorder, including a safe, structured, and supportive environment for the residents of the facility which includes mutually supportive and recovery-oriented relationships through peer-based interactions, house meetings, and community gatherings, and rules requiring or encouraging residents to attend self-help groups or outside professional services.

d. Rules that require residents to endeavor to be good neighbors, such as rules that require the maintenance of the interior and exterior of the property in a functional, safe, and clean manner, and rules regarding noise, smoking, loitering and parking that are responsive to neighbors' reasonable complaints.

e. Rules providing for recipient rights and confidentiality of resident medical records.

f. Random and suspicion-based drug testing to assure that residents are not actively using alcohol or illicit drugs.

g. Discharge rules and procedures are required and must include referral to another appropriately licensed program or facility for those failing the program.

(3) The facility must maintain, collect and report statistical outcome data for the purposes of continuous quality improvement by tracking the success or lack of success of the recovery of residents of the facility in a form and manner as determined by the St. Clair County Health Department, and provide that data on an annual basis and more frequently upon request to the County Health Department and the City Planning Director.

(4) The facility must have an assigned house manager who is also a resident of the facility. The house manager must establish alcohol and illicit drug abstinence for a period of six months prior to being assigned to the role. Each house manager must receive a minimum of nine hours of Peer Recovery Associate training. Each entity operating facilities must have at least one certified Peer Recovery Coach for every 20 residents.

(5) The facility may not allow any resident who:

a. Is currently using alcohol or illicit drugs; or

b. Has ever been convicted of crimes set forth in Chapter II, Abduction, Chapter X, Arson and Burning, Chapter XLV, Homicide, Chapter LXIV, Poisons, and Chapter LXVIIA, Human Trafficking, of the Michigan Penal Code; or

c. Has ever been convicted of criminal sexual conduct in the first, second, or third degree as set forth in Chapter LXXVI of the Michigan Penal Code; or

d. Has a conviction in the previous five years for crimes set forth in Chapter XI, Assaults (only those that are a felony punishable by four years in prison or more), of the Michigan Penal Code; or any crime involving use of a dangerous weapon.

(6) The facility must make available and reserve 2/3 of all beds to those individuals whose primary residence has been in St. Clair County for a period of six months or more. At least half of these county-allocated beds (1/3 of all beds in the facility) must be allocated for individuals whose primary residence has been in the City of Port Huron for a period of six months or more. These reserved beds may not be filled by nonqualifying individuals. Primary residence and duration of residence will be conclusively determined by a driver's license or state ID card, and records must be maintained by the facility demonstrating compliance with this requirement. If two or more facilities have a common owner or operator, the allocated beds will be considered in the aggregate.

(7) The facility and its owners and operators must comply will all other local zoning, blight or other City ordinances, the International Property Maintenance Code, and all state and federal laws and regulations, including but not limited to all state codes regarding building safety and fire codes pertaining to residential living.

(8) The facility must permit inspection of the facility by the St. Clair County Health Department, LARA and City Building Officials at all reasonable times, and fully cooperate with City and law enforcement personnel, subject to the civil rights of the residents.

(9) The facility may not be located in an R Zone. Notwithstanding the rules on definition of a family, a facility located in an R-1 Zone may have up to six residents in a single building (including the house manager), and a facility located in an A-1 Zone or A-2 Zone may have up to a maximum of 10 residents. Prior to operation of a facility more than 60 days after the effective date of this definition, the facility must pass a building inspection, and a special use permit must be obtained from the Planning Commission and renewed every two years.

STATE-LICENSED CARE FACILITIES —

(1) FOSTER CARE FACILITY OR HOME — A facility that provides supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks for compensation.

a. ADULT FOSTER CARE FACILITY — A governmental or nongovernmental establishment that provides foster care to adults. Adult foster care facility

includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include any of the following: a nursing home; a home for the aged; a hospital; a hospital for the mentally ill or a facility for the developmentally disabled operated by the Department of Community Health under the Mental Health Code; a county infirmary operated by a county department of social services or family independence agency; an establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

1. ADULT FOSTER CARE FAMILY HOME — A private residence with the approved capacity to receive six or fewer adults 18 years of age or older to be provided with foster care for five or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

2. ADULT FOSTER CARE LARGE GROUP HOME — A facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

3. ADULT FOSTER CARE SMALL GROUP HOME — A facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.

b. CHILD FOSTER CARE —

1. CHILD FOSTER FAMILY GROUP HOME — A private home in which more than four but fewer than seven children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

2. CHILD FOSTER FAMILY HOME — A private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

(2) CHILD DAY CARE FACILITIES —

a. CHILD-CARE CENTER and DAY-CARE CENTER — A facility, other than a private residence, receiving one or more preschool or school-age children for care for periods of less than 24 hours a day and where the parents or guardians are not immediately available to the child. The terms "child-care center" and "day-care center" include a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child-care center, day-care center, day nursery, nursery school, parent cooperative preschool, play group,

or drop-in center. A child-care center or day-care center does not include a Sunday school, a vacation Bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three hours per day for an indefinite period or not greater than eight hours per day for a period of not to exceed four weeks, during a twelve-month period, or a facility operated by a religious organization where children are cared for not greater than three hours, while persons responsible for the children are attending religious services.

b. FAMILY CHILD CARE HOME — A private home in which one but fewer than seven children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term "family child care home" includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year. The provider must live on the premises. Care is limited to temporary daytime hours typically provided during normal daytime working hours.

c. GROUP CHILD CARE HOME — A private home in which more than six but not more than 12 minor children are given care and supervision for less than 24 hours per day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. The term "group child care home" includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year. The provider must live on the premises.

(3) PRIVATE HOME OR RESIDENCE, AS IT APPLIES TO FOSTER CARE AND DAY CARE HOMES — A single-family dwelling or as a unit of a multiple-dwelling facility so long as the occupant owns, rents or leases the property and has control over the contents of the dwelling. It is a private residence in which the licensee or registrant permanently resides as a member of the household.

STORAGE TRAILER — A semitruck trailer or straight truck box with axles and wheels detached from the body. Such trailer box shall be used for storage of goods at a commercial storage facility. The rules and regulations of accessory buildings shall apply to the location of storage trailers.

STORY — That portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it.

(1) A mezzanine shall be deemed a full story when it covers more than 33% of the area of the story underneath such mezzanine, or if the vertical distance from the floor next below it to the floor next above it is 14 feet or more.

(2) For the purpose of this chapter, a basement or cellar shall be counted as a story if over 50% of its height is above the level from which the height of the building is measured at the finished grade.

STORY, HALF — The part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed 1/2 the floor area of the full story.

STREET — A public thoroughfare which affords traffic circulation and a principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare, except an alley.

STRUCTURAL ALTERATION — Any change in the supporting members of a building or structure, such as bearing walls, or partitions, columns, beams, or girders, or any change in width or number of exits.

STRUCTURE — Anything man-made which is constructed or erected which requires attachment to the ground or attachment to something which is attached to the ground. This includes temporary or permanent construction, including a fence, wall, bridge, dam, etc. Note that all buildings are structures, but not all structures are buildings if the structure does not have a roof.**[6-26-2017 by Ord. No. 17-007]**

SWIMMING POOL — Any structure or container intended for swimming or bathing, located either above or below grade, designed to hold water to a depth of greater than 24 inches.

TATTOO PARLOR or TATTOO ESTABLISHMENT — Any place of business where tattooing, branding, body art, and/or body piercing, other than ear piercing, is conducted. A tattoo parlor or establishment must have a current body art facility license from the State of Michigan. A tattoo parlor or tattoo establishment shall not be considered a medical office or beauty salon providing permanent makeup which is performed by a licensed medical practitioner or a cosmetologist holding a valid Michigan cosmetology license and who has received a certificate of having completed course training for providing permanent makeup and the service is performed in a salon having a current valid body art facility license from the State of Michigan.**[10-24-2016 by Ord. No. 16-005]**

(1) TATTOOING, BRANDING, OR BODY ART — The creation of an indelible mark or figure upon the human body by insertion of pigment into or under the skin or by the production of scars, or burning of skin. Tattooing, branding, or body art is not providing permanent makeup which means designs that resemble makeup, such as eye lining and other permanent enhancing colors to the skin of the face, lips, eyelids, eyebrows and to disguise scars and white spots in the skin such as vitiligo; or to restore or enhance the breast’s areola, such as after breast surgery, provided the service of providing permanent makeup is performed by a licensed medical practitioner or by a cosmetologist holding a valid Michigan cosmetology license who has received a certificate of having completed course training for providing permanent makeup and the service is performed in a salon having a current valid body art facility license from the State of Michigan.

(2) BODY PIERCING — The perforation of human tissue other than an ear, for a nonmedical purpose.

TEMPORARY BUILDING and TEMPORARY USE — A structure or use permitted by the Zoning Board of Appeals to exist during periods of construction of the main use or for special events, not to exceed one year.

TENT — A shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground and not including those types of tents used solely for children's recreational purposes.

TERRACE — An open, unenclosed structure located above the existing grade level, but

not elevated more than 30 inches high. It does not require guardrails.

TOURIST HOME — See "bed-and-breakfast."

TOWNHOUSE — One of a row of houses joined by common side walls.

TRANSITIONAL HOUSING FACILITY/HOMELESS SHELTER — A residential facility that shelters individuals and families temporarily (not to exceed 45 days) who are homeless and pursuing permanent housing options. The facility must comply with the following:**[Amended 4-23-2018 by Ord. No. 18-007]**

(1) Operated by a governmental agency or a private, nonprofit organization.

(2) May provide counseling, therapy, and similar assistance from counselors or case managers.

(3) Shall not include probation, parole, rehabilitation, sober homes, or recovery facilities.

(4) Must provide twenty-four-hour supervision.

(5) Must meet all applicable City and state codes regarding building safety and fire codes pertaining to residential living.

(6) Shall be certified by the Building Inspection Division of the City under the appropriate codes and ordinances.

(7) Maximum capacity of the facility shall be 30 individuals.

(8) Must be located within an A-2 Multiple-Family Residential Zone or an M-1 or M-2 Industrial Zone after receiving a special approval use permit from the Planning Commission and may not be located within a one-thousand-five-hundred-foot radius of another transitional facility, or a probation, parole, rehabilitation, sober home, or recovery facility.

(9) May be designed with individual apartments, sleeping rooms, or as a dormitory with a central sleeping area.

    a. Each apartment or sleeping room shall accommodate no more than one family or three nonrelated persons per room.

    b. For dormitories with a central sleeping area, there shall be a separate sleeping area for each family, and they shall be kept separate from nonrelated individuals living in the shelter.

    c. Apartment-style units shall have their own bathroom and cooking facilities per apartment and shall follow the regulations of a multifamily structure.

    d. For sleeping rooms and dormitories, there shall be separate bathroom and cooking facilities on site.

    e. In a co-ed home, there shall be separate rooms for sleeping and separate bathroom facilities for each gender.

TRAVEL TRAILER — A portable vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging, but which

does not exceed eight feet in width or 32 feet in length. This term also includes folding campers and truck-mounted campers, but not manufactured homes.

USE — The purpose for which land or premises or a building thereon is designed, arranged or intended or for which it is occupied, maintained, let or leased.

VARIANCE — A modification of the literal provisions of this chapter which is granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. Hardships based solely on economic considerations are not grounds for a variance. A variance granted by the Zoning Board of Appeals shall be valid for six months.

YACHT CLUB — An organization of persons, having for its chief purpose the enjoyment of its members of lawful participation in nautical events, and a majority of whose members are the owners and operators of boats and have access to nearby navigable waters for the use of the yacht club. Such yacht club shall at all times be organized and operated on a nonprofit basis.

YARD — An open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter. This definition shall not include eaves, provided that an eight-foot height clearance is provided above the adjacent ground level.

YARD, FRONT — A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building. For parking purposes in an A-1 or A-2 District, the front yard shall be considered to be the minimum setback of the district. Parking is permitted behind the minimum setback.

YARD, REAR — A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line 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 horizontally from the nearest point of the side lot line to the nearest point of the main building.

YOUTH CENTER — Any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.**[9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]**

ZONING BOARD OF APPEALS — The Board of Appeals for the City. The term "Board of Appeals" or "Board" shall have the same meaning.

§ 52-6. Interpretation and application. [Code 1975, § 39-136; Code 1992, § 32-611; 5-24-2010 by Ord. No. 1311]

In interpreting and applying the sections of this chapter, such sections shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinances, rules, regulations or permits

previously adopted or issued and not in conflict with any of the sections of this chapter or which shall be adopted or issued pursuant to law relating to the use of buildings or premises, and likewise not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon height of buildings or requires larger open spaces or larger lot areas than are imposed or required by such ordinances or agreements, the sections of this chapter shall control.

§ 52-7. Severability. [Code 1975, § 39-137; Code 1992, § 32-631; 5-24-2010 by Ord. No. 1311]

Articles, divisions, sections, subsections, clauses, provisions and portions of this chapter are deemed to be severable, and should any section, subsection, clause, provision or portion of this chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, the declaration shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

§ 52-8. Adoption, effective date of chapter. [Code 1975, § 39-138; Code 1992, § 32-651; 5-24-2010 by Ord. No. 1311]

This chapter is hereby declared to have been adopted by the City Council at a meeting thereof, duly called and held on September 8, 1975, and is ordered to be given publication in the manner prescribed by law and shall be given effect September 13, 1975. No suit or prosecution in progress of any kind shall be in any manner affected by the adoption or taking effect of this chapter, but the suit or prosecution shall stand or progress as if no change had been made.

§ 52-9. through § 52-40. (Reserved)

ARTICLE II
Administration And Enforcement

DIVISION 1
Generally

§ 52-41. Chief Building Inspector. [Code 1975, § 39-128; Code 1992, § 32-561; 10-10-2005 by Ord. No. 1253]

(a) This chapter shall be administered and enforced by the Chief Inspector or any other employees, inspectors, and officials as the Chief Inspector may delegate to enforce this chapter.

(b) The powers and duties of the Chief Inspector shall include the following:

(1) Issue all permits and certificates required by this chapter.

(2) Cause any building, structure, land, place or premises to be inspected and examined and order in writing the remedying of any condition found to exist therein in violation of any section of this chapter.

(3) Carry out and enforce any decisions and determinations of the Zoning Board of Appeals.

(c) For the purpose of this chapter, the Chief Inspector, or designee, shall carry out enforcement provisions and shall issue a blight violation as provided for in § 2-901 of the City of Port Huron Code of Ordinances. **[9-27-2021 by Ord. No. 21-008]**

§ 52-42. Plat to accompany building permit application. [Code 1975, § 39-129; Code 1992, § 32-562; 4-24-2006 by Ord. No. 1265]

In order to facilitate administration of the conditions of this chapter, each application for a building permit shall be accompanied by a drawing or plat, in duplicate, drawn to scale and showing the following:

(1) The plot and the proposed building and dimensions of both;

(2) The exact location of the proposed building on the plot;

(3) Notations as to the use for which such building and any existing building on the same plot is to be used;

(4) Such information on front yard depths and other yard sizes on other lots or plots; and

(5) Such other information as the Chief Inspector shall require for the proper enforcement of this chapter.

(6) A certified boundary survey performed by a professional surveyor, licensed by the State of Michigan, is required for all new construction of residential, commercial, or industrial buildings, including additions (as determined by the Chief Inspector and based upon square footage of existing building). A mortgage survey is required for the installation of fences, driveways, and construction of accessory buildings.

§ 52-43. Certificate of occupancy required. [Code 1975, § 39-130; Code 1992, § 32-563]

(a) A certificate of occupancy, stating that all of the sections of this chapter have been fully complied with, shall have been obtained from the Chief Inspector before:

(1) Any structure for which a building permit is required is used or occupied.

(2) Any use of an existing structure is changed to a use of a different classification.

(3) Any use of a nonconforming use is changed.

(b) If a structure or use is established, altered, enlarged or moved after the conditional approval thereof by the Zoning Board of Appeals, such certificate shall be issued only if all the conditions thereof shall have been satisfied.

§ 52-44. Application for certificate of occupancy. [Code 1975, § 39-131; Code 1992, § 32-564]

Application for a certificate of occupancy shall be made and filed with the Chief Inspector when any structure or use for which such certificate is required is ready for use or occupancy. Within 10 days after the filing thereof, the Chief Inspector shall inspect such structure or use and, if found to be in conformity with all sections of this chapter, shall sign and issue a certificate of occupancy.

§ 52-45. Certificate of occupancy required before permit or license issuance. [Code 1975, § 39-132; Code 1992, § 32-565]

No permit or license required by the City or other governmental agency shall be issued by any department, official or employee of the City or such governmental agency, unless the application for such permit or license is accompanied by a certificate of occupancy issued by the Chief Inspector

§ 52-46. Compliance required prior to permit or license issuance. [Code 1975, § 39-133; Code 1992, § 32-566]

All departments, officials and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure or purpose if the use, structure or purpose would not conform to this chapter.

§ 52-47. Violations and correction orders. [Code 1975, § 39-134; Code 1992, § 32-567; 10-10-2005 by Ord. No. 1253]

If any violation of this chapter occurs, with the exception of a violation of § 52-621, Footnote a,[7] a zoning violation ticket will be issued. The Chief Inspector shall, after inspection, order in writing the correction of such conditions as are found to constitute a violation. If, within 10 days or such longer time as the Chief Inspector may in writing authorize, any such conditions have not been corrected, it shall be the duty of the Chief Inspector to institute appropriate action.

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7. Editor's Note: See the Schedule of Regulations, included as an attachment to this chapter.

§ 52-48. Violations declared nuisance. [Code 1975, § 39-135; Code 1992, § 32-591; 8-13-2001 by Ord. No. 1188]

(a) Use of land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of any section of this chapter, is hereby declared to be a nuisance per se. The owner and/or agent in charge of any such land, dwelling, building or structure, including tents and trailer coaches, including the lessee or tenant of any part of a building or land where any such violation has been committed or shall exist or the architect, builder, contractor, or any other person who takes part in or assists in any such violation or who maintains any building or land where any such violation exists shall be responsible for a blight violation as provided for in § 2-901 of the City of Port Huron Code of Ordinances. **[9-27-2021 by Ord. No. 21-008]**

(b) The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter. This chapter may also be enforced in any court of competent jurisdiction through the civil litigation process. Each day that a violation is permitted to exist shall constitute a separate offense.

§ 52-49. Use certificate. [9-28-2015 by Ord. No. 15-008]

(a) A use certificate shall be obtained from the City Planning Department before any new or different business can occupy a building, in order to confirm that the use is allowed in the zone where the property is located. Application shall be made by the property owner, tenant, or representative thereof. The use certificate shall indicate the location of the building, the nature of the use, any physical changes to the building, parking availability, and barrier free access. The building may need to be inspected by the Inspection Division or Fire Department before said certificate can be approved. The City reserves the right to contact the applicant for a permission to enter the property or building for an inspection.

(b) The use certificate may be approved contingent upon renovations being required to comply with the Zoning Ordinance and or other applicable City or state codes. Approval of the use certificate does not constitute approval for a building permit. The appropriate permits for any building, electrical, or mechanical work will still be required. Upon completion of any renovations, a certificate of occupancy from the Inspection Division will be necessary before the building can be physically occupied. (See § 52-43.)

§ 52-50. through § 52-70. (Reserved)

DIVISION 2
Special Approval Use Permits

§ 52-71. Required; issuance. [Code 1975, § 39-113; Code 1992, § 32-481; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337]

(a) Before the issuance of a permit for the establishment, erection, reconstruction, structural alteration, enlargement, addition to or moving of any use which, as provided by the district regulations and other regulations in this chapter, shall be permitted in a certain district as a permitted use after special approval, such use shall be approved by the Planning Commission after a public hearing. Site plan review shall be required for all such special approval uses in accordance with § 52-697.

(b) Action of the Planning Commission on any such matter shall be taken only after an application therefor in writing shall be filed with the Chief Inspector and shall be governed by the required procedure for an appeal pursuant to Public Act 110 of 2006 (MCL 125.3101 et seq.), including holding a hearing.

(c) The issuance of any permit shall not be approved unless the Planning Commission shall find, in each case, that:

(1) All requirements set forth in this chapter will be complied with.

(2) The use and any proposed structures to be utilized in connection therewith will not create any threat to the public health, safety and welfare and will not unduly aggravate any traffic problem in the area.

(3) The proposed use will not be injurious to the surrounding neighborhood.

(4) The proposed use will not be contrary to the spirit and purpose of this chapter. The Planning Commission may recommend such conditions as it may deem reasonably necessary to promote the spirit and intent of this chapter.

(5) All proposed structures, equipment or material shall be readily accessible for fire and police protection.

(6) The proposed use shall not cause traffic congestion or movement out of proportion to that normally prevailing in the particular district.

(7) The proposed use shall provide sufficient space for the off-street parking of all vehicles attracted by its presence and shall abide by the regulations set forth in this chapter for its particular district or use.

(8) Any proposed building shall not be out of harmony with the predominant type of building in the particular district by reason of its size, character, location, or intended use.

(d) The issuance and validity of any special use permit is contingent upon the conditions/uses existing at the time of issuance. The permit goes with the building and specific use of the building as authorized on the permit, except where specifically prohibited. Transfer of property does not affect the use permit. When

property, for which a special permit has been designated, has a change in ownership or use, another use may occupy such property provided the proposed use and parking requirements are similar to the former use for which the special permit was granted. A use certificate shall be issued from the Planning Department prior to the new use occupying such property. Change in use to a nonsimilar activity will result in the use permit becoming null and void. A new special permit (special approval) shall be required from the Planning Commission if the following items prevail:

(1) The former use has ceased for a period exceeding six months.

(2) New additions or new structures are required.

(3) The new use is a different character as compared to existing use. The new use must be a "use allowed after special approval" in such zoning district.

(4) More parking spaces are required than were necessary for the previous use.

(5) Home occupations and state licensed care facilities in the home such as family or group day care, expire upon change of ownership and are not transferable to a new address or new property owner.

(e) A site plan shall be submitted with an application for the special approval use permit. The site plan shall show the location of all structures and parking on the property for the proposed use. Follow the requirements necessary for submitting a site plan as required in § 52-697(d) through (h).

§ 52-72. Parking lots for business uses in residential areas. [Code 1975, § 39-114; Code 1992, § 32-482; 10-22-2007 by Ord. No. 1280]

Special approval use permits for parking lots for business uses in residential areas shall be allowed to remain with the business as long as the business is the same or similar use. A change in ownership will not affect the validity of a special approval use permit granted for a parking lot for a business use. Said parking lot shall be allowed only as an expansion of an existing parking lot and adjacent to said business property.

§ 52-73. Appeal process for special approval use permits. [Code 1992, § 32-483; 8-13-2001 by Ord. No. 1188]

(a) The Planning Commission may deny issuance of a special approval use permit after review and public hearing. Such recommendation for denial will be submitted as correspondence from boards and commissions to the City Council at its next scheduled meeting.

(b) The property owner may appear at the City Council meeting to appeal the Planning Commission's decision. The City Council may elect to uphold the Planning Commission's recommendation or schedule its own public hearing for further input. Further appeals shall be reviewed by an appeal to the appropriate court.

§ 52-74. Fees. [10-22-2007 by Ord. No. 1280]

The fee for an application for a special approval use permit shall be adopted by resolution of the City Council and amended, as necessary, by resolution of the City

Council.

§ 52-75. through § 52-95. (Reserved)

DIVISION 3
Zoning Board of Appeals[8]

§ 52-96. Appointment. [Code 1975, § 39-115; Code 1992, § 32-506; 9-11-2006 by Ord. No. 1268]

The City Council shall appoint a Zoning Board of Appeals, sometimes referred to as "the Board," which Board shall have the powers and duties prescribed by law and by this Code.

§ 52-97. Membership and organization. [Code 1975, § 39-116; Code 1992, § 32-507; 9-11-2006 by Ord. No. 1268; 5-24-2010 by Ord. No. 1311]

(a) The Zoning Board of Appeals shall consist of five members and two alternates. One of the members shall be a member of the Planning Commission. The remaining members shall be electors residing within the City and shall be representative of the population distribution and the various interests within the City.

(b) The terms of office for members appointed to the Zoning Board of Appeals shall be for three years, except the term of the member from the Planning Commission shall be limited to the time they serve as a member of the Planning Commission. In any case, members shall serve until a successor is appointed.

(c) A successor shall be appointed not more than one month after expiration of the term of the preceding member. Vacancies for unexpired terms shall be filled for the remainder of the term.

(d) A member of the Zoning Board of Appeals may be removed by the City Council for misfeasance, malfeasances, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(e) At a meeting held within 30 days after July 1 each year, the Board shall elect one of its members Chairperson and one Vice Chairperson and shall select and appoint a Secretary.

(f) All meetings, transactions and records of the action of the Board shall be open to the public. The Board shall adopt rules and regulations for the transaction of business.

§ 52-98. Appeals. [Code 1975, § 39-117; Code 1992, § 32-508; 9-11-2006 by Ord. No. 1268; 5-24-2010 by Ord. No. 1311]

(a) The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter. It shall also hear and decide all matters referred to it or upon which it is required to pass under any City ordinance

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8. Editor's Note: Ordinance No. 1268, adopted 9-11-2006, amended the title of Div. 3 to read as herein set out. Prior to inclusion of said ordinance, Div. 3 was entitled, "Board of Zoning Appeals."

adopted pursuant to Public Act No. 110 of 2006 (MCL 125.3201 et seq.). The concurring vote of a majority of the members of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the City. Such appeal shall be taken within such time as shall be prescribed by the Board by general rule, by the filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(b) The Board shall also hear appeals filed with it by the owner of any real property in an area for which the City Council has adopted an urban renewal development plan. The Board may approve a minor deviation in the urban renewal development plan for the area in any case in which such Board finds, upon evidence presented to it, that the application of the plan results in unnecessary hardship or practical difficulties and a minor deviation from the development plan is required by consideration of justice and equity, consistent with Section 10 of Public Act No. 344 of 1945 (MCL 125.80).

(c) An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him of her, that by reason of fact stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

§ 52-99. Public notice and time of hearings. [Code 1975, § 39-118; Code 1992, § 32-509; 8-13-2001 by Ord. No. 1188; 9-11-2006 by Ord. No. 1268]

(a) Unless otherwise provided in this chapter, notice of public hearing shall be provided in accordance with Section 103 of Public Act 110 of 2006 (MCL 125.3103 et seq.):

(1) Notice of hearing shall be published not less than 15 days before the date the application will be considered in a newspaper of general circulation within the City limits; and

(2) Notice shall be sent by mail to the property owners of the application and notice shall also be provided to all property owners and occupants of all structures within 300 feet of the property.

Upon the hearing, any party may appear in person or by agent or by attorney. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the Board

shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in, equipment or alteration of buildings or structures, including yard, lot area, lot width, lot coverage, open space and height regulations or the use of land, buildings or structures, so that substantial justice is done.

(b) Before taking any action on an appeal filed with the Board by the owner of any real property in an area for which the City Council has adopted an urban renewal development plan, the Board shall hold a public hearing thereon, at least 10 days' notice of the time and place of which shall be given by public notice in a newspaper published or circulated generally in the City and by notice to all property owners within 300 feet of the property in question, such notice to be by mail addressed to the respective owners at the addresses given in the last assessment roll, consistent with Section 10 of Public Act No. 344 of 1945 (MCL 125.80).

§ 52-100. Interpretation. [Code 1975, § 39-119; Code 1992, § 32-510; 9-11-2006 by Ord. No. 1268]

The Zoning Board of Appeals shall interpret the words, terms, rules, regulations, provisions and restrictions of this chapter, where there is doubt as to the meaning thereof, and shall determine the location of boundaries of districts where uncertainty exists after the rules for determining such boundaries have been applied. Where this chapter provides that uses similar to those specifically permitted may be permitted in certain districts and that objectionable uses are prohibited, the Board shall determine whether or not questionable uses are similar or are objectionable, as the case may be, in specific instances.

§ 52-101. Conditions. [Code 1975, § 39-120; Code 1992, § 32-511; 9-11-2006 by Ord. No. 1268]

(a) The Zoning Board of Appeals may impose, in connection with any action on any appeal or variance or the approval of any permit, conditions which may include time limits within which a permit acted upon shall be valid or a use shall be conducted and which may establish the following similar requirements for bringing the proposed use into conformity with the character of the district and adjoining properties; for protecting the public health, safety, convenience and welfare; or for preventing traffic congestion:

(1) Specific yard, area, open space and height regulations that shall supersede such regulations in this chapter as would otherwise apply.

(2) Provision of off-street parking space and spaces or easements for protective planting screens, necessary facilities, and service supplemental to the principal or accessory use of the premises with approval of the Planning Commission and City Council.

(3) Limitation of use and specification of manner of maintaining and conducting such use.

(4) Structural requirements.

(5) Dedication to the City of areas required for any public purposes.

(6) The Zoning Board of Appeals shall have the power to permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes in any permitted district to a greater height or of larger area than the district requirements established and permit the location in any use district of a public utility building, structure or use if the Board shall find such use, height, area, or building or structure reasonably necessary for the public welfare or public convenience and service.

(b) The Board may require a written agreement, bond, or other assurance of faithful performance of any such conditions, the violation of which shall invalidate the permit and shall be subject to the penalties prescribed for a violation of this chapter.

§ 52-102. Procedure, vote required. [Code 1975, § 39-121; Code 1992, § 32-512; 9-11-2006 by Ord. No. 1268; 5-24-2010 by Ord. No. 1311]

The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Chief Inspector or to decide in favor of the applicant on any variance or to approve the issuance of any permit, and before any such action is taken the Board shall hold a hearing as provided in this division.

§ 52-103. Action. [Code 1975, § 39-122; Code 1992, § 32-513; 10-10-2005 by Ord. No. 1253; 9-11-2006 by Ord. No. 1268]

The Zoning Board of Appeals shall decide on any matter within 30 days after the date of the hearing thereon. A decision in favor of the applicant shall be approval or conditional approval of the matter applied for and shall be an order to the Chief Inspector to carry out such action, subject to any such conditions. The decision of the Board shall not become final until the expiration of five days from the date of entry of such order unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record. All variances granted through the Zoning Board of Appeals shall be valid for six months from the date of final approval and may be transferred with the ownership of the property. Validation requires the action taken, permit obtained and/or other process underway.

§ 52-104. Limitation of powers. [Code 1975, § 39-123; Code 1992, § 32-514; 10-10-2005 by Ord. No. 1253; 9-11-2006 by Ord. No. 1268]

The Zoning Board of Appeals, in exercising its powers and authority, as provided by law and by this chapter, shall make decisions pertaining to specific applications only, except in exercising its power of interpretation, and shall not have the power or authority to change any boundary line of any district or to change any rule, regulation, provision or restriction in this chapter. In exercising its power of interpretation of any word, term, rule, regulation, provision or restriction and of determination of the location of the boundary of any district, the Board may act upon application, upon written request by the City Council or the Planning Commission. The Zoning Board of Appeals shall be prohibited from granting use variances. They may grant dimensional variances, including, but not limited to, setbacks, height, and lot coverage.

§ 52-105. Fees. [Code 1975, § 39-124; Code 1992, § 32-515; 5-27-2003 by Ord. No.

1211; 9-11-2006 by Ord. No. 1268]

The fee for an application and/or appeal to the Zoning Board of Appeals shall be adopted by resolution of the City Council and amended, as necessary, by resolution of the City Council.

§ 52-106. through § 52-125. (Reserved)

DIVISION 4
Amendments

§ 52-126. Procedure. [Code 1975, § 39-125; Code 1992, § 32-536; 10-22-2007 by Ord. No. 1280]

(a) The City Council may from time to time amend, supplement or repeal the regulations and provisions of this chapter, in the manner prescribed by Public Act 110 of 2006 (MCL 125.3101 et seq.) and in accordance with the following procedural outline:

(1) A proposed amendment, supplement, or repeal may be originated by the City Council, by the Planning Commission, or by petition. All proposals not originating with the Planning Commission shall be referred to the Planning Commission for a report thereon before any action is taken on the proposal by the City Council.

(2) The Planning Commission shall study the proposed amendment, supplement, or repeal. If it decides the proposal has merit, the Planning Commission shall hold a public hearing thereon in accordance with procedures stated in Public Act 110 of 2006 (MCL 125.3101 et seq.) and make a report of its findings and recommendation to the City Council. If the Planning Commission decides that a proposed amendment, supplement or repeal does not have merit, it shall so report to the City Council, without holding a public hearing.

(3) When the City Council receives an adverse report on a proposed amendment or change that has not received a public hearing by the Planning Commission, it may concur with the recommendation and stop further action, or, if it does not agree with the recommendation, the City Council shall refer the proposed amendment or change back to the Planning Commission, with a request that the Planning Commission hold a public hearing on the proposed amendment, supplement or repeal and make a final report to the City Council.

(b) When the City Council receives a recommendation from the Planning Commission on a proposal that has been given a public hearing by the Planning Commission, the City Council may hold a public hearing thereon. If such a hearing is held, notice thereof shall be given in the manner prescribed by Public Act 110 of 2006 (MCL 125.3101 et seq.), and the City Council may adopt such amendment, supplement, or repeal without further reference to the Planning Commission unless the recommendation from the Planning Commission is to be amended, in which case, the amendment, supplement, or repeal shall be referred again to the Planning Commission for reconsideration.

§ 52-127. Protests. [Code 1975, § 39-126; Code 1992, § 32-537]

(a) Upon presentation of a protest petition meeting the requirements of this section, an amendment to this chapter which is the object of the petition shall be passed by a three-fourths vote of the entire City Council. The protest petition shall be presented to the City Council before final legislative action on the amendment and shall be signed by one of the following:

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

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

(b) The calculations in Subsection (a) of this section shall exclude publicly owned land.

§ 52-128. Fee. [Code 1975, § 39-127; Code 1992, § 32-538; 5-27-2003 by Ord. No. 1211]

The fee for an application for an amendment to this chapter shall be adopted by resolution of the City Council and amended, as necessary, by resolution of the City Council.

§ 52-129. through § 52-160. (Reserved)

ARTICLE III
District Regulations

DIVISION 1
Generally

§ 52-161. Districts established. [Code 1975, § 39-5; Code 1992, § 32-66; 2-22-1999 by Ord. No. 1156]

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

R	Single-Family Residential District
R-1	Single- and Two-Family Residential District
A-1	Medium-Density Multiple-Family Residential District
A-2	High-Rise Multiple-Family Residential District
CCD	Community College District
B	Neighborhood Business District
C-1	General Business District
CBD	Central Business District
MD	Marina District
M-1	Light Industrial District
M-2	General Industrial District
I	Institutional District
	Historic districts

§ 52-162. Map. [Code 1975, § 39-6; Code 1992, § 32-67]

(a) The boundaries of the districts established in § 52-161 are shown upon the map attached to the ordinance from which this chapter is derived and made a part of this chapter, which map is designated as the Zoning Map of the City. The Zoning Map on file in the office of the City Clerk and all notations, references, and other information shown thereon are a part of this chapter and have the same force and effect as if such Zoning Map and all such notations, references, and other information shown thereon were fully set forth or described in this chapter.

(b) Except where reference on such map is to a street or other designated line by the dimensions shown on such map, the boundary lines follow lot lines or the center lines of the streets or alleys or such lines extended and the corporate City limits, as they existed at the time of the adoption of the ordinance from which this chapter is derived.

(c) Where a district boundary line, as established in this section or as shown on the Zoning Map, divides a lot which was in a single ownership and of record at the time of enactment of the ordinance from which this chapter is derived, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot under this chapter shall be considered as extending to the entire lot,

provided that the more restricted portion of such lot is entirely within 25 feet of such dividing district boundary line. The use so extended shall be deemed to be conforming.

(d) Questions concerning the exact location of district boundary lines shall be determined by the Zoning Board of Appeals after recommendation from the Planning Commission, according to the rules and regulations which may be adopted by it.

§ 52-163. through § 52-190. (Reserved)

DIVISION 2
R Single-Family Residential District

§ 52-191. Statement of purpose. [Code 1975, § 39-43; Code 1992, § 32-151; 10-22-2007 by Ord. No. 1280; 12-16-2013 by Ord. No. 1360]

The R Single-Family Residential District is established as a district in which the principal use of land is for owner-occupied, single-family dwellings. For the R Single-Family Residential District, in promoting the general purpose of this chapter, the specific intent of this section is to:

(1) Encourage the construction and the continued use of the land for owner-occupied, single-family dwellings.

(2) Prohibit business, commercial or industrial use of the land and prohibit any other use which would substantially interfere with development or continuation of owner-occupied, single-family dwellings in the district.

(3) Encourage the discontinuance of existing uses that would not be permitted as new uses under this chapter.

(4) Discourage any land use which would generate traffic on minor or local streets other than normal traffic generated by the residences on those streets.

§ 52-192. Principal permitted uses. [Code 1975, § 39-44; Code 1992, § 32-152; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 12-16-2013 by Ord. No. 1360; 10-24-2016 by Ord. No. 16-005]

In the R District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

(1) Single-family detached dwellings with one dwelling unit per tax parcel. Guesthouses or apartments are not allowed.

(2) Churches and other facilities normally incidental thereto, provided ingress and egress from the site is onto a major thoroughfare. The minimum site size shall be two acres, and no building shall be located less than 20 feet from any other lot in any residential district. Off-street parking shall be provided according to Article VI.

(3) Publicly owned and operated parks, playfields, museums, libraries and other recreation facilities, provided that any building shall be located not less than 40 feet from any other lot in any residential district.

(4) Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for profit, provided that such buildings shall be located not less than 20 feet from any other lot in any residential district.

(5) Municipal, state or federal administrative or service buildings, provided that such buildings shall be located not less than 20 feet from any other lot in a residential district.

(6) Accessory buildings and uses customarily incidental to the principal permitted uses

in Subsections (1) through (6) of this section.

(7) Off-street parking for the principal permitted uses in accordance with the requirements of Article VI of this chapter. Parking must be on the same property as the main structure.

(8) Building additions to existing hospitals, sanitariums, nursing or rest homes. Any such building additions shall be distant at least 100 feet if for hospitals or sanitariums and 50 feet if to nursing or rest homes from any other lot in any residential district not in a similar use.

(9) Adult foster care family home or adult foster care small group home, state licensed for six or fewer adults. Signage is not allowed.

(10) State-licensed child foster family homes or child foster family group homes for fewer than seven children. Signage is not allowed.

(11) There shall be no new residential rental units except if granted a hardship exception as provided in Chapter 10, Article V, Rental Certification, § 10-178. Any hardship exceptions must conform to Chapter 10, Article V, and be a registered, certified rental unit. Dwellings rented for less than 30 days, home sharing, vacation rentals, or any other transient residential occupancy as defined in this chapter shall not be allowed.

§ 52-193. Permitted uses after special approval. [Code 1975, § 39-45; Code 1992, § 32-153; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337]

The following uses shall be permitted in the R District subject to the conditions imposed and subject further to the approval of the Planning Commission:

(1) Private parks, country clubs, golf courses, and golf driving ranges, when located on a parcel of five acres or more in area. Any structure on such parcel shall be located at least 200 feet from a lot line of any adjacent residential district.

(2) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity, and such use is not injurious to the surrounding neighborhood.

(3) Family child care home, state licensed for six or fewer children, subject to the following conditions:

a. For each child cared for, there shall be provided and maintained a minimum of 100 square feet of outdoor play area. Such play area shall have a total minimum area of at least 1,200 square feet and shall be in the rear yard. Such play area shall be enclosed with a minimum of a six-foot-high solid screen-type fence.

b. Off-street parking shall be provided in accordance with the requirements of Article VI of this chapter.

c. A site survey shall be submitted showing the location of the dwelling, play

area and parking.

d. No signage shall be allowed.

(4) Cemeteries adjacent to or an extension to existing cemeteries, subject to the following conditions:

a. The site shall be so located as to have at least one property line abutting a major thoroughfare. All ingress and egress to the site shall be directly onto such major thoroughfare.

b. Any structure located on the site shall be at least 100 feet from any lot line.

(5) Home occupations as defined in § 52-695.

(6) Temporary buildings for uses incidental to construction work for a period not to exceed one year.

(7) Additions or expansions to existing parking lots for nonresidential uses allowed after receiving a special approval use permit. Parking must be on the same property as the main structure and subject to the following conditions:

a. Such parking lot shall be used only for the parking of vehicles with no repair work or servicing of any kind.

b. Adequate lighting shall be provided and so arranged or reflected away from residences in the area as to cause no annoying glare to such residential property.

c. No advertising signs shall be erected upon such lot, except not more than one sign at each entrance to indicate the operation and purpose of the lot. Such signs shall not exceed six square feet in area and shall not extend four feet in overall height above the ground and shall not project beyond the portion of the property which may be lawfully used for such parking lot.

d. A solid masonry wall or other barrier of material approved by the Planning Commission, five feet in height, shall be constructed and maintained along those property lines separating the parking lot from adjoining residentially zoned property, except that the height limit may be reduced to three feet where the adjoining property line is a public street.

e. Such parking lot shall comply with all applicable requirements for parking lot layout, construction and maintenance as set forth in § 52-773.

f. Setbacks for parking lots shall conform to those setbacks for buildings in the front and side yards. Rear yard setbacks for parking lots shall be five feet from the property line.

g. Said parking lot must be on the same property of the building it is intended to serve. A renovation of an existing lot does not need a special permit, only the expansion of said lot or a new lot.

Site plan review is required per the requirements of § 52-697 for any permitted use allowed after special approval, and any nonresidential principal permitted use.

§ 52-194. Area, height, bulk and placement requirements. [Code 1975, § 39-46; Code 1992, § 32-154]

Area, height, bulk and placement requirements in the R District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.

§ 52-195. through § 52-220. (Reserved)

DIVISION 3
R-1 Single- and Two-Family Residential District

§ 52-221. Statement of purpose. [Code 1975, § 39-47; Code 1992, § 32-176]

The R-1 Single- and Two-Family Residential District is established as a district in which the principal use of land is for single- and two-family dwellings. For the R-1 District, in promoting the general purpose of this chapter, the specific intent of this section is to:

(1) Encourage the construction and the continued use of the land for single- and two-family dwellings.

(2) Prohibit business, commercial or industrial use of the land and prohibit any other use which would substantially interfere with development or continuation of single- and two-family dwellings in the district.

(3) Encourage the discontinuance of existing uses that would not be permitted as new uses under this chapter.

(4) Discourage any land use which would generate traffic on minor or local streets other than normal traffic generated by the residences on those streets.

§ 52-222. Principal permitted uses. [Code 1975, § 39-48; Code 1992, § 32-177; 8-13-2001 by Ord. No. 1188; 10-24-2016 by Ord. No. 16-005]

In the R-1 District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

(1) All principal permitted uses in the R District. Certified, registered residential rental units are allowed and must conform to all City codes and ordinances, specifically Chapter 10, Article V, Rental Certification, of the City Code of Ordinances.

(2) Two-family dwellings.

(3) Accessory buildings and uses customarily incidental to the principal permitted uses in Subsections (1) and (2) of this section.

(4) Off-street parking in accordance with the requirements of Article VI of this chapter.

§ 52-223. Permitted uses after special approval. [Code 1975, § 39-49; Code 1992, § 32-178; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337; 10-24-2016 by Ord. No. 16-005; 10-9-2017 by Ord. No. 17-015]

The following uses shall be permitted in the R-1 District subject to the conditions imposed and subject further to the approval of the Planning Commission:

(1) All permitted uses after special approval in the R District, subject to the terms and conditions therein.

(2) Professional or business office approval shall be conditioned upon the meeting of the building height limit, side yard width, rear yard depth, front yard depth and plat coverage required in the district in which the site is located and conditioned further

that the automobile parking spaces shall be in accordance with § 52-772. If there is a question as to whether or not a use is indeed an office, the Planning Commission shall decide first if an occupation is suitable as an office per the definition before the special permit is granted.

A professional office shall not be located in the same structure or on the same lot as a residential use. If an existing residential structure is converted to an office, the entire structure shall be used for said office. Said building shall be renovated according to the existing building code for a commercial use, including barrier-free codes. The parking lot shall be paved, drained, and screened from any adjacent residential use.

(3) A temporary building for commerce or industry for a period of not more than one year, when incidental to the erection or servicing of structures or uses permitted in such districts.

(4) Governmental uses when found to be necessary for the public health, safety, convenience or welfare.

(5) Family child care home, state licensed for six or fewer children, subject to the following conditions:

a. For each child cared for, there shall be provided and maintained a minimum of 100 square feet of outdoor play area. Such play area shall have a total minimum area of at least 1,200 square feet, shall be in the rear yard and shall be enclosed with a minimum of a six-foot-high solid screen-type fence.

b. Off-street parking shall be provided in accordance with the requirements of Article VI of this chapter.

c. A site survey shall be submitted showing the location of the dwelling, play area, and parking.

d. No signage is allowed.

(6) Commercial boat wells, provided that the number of commercial boat wells does not exceed one well for each 25 feet of lot water frontage and that one off-street parking space in addition to private residence is provided per boat well. No private water, sanitary or similar services may be provided. Appropriate permits, as necessary, must be obtained from the United States Army Corps of Engineers and/or the Department of Environmental Quality as required prior to issuance of special approval use permit.

(7) Bed-and-breakfast facilities as provided in § 52-696.

(8) Additions or expansions to existing parking lots for businesses allowed after receiving a special approval use permit, or multifamily uses, subject to the following conditions:

a. Said parking lot must be on the same property as the existing business or multifamily use it is intended to serve or adjacent to an existing parking lot. A renovation of an existing lot does not need a special approval use permit, only the expansion of said lot.

b. Such parking lot shall be used only for the parking of vehicles with no repair work or servicing of any kind.

c. Adequate lighting shall be provided and so arranged or reflected away from residences in the area as to cause no annoying glare to such residential property.

d. There is, or will be, a reasonable need for such parking lot to prevent congestion, traffic hazard, and undesirable use of contiguous residentially zoned streets for parking purposes.

e. No advertising signs shall be erected upon such lot, except not more than one sign at each entrance to indicate the operation and purpose of the lot. Such signs shall not exceed six square feet in area and shall not extend four feet in overall height above the ground and shall not project beyond the portion of the property which may be lawfully used for such parking lot.

f. A solid masonry wall or other barrier of material approved by the Planning Commission, five feet in height, shall be constructed and maintained along those property lines separating the parking lot from adjoining residentially zoned property, except that the height limit may be reduced to three feet where the adjoining property line is a public street.

g. Such parking lot shall comply with all applicable requirements for parking lot layout, construction and maintenance as set forth in Article VI.

h. Setbacks for parking lots shall conform to those setbacks for buildings in the front and side yards. Rear yard setbacks for parking lots shall be five feet from the property line.

(9) A certified, registered residential rental unit that is rented for less than 30 days, such as a vacation rental, home sharing, or any other transient residential occupancy as defined by this chapter, is allowed after special approval and a public hearing of Planning Commission. The unit must be a certified residential rental unit in conformance with Chapter 10, Buildings and Building Regulations, Article V, Rental Certification, of the City Code of Ordinances. A site plan shall be submitted to indicate parking on the property. The Planning Commission has the right to impose contingencies, such as a screening fence, on the property. Hotels and motels are not allowed.

Site plan review is required per the requirements of § 52-697 for any permitted use allowed after special approval, and any nonresidential principal permitted use.

(10) Sober living homes, also known as "three-quarter houses," per the requirements as defined in § 52-5, Definitions R through Z.

§ 52-224. Area, height, bulk and placement requirements. [Code 1975, § 39-50; Code 1992, § 32-179]

Area, height, bulk and placement requirements in the R-1 District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.

§ 52-225. through § 52-250. (Reserved)

DIVISION 4
A-1 Medium-Density Multiple-Family Residential District

§ 52-251. Statement of purpose. [Code 1975, § 39-51; Code 1992, § 32-201]

The A-1 Medium-Density Multiple-Family Residential District is designed primarily for two- or three-story apartments, dwelling groups and duplexes. It is designed to promote a harmonious mixture of medium density residential types and related educational, cultural and religious land uses in a basically residential environment.

§ 52-252. Principal permitted uses. [Code 1975, § 39-52; Code 1992, § 32-202; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 6-25-2012 by Ord. No. 1337; 12-16-2013 by Ord. No. 1364; 10-24-2016 by Ord. No. 16-005; 9-10-2018 by Ord. No. 18-017]

In the A-1 District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

(1) All principal permitted uses allowed in the R-1 Districts, subject to the terms and conditions therein.

(2) Single- and two-family dwellings. A single-family home must be constructed on a lot that has a minimum of 7,000 square feet. A two-family dwelling must be constructed on a lot that has a minimum of 10,000 square feet. Multiple single-family detached condominiums are allowed with three or more buildings on one site. The minimum site size shall be 5,000 square feet per building. Duplex condominiums are allowed with two or more buildings on one site. The minimum site size shall be 7,000 square feet per duplex building. Site size shall be in accordance with the Schedule of Regulations.

(3) Multiple-family dwellings, including boardinghouses, rooming houses, apartments, townhouses, row houses and dwelling groups, provided all such dwellings shall have at least one property line abutting a major thoroughfare with a minimum site size of 10,000 square feet. All ingress and egress shall be directly onto such major thoroughfare.

(4) Churches and other facilities normally incidental thereto, provided ingress and egress from such site is onto a major thoroughfare. The minimum site size shall be two acres, and no building shall be located less than 20 feet from any other lot in any residential district.

(5) Publicly owned and operated parks, playfields, museums, libraries and other recreation facilities, provided that any building shall be located not less than 40 feet from any other lot in any residential district.

(6) Public, parochial or private elementary, intermediate and/or high schools offering courses in general education, not operated for profit, provided that such buildings shall be located not less than 20 feet from any other lot in a residential district.

(7) Municipal, state or federal administrative or service buildings, provided that such buildings shall be located not less than 20 feet from any other lot in a residential district.

(8) Private schools and educational institutions.

(9) Convalescent and/or nursing homes, memory care facilities, homes for the aged, or group living quarters for the mentally retarded or mentally ill, not to exceed a height of 2 1/2 stories.

(10) Accessory buildings and uses customarily incidental to the principal permitted uses in Subsections (1) through (9) of this section.

(11) Off-street parking in accordance with the requirements of Article VI of this chapter.

(12) State-licensed adult foster care homes, including family homes, small group homes, and large group homes. Foster care homes must provide off-street parking in accordance with the requirements in Article VI of this chapter.

(13) State-licensed child foster family homes or child foster family group homes for fewer than seven children.

(14) Independent or assisted living facilities. The structure shall be limited to a three-story building in the A-1 Zone; however, the apartment unit sizes and number of dwelling units per land size shall be in accordance with the high-rise apartment requirements as required in the A-2 Zoning District, per Division 16, Schedule of Regulations. If state licensed, the facility does not have to follow the City zoning ordinance regulations for apartment unit sizes.

§ 52-253. Permitted uses after special approval. [Code 1975, § 39-53; Code 1992, § 32-203; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337]

The following uses shall be permitted in the A-1 District, subject to the conditions imposed and subject further to the approval of the Planning Commission:

(1) Uses which are allowed after special approval in the R and R-1 Districts except public parks and governmental buildings which are allowed as a principal permitted use in the A-1 District.

(2) Manufactured home parks, subject to the requirements as established and regulated by Public Act No. 96 of 1987 (MCL 125.2301 et seq.).

(3) Professional and business office approval shall be conditioned upon the meeting of the building height limit, side yard width, rear yard depth, front yard depth and plat coverage required in the district in which the site is located and conditioned further that the automobile parking spaces required shall be in accordance with § 52-772.

A professional office shall not be located in the same structure or on the same lot as a residential use. If an existing residential structure is converted to an office, the entire structure shall be used for said office. Said building shall be renovated according to the existing building code for a commercial use, including barrier free codes. The parking lot shall be paved, drained, and screened from any adjacent residential use.

(4) A temporary building for commerce or industry for a period of not more than one year, when incidental to the erection or servicing of structures or uses permitted in

such districts.

(5) Bed-and-breakfast facilities or tourist homes as defined in § 52-696.

(6) Adult day-care center with off-street parking in accordance with the requirements of Article VI of this chapter.

(7) State licensed family child care home (six or fewer children), group day care home (up to a maximum of 12 children), or child day-care center (with a minimum site size of 20,000 square feet) subject to the following conditions:

a. For each child cared for, there shall be provided and maintained a minimum of 100 square feet of outdoor play area. Such play area shall have a total minimum area of at least 1,200 square feet, shall be in the rear yard, and shall be enclosed with a minimum of a six-foot-high solid screen-type fence.

b. Off-street parking shall be provided in accordance with the requirements of Article VI of this chapter.

c. A site plan shall be submitted showing the location of buildings, play area, and parking provided.

d. No signage is allowed when the day care is in a private home.

(8) Home occupations as defined in § 52-695.

§ 52-254. Screening requirement. [Code 1975, § 39-54; Code 1992, § 32-204; 8-13-2001 by Ord. No. 1188; 6-25-2012 by Ord. No. 1337]

Where required parking lots of any use permitted in an A-1 District are erected such that the headlights of the cars in the parking lot will face into an R District, a solid masonry wall or other barrier of material approved by the Planning Commission, which shall be a minimum of five feet in height, shall be required along that parking lot boundary line facing the R District.

§ 52-255. Site plan review. [Code 1975, § 39-55; Code 1992, § 32-205; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

For all uses permitted in an A-1 District, except single- and two-family dwellings which are constructed as one building on one lot, a site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Commission, in accordance with § 52-697. In addition to the criteria set forth in § 52-697(d), the Planning Commission shall not recommend approval of any multiple-family dwelling site plan which does not meet the following criteria:

(1) All site plans shall show two means of ingress and egress to the project to permit adequate circulation for safety equipment, except that for projects under 10 acres one boulevard entranceway may be sufficient.

(2) In all multiple projects of over 100 dwelling units, parking shall not be allowed along the main circulation drive.

§ 52-256. Area, height, bulk and placement requirements. [Code 1975, § 39-56; Code 1992, § 32-206]

Area, height, bulk and placement requirements in the A-1 District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.

§ 52-257. through § 52-280. (Reserved)

DIVISION 5
A-2 High-Rise Multiple-Family Residential District

§ 52-281. Statement of purpose. [Code 1975, § 39-57; Code 1992, § 32-226]

The A-2 High-Rise Multiple-Family Residential District is designed to permit high-rise apartment residential development. Due to the large traffic volume generated by such development, this district shall abut upon a major thoroughfare and may be utilized as a buffer between single-family residential areas and other nonresidential uses. For the purposes of this chapter, a high-rise structure shall be any structure four or more stories in height.

§ 52-282. Principal permitted uses. [Code 1975, § 39-58; Code 1992, § 32-227; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-24-2016 by Ord. No. 16-005]

In the A-2 District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

(1) All principal permitted uses in the A-1 District, except single-family dwellings. Multiple single-family detached condominiums are allowed with three or more buildings on one site. The total site size shall be 5,000 square feet per building. Duplex condominiums are allowed with two or more buildings on one site. The total site size shall be 7,000 square feet per duplex building.

(2) High-rise multiple-family residential structures subject to the following conditions:

   a. All dwelling units above the first story shall be served by elevators if required by the Building Inspector per the Building Code.

   b. The proposed site shall have at least one property line abutting a major thoroughfare. All ingress and egress to the site shall be directly from such thoroughfare.

   c. The entire area of the site shall be designed to serve the residents of the site, and any accessory buildings uses, or services shall be developed primarily for the use of residents of the site. Uses considered as accessory uses include parking structures, swimming pools, recreation areas, pavilions, cabanas, and other similar uses.

   d. All dwelling units shall have at least one living room and one bedroom, except that not more than 5% of the units may be of an efficiency type. Where a project is designed and intended exclusively for senior citizen use, this requirement may be waived by the Planning Commission.

(3) Foster family homes, foster family group homes and adult foster care family homes.

(4) Accessory buildings and uses customarily incidental to the principal permitted uses in Subsections (1) through (3) of this section.

(5) Off-street parking in accordance with the requirements of Article VI of this chapter.

§ 52-283. Permitted uses after special approval. [Code 1975, § 39-59; Code 1992,

§ 32-228; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337]

The following uses may be permitted in the A-2 District subject to the conditions imposed and subject further to the approval of the Planning Commission:

(1) Uses which are allowed after special approval in the A-1 District, including the following: Retail and service uses such as restaurants, drugstores, banks, professional and business offices, personal services, bed-and-breakfast facilities, home occupations, and other similar uses, and that such uses are in harmony with the character and the quality of the multiple-family development. Professional offices may be located on the first floor of a multiple-family high rise structure of four or more stories if the entire first floor is devoted to office space.

(2) State licensed family child care home (six or fewer children), group day care home (up to a maximum of 12 children), or child day-care center (with a minimum site size of 20,000 square feet), subject to the following conditions:

   a. For each child cared for, there shall be provided and maintained a minimum of 100 square feet of outdoor play area. Such play area shall have a total minimum area of at least 1,200 square feet, shall be in the rear yard and shall be enclosed with a minimum of a six-foot-high solid screen-type fence.

   b. Off-street parking shall be provided in accordance with the requirements of Article VI of this chapter.

   c. A site plan shall be submitted showing the location of buildings, play area, and parking provided.

   d. No signage is allowed when the day care is in a private home.

(3) Transitional housing facility/homeless shelter as defined in § 52-5 and subject to the following conditions:

   a. Any new construction shall be built in accordance with the Schedule of Regulations, § 52-621,[9] for a new multifamily structure in the A-2 Zone, in regards to setbacks, lot size, coverage, lot density, building size, etc.

   b. A site plan shall be submitted indicating the location of the buildings, property lines, parking. For all new construction, an engineered site plan shall be submitted and a site plan review shall be required.

   c. A floor plan shall be submitted indicating the layout of sleeping areas, rooms, or apartments, sanitary, and kitchen facilities. Any new construction shall be in accordance to the applicable building code.

   d. All facilities must be certified by the Building Inspection Division and meet all fire, building, health, and safety codes.

   e. A parking lot shall be provided, including one parking space per staff member, one for every three individual residents, and one space per family. A variance

9. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

from the Zoning Board of Appeals may be obtained to allow for fewer parking spaces. Parking is not allowed in the front yard. A five-foot-high screening fence, wall, or solid shrubs shall be constructed around the parking lot at the property line between said lot and any adjacent residential properties. Parking shall be in accordance to Article VI of this chapter.

§ 52-284. Screening requirement. [Code 1975, § 39-60; Code 1992, § 32-229; 8-13-2001 by Ord. No. 1188; 6-25-2012 by Ord. No. 1337]

Where required parking lots of any use permitted in an A-2 District are erected such that the headlights of the cars in the parking lot will face into an R District, a solid masonry wall or other barrier of material approved by the Planning Commission, which shall be a minimum of five feet in height, shall be required along that parking lot boundary line facing the R District.

§ 52-285. Site plan review. [Code 1975, § 39-61; Code 1992, § 32-230; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253]

For all uses permitted in an A-2 District, except two-family dwellings which are constructed as one building on one lot, a site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Commission, in accordance with § 52-697.

§ 52-286. Area, height, bulk and placement requirements. [Code 1975, § 39-62; Code 1992, § 32-231]

Area, height, bulk and placement requirements in the A-2 District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.

§ 52-287. through § 52-315. (Reserved)

DIVISION 6
CCD Community College District

§ 52-316. Statement of purpose. [Code 1975, § 39-63; Code 1992, § 32-251]

The City recognizing the needs of the St. Clair County Community College as to improved quality of educational offerings and expanded physical plant intends to provide encouragement to the variety and flexibility of land development, and uses supplementary thereto, that are necessary in furthering the community college's long-range development plan of February 12, 1970, and that will be consistent with the best interests of the City.

§ 52-317. Permitted uses. [Code 1975, § 39-64; Code 1992, § 32-252]

Within the CCD Community College District, no building or land shall be erected or used except in ways consistent with the following:

(1) The long-range development plan of February 12, 1970, as approved by the City Council and as it may be amended and approved by the City Council;

(2) The specific rules and regulations for the CCD District adopted from time to time and placed on public record by the City Council in the office of the City Clerk; and Subsections (1) and (2) of this section shall, prima facie, be deemed to have qualified for approval as a permitted use.

§ 52-318. Site plan review. [Code 1992, § 32-253; 8-13-2001 by Ord. No. 1188]

For major building additions requiring additional parking and for all new buildings in the CCD District, a site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Department.

§ 52-319. through § 52-345. (Reserved)

DIVISION 7
B Neighborhood Business District

§ 52-346. Statement of purpose. [Code 1975, § 39-65; Code 1992, § 32-276; 10-22-2007 by Ord. No. 1280]

The B Neighborhood Business District is intended to permit retail business and service uses which are needed to serve the nearby residential areas. In order to promote such business developments so far as is possible and appropriate in each area, uses are prohibited which would create hazards, offensive and loud noises, vibration, smoke, glare, or heavy truck traffic. The intent of this district is also to encourage the concentration of local business areas to the mutual advantage of both the consumers and merchants and thereby to promote the best use of land at certain strategic locations. Any business allowed shall not create a negative impact to the adjacent residential area or create a large traffic volume. Said business shall compliment the residential area in which it is abutting. In order not to overwhelm the residential atmosphere of the surrounding neighborhood, a proposed business in the B District shall have a site that does not exceed one acre in size.

§ 52-347. Principal permitted uses. [Code 1975, § 39-66; Code 1992, § 32-277; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 10-24-2016 by Ord. No. 16-005]

(a) In the B District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

(1) Grocery store, including beer, wine and liquor, fruit, vegetable, meat, dairy products and baked goods.

(2) Drugstores.

(3) Confectioneries, delicatessens and restaurants. Establishments with a character of a drive-in or open-front store are prohibited. An outdoor seating area may be allowed upon site plan review and approval by the Planning Department.

(4) Dress, tailor, or seamstress shop.

(5) Hand laundry or laundromat.

(6) Wearing apparel shop.

(7) Hardware, paint and wallpaper.

(8) Banks.

(9) Variety and dry goods stores.

(10) Flower shop.

(11) Gift shop.

(12) Shoe repair shop.

(13) Watch, television and radio repair shops. Small engine repair is not allowed.

(14) Barbershops and salon of a licensed cosmetologist. Massage, tattoo, or piercing establishments are not allowed.

(15) Business and professional offices. Offices of a veterinarian, massage, or physical therapist is not allowed.

(16) Accessory buildings and uses customarily incidental to the permitted principal uses in Subsections (1) through (15) of this section. All accessory buildings are subject to the regulations as indicated in § 52-676.

(17) Off-street parking in accordance with the requirements of Article VI of this chapter.

(18) State licensed child day-care centers subject to the following conditions:

a. For each child cared for, there shall be provided and maintained a minimum of 100 square feet of outdoor play area. Such play area shall have a total minimum area of at least 1,200 square feet and shall be in the rear yard. Such play area shall be enclosed with a minimum of a six-foot-high solid screen-type fence.

b. Parking shall be provided in accordance with the requirements of Article VI of this chapter.

c. A site plan shall be submitted.

d. The minimum site size shall be 20,000 square feet.

(b) Signage for all businesses shall be in accordance with § 52-831. Hours of operation shall be limited to between 8:00 a.m. and 8:00 p.m.

§ 52-348. Permitted uses after special approval. [Code 1975, § 39-67; Code 1992, § 32-278; 6-25-2012 by Ord. No. 1337]

The following uses may be permitted in the B District subject to the conditions imposed and subject further to the approval of the Planning Commission: public utility buildings and uses, but not including storage yards, when operating requirements necessitate locating within the district to serve the immediate vicinity.

§ 52-349. Required conditions. [Code 1975, § 39-68; Code 1992, § 32-279]

The following conditions are required for all uses in the B District:

(1) All business, service or processing shall be conducted wholly within a completely enclosed building, provided further that all lighting in connection with permitted business uses shall be so arranged as to reflect the light away from all adjoining residential buildings or residentially zoned property.

(2) All business or service establishments shall be for the purpose of dealing directly with consumers. All goods produced or processed on the premises shall be sold at retail on the premises where produced and/or processed.

§ 52-350. Site plan review. [Code 1975, § 39-69; Code 1992, § 32-280]

For all uses permitted in the B District, having a site size of one or more acres, a site plan shall be submitted, and no building permit shall be issued until the site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Commission in accordance with § 52-697.

§ 52-351. Area, height, bulk and placement requirements. [Code 1975, § 39-70; Code 1992, § 32-281]

Area, height, bulk and placement requirements in the B District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.[10]

§ 52-352. through § 52-380. (Reserved)

10. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

DIVISION 8
C-1 General Business District

§ 52-381. Statement of purpose. [Code 1975, § 39-71; Code 1992, § 32-301]

The C-1 General Business District is intended to permit a wider range of business and entertainment activities than those permitted in the B District. The permitted uses are intended to provide businesses and services usually found in major shopping centers and business areas at the juncture of major streets. These uses generate large volumes of vehicular traffic, require substantial access for off-street parking and loading, and require detailed planning particularly as to relationships with adjacent residential areas.

§ 52-382. Principal permitted uses. [Code 1975, § 39-72; Code 1992, § 32-302; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 6-25-2012 by Ord. No. 1337; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005; 6-26-2017 by Ord. No. 17-008]

In the C-1 District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

(1) All principal permitted uses in the B District.

(2) Any retail business whose principal activity is the sale or rental of merchandise must be within a completely enclosed building.

(3) Business service establishments performing services on the premises such as office machine and typewriter repair, printing, blueprinting.

(4) Any service establishment of an office, showroom, or workshop nature within a completely enclosed building such as that of a taxidermist; decorator; upholsterer; caterer; exterminator; building contractor, including electrical, glazing, heating, painting, paperhanging, plumbing, roofing, ventilating, and plastering; small engine repair; and similar establishments that require a retail adjunct. No outside storage yards or displays shall be permitted.

(5) Photographic film developing and processing.

(6) Physical culture establishments, including gymnasiums and reducing salons, health and fitness clubs, and massage establishments, as defined in this chapter and in accordance with Chapter 12, Article VIII, Massage Establishments, of the City Code of Ordinances.

(7) Bowling alleys, skating rinks, sports arenas, arcades, pool halls, enclosed tennis, swimming or golf facilities, and other indoor recreational or entertainment facilities such as theaters, concert halls, casinos, or convention centers, when conducted within a completely enclosed building that is located at least 100 feet from any property zoned in a residential classification.

When adjacent to a residential area, there shall be a twenty-foot-wide landscaped green belt buffer around the perimeter of said facility at the street and interior property lines. Parking or maneuvering lanes shall not be located within this twenty-foot buffer. A driveway entrance shall not be located on a street adjacent to

a residential use without approval from the Planning Department. To reduce noise and traffic along residential streets, it is preferred to have the entrance to the facility on a street which abuts a nonresidential area.

(8) Hotels and motels.

(9) Eating and drinking establishments, provided that all food or beverages are consumed within a completely enclosed building. Outdoor food preparation, such as cooking on a grill, rotisserie, barbecue, etc., may be allowed with use certificate approval from the Planning and Fire Department under certain conditions. Outdoor seating may be allowed after approval from the City with request from the property owner. Outdoor dining can be of two types: that which is located adjacent to the restaurant on the restaurant's private property, or that which is considered a sidewalk cafe located on public property on the sidewalk in the right-of-way.

Outdoor dining adjacent to a restaurant establishment may be allowed with certain restrictions:

a. Outdoor dining on private property must be entirely on the private property of and adjacent to the restaurant establishment. A minimum of a three-foot-high decorative railing or fence shall be placed around the perimeter of the outdoor eating area. All exterior lighting shall be reflected away from any adjacent properties, public or private; the source light shall be shaded so as not to be seen from adjacent properties or the street. Any noise produced from the outdoor eating area shall not interfere with adjacent properties in any way. A letter of request and a scaled site plan drawing shall be provided indicating the following information:

1. The letter of request shall indicate the property owner's name and phone number, business name, address, hours of operation, and if the outdoor cafe will serve alcoholic beverages.

2. The drawing shall show the entire property, with dimensions, indicating the location of the buildings and property lines, and also showing adjacent properties, and the street.

3. A detailed plan showing the design, details, and location of all items such as furniture, tables, chairs, awnings, electrical outlet locations, landscaping, exterior lighting, planters, railings, ropes, stanchions, cooking apparatus, kitchen appliances, coolers, and any other equipment.

b. Outdoor dining on the public sidewalk in the City right-of-way, sidewalk cafes, shall be allowed with approval from the Planning Department and a sidewalk cafe permit. Establishments in the City that serve only food or nonalcoholic beverages may make application to the City for a special outdoor consumption license to operate a sidewalk cafe on the public property immediately contiguous to the premises. See § 4-2 of the City Code of Ordinances for the regulations for obtaining a sidewalk cafe permit on public property.

Establishments in the City licensed to sell alcoholic beverages for consumption on the premises may make application to the City and the State

Liquor Control Commission (MLCC) for a special outdoor consumption license to operate a sidewalk cafe immediately contiguous to the licensed structure. Please refer to § 4-2 of the City Code of Ordinances for more information.

(10) Assembly halls, private and public clubs and lodges, private or public museums, 501c3 nonprofit organizations, accredited or certified trade schools, colleges or universities and related facilities, including residential and retail. Residential buildings for students are allowed on college or university campus sites when located on the same parcel of land with the institutional building. Each unit shall be built as an apartment as defined in this chapter. There shall be a maximum of two bedrooms in each residential apartment unit with a maximum of two occupants per bedroom or four occupants per unit. Student residential buildings shall meet the zoning requirements of multifamily structures as located in the A-2 Zone for building size, lot density, and yard setback requirements. The height of the building shall be in accordance to the Schedule of Regulations for the C-1 Zone.

(11) Funeral parlors or mortuaries.

(12) Television and radio studios and towers subject to the requirements of § 52-689.

(13) Other uses similar to Subsections (1) through (12) of this section, subject to the following restrictions:

a. A business or restaurant that sells a product on the premises may produce the product on the premises and may sell the product wholesale, provided the principal use of the business or building is not manufacturing. For example: A candy business may manufacture candy on the site, provided the principal use of the company is a retail candy store and not a candy manufacturer.

b. All business or servicing, except for off-street parking and loading, shall be conducted within a completely enclosed building.

(14) Bus passenger stations, taxicab businesses including offices, dispatch facilities, and car storage/parking lots. Vehicles shall be allowed to park outside the building on a paved parking surface and shall follow the setback regulations for parking lots in the C-1 Zone in accordance with the requirements of Article VI of this chapter.

(15) Off-street parking in accordance with the requirements of Article VI of this chapter.

(16) Accessory buildings and uses customarily incidental to the principal permitted uses in Subsections (1) through (15) of this section, including sleeping or living quarters of security, watchman, or caretaker. All accessory buildings subject to the regulations as indicated in § 52-676.

(17) Nursery schools, day nurseries and child day-care centers, not including dormitories, which are state licensed, subject to the following conditions:

a. For each child cared for, there shall be provided and maintained a minimum of 100 square feet of outdoor play area. Such play area shall have a total minimum area of at least 1,200 square feet and shall be in the rear yard. Such play area shall be enclosed with a minimum of a six-foot-high solid screen-type fence.

b. Parking shall be provided in accordance with the requirements of Article VI of this chapter.

c. A site plan shall be submitted.

d. The minimum site size shall be 20,000 square feet.

(18) Adult day-care center subject to off-street parking in accordance with the requirements of Article VI of this chapter.

(19) Any of the permitted uses in this section with a drive-through facility or drive-up window used as an accessory use for the business. When such drive-through business is located adjacent to a residential district and not separated by a street or alley, there shall be a five-foot buffer with landscaping and a five-foot-high screening fence or masonry wall located at the property line between the drive-through business and the residentially zoned property.

(20) Churches and other facilities normally incidental thereto, provided ingress and egress from such site is onto a major thoroughfare. The minimum site size shall be two acres. Off-street parking shall be included in accordance with the requirements of Article VI of this chapter.

(21) Pet grooming or pet training facilities are allowed, provided the animals are not kept overnight and all activities are kept indoors. Overnight boarding facilities are only allowed after a special approval use permit from Planning Commission.

(22) Retail sales of auto parts, accessories, tires, or auto-related items are allowed, provided all sales and merchandise are kept within a completely enclosed building and provided there is no installation service provided. Any installation of parts or accessories on vehicles, such as tires, mud flaps, roll bars, bed liners, undercoating, running boards, etc., shall be considered an auto service-repair facility and a special approval use permit shall be required. Installation of alarm systems, stereos, CB radios, automatic vehicle starters, and detail shops with retail adjacent shall not require a special approval use permit.

(23) Tattoo parlors or tattoo establishments, as defined in § 52-5, Definitions R through Z, with a current body art facility license from the State of Michigan. A current license for the location in the City of Port Huron must be kept on file with the City Planning Department. Tattoo parlors or tattoo establishments must comply with all required zoning and building code regulations, fire code regulations and any other applicable federal, state and local codes or ordinances. A tattoo parlor or tattoo establishment is prohibited if the property line of said use is within a five-hundred-foot radius of the property line of another tattoo parlor or establishment.

(24) Retail sales of prefilled propane tanks shall be allowed as an accessory use to a business with the approval of the Planning Director and Fire Marshal. The tanks shall be kept in an enclosed, locked building or caged area adjacent to the main building.

§ 52-383. Permitted uses after special approval. [Code 1975, § 39-73; Code 1992, § 32-303; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337; 9-28-2015 by Ord. No. 15-008;

10-24-2016 by Ord. No. 16-005]

The following uses may be permitted in the C-1 District, subject to the conditions imposed and subject further to the approval of the Planning Commission:

(1) Veterinary hospitals and clinics.

(2) Automobile carwash establishments, including steam cleaning, but not rust proofing, provided off-street waiting space is provided in accordance with § 52-774 and provided further that all applicable requirements of this Code are met.

(3) Drive-in establishments. Entrance to or exit from any such use shall be located at least 35 feet from the intersection of any two streets. Such uses shall have direct access to a major thoroughfare. All lighting or illuminated displays shall not reflect onto any adjacent residential zone, and consideration shall be given to proximity of existing places of congregation of children (e.g., schools) regarding traffic safety and sanitation. A site plan shall be submitted showing the traffic pattern and parking areas. A five-foot buffer with landscaping and a five-foot-high screening fence or masonry wall shall be located between the business and any residentially zoned property when not separated by a street or alley. See the definition of a drive-in establishment in § 52-3.

(4) Automobile fuel stations and auto service or repair facilities, subject to the requirements of § 52-678.

(5) Wholesale stores, rental storage facilities, storage trailers as an accessory use to a storage facility, warehouses, distributing plants, freezers and lockers. A special permit may allow outside storage. Any outside storage shall be completely enclosed by a six-foot-tall solid screening fence, not a slatted chain-link fence. If a six-foot fence does not completely screen the items stored, it is at the discretion of the Planning Department to determine if the stored item shall be removed or allow a taller fence.

(6) Open air business uses as follows, in conformance with § 52-690:

   a. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

   b. Retail sale of fruit and vegetables.

   c. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.

   d. Bicycle, trailer, motor vehicle, boat or home equipment rental services.

   e. Outdoor display and sale of garages, swimming pools and similar uses.

(7) New and used car salesrooms, including outdoor sales space and must certify that the business location meets the expanded established place of business requirements required by the regulations for the State of Michigan. The outside vehicle parking display or sales space and customer parking area must be paved per the requirements in § 52-773. Inoperable vehicles or vehicles used for parts may not

occupy the premises. If there is an automotive service bay connected with this establishment, the business shall be subject to the regulations of § 52-678 for automobile service stations.

(8) Salesrooms, including outdoor sales space, for recreation vehicles, including boats, snowmobiles, travel trailers, campers, tents and accessory equipment.

(9) Planned community shopping centers, provided the following criteria are met:

a. Such center shall consist of a group of establishments engaging exclusively in retail business or service, arranged as a functionally coherent unit, together with appurtenant features, such as parking areas and storage facilities.

b. Such center shall occupy a site of not less than 10 acres.

c. A minimum building setback from the property line of 75 feet each for the front and rear of the building and 50 feet each for the sides of the building.

d. No building or structure shall exceed three stories or 60 feet in height unless approved by the Planning Commission.

e. Public restrooms shall be required in all sit-down restaurants and cocktail lounges.

f. A planting strip of at least 20 feet wide shall be provided around the entire perimeter of the site except for driveways onto the public street system. A wall or barrier of suitable material not less than five feet high shall be constructed along those property lines which abut a residential district.

g. The proposed site shall have at least one property line abutting a major thoroughfare. All ingress and egress to the site shall be directly from such thoroughfare. Turning and approach lanes shall be provided when determined necessary by the Director of Public Works.

h. No main or accessory building shall be situated less than 50 feet from any perimeter property line.

i. A landscape plan which includes the entire site shall be submitted for approval to determine compliance with screening and planting strips.

j. All signs shall be affixed to the face of the building and shall be a uniform design throughout, except that one ground pole sign advertising the name of the shopping center is allowed.

k. All off-street parking shall be within its own area, as specified in Article VI of this chapter, and an internal system of roads and walks which will effectively separate pedestrian and vehicular traffic is required.

l. Outdoor trash containers shall be provided, properly maintained and screened pursuant to § 52-694.

m. All areas accessible to vehicles shall be paved and maintained so as to provide a durable, smooth and well-drained surface.

n. All vehicular and pedestrian areas shall be illuminated during business hours of darkness. All lighting fixtures shall be installed so as to reflect light away from adjoining residential properties.

(10) A public-owned building, public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, water and sewage pumping stations.

(11) Kennels; pet boarding facilities; animal shelters; or animal humane societies. The primary shelter and sleeping accommodations for the animals shall be indoors. Outdoor pet activity areas which are supervised are allowed and shall be screened by a minimum six-foot-high solid screening fence or wall. Landscaping must be maintained between the fence/wall and the property line. The animals must be kept in a clean sanitary condition and must be kept in an air conditioned and/or heated area. The animal must be fed and watered. The City Animal Control Officer will have the right to inspect the business at will to check living accommodations.

§ 52-384. Site plan review. [Code 1975, § 39-74; Code 1992, § 32-304]

For all principal permitted uses in a C-1 District having a site size of one or more acres and for all permitted uses after special approval, a site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Commission in accordance with § 52-697.

§ 52-385. Area, height, bulk and placement requirements. [Code 1975, § 39-75; Code 1992, § 32-305]

Area, height, bulk and placement requirements in the C-1 District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.[11]

§ 52-386. through § 52-410. (Reserved)

11. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

DIVISION 9
CBD Central Business District

§ 52-411. Statement of purpose. [Code 1975, § 39-76; Code 1992, § 32-326]

The CBD Central Business District is intended to permit a variety of commercial, administrative, financial, civic, cultural, residential, entertainment and recreational uses in an effort to provide the harmonious mix of activities necessary to further enhance the CBD District as an urban center.

§ 52-412. Principal permitted uses. [Code 1975, § 39-77; Code 1992, § 32-327; 2-25-1991 by Ord. No. 998; 7-26-1993 by Ord. No. 1042; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005; 6-26-2017 by Ord. No. 17-008; 8-14-2017 by Ord. No. 17-009; 3-25-2019 by Ord. No. 19-003]

In the CBD District, no uses shall be permitted unless otherwise provided in this chapter, except the following:

(1) All principal permitted uses in the C-1 District. Arcades are only allowed as an accessory use to the principal business and are not allowed as the main use. Tattoo parlors or tattoo establishments, as defined in § 52-5, Definitions R through Z, are allowed with a current body art facility license from the State of Michigan. A current license for the location in the City of Port Huron must be kept on file with the City Planning Department. Tattoo parlors or tattoo establishments must comply with all required zoning and building code regulations, fire code regulations and any other applicable federal, state and local codes or ordinances. A tattoo parlor or establishment is prohibited if the property line of said use is within a five-hundred-foot radius of the property line of another tattoo parlor or establishment.

(2) Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings.

(3) Newspaper offices and printing plants.

(4) Business and professional offices.

(5) Government buildings and facilities including City or county jails when residing in the same building as a police or sheriff department.

(6) Other uses which are similar to Subsections (1) through (5) of this section and subject to the following restrictions:

   a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from the premises where produced.

   b. All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

   c. Storage of commodities shall be within buildings and shall not be visible to the public from a street or thoroughfare.

(7) Second- or third-story apartments above existing commercial uses. All living quarters must meet other City codes. Dwelling units are not permitted on the ground floor or basement level. Parking provisions for tenants must be provided as part of the permit process and in accordance with § 52-772. Dwelling unit sizes and number of dwelling units per land size shall be in accordance with the A-2 zoning district, per Division 16, Schedule of Regulations.

(8) Off-street parking lots and structures.

(9) Any use which is not ordinarily allowed in the CBD may be permitted by the City Planning Director as a temporary use which is part of a registered and planned convention or exhibition reserved at McMorran Place, a sports and entertainment center owned and operated by the City of Port Huron. A "temporary use" shall be defined as less than 10 contiguous days.

(10) A dormitory, as defined in § 52-3.

(11) Existing single-family residential dwellings. These dwellings can remain "as is" or be renovated within the walls of the existing structure. The footprint of the structure cannot be increased. An accessory building can be constructed on the property in accordance with § 52-676, Accessory buildings. If damaged by fire, wind, or other accidental means, where the damage exceeds 50% of the state equalized value (SEV), the dwelling can be rebuilt as single-family residence if it is rebuilt within the same footprint and dimensions of the original dwelling. Without prior existence, no new single-family residence may be constructed in the CBD on a vacant lot, unless the residence is on the second or third floor of a new building with a commercial use on the first floor, or unless it is replacing a multifamily structure.

§ 52-413. Permitted uses after special approval. [Code 1975, § 39-78; Code 1992, § 32-328; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 1-23-2006 by Ord. No. 1257; 10-22-2007 by Ord. No. 1280; 6-25-2012 by Ord. No. 1337; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005; 9-10-2018 by Ord. No. 18-017]

The following uses may be permitted in the CBD District subject to site plan approval and the conditions imposed and subject further to the approval of the Planning Commission:

(1) Waterfront uses customarily incidental to recreational boating facilities, including sales, service and mooring facilities, as specified in Division 10 of this article.

(2) Permanent open air uses such as fruit and vegetable markets, provided that such uses do not conflict with surrounding uses, do not create traffic congestion, and are in accordance with the intent of the CBD District.

(3) High-rise residential buildings per the requirements of § 52-282(2) through (5) and § 52-621 requirements for construction in an A-2 District.

(4) Multifamily residential development of three stories or less by definition, and per the requirements of Article III, Division 4 of this chapter, off-street parking is required in accordance with the requirements of Article VI of this chapter for multifamily use. One building may be allowed on the property, if there will be 10

or more owner-occupied units in the structure or with approval from the Planning Director. Commercial use can occupy the first floor with a special permit from Planning Commission. Setbacks, building unit size, and lot density applicable to the A-2 Zoning District shall apply per Division 16, Schedule of Regulations. Setbacks can be waived with a variance from the Zoning Board of Appeals.

(5) Adult entertainment businesses; adult live conduct business (see § 52-416).

(6) Kennels; pet boarding facilities; animal shelters; or animal humane societies. The primary shelter and sleeping accommodations for the animals shall be indoors. Outdoor pet activity areas which are supervised are allowed and shall be screened by a minimum six-foot-high solid screening fence or wall. Landscaping must be maintained between the fence/wall and the property line. The animals must be kept in a clean sanitary condition and must be kept in an air-conditioned and/or heated area. The animal must be fed and watered. The City Animal Control Officer will have the right to inspect the business at will to check living accommodations.

(7) A certified, registered residential rental unit that is rented for less than 30 days, such as a vacation rental, home sharing, or any other transient residential occupancy as defined by this chapter, is allowed after special approval and a public hearing of Planning Commission. The unit must be a certified residential rental unit in conformance with Chapter 10, Article V, Rental Certification, of the City Code of Ordinances. Parking must conform to Article VI of this chapter.

(8) Independent or assisted living facilities. The apartment unit sizes and number of dwelling units per land size shall be in accordance with the high-rise apartment requirements as required in the A-2 Zoning District, per Division 16, Schedule of Regulations. If state licensed, the facility does not have to follow the City Zoning Ordinance regulations for apartment unit sizes.

§ 52-414. Site plan review. [Code 1975, § 39-79; Code 1992, § 32-329; 10-10-2005 by Ord. No. 1253]

For all uses permitted in the CBD District wherein a new building, change in the footprint of the building (new addition), or parking requirement change is necessary, and for all permitted uses after special approval, a site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Commission in accordance with § 52-697.

§ 52-415. Area, height, bulk and placement requirements. [Code 1975, § 39-80; Code 1992, § 32-330]

Area, height, bulk and placement requirements in the CBD District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.[12]

§ 52-416. Adult entertainment businesses and adult live conduct business. [Code 1975, § 39-80.5; Code 1992, § 32-331; 5-24-2010 by Ord. No. 1311]

(a) Preamble. Adult businesses, because of their very nature and when concentrated

12. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

under certain circumstances, have certain operational characteristics causing serious and deleterious effects upon the surrounding areas and between such areas. It is therefore necessary that such uses and the effects thereof will not contribute to the blighting of or the downgrading of the surrounding neighborhood; therefore, this section is enacted for the purposes of regulating the location of such businesses and so as to prevent the concentration of such uses in any one location within the City.

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

ADULT BOOKSTORE or ADULT GIFT STORE — A business having as its principal activity the sale of books, magazines, newspapers and motion-picture films or adult gifts or novelties which are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy.

ADULT ENTERTAINMENT BUSINESS — A business having as its principal service or activity one of the following types of businesses: adult bookstore, adult motion-picture theater, adult mini motion-picture theater, adult personal service business.

ADULT LIVE CONDUCT ACTIVITY — Any work or entertainment activity carried on in a business where the physical human body is nude, as defined in this subsection.

ADULT LIVE CONDUCT BUSINESS — A business, any part of which service or function consists of adult live conduct activity as defined in this subsection, whether as work assignment or entertainment.

ADULT MOTION-PICTURE THEATER — An enclosed building with a capacity of 50 or more persons used for presenting material, for observation by patrons therein, distinguished or characterized by an emphasis on matter depicted, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

ADULT PERSONAL SERVICE BUSINESS — A business, the activities of which include a person of one sex, while nude, as defined in this subsection, providing personal services for another person on an individual basis in a closed room. It includes, but is not limited to, the following activities and services: massage parlors or massage establishment, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. It does not include activities performed by persons pursuant to and in accordance with licenses issued to such persons by the state.**[10-24-2016 by Ord. No. 16-005]**

NUDE — Having less than completely and/or opaquely covered:

(1) Human genitals, pubic region;

(2) Buttocks; and

(3) Female breast below a point immediately above the top of the areola.

SPECIFIED ANATOMICAL AREAS — For the purposes of the definitions of the

terms "adult motion-picture theater" and "adult personal service business" in this subsection, means:

(1) Less than completely and opaquely covered:

a. Human genitals, pubic region;

b. Buttocks;

c. Female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES — For the purposes of the definitions of the terms "adult motion-picture theater" and "adult personal service business" in this subsection, means:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy; and

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

(c) Locations of adult entertainment businesses and adult live conduct businesses. An adult entertainment business and adult live conduct business may be located in the City only in accordance with the following restrictions:

(1) Such businesses shall only be located in a district classified pursuant to this chapter as the CBD District.

(2) No such business shall be established within 500 feet of another adult entertainment business, adult live conduct business, residence, government building, cultural building, civic building or church.

(d) Use regulations. Use regulations are as follows:

(1) No person shall reside in or permit any person to reside in the premises of an adult entertainment business or adult live conduct business.

(2) No person shall operate an adult personal service business unless there is conspicuously posted in each room where such business is carried on a notice indicating the prices for all services performed by such business. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.

(3) No person operating an adult entertainment business or adult live conduct business shall permit it to be used for acts of prostitution or to be frequented by known prostitutes who have been convicted of the act of prostitution within the last 24 months and any customers convicted of being customers of prostitutes within the last 24 months.

(4) No person shall operate an adult personal service business without obtaining a current code compliance license. Such licenses shall be issued by the

administrator or the administrator's designee following an inspection to determine compliance with this Code and upon payment of a license fee as set by resolution of the City Council from time to time. Such a license shall be subject to the regulations contained in this chapter.

(5) No person operating an adult entertainment business or adult live conduct business shall permit any person under the age of 18 years to be on the premises of such business either as an employee or customer.

(6) No person shall become the lessee or sublessee of any property for the purpose of using such property for an adult entertainment business or adult live conduct business without the express written permission of the owner of the property for such use.

(7) No lessee or sublessee of any property shall convert that property from any other use to an adult entertainment business or adult live conduct business without the express written permission of the owner of the property for such use.

§ 52-417. through § 52-445. (Reserved)

DIVISION 10
MD Marina District

§ 52-446. Statement of purpose. [Code 1975, § 39-81; Code 1992, § 32-351]

The MD Marina District is intended to permit the development of water-oriented recreational and boating facilities and accessory retail and service activities, thereby facilitating navigation and providing safe, compatible and economical waterfront development.

§ 52-447. Principal permitted uses. [Code 1975, § 39-82; Code 1992, § 32-352; 8-13-2001 by Ord. No. 1188; 5-11-2009 by Ord. No. 1303; 10-24-2016 by Ord. No. 16-005]

In the MD District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

(1) Public or private development of facilities for the berthing, storage or servicing of boats, yachts, cruisers, inboards, outboards and sailboats.

(2) Accessory buildings and uses customarily incidental to the principal permitted uses in Subsection (1) of this section, including the sleeping or living quarters of security, watchman or caretaker. All accessory buildings subject to the regulations as indicated in § 52-676.

(3) Off-street parking in accordance with Article VI of this chapter.

(4) Retail businesses which supply commodities for persons using the facilities of the district such as the sale of boats, engines, and accessories, fishing equipment and other similar items, and retail sales related to food and beverage items.

(5) Eating and drinking establishments, including retail sales of items related to the establishment, excluding drive-through facilities or establishments with drive-up windows.

(6) Condominium developments per A-1 zoning requirements for one to three stories and A-2 zoning requirements for four or more stories up to a maximum of seven stories.

(7) Hotels and motels, limited to seven stories or less.

§ 52-448. Site plan review. [Code 1975, § 39-84; Code 1992, § 32-354; 5-11-2009 by Ord. No. 1303[13]]

For all uses permitted in an MD District, a site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Commission in accordance with § 52-697, subject to the requirements of Article VI, Off-Street Parking and Loading Requirements, and § 52-692, Greenbelts.

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13. Editor's Note: Ordinance No. 1303, adopted 5-11-2009, repealed § 52-448, and renumbered §§ 52-449 and 52-450 as §§ 52-448 and 52-449. Former § 52-448 pertained to permitted uses after special approval and derived from Code 1975, § 39-83; Code 1992, § 32-353.

§ 52-449. Area, height, bulk and placement requirements. [Code 1975, § 39-85; Code 1992, § 32-355; 5-11-2009 by Ord. No. 1303]

Area, height, bulk and placement requirements in the MD District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.[14]

§ 52-450. through § 52-475. (Reserved)

14. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

DIVISION 11
M-1 Light Industrial District

§ 52-476. Statement of purpose. [Code 1975, § 39-86; Code 1992, § 32-376]

In the M-1 Light Industrial District, the intent is to permit certain industries which are of a light manufacturing character to locate in planned areas of the City. So that such uses may be integrated with nearby land uses, such as commercial and residential uses, limitations are placed upon the degree of noise, smoke, glare, waste, and other features of industrial operations so as to avoid adverse effects. Certain commercial uses which are desirable to service the employees and visitors of the industrial uses are also permitted in this district.

§ 52-477. Principal permitted uses. [Code 1975, § 39-87; Code 1992, § 32-377; 10-24-1994 by Ord. No. 1069; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 1-23-2006 by Ord. No. 1257; 5-24-2010 by Ord. No. 1311; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

Principal permitted uses in the M-1 District are any of the following uses when the operations of the business, manufacturing, compounding or processing is conducted entirely within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding, final product storage or processing shall be totally obscured by a fence and/or landscaping six feet in height so as to screen such storage area from the public streets and adjoining properties. In cases where these properties abut a residential zoning district and a screening fence is used in lieu of landscaping, there shall be a greenbelt of landscaping at the residential property line in front of the fence. Said principal permitted uses are:

(1) Wholesale and warehousing. The sale at wholesale or warehousing of automotive equipment; dry goods and apparel; groceries and related products; raw farm products except livestock; electrical goods; hardware, plumbing, heating equipment and supplies; machinery and equipment; tobacco and tobacco products; paper and paper products; furniture and home furnishings, and any commodity the manufacture of which is permitted in this district;

(2) Industrial establishments as follows:

a. The assembly, fabrication, manufacture, packaging or treatment of products such as food products excluding butchering or animal slaughtering, candy, drugs, cosmetics and toiletries, musical instruments, optical goods, toys, novelties, electrical instruments and appliances, computers, wind turbines or other alternative energy equipment, radios and phonographs, pottery and figurines or other ceramic products using only previously pulverized clay.

b. The assembly, fabrication, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fibre, glass, leather, paper, plastics, precious or semiprecious metals or stones, sheetmetal excluding large stampings such as automobile fenders or bodies, shell, textiles, wax, wire, wood excluding saw and planing mills, and yarns.

c. Tool and die shops; metal working machine shops involving the use of grinding or cutting tools; manufacturing of tools, dies, jigs and fixtures; publishing, printing or forming of box, carton and cardboard products.

d. Laboratories: research or testing, including medical or clinical laboratories.

e. Central dry cleaning plants and laundries.

(3) Public utility uses. Electric transformer stations and substations; electric transmission towers, municipal buildings and uses; gas regulators and municipal utility pumping stations.

(4) Office of a building contractor or construction company. Any storage of goods or equipment must be indoors or totally obscured by a screening fence so the items are not visible from the public or adjacent properties.

(5) Lumber yards or home improvement retail/warehouse facilities. The majority of goods or product must be stored indoors. Any outdoor storage shall be completely enclosed by a six-foot-high screening fence. Items on display for sale, such as gazebos, lawn furniture, garden tractors, etc., may not be displayed in the required front or side yard setbacks.

(6) Indoor storage facilities or warehouses for storage of personal items, or automobiles, including indoor storage of recreational vehicles such as boats, motorhomes, and trailers. No exterior storage shall be allowed.

(7) Accessory buildings and uses customarily incidental to the principal permitted uses in Subsections (1) through (3) of this section, including sleeping or living quarters of security, watchman or caretaker. Storage pods or trailers used for accessory storage for the owner or tenant, located on the same property as an existing building, may be allowed with approval from the Planning Director. Accessory use of tanks to store any liquids, gases, solids, or other similar materials may be allowed with approval by the Planning Director and Fire Marshal. Any tanks that hold combustible or flammable liquids or gases shall be in compliance with Chapter 24, Fire Prevention and Protection, of the City Code of Ordinances, § 24-33. Accessory buildings or tanks shall meet all yard requirements as for accessory structures. All accessory buildings are subject to the regulations as indicated in § 52-676.

(8) Off-street parking in accordance with Article VI of this chapter.

(9) Within the boundaries of the following described industrial parks, the following uses are permitted:

Industrial Park #1 (Business Park #1): That area of land in the City described as lying south of the G.T.W. & C & O railroad right-of-way; west of 16th Street; north of Dove Street; and east of 24th Street. Also property lying south of Dove Street; west of the west line of outlot B, Assessor's Military Street Plat No. 3; north of Cleveland Avenue; and east of 24th Street.

Industrial Park #2 (Business Park #2): Land in the City lying within the following boundaries: beginning at the center line of 26th Street and the south right-of-way line of Dove Street; thence south along such 26th Street center line to the center line of Cleveland Avenue; thence westerly to the west right-of-way line of 28th

Street; thence south to the northeast corner of lot 3, Assessor's Vanness & Moak Street Plat No. 1; thence westerly 317.83 feet; thence northerly 20 feet; thence westerly 296.84 feet; thence southerly 20 feet; thence westerly to the east right-of-way line of 32nd Street (City limits); thence northerly to the south right-of-way line of Dove Street (City limits); thence easterly following the City limits; thence following the City limits line northerly; thence easterly to the east right-of-way line of 24th Street; thence southerly along 24th Street to the south right-of-way line of Dove Street; thence westerly to the center line of 26th Street or point of beginning of this description.

a. No uses in § 52-478 are permitted.

b. Permitted uses shall include all principal permitted uses in this M-1 District except the uses in Subsections (1), (2)e, (4), (5) and (6) of this section.

c. All uses are subject to the following:

1. Such property may be used for industrial purposes, as stated above, but such property shall not be used for the following purposes: acid manufacture; cement, lime, gypsum, or plaster of paris manufacture; distillation of bones, coal, tar, petroleum, refuse, grain, wood; drilling for or removal of oil, gas, or other hydrocarbon substance; explosives manufacture or storage; fat rendering; fertilizer manufacture; garbage, offal or dead animal or fish reduction or dumping; glue manufacture; hog farm; junkyard; smelting of ores; stockyard or slaughter of animals except poultry or rabbits; tannery; or any other use which is objectionable by reason of emission of odor, dust, smoke, gas, vibration, or noise or which may impose a hazard to health or property.

2. No buildings erected on the above-described property shall be nearer than 50 feet to the line of 16th and 20th Streets, nor nearer than 50 feet to the line of Dove Street, nor nearer than 50 feet to the line of any existing or proposed street, nor shall any building be erected nearer than 30 feet to the side lines of such property.

3. No main or accessory building shall be situated less than 50 feet from any residential property line.

4. No building shall exceed a height of three stories or 50 feet, whichever is greater.

5. No parking access and/or service area may be located less than 25 feet from any residential property line.

6. Parking, loading or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park and shall be in accordance with Article VI of this chapter.

7. No loading docks or trucking parking may be located in any required front yard or street side yard setback. Driveways leading to a loading dock are allowed within the yard setback.

8. All lot areas not used for buildings or parking, loading and storage areas

shall be landscaped. It shall be done attractively with lawns, trees, shrubs, etc., and shall be properly maintained thereafter in a well-kept condition.

9. A wall or barrier of suitable material not less than six feet high shall be constructed along those property lines which abut a residential district.

10. A landscape plan which includes the entire site shall be submitted for approval to determine compliance with screening and planting strips.

11. Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors. These facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind.

12. The outdoor storage of equipment, raw materials, semifinished or finished products may be permitted only when such outdoor storage is necessary and incidental to the operations being carried on in the buildings located upon the site. All storage shall be contained to a height and size so as to be shielded by fence or landscaping so as to screen such storage area from the public streets and adjoining properties, or within an enclosed, permanently constructed building of like materials and style of existing building. The Planning Director and Chief Inspector will determine if the fencing or landscaping is adequate. No temporary buildings (tarps, tents, huts, etc.) shall be used for storage, nor shall storage be in an unenclosed permanently constructed building.

§ 52-478. Permitted uses after special approval. [Code 1975, § 39-88; Code 1992, § 32-378; 10-10-2005 by Ord. No. 1253; 1-23-2006 by Ord. No. 1257; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005; 10-9-2017 by Ord. No. 17-015; 4-23-2018 by Ord. No. 18-007]

The following uses may be permitted in the M-1 District, subject to the conditions imposed and subject further to the approval of the Planning Commission:

(1) Eating and drinking establishments when food or beverage is consumed within a completely enclosed building. Establishments with a character of drive-in or open-front store are prohibited.

(2) Barbershops and beauty shops.

(3) Truck tractor and trailer sales, rental and repair.

(4) New automobile rental and leasing agency; new and used car salesrooms, including outdoor sales space in accordance with § 52-383, and must certify that the business location meets the expanded established place of business requirements required by the regulations for the State of Michigan and Public Act 495 of 2004 (or most-current state regulations). Inoperable vehicles or vehicles used for parts may not occupy the premises. If there is an automotive service bay connected with this establishment, the business shall be subject to the regulations of § 52-678 for automobile service stations.

(5) Motels.

(6) Automobile fuel stations, and automobile service or repair facilities, in accordance with § 52-678.

(7) Drive-in theaters, provided that:

a. Any such site is adjacent to a major thoroughfare;

b. There shall be no vehicular access to any residential street;

c. Suitable screening shall be provided to ensure that there shall be no highlight or other illumination directed upon any residentially zoned or developed property;

d. The picture is not visible from a major thoroughfare; and

e. Any such drive-in theater site shall be located no closer than 500 feet to any residentially zoned or developed property.

(8) Dog kennels; pet boarding facilities; animal shelters; or animal humane societies. The primary shelter and sleeping accommodations for the animals shall be indoors. Outdoor pet activity areas which are supervised are allowed and shall be screened by a minimum six-foot-high solid screening fence or wall. Landscaping must be maintained between the fence/wall and the property line. The animals must be kept in a clean, sanitary condition and must be kept in an air-conditioned and/or heated area. The animal must be fed and watered. The City Animal Control Officer will have the right to inspect the business at will to check living accommodations.

(9) Outdoor recreational vehicle storage yards for storage of boats, motor homes, and travel trailers. All exterior storage shall be completely enclosed by a six-foot-high screening fence.

(10) Equipment rental facilities.

(11) Truck and bus terminals. Any outdoor storage of trucks or buses shall be enclosed by a six-foot-high screening fence.

(12) Indoor recreational facilities, such as sports arenas.

(13) Rental storage facilities requiring exterior storage space. All exterior storage shall be completely obscured by a six-foot-high screening fence so as not to be seen by the public or adjacent properties.

(14) Probation, parole, rehabilitation, or recovery facilities, as defined in §§ 52-4 and 52-5, and subject to the following conditions:

a. Any new construction shall be built in accordance with the Schedule of Regulations, § 52-621,[15] for a new multifamily structure for the A-1 Zone in regards to setbacks, lot size, coverage, and density, building size, etc., and shall not be located within a radius of 1,500 feet of a residential dwelling, a residential zoning district, a school, a shelter where children may reside, or a

15. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

day-care center, playground or public park.

b. A site plan shall be submitted indicating the location of the buildings, property lines, parking, and recreation areas. For all new construction, an engineered site plan shall be submitted and a site plan review shall be required.

c. A floor plan shall be submitted indicating the layout of sleeping areas, rooms, or apartments, and sanitary and kitchen facilities. Any new construction shall be in accordance with the applicable building code.

d. A parking lot shall be provided, including one parking space for every employee and one for every two residents. A variance from the Zoning Board of Appeals may be obtained to allow for fewer parking spaces. Parking is not allowed in the front yard. Parking shall be in accordance to Article VI of this chapter.

e. An outdoor recreation area shall be located on site.

f. The entire site shall be enclosed with a six-foot-high screening fence at the property line. At the street property line, the fence shall be set back in line with the adjacent building.

(15) Sorting or recycling facilities that reprocess paper, metal, glass, and other recyclable materials. All materials, equipment, and vehicles shall be stored inside of a building.

(16) Transitional housing facility/homeless shelter, as defined in § 52-5, and subject to the following conditions:

a. For any facility, interior changes, additions or change to the footprint, a floor plan shall be submitted indicating the layout of sleeping areas, rooms, or apartments, and sanitary and kitchen facilities. Any new construction shall be in accordance to the applicable building code.

b. A site plan shall be submitted indicating the location of the buildings, property lines, parking, and recreation areas.

c. All facilities must be certified by the Building Inspection Division and meet all fire, building, health, and safety codes.

d. A parking lot shall be provided, including one parking space per staff member, one for every three individual residents, and one space per family. A variance from the Zoning Board of Appeals may be obtained to allow for fewer parking spaces. Parking is not allowed in the front yard. A five-foot-high screening fence, wall, or solid shrubs shall be constructed around the parking lot at the property line between said lot and any adjacent residential properties. Parking shall be in accordance with Article VI of this chapter.

(17) Automotive or vehicle towing facilities. There shall be no more than 10 vehicles stored on the premises at any given time. All vehicles must be kept indoors or within a six-foot-tall solid screening fence. This fence shall conform to the setback regulations of the zoning district. Any vehicles which are left overnight, including service vehicles, shall be parked indoors or within a six-foot-tall solid screening

fence. No vehicles, stored or in service, may be left outdoors in public view overnight. All parking must conform to the zone; no front yard parking is allowed. Vehicles may not be stored for more than 60 days.

§ 52-479. Compliance with other governmental regulations. [Code 1975, § 39-89; Code 1992, § 32-379]

Any use permitted in the M-1 District must also comply with all applicable federal, state, county and City health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter.

§ 52-480. Site plan review. [Code 1975, § 39-90; Code 1992, § 32-380; 10-10-2005 by Ord. No. 1253]

For all uses permitted in an M-1 District wherein a major addition to the building requiring parking lot changes are required or a new building is constructed, and for all permitted uses allowed after special approval, a site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Commission in accordance with § 52-697.

§ 52-481. Area, height, bulk and placement requirements. [Code 1975, § 39-91; Code 1992, § 32-381]

Area, height, bulk and placement requirements in the M-1 District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.[16]

§ 52-482. through § 52-505. (Reserved)

16. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

DIVISION 12
M-2 General Industrial District

§ 52-506. Statement of purpose. [Code 1975, § 39-92; Code 1992, § 32-401]

The intent of the M-2 General Industrial District is to permit certain industrial uses to locate in desirable areas of the City, which uses are primarily of a manufacturing, assembling and fabricating character, including large-scale or specialized industrial operations requiring good access by road and/or railroad and needing special sites or public and utility services. Reasonable regulations apply to users in this district so as to permit the location of industries which will not cause adverse effects on residential and commercial areas in the City.

§ 52-507. Principal permitted uses. [Code 1975, § 39-93; Code 1992, § 32-402; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

In the M-2 District, no uses shall be permitted, unless otherwise provided in this chapter, except the following:

(1) All principal permitted uses in the M-1 District.

(2) Industrial establishments as follows:

a. The assembly and/or manufacture of automobiles; automobile bodies, parts and accessories; cigars and cigarettes; electrical fixtures, batteries and other electrical apparatus and hardware.

b. Processing, refining or storage of food and foodstuffs.

c. Breweries, bumpshops, distilleries, machine shops, metal buffing, plastering and polishing shops, millwork lumber and planing mills, painting and sheetmetal shops, undercoating and rustproofing shops and welding shops.

d. Automobile bumpshops, tire vulcanizing and recapping shops. Automobile fuel stations, and automobile service or repair facilities, in accordance with § 52-678.

e. Accessory buildings and uses customarily incidental to the permitted principal uses in Subsections (1) and (2)a through (2)d of this section, including living quarters of a watchman or caretaker. All accessory buildings are subject to the regulations as indicated in § 52-676.

f. Any other uses similar to any of the principal permitted uses in Subsections (1) and (2)a through (2)e of this section.

g. Heating and electric power generating plants and all accessory uses; coal, coke and fuel yards subject to § 52-508(2); water supply and sewage disposal plants also subject to § 52-508(2).

§ 52-508. Permitted uses after special approval. [Code 1975, § 39-94; Code 1992, § 32-403; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 6-25-2012 by Ord. No. 1337; 9-28-2015 by Ord. No. 15-008;

10-24-2016 by Ord. No. 16-005]

The following uses may be permitted in the M-2 District subject to the conditions imposed and subject further to the approval of the Planning Commission:

(1) All permitted uses after special approval in the M-1 District subject to the terms and conditions imposed therein, except for automobile fuel stations, and automobile service or repair facilities.

(2) Open storage yards of construction contractor's equipment and supplies, building materials, sand, gravel or lumber in accordance with the following:

   a. Such uses shall be located at least 200 feet from any residential district.

   b. If it is deemed essential by the Planning Commission to prevent loose materials from blowing into adjacent properties, a fence, tarpaulin or obscuring wall of dimensions and materials specified by the Planning Commission shall be required around the stored material.

   c. No required yard spaces shall be used for the storage of equipment or material.

(3) Junkyards.

(4) Mining, excavating or other removal of sand, earth, minerals or other material naturally found in the earth.

(5) Tank farms for storage of materials such as gas, propane, fuel oil, or any other liquids, gases, or solids. Any tanks that hold combustible or flammable liquids or gases shall be in compliance with Chapter 24, Fire Prevention and Protection, of the City Code of Ordinances, § 24-33. Any structures must be set back per the requirements for a building. Fencing and/or screening shall be required for the security and aesthetics of the adjacent properties as determined by the Planning Director and/or Planning Commission.

(6) The cultivation of agricultural products within a completely enclosed building, such as a greenhouse used to grow flowers or vegetable plants. Products must not be sold retail from the site. Only products that can be legally grown per the City, state, and federal law shall be allowed; any necessary licensing shall be required. The City Fire Marshal shall approve all buildings for occupancy before an occupancy permit can be issued by the Inspection Department.

§ 52-509. Compliance with other governmental regulations. [Code 1975, § 39-95; Code 1992, § 32-404]

Any use permitted in the M-2 District must also comply with all applicable federal, state, county and City health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation, drifting and airborne matter.

§ 52-510. Site plan review. [Code 1975, § 39-96; Code 1992, § 32-405; 10-10-2005 by Ord. No. 1253]

For all uses permitted in an M-2 District wherein a major addition to the building

requiring parking lot changes are required or a new building is constructed, and for all permitted uses allowed after special approval, a site plan shall be submitted, and no building permit shall be issued until the site plan has been approved by the Planning Commission in accordance with § 52-697.

§ 52-511. Area, height, bulk and placement requirements. [Code 1975, § 39-97; Code 1992, § 32-406]

Area, height, bulk and placement requirements in the M-2 District, unless otherwise specified, are as provided in § 52-621 pertaining to the Schedule of Regulations.[17]

§ 52-512. through § 52-540. (Reserved)

17. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

DIVISION 13
I Institutional District[18]

§ 52-541. Statement of purpose. [Ord. No. 1311, 5-24-2010; 9-28-2015 by Ord. No. 15-008]

The Institutional District is designated specifically for Lake Huron Medical Center and McLaren Port Huron Hospital to allow development and expansion of the hospitals and related principal permitted uses as listed below. Said district shall be the area adjacent to each existing hospital campus for which the hospitals have submitted an approved Master Plan.

§ 52-542. Permitted principal uses. [Ord. No. 1311, 5-24-2010; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005; 9-10-2018 by Ord. No. 18-017]

The following uses of buildings and premises shall be permitted in the I Institutional District, provided that a plan of development (a master plan) shall be required when the property devoted to any use, other than a single-family dwelling, exceeds one acre in area:

(1) Single-family detached dwellings, provided that the regulations applicable to such uses in the R District shall be met. Certified, registered residential rental units are allowed and must conform to all City codes and ordinances, specifically Chapter 10, Article V, Rental Certification, of the City Code of Ordinances.

(2) Child and adult care centers, provided that the requirements applicable to such uses are met in regards to setbacks and parking requirements.

(3) Churches, chapels and other places of worship; adjunct residential and administrative facilities and other uses operated by or in conjunction with religious institutions.

(4) Public and private nonprofit schools and educational institutions, including residential units, classroom, administrative, recreational and student service facilities owned by or operated under the control of such school or institution.

(5) Libraries, museums and similar uses operated by public or nonprofit agencies.

(6) Hospitals, doctors' offices, public health clinics, extended care facilities, an office of a rehabilitation clinic with no on-site living quarters, psychiatric hospitals or recovery centers for the mentally disabled, sanitaria, nursing homes, memory care facilities, homes for the aged, and pharmacies. A licensed massage therapist may conduct business within the walls of a hospital, doctor's office, medical clinic, nursing home. Medical laboratories or medical testing facilities are allowed, including blood plasma donation centers.

(7) Philanthropic, charitable and eleemosynary institutions.

(8) Parks, recreational facilities, auditoriums and similar uses and structures owned or

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18. Editor's Note: Ordinance No. 1311, adopted 5-24-2010, amended Div. 13 in its entirety as set out herein. The former Div. 13 pertained to similar subject matter and derived from the Code of 1975, §§ 39-154 — 39-161; the Code of 1992, §§ 32-706 — 32-713; Ord. No. 1188, adopted 8-13-2001; Ord. No. 1280, adopted 10-22-2007.

operated by a governmental agency.

(9) Off-street parking areas serving uses permitted in this district, subject to the approval of the Planning Department.

(10) Rights-of-way, easements and appurtenances for public utilities and public transportation.

(11) Any existing structure may be used for any of the permitted uses in this section, subject to meeting the off-street parking requirements of § 52-772.

(12) Independent or assisted living facilities. The apartment dwelling unit sizes and number of dwelling units per land size shall be in accordance with the high-rise apartment requirements as required in the A-2 Zoning District, per Division 16, Schedule of Regulations. If state licensed, the facility does not have to follow the City zoning ordinance regulations for apartment unit sizes.

§ 52-543. Permitted accessory uses and structures. [5-24-2010 by Ord. No. 1311]

Accessory uses and structures customarily incidental and clearly subordinate to permitted principal uses, including any accessory use or structure permitted in the A-1 District as set forth in § 52-252 of this article, shall be permitted in the I District.

§ 52-544. Master plan requirements. [5-24-2010 by Ord. No. 1311; 9-28-2015 by Ord. No. 15-008; 6-26-2017 by Ord. No. 17-005]

The Planning Commission shall not recommend to the Council inclusion of any property in an I District until a master plan for development of the property involved has been approved by the Commission. A master plan shall be submitted to the Commission by the owner of the property concurrent with a rezoning request to the ordinance to include the property in the I District. The plan shall constitute a scaled graphic representation of the following information together with necessary explanatory material:

(1) The boundaries of the area involved and the ownership of properties contained therein, as well as all existing public streets and alleys within and adjacent to the site.

(2) The location and use of all existing buildings on the site, as well as the approximate location, height, dimensions and general use of all proposed buildings or major additions to existing buildings. For a site in excess of 10 acres, only the location and use of existing buildings and the general location, extent and use of proposed buildings or major additions to existing buildings need be shown.

(3) The location of all existing parking facilities and the approximate location of all proposed parking facilities, including the approximate number of parking spaces at each location and all existing and proposed means of vehicular access to parking areas and to public streets and alleys. Any proposed changes in the location, width or character of public streets and alleys within and adjacent to the site shall also be shown on the plan.

(4) The general use of major existing and proposed open spaces within the site and specific features of the plan, such as screening, buffering or retention of natural

areas, which are intended to enhance compatibility with adjacent properties.

§ 52-545. Action of Planning Commission. [5-24-2010 by Ord. No. 1311; 9-28-2015 by Ord. No. 15-008]

(a) The Planning Commission shall approve the master plan when it finds, after receiving a report from the Planning Director and after holding a public hearing thereon, that the development shown on the master plan is in compliance with the requirements of the I District and other applicable sections of this chapter and that such development:

(1) Will adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property;

(2) Will not unreasonably impair an adequate supply of light and air to adjacent property;

(3) Will not unreasonably increase congestion in streets; and

(4) Will not increase public danger from fire or otherwise unreasonably affect public safety.

(b) The action of the Commission shall be based upon finding of fact which shall be reduced to writing and preserved among its records. The Commission shall submit to the Council a copy of its finding and a recommendation of the master plan amendment, together with its recommendation relative to the ordinance to include the property in the I District. The City Council shall then, if it agrees, proceed in rezoning the amended property to the I District.

§ 52-546. Compliance with master plan. [5-24-2010 by Ord. No. 1311; 9-10-2018 by Ord. No. 18-017]

Upon submission of a master plan for institutional development as set forth in this division and inclusion of the property in an I District, no plan of development shall be approved nor shall any building permit or occupancy permit be issued unless such is deemed to be in compliance with this chapter and substantially in accordance with the submitted master plan or subsequent amendment thereto, if the development is on hospital-owned property. A site plan for any proposed structures or parking lots shall be submitted to the Planning Department for review before making application for a building permit.

§ 52-547. Permitted signs. [5-24-2010 by Ord. No. 1311; 10-24-2016 by Ord. No. 16-005]

The following signs shall be permitted in the I District:

(1) Any sign permitted in the C-1 District as set forth in § 52-830 of this chapter, when located on properties that are not used for residential purposes.

(2) For any property used for residential purposes, a sign may be allowed that is permitted in the residential zone per § 52-829, Signs allowed in residential districts.

§ 52-548. Yards. [5-24-2010 by Ord. No. 1311; 9-28-2015 by Ord. No. 15-008]

(a) Front yard. In the I District, there shall be a front yard setback for buildings and parking lots with a depth of not less than 25 feet. In the front yard, single- and two-family dwellings may be built in line with the average setbacks of adjacent dwellings.

(b) Side and rear yards. Side and rear yards for uses other than single-family dwellings shall be provided as set forth in § 52-621, except that any such building additions shall be distant at least 50 feet from any lot not zoned institutional and not separated by a street. Street side yard setbacks for buildings and parking lots shall be 12 1/2 feet. Side yards for a single-family dwelling shall be 10% of the lot width with a ten-foot maximum required setback.

(c) Landscaping. There shall be landscaping at the perimeter of the property and between any nonresidential use and a residential use. There shall be landscaping around all sides of a parking lot, including the street side, with the exception of the side of the parking lot facing the institutional building. The buffer of landscaping shall be on the private property, not in the City right-of-way. This landscaping shall consist of a mixture of shrubs and trees a minimum of three feet tall at the time of planting. There shall be a buffer strip with a minimum of a five-foot-high solid screening fence, solid continuous landscaping, or masonry wall between any residential area and the Institutional Zone property where a parking lot or building exists. A landscape plan shall be approved by the Planning Department before a building permit shall be issued.

§ 52-549. Lot coverage. [5-24-2010 by Ord. No. 1311]

Maximum lot coverage in the I District shall not exceed 50% of the area of the lot.

§ 52-550. Permitted uses after special approval. [10-24-2016 by Ord. No. 16-005]

The following uses shall be permitted in the I District subject to the conditions imposed and subject further to the approval of the Planning Commission:

(1) In an existing residential structure, a certified, registered residential rental unit that is rented for less than 30 days, such as a vacation rental, home sharing, or any other transient residential occupancy as defined by this chapter, is allowed after special approval and a public hearing of the Planning Commission. The unit must be a certified residential rental unit in conformance with Chapter 10, Article V, Rental Certification, of the City Code of Ordinances. A site plan shall be submitted to indicate parking on the property. The Planning Commission has the right to impose contingencies, such as a screening fence, on the property. Hotels and motels are not allowed.

(2) A residential structure owned by a nonprofit organization to rent out units for families whose family members are receiving short-term or long-term care or treatment in the hospital or local medical center. Such structure shall conform to all City codes and ordinance and shall be a certified, registered residential rental unit as dictated in Chapter 10, Article V, Rental Certification.

§ 52-551. Site plan review. [9-10-2018 by Ord. No. 18-017]

For all uses permitted in an I District, except single- and two-family dwellings, which are not part of the hospital's approved master plan, no building permit shall be issued until the site plan has been approved by the Planning Commission, in accordance with § 52-697.

§ 52-552. through § 52-575. (Reserved)

DIVISION 14
Historic Districts

§ 52-576. Purpose. [Code 1992, § 32-730(a); 2-22-1999 by Ord. No. 1157]

The purpose of this division is to:

(1) Safeguard the heritage of the City by preserving one or more historic districts in the City that reflect elements of the City's history, architecture, engineering, archaeology, or culture;

(2) Stabilize and improve property values in such districts and the surrounding areas;

(3) Foster civic beauty;

(4) Strengthen the local economy; and

(5) Promote the use of historic districts for the education, pleasure and welfare of the citizens of the City.

§ 52-577. Definitions. [Code 1992, § 32-730(b); 2-22-1999 by Ord. No. 1157; 10-10-2005 by Ord. No. 1253]

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

ALTERATION — Work that changes the detail of a resource but does not change its basic size or shape.

CERTIFICATE OF APPROPRIATENESS — The written approval of a permit application for work that is appropriate and that does not adversely affect a resource.

COMMISSION — The Historic District Commission.

COMMITTEE — The Historic District Study Committee appointed by the City Council.

DEMOLITION — The razing or destruction, whether entirely or in part, of a resource and includes but is not limited to demolition by neglect.

DEMOLITION BY NEGLECT — Neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

DENIAL — The written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

HISTORIC DISTRICT — An area, or group of areas not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archeology, engineering or culture, as approved by the City Council. A historic landmark as defined in this section shall be considered a historic district for purposes of this division and state law.

HISTORIC LANDMARK — A historic landmark (resource) as designated by the federal or state government and the local Historic District Commission and is, therefore, deemed to be its own historic district. A historic district which contains only one

resource (landmark) is subject to the requirements and restrictions of this division.

HISTORIC PRESERVATION — The identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering or culture.

HISTORIC RESOURCE — A publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archeology, engineering or culture of the City.

NOTICE TO PROCEED — The written permission issued by the Historic District Commission for work to be performed within a historic district which is otherwise inappropriate when the Commission has found the proposed work to be necessary, pursuant to a finding under § 52-581.

OPEN SPACE — Undeveloped land, a naturally landscaped area, or a formal or man-made landscape area that provides a connective link or a buffer between resources.

ORDINARY MAINTENANCE — Keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this division.

PROPOSED HISTORIC DISTRICT — An area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

REPAIR — To restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this division.

RESOURCE — One or more publicly or privately owned historic or nonhistoric buildings, structures, sites, objects, features or open spaces located within an historic district.

WORK — Construction, addition, alteration, repair, moving, excavation or demolition.

§ 52-578. Boundaries of districts. [Code 1992, § 32-731; 2-22-1999 by Ord. No. 1157; 5-14-2001 by Ord. No. 1183; 10-22-2001 by Ord. No. 1189]

(a) Military Road Historic District. The boundaries of the Military Road Historic District are as follows:

Beginning at the southeast corner of block 73, White Plat; thence westward to the centerline of the alley at the south line of block 55, White Plat; thence north to a point east of the north line of lot 23, block 55; thence west to the east line of block 42, White Plat; thence south to the southeast corner of that block; thence west to the southwest corner of that block; thence north to the northwest corner of that block; thence east to a point directly south of the centerline of the vacated alley of block 41, White Plat; thence north to a point due west of the north line of lot 13, block 41, White Plat; thence due east to the centerline of Military Street; thence north along the centerline of Military Street, continuing across the bridge on the

centerline of Huron Avenue to a point directly east of the southernmost point of block 16, Butler Plat; thence west to the southernmost point of block 16, Butler Plat; thence northwesterly along the southwest side of block 16 to the west line of lot 2, block 16; thence north to the southeast corner of lot 9, block 16; thence west along the south line of lots, 9, 10, and 11; thence northwesterly along the south line of lots 12, 13, and 14 to a point directly south of a point on the north line of lot 14, that is 26 feet west of the east line of lot 14; thence due north to the point on the north line of lot 14, that is 26 feet west of the east line of lot 14, thence east along the north line of block 16, Butler Plat, to a point directly south of the west line of block 17, Butler Plat; thence north to the north line of McMorran Boulevard; thence west to the southwest corner of block 26, Butler Plat; thence north along the west line of block 26, Butler Plat, to the north line of such block; thence east to a point directly south of the west line of lot 1, block 18, Butler Plat; thence north to the southeast corner of lot 9, block 18, Butler Plat; thence west to the southwest corner of lot 9; thence north to the northwest corner of lot 7; thence east to the northeast corner of such lot 7, block 18; thence north to the southwest corner of lot 1, block 19, Butler Plat; thence west 9.58 feet; thence north 42 feet; thence west 8.82 feet; thence north eight feet; thence west 31.6 feet; thence north to the north line of lot 11, block 19, Butler Plat; thence east to the centerline of Huron Avenue; thence south to a point directly west of the north line of block 12, Butler Plat; thence east to the centerline of Michigan Street; thence south along such centerline to the northeast side of block 1, Butler Plat; thence southeasterly to the east corner of lot 6, block 1, Butler Plat; thence southwesterly to the south corner of lot 6, block 1, Butler Plat; thence southeasterly across the Black River to the east corner of lot 7, block 93, White Plat; thence northwesterly 101.5 feet; thence southwesterly to a point on the southwest side of block 93 that is 101.5 feet northwest of the south corner of lot 7, block 93, White Plat; thence south to the northeast side of block 58, White Plat; thence southeasterly to the northeast corner of block 58, White Plat; thence south to the northeast corner of block 60, White Plat; thence east to the northeast corner of block 73, White Plat; thence south to place of beginning.

(b) Olde Town Historic District. The boundaries of the Olde Town Historic District are as follows:

Beginning at the northeast corner of block 39, White Plat; thence west to the northwest corner of lot 2, block 22; thence south to the southwest corner of lot 13, block 22; thence southerly to a point 14 feet due west of the northeast corner of lot 2, block 23, White Plat; thence due south to the south line of lot 2, block 23; thence due west to the southeast corner of lot 1, block 16, White Plat; thence due north 26 feet; thence due west to the west line of lot 1, block 16; thence due south to the southwest corner of lot 1, block 16; thence due west to the center of Tenth Street; thence due south to a point due west of the centerline of the alley of block 15, White Plat; thence due east to the northwest corner of lot 13, block 24, White Plat; thence due south to a point 76 feet north of the south line of lot 13; thence due east 44 feet; thence due south to the south line of block 24; thence southerly to a point ten feet west of the northeast corner of lot 2, block 25, White Plat; thence due south 95 feet; thence due west to the west line of lot 2, block 25; thence due south to the south line of block 25; thence due east to the southeast corner of lot 16, block 36, White Plat; thence due north to a point directly west of the southwest corner of lot 1, block 44, White Plat; thence due east to west line of lot 14, block 44, White Plat;

thence due south to a point 46.2 feet south of the northwest corner of lot 13, block 44; thence due east 41 feet; thence due north to a point 4.8 feet south of the north line of lot 13, block 44; thence due east to the east line of lot 13; thence easterly to the southwest corner of lot 1, block 53, White Plat; thence due east 60 feet; thence due south to the south line of lot 2, block 53; thence due east to the centerline of the alley of block 53; thence due north to the north line of block 53; thence northerly to the centerline of the alley at the south line of block 54, White Plat; thence due north to a point east of the north line of lot 23, block 55, White Plat; thence west to the east line of block 42, White Plat; thence south to the southeast corner of block 42; thence west to the southwest corner of block 42; thence north to the northwest corner of block 42; thence west to the northeast corner of block 38; thence north to the place of beginning.

§ 52-579. Regulation of resources. [Code 1992, § 32-732; 2-22-1999 by Ord. No. 1157]

There shall be no construction, addition, alteration, repair, moving, excavation, or demolition of a resource within any designated historic districts within the City, unless such action complies with the requirements set forth in this division.

§ 52-580. Historic District Commission. [Code 1992, § 32-733; 2-22-1999 by Ord. No. 1157; 3-22-1999 by Ord. No. 1161; 5-24-2010 by Ord. No. 1311]

(a) Created. In order to execute the purposes declared in this division, there is hereby created a commission to be called the "Historic District Commission."

(b) Membership; compensation; removal. The Historic District Commission shall consist of nine members whose residence is located in the City. They shall be appointed by the City Council for terms of office of three years on a staggered-term basis. At least two members of the Commission shall be appointed from a list of citizens submitted by a duly organized and existing preservation society. The Commission shall include, if available, a graduate of an accredited school of architecture who has two years of architectural experience or who is an architect registered in this state. A majority of the members of the Commission shall have a clearly demonstrated interest in and knowledge of historic preservation. A vacancy occurring in the membership of the Commission for any cause shall be filled within 60 calendar days by a person appointed by the City Council for the unexpired term. The members of the Commission shall serve without compensation. Any member of the Commission may be removed by vote of the City Council for inefficiency, neglect of duty, conflict of interest, or malfeasance in office, after due consideration by the City Council.

(c) Duties and powers. Duties and powers of the Commission shall be as follows:

(1) It shall be the duty of the Commission to review all plans for the construction, addition, alteration, repair, moving, excavation or demolition of structures in the historic district, and it shall have the power to act upon such plans before a permit for such activity can be granted. In reviewing the plans, the Commission shall follow the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as set forth in 36 CFR 67, or their equivalent as approved or established by the State

Historical Center, formerly the Bureau of Michigan History, of the State Department of History, Arts and Libraries, and shall also give consideration to the following:

a. The historic or architectural value and significance of the historic resource and its relationship to the historic value of the surrounding area.

b. The relationship of the exterior architectural features of such historic resource to the rest of the resource and to the surrounding area.

c. The general compatibility of the exterior design, arrangement, texture and materials proposed to be used.

d. Any other factor, including aesthetics, which it deems pertinent.

(2) The Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the City Council or unless interior work will cause visible changes to the exterior of the historic resource. The Commission shall not disapprove applications except in regard to considerations as set forth in Subsection (c)(1) of this section.

(3) The Commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff, to the inspector of buildings, or to another delegated authority. The Commission shall provide to such delegated authorities specific written standards for issuing the certificates of appropriateness under this subsection. On at least a quarterly basis, the Commission shall review the certificates of appropriateness, if any, issued for work by its staff, the inspector, or another authority to determine whether or not the delegated responsibilities should be continued.

(4) If an application is for work that will adversely affect the exterior of a resource the Commission considers valuable to the City, state, or nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the City, state, or nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

(5) If all efforts by the Commission to preserve a resource fail or if it is determined by the City Council that public ownership is most suitable, the City Council, if considered to be in the public interest, may acquire the resource using public funds, downtown development association (DDA) funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. Such an acquisition shall be based upon the recommendation of the Commission. The Commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the City Council. Upon recommendation of the Commission, the City may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

(d) Rules. Rules of the Commission are as follows:

(1) The Historic District Commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines for resource treatment to carry out its duties under this division.

(2) All meetings of the Commission shall be open to the public, and any person or his or her duly constituted representative shall be entitled to appear and be heard on any matter before the Commission prior to its reaching a decision.

(3) Applicants may file supporting documentation in addition to the required forms and may be represented by legal counsel. An applicant may present testimony in support of his or her application from architects, engineers, or other qualified persons. If the applicant desires the Commission to consider especially voluminous testimony, the Commission may require that the testimony be presented in writing. Two copies of all supporting documents must be submitted.

(4) Public notice of the time, date and place of meetings shall be given in the manner required by Public Act No. 267 of 1976 (MCL 15.261 et seq.). A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.

(5) The Commission shall keep a record of its resolutions, proceedings, and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act No. 442 of 1976 (MCL 15.231 through 15.246).

(6) The Commission shall submit an annual report to the City Council of the general activities of the Commission and shall submit such special reports as requested by the City Council.

§ 52-581. Procedure for review of plans. [Code 1992, § 32-734; 2-22-1999 by Ord. No. 1157; 5-24-2010 by Ord. No. 1311]

(a) Filing of application. A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within an historic district or any work affecting the interior arrangements, if this work causes visible change to the exterior of the resource. Any person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do work shall file an application for a permit with the City Inspection Division. The application shall be referred together with all required supporting materials that make the application complete to the Historic District Commission for consideration at the next regularly scheduled meeting. A permit shall not be issued and proposed work shall not proceed until the Commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this division.

(b) Contents of application. A complete application shall include the following:

(1) A completed permit application.

(2) A completed Historic District Commission application form, together with the following:

a. Accurate drawings, photos, color samples, material samples, or any other exhibits which would be helpful to the Commission in reviewing the application.

b. Any drawings submitted in support of the application shall be drawn to scale with accurate dimensions and accurate site locations. The drawings shall accurately indicate relationships to adjacent structures; descriptions or samples of colors, textures, finishes and quality of material to be used on visible exterior areas.

c. Any other construction documents or samples which the Commission finds to be necessary for the proper review of the permit application.

(c) Incomplete applications. If the Historic District Commission application is incomplete, the Commission shall so inform the applicant and shall state what additional information and/or documents the Commission requires to complete the application.

(d) Action upon application. The Historic District Commission shall review the application according to the duties and powers specified in this division. In reviewing the application, the Commission must make every effort to confer with the applicant. No fee shall be charged to process an application through the Commission beyond the existing Inspection Division fees. The failure of the Commission to act within 60 calendar days after the date a complete application is filed with the Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be considered to constitute approval, and the Inspection Division shall proceed to process the application as if the Commission had issued a certificate of appropriateness or a notice to proceed.

(e) Approval of application. If the Commission finds such proposed work appropriate, it shall issue a certificate of appropriateness determination which is to be signed by the Planning Director, attached to the application for a building permit, application, and all submitted documentation, and immediately transmitted to the Inspection Division. After the certificate of appropriateness determination has been issued and the building permit granted to the applicant, the City Inspection Division shall inspect the work permitted and shall take such action as is necessary to enforce compliance with the approved plans. Approval of the permit shall be in addition to any other building, plumbing, electrical or mechanical permit required by ordinance or state law.

(f) Denial of application. If the Commission finds proposed work inappropriate, it shall issue a denial determination and shall state its reasons for doing so and shall transmit a record of such action and reasons therefor in writing to the Inspection Division and to the applicant. The Commission may suggest appropriate alternatives to the applicant if it issues a denial. The applicant may make modifications to the permit application and shall have the right to resubmit the application at any time after so doing. A denial of an application shall be binding on the Planning Department, Building Inspector or any such other relevant authority, and a permit shall not be issued. A denial of an application shall also include a notice to the applicant of the rights of appeal.

(g) Repair or ordinary maintenance and prior permit work. Nothing in this division

shall be construed to prevent repair or ordinary maintenance, as defined in § 52-777, of a resource within the historic district or to prevent work on any resource under a permit issued by the City Inspection Division before the enactment of the ordinance from which this division is derived.

(h) Notice to proceed. Work within an historic district which may otherwise be inappropriate may be permitted through the issuance of a notice to proceed determination by the Commission if any of the following conditions prevail and if the proposed work is found by the Commission to be necessary to substantially improve or correct any of the following:

(1) The resource constitutes a hazard to the safety of the public or the occupants of a structure;

(2) The resource is a deterrent to a major improvement program which will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing and environmental clearances;

(3) Retention of the resources would cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner; or

(4) Retention of the resource would not be in the interests of the majority of the community.

§ 52-582. Appeals. [Code 1992, § 32-735; 2-22-1999 by Ord. No. 1157; 5-24-2010 by Ord. No. 1311]

(a) Any applicant aggrieved by a decision of the Commission may file an appeal with the State Historic Preservation Review Board of the State Historic Preservation Office. The appeal shall be filed within 60 days after the decision is furnished to the applicant.

(b) An applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the county circuit court having jurisdiction over the Historic District Commission's decision that was appealed to the State Historic Preservation Review Board. Such applicant may only appeal to the county circuit court after appealing to the State Historic Preservation Review Board.

(c) In addition, any citizen or duly organized historic preservation organization in the City, other than the resource property owner, jointly or severally aggrieved by a decision of the Commission may appeal the decision to the county circuit court.

§ 52-583. Demolition by neglect. [Code 1992, § 32-736; 2-22-1999 by Ord. No. 1157]

Upon a finding by the Historic District Commission that a historic resource either in a historic district or in a proposed historic district which is subject to Commission

review pursuant to the terms of § 52-586 is threatened by demolition by neglect, the Commission may do either of the following:

(1) Require the owner of the resource to repair all conditions contributing to demolition by neglect; or

(2) If the owner does not make the repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The cost of the work shall be charged to the owner and may be levied as a special assessment against the property. The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the county circuit court.

§ 52-584. Failure to obtain permit. [Code 1992, § 32-737; 2-22-1999 by Ord. No. 1157]

(a) When work has been done upon a historic resource without a permit and the Historic District Commission finds that the work does not qualify for a certificate of appropriateness, the Commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness.

(b) If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the county circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness.

(c) If the owner does not comply or cannot comply with the order of the court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The cost of the work shall be charged to the owner and may be levied by the City as a special assessment against the property. When acting pursuant to such order of the county circuit court, the Commission or its agents may enter a property for purposes of this section.

§ 52-585. Establishment, amendment or elimination of historic district. [Code 1992, § 32-738; 2-22-1999 by Ord. No. 1157]

Before establishing, amending, adding to, removing properties from or eliminating any historic district, the City Council shall appoint a Historic District Study Committee, as provided for in Section 3 of Public Act 169 of 1970 (MCL 399.203).

§ 52-586. Powers of Council on proposed historic district. [Code 1992, § 32-739; 2-22-1999 by Ord. No. 1157; 5-24-2010 by Ord. No. 1311]

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering or cultural significance of a proposed historic district, the City Council may adopt a resolution requiring that all applications for work to be performed within the proposed historic district be referred to the Historic District Commission as prescribed in §§ 52-579 and 52-581. The Commission shall review

applications with the same powers that would apply if the proposed historic district was an established historic district for not more than one year or until such time as the City Council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

§ 52-587. Acceptance of gifts, grants or bequests. [Code 1992, § 32-740; 2-22-1999 by Ord. No. 1157]

(a) The City may accept gifts, grants or bequests from the state or federal government for historic restoration purposes or historic purposes. It may accept public or private gifts, grants or bequests for such purposes; provided, however, that such gifts, grants or bequests are not prohibited by the Charter and are not used for the purpose of paying any fees or expenses arising out of any litigation. Further, the City Council may appoint the Historic District Commission to administer on behalf of the City such gifts, grants or bequests for the purpose provided.

(b) The City Treasurer shall be custodian of funds of the Historic District Commission, and authorized expenditures shall be certified by the City Treasurer or Director of Finance, designated by such Historic District Commission. The Historic District Commission shall annually report to the City Council any money it shall receive or expend.

§ 52-588. Penalties. [Code 1992, § 32-741; 2-22-1999 by Ord. No. 1157]

(a) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this division is responsible for a blight violation as provided for in § 2-901 of the City of Port Huron Code of Ordinances. **[9-27-2021 by Ord. No. 21-008]**

(b) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this division and state law may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

§ 52-589. Conflicting provisions. [Code 1992, § 32-742; 2-22-1999 by Ord. No. 1157]

If any other ordinance is found to be in conflict with the provisions of this division, the provisions of this division shall control.

§ 52-590. Severability. [Code 1992, § 32-743; 2-22-1999 by Ord. No. 1157]

No other portion, paragraph or phrase of this Code shall be affected by this division except as to the sections of this division. If any portion, section or subsection of this division shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this division or of this Code.

§ 52-591. through § 52-600. (Reserved)

DIVISION 15
Access Management Overlay District

§ 52-601. Intent. [12-8-2003 by Ord. No. 1220]

(a) The intent of this division is to establish standards for driveway spacing and the number of driveways for application during the site plan review process for new construction and/or redevelopment and to encourage access management.

(b) The procedures and standards of this division are intended to:

(1) Promote safe and efficient travel within the designated M-25 corridor within the City as described;

(2) Minimize disruptive and potentially hazardous traffic conflicts;

(3) Separate traffic conflict areas by reducing the number of driveways;

(4) Provide efficient spacing standards between driveways and between driveways and intersections;

(5) Implement recommendations of the master plan;

(6) Protect the substantial public investment in the street system; and

(7) Ensure reasonable access to properties, though not always the most direct access.

§ 52-602. Applicability. [12-8-2003 by Ord. No. 1220]

The standards of this division apply to driveway access areas within the City corporate limits along the M-25/Pine Grove roadway from Scott Avenue (south) to Krafft Road (north) through the site plan review. The driveway standards in this division may be more restrictive than other standards of the City and the State Department of Transportation (MDOT), which have jurisdiction within the right-of-way. Construction within the public right-of-way under the jurisdiction of the county or the MDOT must also meet the permit requirements of the county or MDOT. Where any conflicts arise, the more stringent standard shall apply. The standards of this division shall apply during new construction or redevelopment of a vacant lot or the reconstruction of an existing commercial building that has been vacant for more than six months.

§ 52-603. Definitions. [12-8-2003 by Ord. No. 1220]

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

DRIVEWAY — Any vehicular access except those serving one dwelling unit or serving just an essential public service structure.

LIMITED ACCESS DRIVEWAY — Any vehicular access where turning movements are restricted to right turn in and out only. Left turns are prohibited.

§ 52-604. Driveway location in general. [12-8-2003 by Ord. No. 1220]

(a) Driveways shall be located so as to minimize interference with the free movement of traffic, to provide adequate sight distance, and to provide the most favorable driveway grade.

(b) Driveways, including the radii but not including turn lanes and tapers, shall be located entirely within the right-of-way frontage, unless otherwise approved by the City and the MDOT and upon written certification from the adjacent property owner agreeing to such encroachment.

§ 52-605. Driveway spacing standards. [12-8-2003 by Ord. No. 1220]

(a) Minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent or on the opposite side of the street may be set on a case-by-case basis but in no instance shall be less than the distances listed in this section. The following measurements are from the near edge of the proposed driveway, measured at the throat perpendicular to the street, to the near lane edge of the intersecting street or pavement edge for uncurbed sections:

Minimum Commercial Driveway Spacing From Street Intersections

Location of Driveway	Minimum Spacing for a Full Movement Driveway (feet)	Minimum Spacing for a Channelized Driveway Restricting Left Turns (feet)
Along major thoroughfare, intersecting street is a major thoroughfare	125	125
Along major thoroughfare, intersecting street is not a major thoroughfare	100	125
Along other roads	75	50

(1) Major thoroughfares include state trunk lines, county primary roads or roads with an existing or planned right-of-way of at least 86 feet.

(2) For sites with insufficient street frontage to meet the minimum driveway spacing criterion from intersection, the City may require construction of the driveway along a side street, a shared driveway with an adjacent property, construction of a driveway along the property line farthest from the intersection or require a service road.

(b) Minimum spacing between two commercial driveways shall be determined based upon posted speed limits along the parcel frontage. The minimum spacings indicated in Subsection (c) of this section are measured from center line to center line.

(c) To reduce left-turn conflicts, new commercial driveways shall be aligned with those across the roadway where possible.

Driveway Spacing

Posted Speed Limit (mph)	Minimum Driveway Spacing (feet)
25	125
30	155
35	185
40	225
45	300
50+	330

§ 52-606. Number of commercial driveways. [12-8-2003 by Ord. No. 1220]

(a) The number of commercial driveways serving a property shall be the minimum number necessary to provide reasonable access and access for emergency vehicles, while preserving traffic operations and safety along the public roadway.

(b) Access, either direct or indirect, shall be provided for each separately owned parcel. This access may be an individual driveway, shared driveway or via a service drive. Additional driveways may be permitted for property only as follows: one additional driveway may be allowed for properties with a continuous frontage of over 200 feet and one additional driveway for each additional 300 feet of frontage, if the City determines there are no other reasonable access opportunities.

§ 52-607. Commercial driveway design. [12-8-2003 by Ord. No. 1220]

All commercial driveways shall be designed according to the standards of the City and the MDOT, as appropriate.

§ 52-608. Minimum driveway setback from property lines. [12-8-2003 by Ord. No. 1220]

The edge of all driveways shall be set back at least four feet from the property line. This setback is intended to help control stormwater runoff, permit snow storage on-site, and provide adequate area for any necessary on-site landscaping.

§ 52-609. Shared driveways, frontage roads and service drives. [12-8-2003 by Ord. No. 1220]

(a) Where noted in § 52-606, or where the City determines that reducing the number of access points may have a beneficial impact on traffic operations and safety while preserving the property owner's right to reasonable access, a shared commercial driveway, frontage road, or rear service drive connecting two or more properties or uses may be required. In particular, service drives may be required where recommended in the master plan or any subarea master plans; near existing traffic signals or near locations having potential for future signalization; along major arterial roadways with high traffic volumes; along segments with a relatively high number of accidents or limited sight distance.

(b) Shared commercial driveways and service roads shall be within an access easement recorded with the county registrar of deeds.

(c) The number of access points along a service road shall be according to the standards of this division. The City may allow temporary access where the service road is not completed if a performance bond or other financial guarantee is provided which ensures elimination of the temporary access upon completion of the service road.

§ 52-610. Service road design standards. [12-8-2003 by Ord. No. 1220]

(a) Location. Service roads shall be parallel or perpendicular to the front property line and may be located either in front of, adjacent to, or behind principal buildings. In considering the most appropriate alignment for a service road, the City shall consider the setbacks of existing buildings, anticipated traffic flow for the site, and other related ordinances.

(b) Access easement. The service road shall be within an access easement permitting traffic circulation between properties. This easement shall be 66 feet wide, except an access easement parallel to a public street right-of-way may be 40 feet wide, if approved by the City. The required width shall remain free and clear of obstructions.

(c) Construction and materials. Service roads shall have a base, pavement and curb and gutter in accordance with City standards for public streets, except the width of the service roads shall have a minimum pavement width of 26 feet.

(d) Parking. The service road is intended to be used exclusively for circulation and may not be used as a parking space or maneuvering aisle.

(e) Access to service road. The City shall approve the location of all accesses to the service road, based on the driveway spacing standards of this division.

(f) Elevation. The site plan shall indicate the proposed elevation of the service road at the property line and the Department of Public Works shall maintain a record of all service road elevations so that their grades can be coordinated.

(g) Landscaping. The area between a service road and the public street right-of-way shall be a landscaped greenbelt.

(h) Maintenance. Each property owner shall be responsible for maintenance of the easement and service drive.

§ 52-611. through § 52-620. (Reserved)

DIVISION 16
Schedule of Regulations

§ 52-621. Schedule. [Code 1975, Ch. 39, Art. XVII; Code 1992, § 32-407; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 1-23-2006 by Ord. No. 1257; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 7-13-2015 by Ord. No. 15-006; 10-24-2016 by Ord. No. 16-005]

The Schedule of Regulations for Zoning Districts shall be as follows.[19]

§ 52-622. through § 52-625. (Reserved)

19. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

DIVISION 17
Pedestrian Retail Overlay District

§ 52-626. Intent. [1-12-2004 by Ord. No. 1222]

The purpose of this division is to maintain the economic viability of the downtown retail area; promote development of a pedestrian-oriented retail center; preserve the retail and mixed-use environment; encourage pedestrian traffic; promote retail uses on ground floor sites; and promote residential or mix uses on sites above ground floor level.

§ 52-627. Definitions. [1-12-2004 by Ord. No. 1222]

(Reserved)

§ 52-628. Location. [1-12-2004 by Ord. No. 1222; 6-26-2017 by Ord. No. 17-005]

The location boundaries of the Pedestrian Retail Overlay District are commonly known as the area along Huron Avenue bounded by McMorran Boulevard to the north and Quay Street to the south.

§ 52-629. Principal permitted uses. [1-12-2004 by Ord. No. 1222]

In the Central Business District's (CBD) designated Pedestrian Retail Overlay District, no land or building shall be used or erected on the first floor portion of the building facing Huron Avenue except for one or more of the following specified uses unless otherwise provided in this division:

(1) Food service establishments, including grocery, meat market, supermarket, bakeries, delicatessen, ice cream stores, and other food service establishments similar to and compatible with the above.

(2) Personal service establishments, including barber shop, beauty parlor, tailor shop, shoe repair, dress maker, photography studio and other personal service establishments similar to and compatible with the above.

(3) Other service establishments that include a showroom or workshop with a retail adjunct, such as that occupied by an electrician, decorator, painter, upholsterer, a business performing radio, television or home appliance repair and other service establishments similar to and compatible with the above.

(4) Theaters, restaurants, bars, nightclubs and other similar entertainment facilities, where the patrons are seated or served while seated in a building.

(5) Amusement enterprises such as ticket sales, bike rentals.

(6) Boutiques or establishments operated expressly for the sale of art, antiques, collectibles and similar merchandise.

(7) General retail establishments whose principal activity is the sale of new merchandise to the public. These include such establishments as household appliance stores, furniture stores, department or variety stores, drugstores, hardware stores, clothing stores; special stores, selling flowers, books, stationary, jewelry, novelties and gifts, tobacco, and sundry small household articles; convenience

stores selling fruit, meat, dairy products, produce, and alcoholic beverages.

(8) Hotels.

(9) Multifamily dwellings (apartments) above the first story of any structure where the ground floor is devoted to a permitted use, provided that:

a. Existing and proposed dwelling units are kept in an attractive condition conducive to an appealing Central Business District, and in such a manner that residential activities do not interfere with the customary business activities associated with the district.

b. Each dwelling unit or group of such units are provided with adequate refuse containers suitable for the temporary outdoor storage of household refuse. Such containers shall be fitted with a secured lid and located to the rear of the building.

c. With the exception of the legally registered and operable automobiles, the storage of all personal property shall be done within the dwelling unit or an approved accessory building located to the rear of the building.

d. Dwelling unit entrances located on the street frontage shall be inconspicuous, kept in good repair and free of debris.

e. Windows facing the street shall be maintained in good repair and shall retain approved window treatments such as shutters, blinds, or drapery.

f. Air conditioning units in windows are allowed on the rear of the building. Condensation from such units shall be directed in a manner that prevents the direct deposition and/or accumulation of water on the sidewalk or street surface below.

g. The outdoor hanging of laundry or any other personal items from any rope or fixture attached to the structure or otherwise located on the premises is prohibited.

§ 52-630. Permitted uses after special approval. [1-12-2004 by Ord. No. 1222]

The following uses may be temporarily permitted subject to the conditions hereinafter imposed and subject further to approval of the City's Planning Commission upon recommendation of the Planning Department and after a public hearing:

(1) Government offices, post offices, and libraries.

(2) Offices of nonprofit organizations, such as professional membership organizations, labor union, civic, social and fraternal associations, and political organizations.

(3) Banks, savings and loan associations, and other financial or lending institutions.

(4) General office or professional uses including the offices and facilities of publishing operations for newspapers, magazines or other periodicals (excluding heavy printing facilities and machinery), and business services such as mailing, copying and data processing.

(5) Professional service establishments, including but not limited to offices or facilities for members of the dental, medical, legal, architectural, accounting, social services, counseling or other professions and other professional service establishments similar to and compatible with the above.

(6) Uses of the same nature or class as the majority of uses listed in this district as either a principal permitted use or a permitted use after special approval, but not listed elsewhere in this chapter, following a Planning Commission public hearing and recommendation. Any use not listed and not found to be "similar" is prohibited in this zoning district.

§ 52-631. Additional standards. [1-12-2004 by Ord. No. 1222]

All principally permitted uses and permitted uses after special approval shall also comply with all applicable provisions of this chapter and the Historic District Ordinance,[20] along with any other related ordinances, codes, or requirements. Principally permitted uses and permitted uses after special approval requirements apply only to the first floor with frontage along Huron Avenue as defined. All other areas of the building shall only need to conform to the applicable provisions of this chapter or related ordinance codes or requirements as normally pertaining to the Central Business District and Historic Overlay District.

§ 52-632. Criteria for consideration of permitted uses after special approval. [1-12-2004 by Ord. No. 1222; 10-22-2007 by Ord. No. 1280]

The City Planning Commission may approve a special use permit if it determines that:

(1) The building space was designed specifically for the type of use proposed and, as such, occupancy by a principally permitted use under § 52-629 is an unreasonable expectation due to identifiable structural design characteristics, or

(2) Denial of the request for occupancy by special use permit has resulted in a long-term (defined as longer than 18 months) vacancy of the property outside of current market conditions (based upon average retail lease rate per square foot).

§ 52-633. Permit requirements. [1-12-2004 by Ord. No. 1222]

The special use permit will be granted for the specific trade use as named and may not be transferred to another/different use. A proposed use other than that originally granted in the permit must reapply for new consideration. The permit may be transferred from one owner to another as long as the original trade use remains the same.

§ 52-634. through § 52-640. (Reserved)

20. Editor's Note: See Art. III, Div. 14, Historic Districts, of this chapter.

DIVISION 18
Residential Rental Restriction Overlay Districts

§ 52-641. Residential Rental Restriction Overlay Districts established. [12-16-2013 by Ord. No. 1361]

Residential Rental Restriction Overlay Districts "RO-1" are hereby established.

§ 52-642. Purpose and objectives. [12-16-2013 by Ord. No. 1361]

(a) The Residential Rental Restriction Overlay District RO-1 is a zoning classification which permits owners of property within R-1 Residential Zoning Districts to petition City Council to establish an overlay district, and district use regulations in their residential neighborhood, which would prohibit or restrict the rental uses of single-family dwellings within the neighborhood. These districts establish restrictions which operate to preserve the attractiveness, desirability and privacy of residential neighborhoods by precluding all or certain types of rental properties and thereby preclude the deleterious effects rental properties can have on a neighborhood with regard to property deterioration, increased density, congestion, crime, noise and traffic levels and reduction of property values. The goal of the overlay district is to allow owners of property within residential neighborhoods to control the types of rental properties, if any, that are permitted in one-family dwellings within their neighborhood.

(b) It is also the purpose of the districts to achieve the following objectives:

(1) To protect the privacy of residents and to minimize noise, congestion and nuisance impacts by regulating the types of rental properties;

(2) To maintain an attractive community appearance and to provide a desirable living environment for residents by preserving the owner-occupied character of the neighborhood; and

(3) To prevent excessive traffic and parking problems in the neighborhoods.

§ 52-643. Uses permitted. [12-16-2013 by Ord. No. 1361]

Uses permitted in the Residential Rental Restriction Overlay District RO-1 are as follows:

(1) In Residential Rental Restriction Overlay District RO-1 that overlaps a portion of a district zoned as an R-1 District (Single- and Two-Family Residential), permitted uses are all uses permitted in the underlying zoning district except the use or occupancy of a single-family dwelling unit as a rental unit within the meaning of § 10-152 et seq. of the City Code is prohibited and a single-family dwelling converted into a two-family dwelling unit after the introduction of an ordinance to create said overlay district, may not be used or occupied as a rental unit within the meaning of § 10-152 et seq.

(2) Notwithstanding the foregoing, the overlay restriction does not impact properties that already have a valid rental certification, as such will be considered a preexisting nonconforming use and will be "grandfathered." However, if a property owner

allows a rental certification to remain expired more than 12 months, then the property would lose any prior legal, nonconforming grandfathering and the property will be subject to the restrictions set forth in § 52-643(1) and/or § 52-645(b).

§ 52-644. Procedures to establish a Residential Rental Restriction Overlay District RO-1. [12-16-2013 by Ord. No. 1361]

The following procedures must be complied with in order to establish a Residential Rental Restriction Overlay District:

(1) A petition requesting an overlay district must be submitted to the City Clerk on forms provided by the City Clerk. The petition requirements are as follows:

a. The proposed boundaries of the overlay district must be entirely within an R-1 Zoning District and the parcels within the proposed district must be contiguous.

b. There must be at least 50 separate lots or parcels within the proposed district as described in the petition or the proposed district must constitute a discrete neighborhood geographic area.

c. The proposed boundaries may not overlap a boundary of existing overlay districts or the boundary of an overlay district that is already the subject of an introduced ordinance pursuant to this section.

d. The petition must identify the specific overlay district that is sought by specifying the proposed boundary of the overlay district. The proposed boundaries of the overlay district must be described in the petition and the boundaries must, if practicable, consist of streets, alleys, platted subdivision boundaries or existing zoning district lines which totally enclose the proposed district.

e. The petition must accurately advise the signer of the rental restriction that would be imposed on the property if the overlay district is established.

f. Each petition must be circulated by a person who owns property within the proposed district and be signed by the circulator.

g. The petition must contain the signature and address of two-thirds of the parcel owners within the proposed boundary of the overlay district, exclusive of public property. Jointly owned parcels will be considered owned by a single person for purpose of petitioning, and any co-owner may sign a petition for such parcel. Only one owner of each parcel will count towards the two-thirds requirement. If a person owns more than one parcel of property within the proposed district, they may sign the petition for each parcel they own.

h. Each person signing the petition must also enter on the petition, adjacent to their signature, the date that the person signed the petition and the address of the parcel they own.

i. When submitted, no signature dated earlier than six months prior to the time the petition is filed with the City Clerk shall be counted in determining the

validity of the petition.

(2) Upon presentation to the City Clerk for review, the Clerk shall verify the signatures and dates on the petitions. If insufficient signatures are presented, the Clerk shall return the petitions to the person filing the petitions and identify the valid and invalid signatures. If sufficient valid signatures are presented, the Clerk shall refer the petitions to the Zoning Department which shall then, within 30 days, determine whether the petitions are in conformity with the remaining conditions of this section.

a. If the petition is determined to be in conformity with the requirements of this section, the Planning Director shall draft an appropriate ordinance in accordance with the petition procedures set forth in § 52-126. All procedures set forth in § 52-126 for zoning changes by petition shall thereafter be followed.

b. If the petition is not in conformity with the requirements of this section, the Planning Director shall reject the petition and return it to the Clerk with a written explanation as to why the petition does not meet the requirements of this section. The Clerk shall then forward the petitions, and the explanation, to the person who filed the petitions.

c. If the petition is rejected for failure to comply with the boundary requirements, it may be resubmitted with the proper boundary lines if it is accompanied by certification that a copy of the petition and written notice was mailed to each property affected by the change, notifying them that their property was either added to or deleted from the petition and if by the correction of the boundary line the petition still meets all other requirements of the code.

d. If the petition is rejected for an insufficient number of valid signatures, it may be resubmitted with the additional signatures necessary to have it comply as long as the other signatures remain valid.

e. If an ordinance is forwarded to City Council pursuant to this section, after consideration of the petition and the recommendations of the Planning Commission, if any, the City Council may make additions or changes in the boundaries of the proposed overlay district to prevent spot zoning, to include or exclude areas that logically should have been included or excluded in the petition, to make the boundaries of the proposed overlay district abut boundary lines of other zoning districts and overlay districts, and to adopt an alternate ordinance in conformity with the suggested changes whether or not the two-thirds majority requirement of property owners would still be met with the proposed changes.

f. If the City Council, in adopting an ordinance for an overlay district, applies the ordinance to fewer parcels of property than the petition sought, the owners of at least two-thirds of the parcels remaining in the overlay district must have signed the original petition.

(3) Subsequent to the introduction of an ordinance proposing to establish a Residential Rental Restriction Overlay District, the circulator(s) of the petition for the overlay district or a majority of those persons who signed the petition for an overlay district

may file a written request with the City Council to table consideration or further proceedings toward the adoption of the ordinance for 60 days in order to allow the submission of an alternate petition for a modification of the boundaries of a proposed overlay district. If such a petition is submitted during the sixty-day period, City Council may introduce an alternate ordinance in conformity with the subsequent petition, and the ordinances shall, to the extent possible, be processed simultaneously. In such a case, the Planning Commission shall include in its recommendations which ordinance it concludes, after public hearing, has the majority of the support of the property owners in the proposed districts.

(4) No earlier than one year after the adoption of an ordinance establishing an overlay district, a petition for a change or removal of the overlay district may be submitted by following the procedures for establishing an initial overlay district.

§ 52-645. Effect of overlay district ordinance. [12-16-2013 by Ord. No. 1361]

(a) Upon introduction of an ordinance to create an overlay district and at all times while the ordinance is pending final decision, except as provided in § 10-178, there shall be a moratorium on the issuance of initial rental unit certifications to the extent that no initial rental housing certification shall be issued within the proposed overlay district to the owner of a single-family dwelling unit that would be precluded if the overlay district was adopted, or a single-family dwelling converted into a two-family dwelling unit after the introduction of an ordinance to create said overlay district, regardless of whether the license was applied for prior to or subsequent to the ordinance's introduction. If more than one ordinance is pending seeking alternate types of overlay districts pursuant to § 52-644(3), no initial certification shall be issued within the proposed district that would be precluded if the most restrictive ordinance was adopted, regardless of whether the certification was applied for prior to or subsequent to the ordinance's introduction.

(b) Upon passage of an ordinance by City Council establishing an overlay district, except as provided in § 10-178, no initial rental unit certification shall be issued to an owner of property in the overlay district inconsistent with the restrictions of the overlay district and it shall be unlawful to use or allow any property to be used except in conformity with the requirements of the underlying zoning district and overlay district. Any property in the overlay district that has an existing rental housing certification, or has had a rental certification within one year of adoption of the overlay district, shall be allowed to continue its use and occupancy in accordance with the law existing prior to the date of the adoption of the overlay district. No existing rental housing use or occupancy in an overlay district shall be considered to be a nonconforming use as the result of adoption of an overlay district unless the rental license expires for more than one year. If an owner surrenders an existing certification or allows, either intentionally or unintentionally, a license to remain expired for more than one year, any subsequent use of the property shall be subject to the restrictions imposed by the overlay district.

(c) Except as set forth in § 52-644(3), if an ordinance introduced pursuant to this section is denied, a subsequent ordinance for an overlay district that includes the same parcels may not be introduced for one year following introduction of the previous ordinance.

(d) Any ordinance which is not adopted within six months of its introduction shall be deemed denied unless the ordinance was tabled or otherwise delayed for 60 days pursuant to § 52-644(3), in which case it shall be deemed denied if not adopted within eight months of its introduction.

§ 52-646. through § 52-660. (Reserved)

ARTICLE IV
General And Supplementary Regulations

§ 52-661. Application. [Code 1992, § 32-91]

Except as specifically provided, the general regulations of this article shall apply throughout this chapter.

§ 52-662. Conflicting regulations. [Code 1975, § 39-7; Code 1992, § 32-92]

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

§ 52-663. Scope. [Code 1975, § 39-8; Code 1992, § 32-93]

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

§ 52-664. Streets, alleys, and railroad rights-of-way. [Code 1975, § 39-9; Code 1992, § 32-94]

All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, or railroad rights-of-way. Where the center line of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

§ 52-665. Permitted uses. [Code 1975, § 39-10; Code 1992, § 32-95; 9-28-2015 by Ord. No. 15-008]

No building shall be erected, converted, enlarged, reconstructed or structurally altered nor shall any building or land be used, designed or arranged for any purpose other than is permitted in the zoning district in which the building or land is located.

§ 52-666. Permitted area. [Code 1975, § 39-11; Code 1992, § 32-96]

No building shall be erected, converted, enlarged, reconstructed or structurally altered nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in conformity with the area regulations of the zoning district in which the building is located.

§ 52-667. Permitted height. [Code 1975, § 39-12; Code 1992, § 32-97; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280]

No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established for the zoning district in which the building is located, except that roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building

and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, chimneys, smokestacks, individual domestic radio and television aerials and wireless masts, water tanks, flagpoles or similar structures may be erected above the height limits prescribed. In districts other than the R, R-1, and A-1 Districts, said structures may not exceed by more than 20 feet the height limits of the zoning district in which it is located. In the R, R-1, and A-1 Districts, the height of said structures shall be limited to the height of the zoning district in which it is located whether attached to the roof or ground. Domestic radio and television antennas cannot extend higher than 12 feet above the height limit of the zoning district that it is located in. Chimneys may exceed the height limits of the R, R-1, or A-1 District by a measurement deemed necessary by City code for proper ventilation. In any district, said structure may not have a total area greater than 25% of the roof area of the building, nor shall such structure be used for any residential purpose or any commercial purpose other than a use incidental to the main use of the building.

§ 52-668. Mechanical equipment location and screening. [Code 1975, § 39-13; Code 1992, § 32-98; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253]

All mechanical equipment shall be located in accordance with zoning requirements and appropriate mechanical codes. In residential districts, air conditioners and similar mechanical equipment must be located in the backyard or in a side yard, set back three feet from the side yard property line. On corner lots, in the street side yard, the system must be located within three feet from the side of the home. In no case shall the equipment be located within the public right-of-way in any district. All mechanical equipment must be adequately screened from public view in all districts except the M-1 and M-2 Districts, unless the M-1 or M-2 District is adjacent to a residential district. All rooftop mechanical equipment shall be adequately screened from public view, including view from higher structures.

§ 52-669. Lot area, yards and open space requirements. [Code 1975, § 39-14; Code 1992, § 32-99; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280]

Space which has been counted or calculated as part of a side yard, rear yard, front yard, court, lot area or other open space to meet the requirements of this chapter for a building shall not be counted or calculated to satisfy or comply with a yard, court, lot area or other open space requirement for any other building. An open or uncovered porch, patio, deck, or terrace may not project more than five feet from the front of the main structure, with a minimum of five feet from the front property line. An open or uncovered porch, deck, or patio may project into a side yard a maximum distance of 60% of the width of that side yard; in no instance may it be closer than two feet from the side lot line or five feet from a street side lot line. An uncovered deck, patio, or terrace must be a minimum of 10 feet from the rear property line (waterfront properties excluded). A covered or enclosed porch, deck, patio, or terrace, is considered a part of the main structure and shall meet all yard setback requirements.

§ 52-670. Projections into yards. [Code 1975, § 39-15; Code 1992, § 32-100; 10-22-2007 by Ord. No. 1280]

Architectural features may extend or project into a required side yard not more than three inches for each one foot of width of such side yard and may extend or project into a required front yard or rear yard not more than three feet.

§ 52-671. Use of yard spaces and other open areas for junk storage. [Code 1975, § 39-16; Code 1992, § 32-101; 10-24-2016 by Ord. No. 16-005]

No machinery, equipment, lumber piles, crates, boxes, building blocks or other materials either discharged, unsightly or showing evidence of a need for repairs, shall be placed, stored, parked, abandoned or junked in any open area that is visible from the street, public place or adjoining residential property for longer than 48 hours. No vehicles shall be parked outside of a building on any property in excess of 15 days without a current registration and license and shall be in the name of the owner of the property. Any vehicle that is inoperable or showing evidence of a need for repairs, whether licensed or not, shall not be parked outside for a period of more than 48 hours. All vehicles parked outside shall be in conformance with the parking regulations in Article VI, Off-Street Parking and Loading Requirements. If such items are permitted to be placed, stored, parked, abandoned or junked in such area, the Chief Inspector shall give written notice to the owner of the premises on which such items are stored and/or to the owner of the stored items to remove or cause to be removed such items within 48 hours after the giving of such notice. Failure to comply with such notice within 48 hours shall constitute a violation of this chapter. Notwithstanding the foregoing, the Chief Inspector may, upon investigation, issue a letter to the owner authorizing a grace period not to exceed 30 days. This section does not apply to storage of building materials for on-site construction purposes.

§ 52-672. Street access. [Code 1975, § 39-17; Code 1992, § 32-102; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253]

Any lot or parcel of land must have at least one property line abutting a public, active, street right-of-way. (A right-of-way that was platted but is not used for street traffic is not considered an active right-of-way for purposes of this section.) The width of said lot abutting said right-of-way must be the minimum as required in Division 16, Schedule of Regulations, for the district in which the property is located. No lot split shall be approved which would create a landlocked parcel. No building permit shall be issued for any construction located on any lot or parcel of land in the City that does not abut on a public street or highway, provided that this chapter shall not be the basis for preventing the issuance of a building permit for ordinary repair or maintenance of any building that is already erected on the date of the adoption of the ordinance from which this chapter is derived upon a lot or parcel of land that does not so abut such a street or highway. New construction within A-1, A-2, CBD, C-1, M-1 and M-2 Zoning Districts requires site plans for the installation of a minimum five-foot-wide concrete sidewalk.

§ 52-673. Visibility. [Code 1975, § 39-18; Code 1992, § 32-103; 10-22-2007 by Ord. No. 1280]

(a) No structure, wall, fence, shrubbery or tree shall be erected, maintained or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection, excepting that shrubbery and lot retaining walls not exceeding 2 1/2 feet in height above the curb level will be permitted. For residential corner lots, this unobstructed area will be a triangular section of land formed by the two street curblines and a line connecting them at points 25 feet from the intersection of such curblines.

(b) On each side of a driveway, where it intersects with the property line, there shall be a clear-vision unobstructed area in the yard. That unobstructed area will be a triangular section of land formed by the driveway and the property line and a line connecting them at points six feet from the intersection of the driveway and the property line. On each side of a driveway, between the property line and the curb, there shall be a clear-vision unobstructed area in the right-of-way six feet out from and parallel to the driveway. Nothing over 2 1/2 feet in height may be erected within these clear vision areas.

§ 52-674. Dwellings in nonresidential districts. [Code 1975, § 39-19; Code 1992, § 32-104; 8-13-2001 by Ord. No. 1188]

No dwelling unit shall be erected in the B, C-1, MD, M-1 and M-2 Zoning Districts. However, the sleeping or living quarters of a watchman or a caretaker may be permitted in these districts in conformance with the specific requirements of each particular district.

§ 52-675. One single-family structure per lot. [Code 1975, § 39-20; Code 1992, § 32-105; 8-13-2001 by Ord. No. 1188]

No single-family residential structure shall be erected upon a lot with another single-family residential structure in any zoning district. However, single-family detached condominiums are allowed on the same lot in an A-1 or A-2 District.

§ 52-676. Accessory buildings. [Code 1975, § 39-21; Code 1992, § 32-106; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 4-24-2006 by Ord. No. 1265; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

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

(1) When the accessory building is structurally altered and attached to a main building, it shall be subject to and must conform to all sections of this chapter applicable to main or principal buildings. A carport attached to the main structure must conform to the setbacks applicable to the main structure and be similar in style and construction as the main structure.

(2) Accessory buildings shall only be erected in a side yard or rear yard and shall not be closer than three feet to any side lot line or rear lot line. This may be waived for double-frontage lots as provided in Subsection (6) of this section.

(3) An accessory building shall not exceed one story or 15 feet in height (see definition of "height, building"), and in no instance shall the accessory building exceed the ground floor area of the main building. If an attic is provided, it shall be used for storage purposes only and shall not be inhabited. This attic shall be less than a half story (see definition for story, half).

(4) No detached accessory building shall be located closer than 10 feet to any dwelling on the same lot on which the accessory building is to be constructed.

(5) When any accessory building is located on a corner lot, the side yard of which is

substantially a continuation of the front lot line of the lot to its rear, such building shall not project beyond the front of the residence located on the lot to the rear of such corner lot.

(6) For double-frontage lots, accessory buildings shall observe front yard requirements on both street frontages or be built in-line with existing adjacent structures. An accessory building can be located between the main structure and the street, provided it meets front yard setback requirements.

(7) When an accessory building is a boathouse, covered boat well, or substantially over the water, it shall only be allowed along the Black River or St. Clair River, and it shall conform to the following:

a. No more than 30% of the building area may have flooring, be it earth, concrete, wood or any flooring material other than water.

b. The building shall not exceed the floor area of the main building.

c. All boathouses which exceed 14 feet in height or with wells to accommodate more than two boats shall be subject to the prior approval of the Zoning Board of Appeals. A commercial use of a boathouse is not permitted unless it is located within a commercial district pursuant to this chapter.

d. A second floor shall not be permitted in a boathouse nor shall a boathouse have sanitary facilities unless self-contained or connected to a sanitary sewer system.

e. A building permit for a boathouse shall not be issued unless and until the applicant has:

1. Complied with all the sections of this chapter, the City Building Code, and the requirements of the U.S. Army Corps of Engineers and the Michigan Department of Environmental Quality.

2. Secured the written approval from the U.S. Army Corps of Engineers and the Michigan Department of Environmental Quality when such permits are required within the jurisdiction of these two agencies.

3. The facility shall be in compliance with the rules and regulations of and approved by the County Health Department.

f. When an accessory structure is to serve both over the water boat storage and automobile storage (garage), the two areas shall be clearly defined. Each area shall be constructed as a separate building and shall meet the requirements for such building.

(8) A garage, boathouse, storage, or any other accessory building shall not be erected upon a lot in any residential district without a residential structure existing on the same lot. If an accessory building is to be constructed on a vacant lot adjacent to a residence, the lots shall be combined and all requirements for an accessory building shall be met before a building permit shall be issued. A fence may be constructed per zoning requirements on a vacant lot without a main structure.

(9) In all residential districts, an accessory building shall be owned by the property owner who owns the property and the dwelling upon which the accessory building is located. The accessory building can only be leased to a tenant of said residence for storage purposes. The accessory building shall not be divided up into condominium units and sold or leased to other individuals. No commercial activities shall occur within said accessory building such as warehousing for a fee.

(10) Temporary storage trailers or pods shall not be allowed or considered accessory buildings in any R, R-1, A-1, or A-2 Zoning District. In order to accommodate a resident in the process of moving, a temporary moving trailer or pod may be kept in a driveway on a property for a period less than two weeks, with written permission from the Building Inspector. In the B, C-1, CBD, CCD, MD, or I Zone, storage pods or trailers used for accessory storage for the owner or tenant, located on the same property as an existing building, may be allowed with a special approval use permit from Planning Commission. In the M-1 or M-2 Zones, storage pods or trailers used for accessory storage for the owner or tenant, located on the same property as an existing building, may be allowed with approval from the Planning Director. Storage pods or trailers shall be subject to the size and setback regulations for an accessory structure. An approved rental storage facility in the C-1, M-1, or M-2 Zone may use storage pods or trailers as an accessory use to the storage facility.

(11) A canopy, tent, tarp, polyethylene sheeting, or similar type structure are not allowed, and shall not be considered or allowed as an accessory building. A greenhouse with Plexiglas or regular glass walls may be considered an accessory building, provided only flowers or vegetable plants are grown inside. The exterior of any accessory building shall be kept in good condition and maintained in accordance with Chapter 22, Article II, Blight.

(12) A detached residential garage can have a bathroom with a toilet and sink on the first floor. Water and sewer shall be on the same lead as the main dwelling. Said bathroom shall meet all City Code requirements. No part of said garage may be used as a separate dwelling unit. A site plan showing the garage on the property and floor plans of the building shall be submitted to obtain a building permit before construction or renovation of any garage.

(13) A pool house, adjacent to an in-ground swimming pool, is allowed on a residential lot as an accessory building to a residence. Said pool house may include a toilet, sink, and shower. No cooking facilities may be installed. Water and sewer shall be on the same lead as the main dwelling. Said pool house shall be limited to two rooms, separated by a door, including the bathroom. No part of said pool house may be used as a separate dwelling unit. Said pool house shall meet all requirements of an accessory building in regard to setbacks, location on property, etc. Said pool house shall not exceed 300 square feet in area or include a second story. Any pool house shall be of the same style and exterior treatments of the main dwelling and shall be maintained according to all City codes. A site plan showing the pool house on the property and floor plans of the building shall be submitted to obtain a building permit before construction or renovation of any pool house.

(14) In residential districts, accessory structures used for storing anything other than an automobile, such as a carport, shall be enclosed on all sides with walls and the

interior contents must not be visible to the public; if there is a door or window, they must be kept closed except for accessing the interior. Prefabricated aluminum carports are allowed and shall store only a car if open on all sides. The prefab carport shall be securely attached to the ground per the Building Inspector's requirements. A carport can be placed between the house and the property line, provided the carport meets the front yard setbacks.

(15) A playhouse, playscape, or treehouse shall be considered an accessory building. A playscape is a grouping of playground equipment connected together to create one play structure. Due to its size and character, it shall be treated as an accessory building.

(16) Accessory use of tanks holding any liquids, gases, solids, or other similar materials shall be allowed in the B, C-1, CBD, CCD, MD, and I Zones after a special approval use permit from Planning Commission. Retail sales of prefilled propane tanks shall be allowed as an accessory use to a business in the C-1 and CBD Zones with the approval of the Planning Director and Fire Marshal. Tanks used for storage as an accessory use in the M-1 or M-2 Zones shall be approved by the Planning Director and Fire Marshal. Other than a gas grill propane tank, storage tanks are not allowed in the R, R-1, A-1, or A-2 Zones except on a case-by-case basis as determined by the Planning Director and Fire Marshal. Any tanks that hold combustible or flammable liquids or gases shall be in compliance with Chapter 24, Fire Prevention and Protection, of the City Code of Ordinances, § 24-33.

(17) All accessory structures are subject to a building permit before construction.

§ 52-677. Parking and storage of recreational vehicles and trailers. [Code 1975, § 39-22; Code 1992, § 32-107; 8-13-2001 by Ord. No. 1188; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005; 10-23-2017 by Ord. No. 17-016; 8-13-2018 by Ord. No. 18-014]

"Recreational vehicles" (RVs) shall be defined as campers, travel trailers, trailers (noncommercial trailers in residential zones), motor homes, boats, or similar recreational vehicles. Boats must be on a trailer, except for nonmotorized personal watercraft. An "off-highway recreational vehicle" (OHRV) shall be defined as jet skis, four-wheelers, or snowmobiles, or similar off-highway recreational vehicles, and may be on a trailer or not. An RV or OHRV may be parked or stored outdoors in any zoning district on occupied lots with a main structure subject to the following:

(1) No more than one RV or two OHRVs may be parked on a lot of record which is zoned and used for residential purposes, and ownership of the above said item must be registered or licensed in the name of a member of the immediate family of the lot's owner, tenant or lessee. This shall also apply to nonresidential zones or uses, unless the use has been approved for storage or maintenance of RVs or OHRVs.

(2) RVs or OHRVs may be parked in any approved parking area on the premises for loading or unloading purposes for a period not to exceed 48 hours.

(3) RVs or OHRVs, where parked or stored on residentially zoned or used property, shall be located on the property, subject to the following:

a. From November 1 to April 30, only in the rear yard, or interior side yard, three

feet from the rear and side property lines, and not beyond the front of the dwelling. If parked on a corner lot in a side yard that faces a street, the setback must be 12.5 feet from the street side yard property line. If there is a neighboring dwelling to the rear that faces the street on that side yard, then the RV or OHRV must be set back in line with the front of the neighboring dwelling. The RV or OHRV shall not project beyond the front of the residence located on the lot to the rear of such corner lot. For lots on the water with double frontage, an RV or OHRV may be parked between the street and the dwelling, provided it is not parked within the twenty-five-foot front yard setback on the street side.

b. From May 1 to October 31, same location as described above in Subsection (3)a, and may also be located in the front yard on a paved driveway leading to a garage or on a paved slab to the side of said driveway. This location may not be located in front of the windows or front door of the dwelling that faces a street. A permit from the Inspection Division is required for any new paved driveway or parking slab.

c. An RV or OHRV shall never be allowed to park in the street right-of-way between the property line and the street curb in any zoning district.

(4) The maximum permitted lot coverage of all buildings, including any RV or OHRV, shall not be exceeded.

(5) All RVs or OHRVs shall be locked or secured at all times when not in use so as to prevent access thereto by children.

(6) Fitted covers can be placed over RVs or OHRVs, provided the cover does not become loose or tattered. Tarps or unfitted covers shall not be placed over an RV or OHRV. When stored in the driveway from May 1 to October 31, no cover of any kind may be placed over a motor home or travel trailer.

(7) RVs parked or stored on property shall not be used for living, lodging or housekeeping purposes.

(8) RVs or OHRVs must be kept in good condition and have a current year's license and/or registration.

(9) The parking or storage of a manufactured home unit outside of a manufactured home park, under this chapter, is expressly prohibited.

(10) Parking requirements for private recreational tow vehicles shall be the same as parking requirements for residential automobile parking.

(11) Watercraft, such as boats, jet skis, their trailers, and boat hoists, may be allowed to be parked on the beach all year, provided they are parked in the sand or over the water. The number of boats on the beach is not restricted.

§ 52-678. Automobile fuel stations and automobile service and repair facilities. [Code 1975, § 39-23; Code 1992, § 32-108; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automobile service stations and repair facilities; to regulate and control the adverse effects which these and other problems incidental to the automobile service station may exercise upon adjacent and surrounding areas; and to control the problem of abandoned fuel stations which are a nuisance as well as a blighting influence on surrounding properties, the following additional regulations and requirements are provided for automobile service stations and automobile repair facilities located in any zoning district. All automobile fuel, automobile service stations and repair facilities erected after the effective date of the ordinance from which this chapter is derived shall comply with all requirements of this section. No automobile fuel, or service station, or repair facility existing on the effective date of the ordinance from which this chapter is derived shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of the ordinance from which this chapter is derived:

(1) An automobile fuel station or service or repair facility shall be located on a lot having a frontage along the principal street of not less than 150 feet and having a minimum area of not less than 15,000 square feet.

(2) An automobile fuel station or service or repair facility building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than 40 feet from any street lot line.

(3) All service and repair equipment including all lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All service and repair, except the fueling of vehicles, shall be performed within a completely enclosed building.

(4) An automobile fuel station located on a lot having an area of 15,000 square feet shall include not more than eight fuel pumps and two enclosed stalls for servicing, lubricating, greasing and/or washing motor vehicles. An additional two fuel pumps and/or one enclosed stall may be included with the provision of each additional 2,000 square feet of lot area.

(5) Where an automobile fuel station, or service or auto repair facility adjoins property located in any residential district, a masonry wall five feet in height shall be erected and maintained along the service station property line. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall.

(6) All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property.

(7) When a structure designed and used for automobile fuel station purposes ceases to operate on a continuing basis for a period of 180 consecutive days, the owner of the premises shall be served written notice by the Chief Inspector of the requirement, within 60 days of the date of such notice, to either:

a. Resume operation of the premises on a continuing basis as a lawful automobile service station or filling station;

b. Lawfully convert such structure to another permitted use in that district; or

c. Demolish such structure and completely remove the debris from the premises.

All new automobile service stations or filling stations constructed after the effective date of the ordinance from which this chapter is derived shall be required to post a bond with the City in an amount equal to the estimated cost of demolition and clearance of improvements on the premises. Failure to comply with one of the three alternatives in this subsection shall empower the City to utilize such bond for the demolition and clearance of the premises in question.

(8) Abandoned automobile fuel stations may be converted to a principal permitted use in the district in which such station is located, provided the following conditions are met:

a. The use shall not be out of harmony with the surrounding neighborhood by reason of its character or quality of development.

b. All fuel pumps and signs shall be removed, and underground fuel storage tanks shall be abandoned in conformance with prescribed City and state fire safety provisions.

c. All buildings shall meet all applicable requirements of the City Building Code for safety and structural condition.

d. There shall be adequate off-street parking provided in accordance with Article VI of this chapter.

e. No outside storage areas shall be permitted.

f. The use shall meet all area, height, bulk and placement requirements of the district in which such use is located in accordance with § 52-621.

g. The use shall comply with all other requirements of the applicable district unless otherwise provided in this chapter.

(9) Any customers, employees, or service vehicles, parked on site, other than autos listed for sale, must be currently licensed. "Parts cars," including entire vehicles or chassis, used for parts, must be stored indoors or behind a solid six-foot-high screening fence; there may be no more than five such parts vehicles or chassis on the premises at any given time. An auto repair business located in a zoning district that does not allow front yard parking may not park overnight vehicles in the front of the building unless there is an existing front yard parking lot.

§ 52-679. Drive-in establishments. [Code 1975, § 39-24; Code 1992, § 32-109; 8-13-2001 by Ord. No. 1188]

(a) When a drive-in establishment adjoins property located in any residential district, an ornamental masonry wall, five feet in height, shall be erected and maintained

along the adjoining property line or, if separated from the residential district by an alley, along the alley lot line. In addition, all outside trash areas shall be enclosed by such five-foot masonry wall. Such wall shall be protected from possible damage inflicted by vehicles using the parking area by means of precast concrete wheel stops at least six inches in height or by firmly implanted bumper guards not attached to the wall or by other suitable barriers.

(b) The entire parking area shall be paved with a permanent surface of concrete or asphaltic cement. Any unpaved area of the site shall be landscaped with lawn or other horticultural materials, maintained in a neat and orderly fashion at all times, and separated from the paved area by a raised curb or other equivalent barrier.

(c) Lighting shall be installed in a manner which will not create a driving hazard on abutting streets or which will not cause direct illumination on adjacent residential properties. All lighting, including illuminated signs, shall be erected, directed and hooded or shielded so as to be deflected away from adjacent and neighboring property.

(d) Before approval is given for any use, a site plan shall first be submitted to the Planning Commission for review as to suitability of the location of entrances and exits to the site, parking area, screening, lighting and other design features.

§ 52-680. Building grades. [Code 1975, § 39-25; Code 1992, § 32-110; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280]

Grading, the location of down spouts, driveways, irrigation systems, or landscaping for any building shall not result in adverse drainage to surrounding existing buildings or properties. For any new construction, the existing established grade of adjacent properties shall be used in determining the grade around the new building, and the yard around the new building shall be graded in such a manner as to meet existing grades, as long as such grading will not result in adverse drainage to surrounding existing buildings or properties. Landscaped areas, including berms and raised plantings, are not considered adverse if adequate drainage is provided.

§ 52-681. Buildings to be moved. [Code 1975, § 39-26; Code 1992, § 32-111]

Any building or structure which has been wholly or partially erected on any premises within or outside the City shall not be moved to and/or placed upon any premises in the City unless a building permit for such building or structure shall have been secured. Any such building or structure shall fully conform to all the sections of this chapter in the same manner as a new building or structure.

§ 52-682. Excavations or holes. [Code 1975, § 39-27; Code 1992, § 32-112]

The construction, maintenance or existence within the City of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells or of any excavations, holes or pits which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare is hereby prohibited. However, this section shall not prevent any excavation under a permit issued pursuant to this chapter or the City Building Code where such excavations are properly protected and warning signs posted in such a manner as may be approved by the Chief Inspector.

§ 52-683. Excavation, removal and filling of land. [Code 1975, § 39-28; Code 1992, § 32-113]

The use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish, or other wastes or by-products is not permitted in any zoning district except under a certificate from and under the supervision of the Chief Inspector in accordance with a topographic plan, approved by the Director of Public Works, submitted by the feehold owner of the property concerned. The topographic plan shall be drawn at a scale of not less than one inch equals 50 feet and shall show existing and proposed grades and topographic features and such other data as may from time to time be required by the Director of Public Works. Such certificate may be issued in appropriate cases upon the filing with the application of a cash bond or surety bond by a surety company authorized to do business in the state running to the City in an amount as established by the Director of Public Works which will be sufficient in amount to rehabilitate the property upon default of the operator or such other reasonable expenses. This section does not apply to normal soil removal for basement or foundation work when a building permit has previously been duly issued by the Chief Inspector.

§ 52-684. Restoration of unsafe buildings. [Code 1975, § 39-29; Code 1992, § 32-114]

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Chief Inspector or required compliance with this lawful order, except as specified in § 52-736.

§ 52-685. Construction begun prior to adoption of chapter. [Code 1975, § 39-30; Code 1992, § 32-115]

Nothing in this chapter shall be deemed to require any change in the plans, construction or design use of any building upon which actual construction was lawfully begun prior to the adoption of the ordinance from which this chapter is derived and upon which building actual construction has been diligently carried on and provided, further, that such building shall be completed within two years from the date of passage of the ordinance from which this chapter is derived.

§ 52-686. Voting places. [Code 1975, § 39-31; Code 1992, § 32-116]

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

§ 52-687. Approval of plats.[21] [Code 1975, § 39-32; Code 1992, § 32-117]

No proposed plan of a new subdivision shall be approved by either the City Council or the Planning Commission unless the lots within such a plat equal or exceed the minimum size and width requirements set forth in the various districts of this chapter and unless such plat fully conforms with the state statutes and all other sections of this Code.

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21. Editor's Note: See also Ch. 30, Land Divisions and Subdivisions.

§ 52-688. Essential services. [Code 1975, § 39-33; Code 1992, § 32-118]

Essential services as defined in this chapter are permitted in all zoning use districts. The City Council shall have the power to permit the location in any use district of a public utility building, structure or use, if the Council shall find such use, building or structure reasonably necessary for the public convenience and service, provided such building, structure, or use is designed, erected and landscaped to conform harmoniously with the general architecture and character of such district.

§ 52-689. Wireless communication facilities. [Code 1975, § 39-34; 10-28-1991 by Ord. No. 1018; Code 1992, § 32-119; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 10-24-2016 by Ord. No. 16-005]

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

ATTACHED WIRELESS COMMUNICATION FACILITIES — Wireless communication facilities (antennas and panels) that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

CO-LOCATION — The location by two or more wireless communication providers or wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

WIRELESS COMMUNICATION FACILITIES — Includes all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, antennas, microwave relay towers, telephone transmission equipment, building and commercial mobile radio service facilities. Not included within this definition are domestic television antennas or towers, citizen band radio facilities, shortwave facilities, ham and amateur radio facilities, satellite dishes and government facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority. However, those types of communication facilities must also conform to P.L. 106-521 and 47 CFR 95 equipment must be Federal Communications Commission (FCC) certified and may not include a linear amplifier or antenna that exceeds regulations given in § 52-701(d).

WIRELESS COMMUNICATION SUPPORT STRUCTURES — Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

(b) Permitted in certain districts and locations. All new wireless communication facilities shall be permitted in any industrial zoned district, subject to compliance with applicable federal law, state law and City ordinances. The collocation of a

wireless communication facility may be permitted in a C-1 or CBD Zone when located on an existing common structure, tower, or building. Any accessory transformer box which must be placed on the ground shall be constructed according to all zoning and building regulations and shall be placed as close as possible to the support structure. Wireless communication facilities may be permitted on the following sites in all districts subject to a public hearing:

(1) City-owned sites.

(2) Other governmentally owned sites as necessary by City or county or state to ensure emergency communications, homeland security or disaster warning system.

(c) Site plan approval. All new wireless communication facilities installed at a new location are subject to site plan approval by the Planning Commission and the application of all other standards contained in this section. Co-locations with existing facilities do not require site plan review. Change in footprint of existing facilities or increase tower height requires administrative review of the Planning Director.

(d) General requirements. General requirements are as follows:

(1) A building permit shall be required for the erection, construction or alteration of any wireless communication facility and approved by the Chief Inspector as to compliance with the requirements of the zoning district wherein such wireless communication facility is to be located.

(2) The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to co-locate on the structure. The accessory building contemplated to enclose such things as switching equipment shall be limited to a maximum height of 12 feet, unless architectural features acceptable to the Planning Commission justify increased height.

(3) The minimum setback of a new or materially modified support structure from all abutting streets or adjacent property shall be a distance equal to the height of such structure, unless the applicant can certify that the tower is engineered to fall within the parcel if structural failure occurs.

(4) There shall be an unobstructed access to the support structure and switching equipment, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement.

(5) The use of high intensity (strobe) lighting on a wireless communication facility shall be prohibited, and the use of other lighting shall be prohibited absent a demonstrated need.

(6) Wireless communication facilities in excess of 100 feet in height above grade level shall be prohibited within a two-mile radius of a public airport or one-half-mile radius of a helipad.

(7) Where an attached wireless communication facility is proposed on the roof of

a building, if the equipment enclosure is proposed as a roof appliance or penthouse, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or in an accessory building. If proposed as an accessory building, it shall be compatible with the existing building and shall conform with all district requirements for principal buildings, including yard setbacks.

(8) Where the property containing a wireless communication facility adjoins any residentially zoned property or land use, the developer shall plant two alternating rows of evergreen trees with a minimum height of five feet on twenty-foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than 10 feet from any structure.

§ 52-690. Open air business uses. [Code 1975, § 39-35(1); Code 1992, § 32-120; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253]

Open air business uses, where permitted, in a C-1, M-1 or M-2 District, shall be subject to the following:

(1) The minimum area of the site shall be 10,000 square feet in a C-1 District and 15,000 square feet in an M-1 and M-2 District.

(2) The minimum street frontage shall be 100 feet.

(3) 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 five feet in height in order to intercept windblown trash and other debris.

(4) Off-street parking areas and aisles, as required under Article VI of this chapter, shall be paved in accordance with the requirements of § 52-773.

(5) Lighting shall be installed in a manner which will not create a driving hazard on abutting streets or which will cast direct illumination on adjacent properties.

(6) Before approval is given for any use, a site plan shall be first submitted to the Planning Commission for review as to the suitability of location of entrances and exits to the site, parking area, fencing, lighting and other design features.

(7) All open air business uses shall comply with all City and county health regulations regarding sanitation and general health conditions.

§ 52-691. Historical designation. [Code 1975, § 39-36; Code 1992, § 32-121; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 9-28-2015 by Ord. No. 15-008]

The Planning Commission and City Council may designate certain properties or structures as historical structures or properties. The occupation of these structures or properties for uses other than those permitted in the zoning district in which it lies may be permitted after recommendation by the Historic District Commission, a public hearing by the Planning Commission and approval of the City Council. This designation

stays with the property until the structure is demolished or until the owner requests that the designation be removed or changed to another use. A removal or use change must come with approval from the Planning Commission and City Council after a recommendation from Historic District Commission.

§ 52-692. Greenbelts. [Code 1975, § 39-37; Code 1992, § 32-122; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280; 6-25-2012 by Ord. No. 1337]

(a) Whenever a greenbelt or planting strip is required in this chapter, it shall be completed prior to the issuance of any certificate of occupancy and shall thereafter be maintained with permanent plant materials, to provide a screen to abutting properties. Such greenbelts shall be planted and maintained with trees or shrubs deemed acceptable by the Planning Commission.

(b) A buffer strip shall be required as follows:

(1) There shall be a buffer strip with a minimum of a five-foot-high screening fence, continuous landscaping or solid masonry wall between:

a. Any new construction in the B, C-1, or CBD District and an R, R-1, A-1, or A-2 District or any residentially occupied property.

b. Any nonresidential use in the institutional zone and a residential use.

c. Any nonresidential use in a residential zone and a residential use.

d. Around the perimeter of a multiple-family development in an A-1 and A-2 Zone.

(2) There shall be a buffer strip with a minimum of a six-foot-high screening fence, continuous landscaping, or solid masonry wall between any MD, M-1, or M-2 District or marina or industrial use and an R, R-1, A-1, or A-2 District or any residentially occupied property.

(3) Outdoor storage where allowed in a C-1, MD, M-1, or M-2 District shall be totally obscured by a screening fence, solid masonry wall, or landscaping a minimum of six feet high to screen such areas from public streets and adjoining properties. Any commercial, marina, or industrial use where storage is allowed or existing outside of the districts listed in this subsection shall comply with this subsection.

(4) Buffer strips shall be as required in other parts of this chapter.

§ 52-693. Fences, walls and other protective barriers. [Code 1975, § 39-38; Code 1992, § 32-123; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280]

All fences, walls and other protective barriers, referred to in this section as "fences," of any nature, description, located in the City shall conform to the following:

(1) The erection, construction, or alteration of any fence shall be approved by the Chief Inspector in compliance with this chapter.

(2) Fences, unless specifically provided otherwise, shall conform to the following:

a. In all districts, a permitted fence shall not exceed six feet in height above the preexisting grade of the surrounding land. A variance from the Zoning Board of Appeals may be granted for a greater height.

b. In other than the M-1 and M-2 Districts, barbed wire, spikes, nails or any other sharp instruments of any kind are prohibited on the top or on the sides of any fence, except that barbed wire cradles may be placed on top of fences enclosing public utility buildings or equipment in any district or wherever deemed necessary by the Planning Commission in the interests of public safety, or protection of private property.

(3) Setbacks for fences shall be as follows:

a. In all residential districts, fences are not allowed in the required front yard setback or street side yard setback, unless otherwise noted. In the R, R-1, A-1, and A-2 Districts, in the required front yards setback (not on the waterfront) and street side yards setback, ornamental fences and walls for decorative or landscaping purposes, not exceeding 36 inches in height as measured from the established sidewalk or top of curb grade, may be located on the property line, provided it does not obstruct the view of traffic (see § 52-673). Such ornamental fences or walls allowed in the front yard shall include white picket (wood or vinyl) or wrought iron fences, and stone or brick walls. Front yard fences not considered to be ornamental are chain-link, wire, stockade, or plain concrete block. It shall be the discretion of the Planning Department to determine if such fence is ornamental. In order to obtain a building permit, a site plan with the location of such ornamental fence shown on the property and an elevation drawing or picture of the type of fence to be erected shall be submitted. Fences in the rear or side yard, not abutting a street, may be placed at the property line. Fences in the front yards on the waterfront (lakes, rivers, or canals) shall follow the regulations as indicated in § 52-621 of this chapter.

b. In M-1, M-2, and I Districts, setbacks for fences must conform to building setbacks in the front yard and street side yard. Fences in the rear yard or side yard may be placed at the property line.

c. In the C-1, CBD, B, MD, and CCD Districts, fences may be erected at the property line in all yards. When adjacent to a residential district, the setbacks for fences in the front yard or street side yard shall be as required for the setback of the building.

(4) No screening fence shall be erected, established or maintained on any lot which will obstruct the view of a driver of a vehicle approaching the street or sidewalk, with the exception that shade trees shall be permitted where all branches are not less than eight feet above the road level. (See § 52-673.)

(5) Electrified fences are not allowed within the corporate limits of the City. This does not include in-ground pet fences.

§ 52-694. Solid waste disposal; dumpsters. [Code 1975, § 39-39; Code 1992, § 32-124; 9-28-1992 by Ord. No. 1027; 8-13-2001 by Ord. No. 1188; 10-22-2007 by

Ord. No. 1280; 5-24-2010 by Ord. No. 1311; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

Adequate solid waste disposal facilities shall be required in the A-1, A-2, B, C-1, CBD, M-1 and M-2 Districts or at any nonresidential use within the R or R-1 District. If trash/ waste cannot be stored inside of a building until it is removed from the property, or if an exterior trash/waste disposal receptacle is necessary, a dumpster shall be provided and shall comply with the following:

(1) Adequate vehicular access shall be provided to such solid waste containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby. When a public alley is utilized for truck access, said alley shall not be adjacent to a residence. In addition, said alley must be wide enough for the truck to maneuver without entering an adjacent private property.

(2) A solid ornamental screening wall or fence shall be provided around all sides of solid waste containers which shall be provided with a gate for access and shall be of such height as to completely screen such containers, the minimum height of which shall be six feet.

(3) The solid waste containers, the screen wall or fence and the surrounding ground area shall be maintained in a neat and orderly appearance, free from solid waste. This maintenance, including collection and disposal of solid waste, shall be the responsibility of the owner of the premises on which the containers are placed. The waste container shall be covered at all times.

(4) There shall be compliance with all county and state ordinances and statutes and Chapter 38, Solid Waste and Recycling.

(5) A refuse container, or dumpster, must be located a minimum of 20 feet from the property line of a residence. A waste container shall not be located in the front yard in any zoning district, except in accordance with § 38-14(a) of the Code of Ordinances.

(6) In the R, R-1, A-1, or A-2 Zones, a refuse container, or dumpster, must be located on the parcel with the residential building it is intended to serve and shall not be located on a vacant parcel.

§ 52-695. Home occupations. [Code 1975, § 39-40; Code 1992, § 32-125; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 10-24-2016 by Ord. No. 16-005]

(a) A home occupation is an activity carried out for gainful purposes by a resident of the dwelling and conducted as a customarily incidental use to the dwelling unit.

(b) For this chapter, there shall be three distinct types of home occupation: passive home occupations, active home occupations and medical marihuana home occupations. **[4-26-2021 by Ord. No. 21-003]**

(1) Passive home occupations. Passive home occupations shall not require any client or customer traffic to visit the home. This type of home occupation shall

be allowed in any residential district without special approval. Examples of a passive home occupation would be an office of a salesperson who makes telephone calls to clients or goes out to visit the client.

(2) Active home occupations. Active home occupations generate customer traffic to the home, and active use shall require a special approval use permit from the Planning Commission and City Council. Examples of an active home occupation would be an office of a tax preparer who receives clients to the home.

Certain active home occupations do not require a special permit from the Planning Commission as the state guarantees them by right to be allowed in a residential district. These home occupations allowed by state law are those occupations in "instruction of the crafts or fine arts." For example a tutor in mathematics, a music instructor, or a piano teacher is allowed as a home occupation and can receive clients at the home without a special permit. Such instructional occupation shall still be governed by the conditions and criteria for a home occupation as it is listed in this section and is limited to the hours of operation, number of students, etc.

(3) Medical marihuana home occupations, whether passive or active, shall require a special use permit from the Planning Commission.

(c) Within a community, certain limited home occupation uses can be useful to both the general community as well as the resident proprietor. There is a need for some citizens to use their place of residence for limited nonresidential activities; however, the need to protect the integrity of a residential area is of primary concern. It is the intent of this chapter to:

(1) Allow freedom of the individual property owner, yet not infringe upon the security of the community's interest or restrict the greater good of the public.

(2) Ensure compatibility of such home occupation with other permitted uses of a residential district.

(3) Retain the residential character of the neighborhood involved.

(4) Defend the privacy of surrounding residents and not create an inappropriate atmosphere for family life.

(5) Protect the health, safety, morals, and welfare of the adjacent residents.

(6) Guarantee all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas.

(d) All home occupations meet the following conditions and criteria: **[4-26-2021 by Ord. No. 21-003]**

(1) Only members of the immediate family on the premises may be employed by such occupation.

(2) Such use shall be clearly incidental and secondary to the dwelling for dwelling

purposes. The primary function of the premises shall be that of the residence of the family, and the occupation shall not exceed 10% of any one floor of the principal building.

(3) No more than one home occupation shall be permitted within any single dwelling unit.

(4) All activity shall be operated in its entirety within the preexisting dwelling and not within any garage or accessory building located upon the premises, except for incidental storage which may be allowed within a residential-type garage upon the premises. The warehousing of retail or wholesale merchandise is prohibited. There shall be no outside storage or processing.

(5) No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials shall be used or stored on the site.

(6) No activity is allowed which would constitute a nuisance to surrounding property or which would endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, smoke, fumes, dust, heat, vibrations, unsanitary or unsightly conditions, fire hazards, electrical disturbances, night lighting, glare, and the like which is noticeable at or beyond the property line or beyond the walls of the dwelling unit if the unit is part of a multifamily structure.

(7) Such home occupation shall be in compliance with all City, county, and state codes, laws, and regulations.

(8) Such use shall not require internal or external alterations or construction other than that which may be required to meet City, county or state safety or construction code standards as authorized by the City.

(9) There shall be no signage, advertising, or product displayed which is visible from the street or adjacent property.

(10) No external evidence of such home occupation shall be allowed indicating from the exterior that it is being used for anything but a dwelling.

(11) No sale or rental of goods shall be allowed on the premises. Any goods produced on the premises must be sold off the premises. Samples, not produced on the premises, may be displayed but not sold on the premises. No food or beverages shall be sold on the premises.

(12) Customers for the active home occupation shall be accommodated on an appointment basis. Walk-in business, where the premises is generally open to customers without an appointment, shall not be allowed. Business shall be conducted from 8:00 a.m. to 8:00 p.m. There shall be a limit of six customers per day, and the business shall not service more than one client or customer at a time on the premises.

(13) Traffic and parking shall be in accordance with the following:

a. Adequate off-street parking shall be provided on site for residents and customers.

b. Paving of any yard area other than normal driveway areas to accommodate parking for home occupations is prohibited.

c. The home occupation shall not generate a volume or character of pedestrian or vehicular traffic beyond that normally generated by homes in the residential neighborhood.

d. Only deliveries normally and reasonably occurring for a residence shall be made to the home. Delivery vehicles shall not restrict traffic circulation.

(14) When applying for a special permit for a home occupation, there shall be no violation against a property or dwelling before such residence may be issued a special permit for such home occupation.

(15) Activities specifically prohibited include small engine repair, repair or service of motor vehicles and other large equipment, and service or manufacturing processes which would normally require industrial zoning. The use of equipment or machinery industrial in nature is prohibited. Only mechanical equipment ordinarily used for residential, domestic, or household purposes or as deemed similar to power and type is allowed.

(16) A personal service business requiring physical contact with the client or a service which is directly performed on or to the client's body is not considered a home occupation by this chapter.

(17) Any advertising of the home occupation may include the telephone number, but shall not carry the residential address of such occupation in order to prevent walk-in customers without appointment.

(18) Home occupations which have been granted a special permit are not transferable to the following:

a. Subsequent occupants of the residence.

b. A different residence if the occupant relocates.

(19) Such other reasonable conditions and limitations may be imposed by the Planning Commission to protect nearby residential premises and persons.

(20) No home occupation shall involve the care or treatment of animals or pets.

(21) Some business or professional offices may be used as a home occupation. It will be the final decision of the Planning Department to determine what types of offices qualify as a home occupation. These offices normally serve one client at a time and customer traffic is minimal. A "home occupation" office shall be the location where the business owner lives and the office is a minor use. The following offices may be considered a home occupation, provided all of the regulations of a passive and active home occupation apply:

a. Typing or secretarial services.

b. Bookkeeping, accounting, or tax preparation services.

c. Home office of a sales representative such as Avon, Mary Kay, Amway, etc.

d. Insurance agent.

e. Real estate agent.

f. Architect or engineer.

The following offices cannot be considered as home occupations:

a. Medical office of a doctor, dentist, chiropractor, etc.

b. Veterinarian office or clinic.

c. Office of a physical therapist or massage therapist.

(22) Any home occupation which consists of an occupation which must be state or federally licensed must first obtain such license before the home occupation permit can be granted.

(23) Following is a list of examples of home occupations, which is not intended to limit the kinds of home occupations that can comply with the conditions of this section:

a. Seamstress.

b. Handicrafts.

c. Typing, secretarial services.

d. Bookkeeping, accounting services.

e. Tutoring and/or instruction of the crafts or fine arts, limited to one student at a time (does not require a special permit).

f. Home office of a sales representative.

(24) Following is a list of examples of what is not considered a home occupation by this chapter due to the fact that, by the nature of the investment or operation, it has a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby impairs the use and value of a residentially zoned area for residence purposes and is more suited to professional or business districts. This list is not intended to limit the kinds of uses which are deemed not to comply with the conditions of this section:

a. Small engine repair, automotive repairs, automotive detailing, taxi dispatch service.

b. Dog grooming.

c. Kennels.

d. Restaurants.

e. Bed-and-breakfasts or tourist homes.

f. Psychic reading.

g. Tearooms.

h. Child or adult day care.

i. Repair, painting, or sale of motorized vehicles.

j. Welding or machine shops.

k. Catering.

l. Personal service business requiring bodily contact with the client such as the business of a barber or beautician, tattoo artist, nail technician, physical therapist, or massage therapist, etc.

m. Taxi service dispatch.

n. Tattoo or body piercing establishment.

o. Retail shop.

(e) Medical marihuana home occupations. In addition to the requirements herein applicable to all home occupations, medical marihuana home occupations must meet the following: **[4-26-2021 by Ord. No. 21-003]**

(1) The medical use of marihuana must comply at all times and in all circumstances with the Michigan Medical Marihuana Act[22] and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.

(2) A registered primary caregiver operating a medical marihuana home occupation must not be located within 1,000 feet of a school, as measured from the outermost boundaries of the lot or parcel on which the home occupation and school is located.

(3) Not more than one primary caregiver per parcel may be permitted to grow or cultivate medical marihuana.

(4) Not more than five qualifying patients may be assisted with the medical use of marihuana within any given calendar week.

(5) All medical marihuana must be contained within an enclosed, locked facility inside the primary residence on the parcel.

(6) All necessary building, electrical, plumbing and mechanical permits must be obtained for any portion of the building in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.

(7) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. and 7:00 a.m. must employ shielding methods, without alteration to the exterior of the

22. Editor's Note: See MCL § 333.26421 et seq.

residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.

(8) That portion of the building where energy usage and heat exceeds typical residential use, such as grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers must be subject to inspection and approval by the City of Port Huron Fire Department to ensure compliance with the Michigan Fire Protection Code.

(9) The premises must be open for inspection upon request by the Building Official, the Fire Department and law enforcement officials for compliance with all applicable laws and rules, during the stated hours of operation/use and as such other times as anyone is present on the premises.

(10) Medical marihuana home occupations are permitted only in single-family dwelling units and not in any multifamily or multi-unit dwellings.

§ 52-696. Bed-and-breakfast facilities. [Code 1975, § 39-41; Code 1992, § 32-126; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

Bed-and-breakfast facilities, where permitted in certain districts after special approval, shall be subject to the following:

(1) The principal use of the dwelling is single-family residential and is owner-occupied at all times.

(2) The rooms utilized are a part of the principal residential use and not specifically constructed for rental purposes. Additions to the home to allow expansion of the bed-and-breakfast use are not permitted.

(3) The bed-and-breakfast facility does not require any internal or external alterations of construction features, equipment or outdoor storage not customary in residential areas and does not change the character of the dwelling.

(4) No more than five rooms shall be rented for bed-and-breakfast purposes.

(5) Meals shall only be served to those renting rooms.

(6) No transient occupant shall reside on premises for more than seven consecutive days and not more than 30 total days in one year.

(7) All such facilities shall comply with all applicable City, county, and state building, plumbing, electrical, mechanical, fire, health, and barrier free codes. The rooms shall be inspected by the Building Inspection Department and the Fire Marshall before rooms can be occupied. A bed-and-breakfast is subject to the regulations for a single-family residence. It is not subject to Chapter 10, Article V, Rental Certification, of the City Code of Ordinances.

(8) Signage shall conform to § 52-829. An elevation drawing of the proposed sign shall be provided when applying for a special permit, and a building permit shall be obtained before the sign is erected. All signage shall require approval from the Historic District Commission.

(9) Sufficient off-street parking shall be provided pursuant to Article VI of this chapter as it pertains to single-family dwellings and bed-and-breakfast facilities. Parking lots shall be paved, and stacking cars one behind the other for bed-and-breakfast patrons shall not be permitted. No parking areas shall be located in any required front yard or street side yard. Parking areas shall be adequately screened, as required, from other adjacent residential lots.

(10) When applying for special approval, a site plan shall be provided indicating the location of the dwelling, the lot dimensions, location of proposed parking areas, signage, landscaping, etc.

(11) Homes utilized as bed-and-breakfast facilities must display unique historical architectural characteristics and will require a letter of recommendation from the Historic District Commission as a historical structure before approval is issued by Planning Commission.

(12) Any changes to the facade of the structure will require approval from the Historic District Commission.

(13) The site utilized must be a conforming residential lot regarding size.

§ 52-697. Site plan review. [Code 1975, § 39-42; Code 1992, § 32-127; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280; 6-25-2012 by Ord. No. 1337]

(a) The purpose of site plan review is to determine compliance with the sections set forth in this chapter and to promote the orderly development of the City, the stability of land values and investments and general welfare, and to help prevent the impairment or depreciation of land values and development by the erection of structures or additions or alterations thereto without proper attention to siting and appearance. This section shall apply to all site plan review procedures unless otherwise provided in this chapter. The procedures of this section shall be minimum requirements, and additional procedures may be required by this chapter or by the Planning Commission.

(b) Whenever site plan review is required by this chapter, a copy of the site plan, including all items required together therewith, shall be submitted to the Planning Commission. A site plan review application, to have site plan approval for a particular use, shall be submitted to the Planning Director, 100 McMorran Boulevard, Port Huron, Michigan 48060. Include the name of the development; the proposed use; the property owner's name and/or the applicant's name, address, and daytime telephone number. If the applicant is not the property owner, please indicate as such and the relationship thereto (for example, if the applicant is the contractor, realtor, developer, etc.). A copy of a purchase agreement may be requested, if the applicant is not the property owner. The Planning Commission may prepare forms and require the use of such information in site plan preparation. The fee for an application for site plan review or approval shall be adopted by resolution of the City Council and amended, as necessary, by resolution of the City Council.

(c) A copy of the site plan shall be distributed by the Planning Commission to such individuals and agencies as deemed necessary by the Planning Commission.

(d) The following information shall accompany all plans submitted for review:

(1) A legal description of the property under consideration.

(2) A copy of the site plan is required on a 8 1/2-inch by eleven-inch paper and a twenty-four-inch by thirty-six-inch sheet. A map indicating the gross land area of the development, the present zoning classification thereof, and the zoning classification and land use of the area surrounding the proposed development, including the location of structures and other improvements, is required. All property and building dimensions shall be indicated. The map shall be drawn to scale by a licensed surveyor, engineer, or architect. All letters and numbers on the map shall be clearly legible. When possible, a site plan can be submitted as a computer file in a format readable by AutoCAD in lieu of a paper copy.

(3) The 8 1/2-inch by eleven-inch site plan shall be a general development plan with at least the following details shown to scale and dimensioned:

a. Location of each existing and each proposed structure in the development area, the use to be contained therein, the number of stories, gross building areas, distances between structures and lot lines, setback lines, and approximate location of vehicular entrances and loading points; location of structures on adjacent properties in respect to the property lines.

b. All streets, driveways, easements, service aisles and parking areas, including general layout and design of parking lot spaces in accordance with Article VI of this chapter.

c. All pedestrian walks, malls and open areas for parks and recreation.

d. Location and height of all walls, fences and screen planting, including general plan for the landscaping of the development and the method by which landscaping is to be accomplished and be maintained; location of dumpsters, if necessary for such use.

e. Types of surfacing, such as paving, turfing or gravel, to be used at the various locations.

(4) A separate twenty-four-inch by thirty-six-inch drawing of the site shall be submitted with the requirements of Subsection (d)(3) of this section as well as the following details:

a. A grading plan of the area with topographic information.

b. Existing and proposed utilities.

(5) Plans and elevations of one or more structures, indicating proposed architecture and construction standards.

(6) Such other information as may be required by the City to assist in the consideration of the proposed development.

(7) Any rezonings, lot splits/combinations, zoning variances, etc., which are required for the proposed use shall occur before a site plan can be reviewed. The fee for an application to split or combine a lot shall be adopted by

resolution of the City Council and amended, as necessary, by resolution of the City Council.

(8) Public rights-of-way (alleys or streets) or utility easements which may need to be vacated for construction purposes shall be vacated prior to any site plan approval. If utility easements need to be relocated, letters from the appropriate utility companies authorizing the relocation shall be provided before such existing easements can be vacated. The fee for an application to vacate a public rights-of-way (alleys or streets) or utility easement shall be adopted by resolution of the City Council and amended, as necessary, by resolution of the City Council.

(e) In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area and to ensure that no undesirable health, safety, noise and traffic conditions will result from the development, the Planning Commission shall determine whether the site plan meets the following criteria, unless the Planning Commission determines that one or more of such criteria are inapplicable:

(1) The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment.

(2) Pedestrian walkways shall be provided as deemed necessary by the Planning Commission for separating pedestrian and vehicular traffic.

(3) Recreation and open space areas shall be provided in all multiple-family residential developments.

(4) The site plan shall comply with the district requirements for minimum floor space, height of buildings, lot size, yard space, density and all other requirements as set forth in § 52-621 of this chapter unless otherwise provided in this chapter.

(5) The requirements for greenbelts, fencing, and walls, and other protective barriers shall be complied with as provided in § 52-693.

(6) The site plan shall provide for adequate storage space for the use therein, including, where necessary, storage space for recreational vehicles.

(7) The site plan shall comply with all requirements of the applicable zoning district, unless otherwise provided in this chapter.

(f) The site plan shall be reviewed by the Planning Commission and approved, disapproved or approved with any conditions the Planning Commission feels should be imposed. However, the applicant shall have the right to appeal to the City Council for a site plan disapproved by the Planning Commission, provided that the appeal is filed within 30 days after Planning Commission denial.

(g) The building permit may be revoked by the Chief Inspector when the conditions of the site plan as approved by the Planning Commission have not been complied with as provided in § 52-41(b)(2).

(h) Any structure or use added subsequent to the initial site plan approval must be approved by the Planning Commission. Incidental and minor variations of the approved site plan with written approval of the Planning Director shall not invalidate prior site plan approval.

§ 52-698. Standards for decisions. [Code 1992, § 32-128; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280]

Notwithstanding anything to the contrary contained in this chapter and to secure compliance with Public Act 110 of 2006 (MCL 125.3101 et seq.) with respect to procedures contained in this chapter pertinent to special land uses and/or planned unit developments or concepts in this chapter under different terminology designed to accomplish similar objectives of a reviewing process, such reviewing process is delegated to the Planning Commission. Any site plan review required pertinent to this section is also hereby similarly delegated notwithstanding any other section to the contrary. In addition to specific standards which may be applicable, the following standards shall serve as the basis for decisions involving special land uses, planned unit developments, and other discretionary decisions contained in this chapter. The proposed use or activity shall:

(1) Be compatible with adjacent uses of land;

(2) Be consistent with and promote the intent and purpose of this chapter;

(3) Be compatible with the natural environment;

(4) Be consistent with the capabilities of public services and facilities affected by the proposed use; and

(5) Protect the public health, safety, and welfare.

§ 52-699. New construction design guidelines for residential dwellings. [12-8-2003 by Ord. No. 1219; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280]

Renovations or new construction of single-family and two-family residential dwellings shall be compatible in design and appearance to dwellings in the neighborhood it is located. The Zoning Administrator shall determine whether this standard is met by reviewing the following criteria:

(1) New construction of residential dwellings shall be compatible with the scale, height, period style, and architectural design of existing homes within the block surrounding the lot.

(2) The front entrance of the home shall face the front street side of the lot. New homes shall not be established/constructed on the lot sideways. On corner lots, the main entrance may face either of the streets if in accordance with other applicable codes and ordinances.

(3) Setbacks are to be in accordance with this chapter; exceptions may be made to allow for setback to reflect the average established setback line of existing, adjacent buildings only if it can be shown that the required setback would dramatically alter the line of site, privacy and aesthetics of the neighboring area.

(4) Not more than 50% of the inside length of an attached garage may protrude out past the front facade wall of the home unless the vehicle garage doors are on the side of the garage and not facing the street. The street side shall incorporate building design elements and materials to blend with the front facade and shall include windows and trim. If a garage is attached to the main structure, it can protrude out past the house by any distance, within proper setbacks, if part of the living quarters of the main dwelling is above the garage. This living space above the garage must not be a separate residential dwelling unit and must be accessed through the main part of the house not through a set of stairs in the garage. The roof of the attached garage cannot be more than three feet higher than the roof peak of the dwelling unless part of the living space of the main dwelling is built as a second story over the garage. Garage width may not exceed more than 60% of the home's front facade width.

(5) Garage walls are to be no more than 10 feet high excluding the portion of the wall within a gable end. The roof height may not extend more than three feet above the roof peak of the dwelling. Exception is noted for those structures that are attached garages with a portion of the principle structure's living space constructed above the garage.

(6) When alleys are existing for access, the development of garages and parking pads to be adjacent to the alley rather than the street frontage is preferred.

(7) The original scale, proportions, lines and exterior construction materials of the surrounding environment shall be respected, compatible and enhanced.

(8) Front entrances and porches must include design elements that are similar in scale, height and design to those on original existing structures in the neighborhood.

(9) New residential construction requires the construction of a garage structure. Dwellings of less than 1,100 square feet require a minimum one-car enclosed garage per residential unit; dwellings of 1,100 square feet or more require a minimum of a two-car enclosed garage per residential unit. The enclosed garage may be attached or unattached and must meet the appropriate setbacks and all other regulations.

a. A one-car garage shall be a minimum size of 12 feet wide by 22 feet long.

b. A two-car garage shall be a minimum size of 24 feet wide by 22 feet long.

§ 52-700. Landscape standards for new development. [12-8-2003 by Ord. No. 1218; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

The purpose of this section is to establish general minimum standards regarding landscape plans as part of the site plan review process; enhance the City's environmental and visual character; preserve or stabilize ecological concerns with development needs; maintain a healthy environment, mitigate pollution, and provide natural and aesthetically pleasing buffers between conflicting land uses; protect public and private investments; and improve neighborhood aesthetics and promote high-quality developments.

(1) The following terms are hereby defined as follows: (reserved).

(2) For new construction or major redevelopment of building projects within an A-1,

A-2, CBD, MD, C-1, M-1, or M-2 Zone, a landscape plan must be approved as part of final site plan approval and prior to issuance of a building permit. Such landscape plan to include: site drawing indicating location, type and size of plantings, berms, screens, parking surfaces, and any other amenities required.

(3) Landscaping; street trees.

a. Wherever a greenbelt exists along a roadway, street trees shall be planted 40 feet on center. Existing street trees in good health may be counted toward fulfilling this requirement.

b. Proposed street trees should be of a complimentary species as existing trees on that street but do not necessarily have to be of the same species as a protective measure against insect and disease infestation. The following trees are permitted as street trees:

1. Beech (American and European).

2. Elm: Hybrids only.

3. Flowering trees: Crabapple, Dogwood, Horsechestnut, Ohio Buckeye, Eastern Redbud, Callery Pear, Magnolia.

4. Maple: Crimson King, Freeman, Hedge, Norway Cultivars, Paperbark, Red, Shantung, Striped, Sugar, Tartarian.

5. Oak: Burr, Pin, Red, Sawtooth, Shingle, Swamp and White Miscellaneous species: Birch, Hackberry, Hornbeam (American), Ironwood, London Planetree, Littleleaf Linden, Honey Locust, Sweetgum (American), Tupelo and Tuliptree.

The minimum size of trees at time of planting shall be 2 1/2 inches in caliper measured 12 inches above grade.

(4) All developed portions of the site shall conform to the following general landscaping standards, except for specific street and parking lot landscaping requirements:

a. All unpaved portions of the site shall be planted with grass, ground cover, shrubbery or other suitable plant material.

b. One deciduous tree shall be planted every 40 linear feet of street frontage of unpaved open area. Eight shrubs may be substituted for each required tree. A grouped planting bed may also be substituted with the approval of the Planning Department where trees or shrubs are not determined to be the best option.

(5) Unless otherwise specified, all landscape materials shall comply with the following standards:

a. Plant quality. Plant materials used in compliance with this section shall be nursery grown, free of pests and diseases, hardy in the county climate and conditions, in conformance with the standards of the American Association of Nurserymen, and shall have passed inspections required under state regulations.

b. Composition. A mixture of plant material, such as evergreen deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.

c. Plant material specifications. The following specifications shall apply to all plant material proposed in accordance with the landscaping requirements of this section:

1. Deciduous shade tree. Deciduous shade trees shall be a minimum of 2 1/2 inches in caliper measured 12 inches above grade when planted.

2. Deciduous ornamental trees. Deciduous ornamental trees shall be a minimum of two inches in caliper when measured 12 inches above grade when planted.

3. Evergreen trees. Evergreen trees shall be a minimum of five feet in height when planted. Evergreen trees planted to comply with a screening requirement shall be a minimum of six feet in height when planted.

4. Shrubs. Shrubs shall be a minimum of two feet in height or spread when planted. Shrubs planted to comply with a screening requirement shall be a minimum of three feet in height.

5. Grass. Grass area shall be planted using species normally grown as permanent lawns in the county and/or native to the county. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass shall be sodded in the front yard unless otherwise approved. In other areas of the site, grass may be sodded, plugged, sprigged, or seeded. Straw or other mulch shall be used to protect newly seeded areas.

6. Ground cover. Ground cover used in lieu of turf grass in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one complete growing season.

7. Mulch. Mulch used around trees and shrubs shall be a minimum of three inches deep and installed in a manner as to present a finished appearance.

8. Undesirable plant material. Use of the following plant materials (or other clones or cultivars) is prohibited due to susceptibility to storm damage, disease, and other undesirable characteristics:

i. Mountain Ash.

ii. American Elms.

iii. Ash — Green, Patmore, Seedless, Summit, or White.

iv. Maple — Silver.

v. Box Elder.

vi. Poplar.

vii. Russian-olive.

viii. Willow.

(6) Landscaping required by this section shall be maintained in a healthy, neat, and orderly appearance, free from weeds, refuse and debris. All unhealthy and dead plant material shall be replaced immediately upon notice from the Building Inspector or the blight inspector, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season. All landscaped areas shall be provided with a readily available and acceptable supply of water. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing seasons.

(7) Berms shall be graded with slopes no steeper than one-foot horizontal for each three-foot vertical, with at least a two-foot flat area on top. Berms shall be planted with grass, ground cover, wood mulch or other suitable plant material to prevent erosion and shall be in such a design so as to not create adverse drainage to adjacent land.

(8) It shall be the responsibility of the owner of the property for which site and/or building plan approval has been granted to maintain the property in accordance with the approved site and/or building design on a continuing basis until the property is razed, or until the new zoning regulations supersede the regulations upon which approval of the site and/or building plans was based, or until a new site and/or building design is approved. Any property owner who fails to so maintain an approved site and/or building design shall be deemed in violation of the provisions of this section and shall be subject to the penalties set forth in this chapter.

(9) In consideration of the overall design and impact of a specific plan, the Planning Commission may modify the specific requirements outlined herein, provided that any such adjustment is in keeping with the intent of this and other sections of the chapter.

(10) For those uses requiring greater than 20 parking spaces, there shall be a landscape plan which shows plantings and groups of plantings that buffer the parking lot areas from adjacent uses. Such a landscape plan shall include a mixture of planting material appropriate for the space, so as to not create a visual/safety barrier. Such plan shall be approved by the Planning Department. Parking lot landscaping shall be no less than five feet in any single dimension and shall be protected from parking areas with curbing, or other permanent means to prevent vehicular encroachment onto landscaped areas. This parking lot requirement is in addition to landscaping required to comply with the parking lot screening requirement.

§ 52-701. Private television or communication antennas, tower antennas, or satellite dish antennas located on residential properties. [10-10-2005 by Ord. No. 1253; 5-24-2010 by Ord. No. 1311]

(a) A building permit and/or electrical permit shall be required for all residential antennas except satellite dish antennas less than three feet in diameter which are intended for receipt of television or communication signals.

(b) All antennas and satellite dishes are only allowed in the side or rear yard. They may

not be placed on an easement. The minimum setback requirement from the side and rear property line is three feet. This setback shall also pertain to any guy wires to secure the antenna or any stabilization device the antenna may require. Guy wires shall be firmly secured to the ground only or the roof of the house if said antenna is roof mounted.

(c) Satellite dish antennas may be ground, roof, or wall mounted to the main or accessory building on the property but only along the side or rear yard. When attached to a building, the dish must be secured according to the requirements of the City building code. Residential satellite dishes may not exceed three feet in diameter. The outer edge of a satellite dish shall be at the setback line, not the pole upon which it is mounted.

(d) In the R, R-1 and A-1 Districts, domestic radio and television antennas cannot extend higher than 12 feet above the height limit of the zoning district in which it is located. In all other districts, the height may not exceed more than 20 feet above the height restriction of that district.

(e) Any wiring or cable connections between the antenna or dish and the dwelling shall be installed in a manner approved by the City Electrical Inspector.

§ 52-702. Livestock. [4-24-2006 by Ord. No. 1265]

"Livestock" means that term as defined in the Animal Industry Act of 1987, Public Act No. 466 of 1988 (MCL 287.701 through 287.747).

There shall be no storage, staging, waiting, parking or maintaining of any livestock at any time or in any district within the City's corporate limits.

§ 52-703. Alternative energy devices. [10-22-2007 by Ord. No. 1280; 1-11-2010 by Ord. No. 1305]

To help offset the increasing costs of electricity and heat supplied by fossil fuels, many property owners may wish to have alternative forms of energy. This may be accomplished in a number of ways. Due to the close proximity of buildings within a City, it has been deemed necessary to allow only certain types of alternative energy devices to be placed on properties and to have restrictions on these devices for safety and security purposes. The devices allowed are:

(1) Solar panels. Solar energy is a source of energy that uses radiation emitted by the sun. A solar panel is a device that collects and converts solar energy into electricity or heat.

a. Solar energy panels and roof shingles are allowed in all zoning districts.

b. Solar panels may not be placed on any side of a house or building facing the street. Panels may only be placed flush along the walls or roof of a structure and shall be in placed in accordance with the rules and regulations of Division 16, Schedule of Regulations, in regards to setbacks, heights, etc., per the district that the panels are located. The panels may be placed on an accessory building. Accessory buildings must be built per the requirements of § 52-676. Solar panel grids on a ground pole may be installed in C-1, CBD, I, M-1, and

M-2 Districts. The size and height are not to exceed regulations obtained from the Inspection Division.

c. Panels may not be placed so as to reflect glare into any neighboring property or the street.

(2) Wind turbine. A wind turbine or wind energy conversion system means any device which converts wind energy to mechanical or electrical energy.

a. Wind turbine towers are allowed in any zoning district, provided the property size is a minimum of two or more acres of land. A site plan indicating the location of the turbine and any ancillary equipment shall be located on the drawing.

b. The setback of the tower must be equal to the height of the tower (the distance from the base of the tower to the top of the unit) plus 1/2 the rotor (blade) diameter or within an engineered fall zone.

c. Maximum height of the wind turbine tower shall be that of the zoning district in which it is located and shall comply with all Federal Aviation Administration and Michigan Airport Zoning Act (PA 23 of 1950, MCL 259.431 et seq.) requirements. Wind turbine towers of up to a maximum height of 90 feet shall be allowed in open areas in excess of two acres and with engineered, professionally sealed construction plans and proper permits from the Building Official.

d. The minimum distance between the ground and the blades shall be 20 feet as measured at the lowest point of the arc of the blades.

e. Wind turbines shall have an automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. The maximum wind speed the wind turbine can operate without incurring structural damage or functioning abnormally shall be at least 80 mph.

f. All wind towers shall have lightning protection. **[6-26-2017 by Ord. No. 17-005]**

g. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors.

h. The tower, and any auxiliary mechanical equipment, shall be enclosed with a six-foot fence unless the base of the tower is not climbable for a distance of 12 feet.

i. Wind turbines may have a vertical or horizontal rotor.

j. Roof-mount wind turbines are allowed in all zoned districts and must be installed according to industry standards with engineered, professionally sealed construction plans and applicable building codes. Roof-mount turbines may be affixed to the roof of either a primary structure or an accessory structure and placed so as not to be easily visible from the front public view. Roof-mount turbines may not exceed a height of four feet above the rooftop.

(3) Outdoor burning devices. A burning device is any apparatus or appliance, other than a barbecue grill, that burns a material such as wood, corn, pellets, waste materials, compost, vegetable oils, automotive waste oil/fuel, water, or similar material for the purpose of creating energy and is not located within the walls of the main dwelling or main structure. Outdoor burning devices for the purpose of alternative fuel to heat industrial, commercial, or residential structures is not allowed.

(4) General requirements for any alternative energy device and ancillary equipment:

a. Any alternative energy device, or ancillary equipment, must be installed in compliance with all local building, electrical, heating and plumbing, fire, and zoning codes. A building permit and appropriate electrical, HVAC, or plumbing permits must be obtained. Any structural designs must be signed and sealed by a professional, certified engineer. When placing equipment on the roof of a structure, a load design must be approved.

b. No noise shall be created by any device or ancillary equipment that can be measured at the property line to exceed 63 decibels.

c. The placement of any device shall not interfere with the reception, transmission, or broadcast of radio, television, microwave, wireless or other personal communication systems.

d. The location of any alternative energy device shall not create any immediate or future danger for any adjacent properties or persons.

e. All equipment must be certified and tested by the Underwriters' Laboratories, Inc., or other such applicable independent accrediting agency.

f. If there is a proposed interface with a utility company's existing grid, if applicable, there shall be a notification in writing given to that utility company affected prior to the installation of such interface. A copy of such notification shall be given to the City and kept on file with all permits.

g. All alternative energy apparatus shall be kept in good repair and sound condition. Any equipment which has been abandoned or not utilized for a period of one year shall be dismantled and removed from the property within 60 days of written notice from the City to remove.

§ 52-704. Marihuana business. [9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]

A category of uses permitting marihuana establishments and marihuana facilities licensed pursuant to MMFLA, MRTMA and if permitted pursuant to the City Code of Ordinances.

(1) General provisions. Nothing herein shall be construed to grant authorization to operate a marihuana business without receipt of a license from the State of Michigan and a final permit or certificate as required by the City of Port Huron Code of Ordinances. Further, nothing herein shall be construed as to allow any time of marihuana business which is not specifically allowed pursuant to the City of Port

Huron Code of Ordinances. The following apply to all marihuana businesses unless otherwise noted.

a. General requirements.

1. All location criteria and required separation distances apply to both new marihuana businesses and to any proposed change in the location of an existing marihuana business.

2. All location criteria and required separation distances apply to both marihuana businesses and similar protected uses located in adjacent governmental jurisdictions.

3. A marihuana business is prohibited from operating in any residential zoning district or within a residential unit.

4. A marihuana business may not be operated at any place in the City other than the address provided in the application on file with the City Clerk.

5. A marihuana business must be operated in compliance with all applicable state and City regulations for that type of marihuana business.

6. All marihuana businesses must operate in such a manner that odors or fumes generated by the marihuana business are filtered such that they are not discernible outside of the licensed premises.

b. Location criteria. All marihuana businesses must meet the following location criteria, except marihuana safety-compliance facilities or establishments:

1. Required distance.

i. A marihuana business may not operate or be located within 1,000 feet of a preexisting private or public school providing education in kindergarten or any grades one through 12; provided, facilities that provide primarily virtual education or education not at the site shall not be included in calculating this distance.

ii. A marihuana business may not operate or be located within 500 feet of a preexisting state-licensed child-care center, public playground, public park, public beach, public pool, or youth center; provided, public parks without children's playground equipment or public parks not designed primarily for use by children shall not be included in calculating this distance.

iii. Measuring the required distance. The required distances provided for herein are measured in a straight line from the nearest property line of a protected use to the nearest portion of the building or unit in which the marihuana business is located and includes distances that lie outside of the City of Port Huron.

c. Shared location. Subject to all other applicable rules and regulations, marihuana businesses may operate from a location shared with an equivalent licensed marihuana business.

(2) Marihuana processor establishments and facilities. Marihuana processors are licensed to obtain marihuana from marihuana establishments/facilities; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments/facilities. All processing operations must be conducted within an enclosed building. Processor establishments and facilities, whether licensed pursuant to MMFLA or MRTMA, are permitted as a special use only in the M-1 or M-2 zoning districts and are not a permitted or special use in any other district.

(3) Safety-compliance establishments and facilities. Safety compliance establishments and facilities are licensed to test marihuana, including certification for potency and the presence of contaminants. Safety-compliance establishments and facilities, whether licensed pursuant to MMFLA or MRTMA, are permitted as a special use only in the M-1, M-2, C-1 and CBD zoning districts and are not a permitted or special use in any other district.

(4) Secure transporter establishments and facilities. Secure transporter establishments and facilities are licensed to obtain marihuana from marihuana establishments/ facilities in order to transport marihuana to marihuana establishments/facilities. Secure transporter establishments and facilities are permitted as a special use only in the M-1, M-2 and C-1 zoning districts and, whether licensed pursuant to MMFLA or MRTMA, are not a permitted or special use in any other district.

(5) Microbusiness establishment. A microbusiness establishment is authorized to cultivate not more than 150 marihuana plants, process and package marihuana, and sell or transfer marihuana to individuals 21 years of age and older and to a safety-compliance facility, but not to other marihuana establishments. Microbusiness establishments are permitted as a special use only in M-1 or M-2 zoning districts and are not a permitted or special use in any other district.

a. All microbusiness establishment activities must be conducted within an enclosed building.

b. A microbusiness establishment is not permitted on the same property or parcel or within the same building where any of the following are located:

1. A package liquor store.

2. A convenience store that sells alcoholic beverages.

3. A fueling station that sells alcoholic beverages.

c. The licensed premises for a microbusiness shall not exceed 5,000 square feet of retail usable floor space used to display merchandise and/or for a customer service area.

(6) Retailer establishment and provisioning centers. Retailer establishments and provisioning centers are licensed to obtain marihuana from marihuana establishments or facilities and to sell or otherwise transfer marihuana to marihuana establishments or facilities and to individuals who are 21 years of age or older. Retailer establishments and provisioning centers, whether licensed pursuant to MMFLA or MRTMA, are subject to the following and are not otherwise a permitted or special use:

a. Retailer establishments and provisioning centers are permitted as a special use only as follows and not any other location:

1. In properties zoned C-1, which are located in the City south of the Black River, a total of three retailer establishments or provisioning centers are permitted as a special use. For purposes of this section, a retailer establishment and provisioning center which are separately licensed but co-located and operating out of the same location are counted as one when calculating the permissible amount. **[2-22-2021 by Ord. No. 21-002]**

2. In properties zoned C-1, which are located in the City north of the Black River, a total of two retailer establishments or provisioning centers are permitted as a special use. For purposes of this section, a retailer establishment and provisioning center which are separately licensed but co-located and operating out of the same location are counted as one when calculating the permissible amount.

3. In properties zoned as Central Business District, a total of two retailer establishments or provisioning centers are permitted as a special use. For purposes of this section, a retailer establishment and provisioning center which are separately licensed but co-located and operating out of the same location are counted as one when calculating the permissible amount.

b. All retailer establishment and provisioning center activities must be conducted within an enclosed building.

c. Retailer establishments and provisioning centers are not permitted on the same property or parcel or within the same building where any of the following are located:

1. A package liquor store.

2. A convenience store that sells alcoholic beverages.

3. A fueling station that sells alcoholic beverages.

d. The licensed premises for a retailer establishment shall not exceed 5,000 square feet of retail usable floor space used or capable of being used to display merchandise and/or for a customer service area.

e. The licensed premises for a provisioning center shall not exceed 5,000 square feet of retail usable floor space used or capable of being used to display merchandise and/or for a customer service area.

f. The licensed premises for a retailer establishment and provisioning center which are co-located at the same location shall not exceed a total of 5,000 square feet of retail usable floor space used or capable of being used to display merchandise and/or for a customer service area.

(7) Grower establishments. Grower establishments are licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments or facilities.

The three grower license types are Class A (authorized to grow up to 100 plants); Class B (authorized to grow up to 500 plants); and Class C (authorized to grow up to 2,000 plants). An excess grower holds five (5) Class C adult-use marihuana grower and at least two Class C medical marihuana grower licenses.

a. Class A grower establishments are permitted as a special use only in the M1 and M2 zones.

b. Class B and C grower establishments are permitted as a special use only in the M2 zone.

c. Excess grower establishments are permitted as a special use only in the M2 zone.

d. All grower operations of grower establishments must take place within an enclosed building.

(8) Grower facilities. Grower facilities are licensed to cultivate, dry, trim or cure and package marihuana for sale to a processor or provisioning center. The three (3) grower license types are Class A (authorized to grow up to 500 plants); Class B (authorized to grow up to 1,000 plants); and Class C (authorized to grow up to 1,500 plants).

a. Class A grower facilities are permitted as a special use only in the M1 and M2 zones.

b. Class B and C grower facilities are permitted as a special use only in the M2 zone.

c. All grower operations of grower facilities must take place within an enclosed building.

(9) Designated consumption establishment. A designated consumption establishment is a space that is licensed for the consumption of marihuana products by persons 21 and older. Designated consumption establishments are permitted as a special use only in the C1 zone.

(10) Co-located marihuana facilities and/or establishments. Notwithstanding anything to the contrary in this section, marihuana processor establishments and/or facilities, marihuana grower establishments and/or facilities, marihuana retailers, marihuana provisioning centers, and/or designated consumption establishments are permitted as a special use in the M1 and/or M2 zoning districts if such facilities and/or establishments are co-located operating at the same address or parcel as another marihuana business within the M1 or M2 district; provided, a marihuana retailer may not be located at the same address as another marihuana retailer and a marihuana provisioning center may not be located at the same address as another marihuana provisioning center. **[2-22-2021 by Ord. No. 21-002]**

§ 52-705. Repealer. [9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance[23] are repealed.

§ 52-706. Severability. [9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]

If any section, subsection, sentence, clause, phrase or portion of this ordinance[24] if for any reason held invalid or unconstitutional by any court or competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

§ 52-707. When effective. [9-28-2020 by Ord. No. 20-003; 10-26-2020 by Ord. No. 20-007]

Pursuant to Michigan law, this ordinance[25] shall be effective seven days after publication.

§ 52-708. through § 52-730. (Reserved)

23. Editor's Note: "This ordinance" refers to §§ 52-704 through 52-707.

24. Editor's Note: "This ordinance" refers to §§ 52-704 through 52-707.

25. Editor's Note: "This ordinance" refers to §§ 52-704 through 52-707.

ARTICLE V
Nonconforming Uses And Buildings

§ 52-731. Nonconformance regulated. [Code 1975, § 39-98; Code 1992, § 32-426]

Any lawful use of the land or buildings existing at the date of passage of the ordinance from which this chapter is derived and located in a district in which it would not be permitted as a new use under this chapter is hereby declared to be a nonconforming use and not in violation of this chapter; provided, however, that a nonconforming use shall be subject to and the owner comply with the regulations in this article.

§ 52-732. Nonconforming uses of land. [Code 1975, § 39-99; Code 1992, § 32-427; 10-22-2007 by Ord. No. 1280]

Where, at the time of passage of the ordinance from which this chapter is derived, lawful use of land exists which would not be permitted by the regulations imposed by this chapter and where such use involves no individual structure with an assessed value exceeding $500, the use may be continued so long as it remains otherwise lawful, provided:

(1) No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of the ordinance from which this chapter is derived or amendment of this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of the ordinance from which this chapter is derived or amendment of this chapter.

(3) If any such nonconforming use of land ceases for any reason for a period of more than six months, such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(4) No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

§ 52-733. Nonconforming uses of structures. [Code 1975, § 39-100; Code 1992, § 32-428]

If lawful use involving individual structures with an assessed value of $500 or more or of a structure and premises in combination exists at the effective date of the ordinance from which this chapter is derived that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following:

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) If any such nonconforming use of a structure ceases for any reason for a period of more than six months, such use shall conform to the regulations specified by this chapter for the district in which such use is located.

(3) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption of the ordinance from which this chapter is derived or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

(4) If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use, provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use.

(5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the entire structure shall eliminate the nonconforming status of land.

§ 52-734. Nonconforming structural configuration. [Code 1975, § 39-101; Code 1992, § 32-429; 4-24-2006 by Ord. No. 1265]

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

(1) No such nonconforming structure's footprint may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(2) If any such nonconforming structure ceases being used for any reason for a period of more than six months, any subsequent use of such structure shall conform to the regulations specified by this chapter for the district in which such structure is located.

§ 52-735. Nonconforming lots of record. [Code 1975, § 39-102; Code 1992, § 32-430; 10-10-2005 by Ord. No. 1253; 1-23-2006 by Ord. No. 1257; 10-22-2007 by Ord. No. 1280; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

(a) In any zoning district in which single-family dwellings are permitted, notwithstanding limitations imposed by other sections of this chapter, a new single-family dwelling and customary accessory building may be erected on any vacant lot which is a lot of record, existing at the effective date of this ordinance (January 28, 2006), provided said lot of record is a minimum of 50 feet in width and 5,000 square feet in area. The placement of the dwelling on the lot must meet all other zoning restrictions in regard to yard setbacks and lot coverage, etc.

(b) Any single lot of record, that is owned separately from an adjacent lot, which is 40 feet wide to 49 feet wide and a minimum of 100 feet in depth must obtain a zoning variance before the lot is buildable for a new single-family dwelling.

(c) Any lot of record less than 40 feet wide is not buildable and a zoning variance may not be obtained.

(d) In any instance, on a nonconforming lot of any width, the yard setbacks for the structures, lot coverage, and other requirements, not involving area or width or both of the lot, shall conform to the regulations for the district in which such lot is located.

(e) The expansion of an existing single-family house on a nonconforming size lot:

(1) The footprint can be enlarged without a variance, provided the 35% coverage is not exceeded and the setbacks are in accordance with Division 16.

(2) A second story can be added without a variance.

(3) An accessory structure can be added without a variance, provided the 35% lot coverage is not exceeded, and the setbacks are in accordance with Division 16.

(f) A multifamily home on a nonconforming size lot may not be enlarged without a variance. An accessory structure may be added, provided the 35% lot coverage is not exceeded, and the setbacks are in accordance with Division 16.

§ 52-736. Repairs and maintenance. [Code 1975, § 39-103; Code 1992, § 32-431; 4-24-2006 by Ord. No. 1265; 10-22-2007 by Ord. No. 1280]

(a) On any nonconforming structure or portion of structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of walls, fixtures, wiring, or plumbing or other such items as the case may be, provided that the cubic content (footprint) existing when it became nonconforming shall not be increased.

(b) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to a lack of repairs and maintenance and is declared by the Chief Inspector to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

§ 52-737. Reconstruction of damaged nonconforming buildings and structures. [Code 1975, § 39-104; Code 1992, § 32-432; 10-10-2005 by Ord. No. 1253; 1-23-2006 by Ord. No. 1257; 10-22-2007 by Ord. No. 1280; 10-24-2016 by Ord. No. 16-005]

Nothing in this chapter shall prevent the reconstruction, repair, or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of the ordinance from which this chapter is derived, wherein the expense of such reconstruction does not exceed 50% of the state equalized valuation of the entire building or structure at the time such damage occurred, provided that such restoration and resumption shall take place within six months of the time of such damage and that it be completed within one year from time of such damage and provided, further, that such use be identical with the nonconforming use permitted and in effect directly preceding such damage. In cases where the damage exceeds 50% of the state equalized value (SEV) of the entire building, a single-family dwelling which was built on a nonconforming lot of record may be reconstructed if it is in a zone which allows single-family dwellings and if it is rebuilt within the same footprint and dimensions of the original dwelling and will

remain as a single-family home. A multifamily home must be rebuilt according to the current zoning requirements. If the lot is not buildable, a single-family home could be constructed to the same footprint of the multifamily home. The footprint may need to be adjusted to accommodate for required parking on the site. If possible required yard setbacks shall be applied. Appropriate permits and approvals must be obtained prior to reconstruction. All other nonconforming buildings or structures must conform to the appropriate zoning regulations prior to obtaining a permit for reconstruction. Where pending insurance claims require an extension of time, the Chief Inspector may grant a time extension, provided that the property owner submit a certification from the insurance company attesting to the delay. Until such time as the debris from the fire damage is fully removed, the premises shall be adequately fenced or screened from access by children who may be attracted to the premises.

Any structure, which is nonconforming to the current Zoning Ordinance, that is not intentionally destroyed over 50% of its SEV, can be rebuilt to the plan that was approved by the City at the initial time of construction, if the City has an approved building permit or site plan on file or if the property owner has record of said permit or plan that was approved by the City. A zoning variance would be required to rebuild any other nonconforming structure destroyed over 50% of its SEV.

§ 52-738. Moving of building or structure. [Code 1975, § 39-105; Code 1992, § 32-433]

No nonconforming building or structure shall be moved in whole or in part to another location unless such building or structure and the off-street parking spaces, yard and other open spaces provided are made to conform to all the regulations of the district in which such building or structure is to be located.

§ 52-739. Certificate of occupancy. [Code 1975, § 39-106; Code 1992, § 32-434]

(a) At any time, should the City become aware of a nonconforming use, the owner of such nonconforming use shall be notified by the City Clerk of this section and that his or her property constitutes a nonconforming use. Within 30 days after receipt of such notice, the owner shall apply for and be issued a certificate of occupancy for the nonconforming use. The application for such certificate shall designate the location, nature, and extent of the nonconforming use and such other details as may be necessary for the issuance of the certificate of occupancy. If the owner of a nonconforming use fails to apply for a certificate of occupancy within 30 days after receipt of the notice, the use ceases to be nonconforming and is hereby declared to be in violation of this chapter. The City Clerk and the City Attorney shall take appropriate action to enjoin such violation.

(b) If the Chief Inspector shall find, upon reviewing the application for a certificate of occupancy, that the existing use is illegal or in violation of any other ordinance or law or if he or she finds that the building for which the certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the building code or the zoning ordinance in effect at the time of construction or alteration, he or she shall not issue the certificate of occupancy but shall declare such use to be in violation of this chapter.

(c) After the adoption of the ordinance from which this chapter is derived this chapter

or any amendments thereto, the Chief Inspector shall prepare a record of all known nonconforming uses and occupations of lands, buildings and structures, including tents and trailer coaches, existing at the time. Such record shall contain the names and addresses of the owners of record of such nonconforming uses and of any occupant, other than the owner; the legal description of the land; and the nature and extent of use. Such list shall be available at all times in the office of the City Clerk.

§ 52-740. Plans already filed. [Code 1975, § 39-107; Code 1992, § 32-435]

When plans and specifications for a building or structure have been filed which would conform with the zoning regulations effective at the date of such filing but not with the regulations of this chapter and where a building permit for such building or structure has been issued and construction work started at the effective date of the ordinance from which this chapter is derived, such work may proceed, provided it is completed within one year of such date.

§ 52-741. through § 52-770. (Reserved)

ARTICLE VI
Off-Street Parking And Loading Requirements

§ 52-771. Required off-street parking generally. [Code 1975, § 39-108; Code 1992, § 32-456; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

(a) Off-street parking in conjunction with all land and building uses shall be provided as follows:

(1) For the purpose of this article, the size of a parking space shall be determined in accordance with the table in § 52-773, the minimum requirements for off-street parking facilities.

An alley may be used as access to a residential parking area, provided the alley is open to the public. For commercial or industrial parking lots, an alley may be used for access to the parking lot, provided the public alley is not located adjacent to residential properties. The alley must be the minimum width of the required maneuvering lane in order to be accessible.

(2) When units or measurements determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including 1/2 shall be disregarded, and fractions over 1/2 shall require one parking space.

(3) The minimum number of off-street parking spaces shall be determined in accordance with the table in § 52-772. For uses not specifically mentioned therein, off-street parking requirements shall be interpreted by the Zoning Board of Appeals from requirements for similar uses.

(4) Any area once designated as required off-street parking shall never be changed to any other use unless and until equally required facilities are provided elsewhere. Off-street parking existing at the effective date of the ordinance from which this chapter is derived in connection with the operation of an existing building or use shall not be reduced to an amount less than would be required for such building or use.

(5) Off-street parking may be provided either by private or public parking.

(6) Required off-street parking shall be for the use of occupants, employees, visitors, and patrons and shall be limited in use to motor vehicles that are operable and currently licensed, unless for sale in an approved auto sales lot. The storage of merchandise, motor vehicles for sale, or the repair of vehicles is prohibited. Not more than twice a year, a personal motor vehicle can be offered for sale on any lot, if licensed in the name of the property owner or resident, and not parked on the front lawn. All off-street parking, whether public or private, shall be on the same lot, or adjacent lot, of the building it is intended to serve, unless approved by the Planning Director, and except in the Central Business District (CBD District) as defined: beginning in the center line of the street at the intersection of Glenwood Avenue and Erie Street; thence proceeding south along the center line of Erie Street, across the Black

River; thence south along the center line of Seventh Street to the intersection of Seventh Street and Court Street; thence east along the center line of Court Street extended to the west bank of the St. Clair River; thence north along the west bank of the St. Clair River to the extended center line of Glenwood Avenue; thence west along such extended center line to the point of beginning of this description. There are no off-street parking requirements within the above-described Central Business District, except for the following uses:

a. New residential lofts are required to have one parking space per residential unit on the same property as the unit unless the building is located within 500 feet of a public parking lot as determined by the Planning Director. If parking is not provided on site or in a public parking lot, provisions can be made to rent space from another property owner in a private lot, if extra spaces are available. A building permit shall not be issued until proof of parking is provided to the Planning Department.

b. Also, any new nonresidential buildings for any use shall require parking on site per the parking requirements of Article VI unless the building is located within 500 feet of a public parking lot as determined by the Planning Director.

c. A new multifamily residential building or development will be required to have one parking space per unit on site.

(7) Residential off-street parking space shall consist of a parking strip, garage, or a combination thereof and shall be located on the premises it is intended to serve. The parking area shall not be in the required setback for the front yard or street side yard, except cars are allowed to park in a permitted paved driveway in front of a garage door within the required setback for the front yard or street side yard, provided the cars do not overhang into the right-of-way. Residential driveways can be paved to the interior side property line, provided the driveway is not leading to a parking lot (see § 52-773). For any new construction, all access drives and parking areas shall be paved with concrete or bituminous concrete surfacing. A curb cut shall be required.

(8) Nothing in this article shall be construed to prevent the collective provision of off-street parking facilities for two or more buildings or uses in nonresidential districts, provided such facilities collectively shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table in § 52-772.

a. If a parking lot is to be shared by two or more buildings, the lot must be adjacent to all buildings it is intended to serve and cannot be separated by an alley, street, or by another private property unless approved by the Planning Director. If the lot is separated by another private property, access via a public sidewalk around that private property is required. If the lot is separated by a public street, signage to the closest intersection crosswalk will be required to be placed in public in the parking lot. If a crosswalk mid-block is necessary, it shall be approved by the Director of Public Works.

b. Permission from all owners of the parking lots sharing parking shall be

submitted in writing to the Planning Director.

(9) In stadiums, sports arenas, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 24 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this article.

(b) The Planning Director may vary or modify the parking space requirements set forth in this chapter as follows: If existing off-street parking facilities have unused parking capacity and where such facilities are open to the use of the public free of charge or at reasonable rates, the City Council may reduce the parking space requirement for any use within 500 feet from such facility, provided that the total number of stalls in such reduction shall be not greater than the total number of stalls of excess capacity.

§ 52-772. Table of Off-Street Parking Requirements. [Code 1975, § 39-110; Code 1992, § 32-457; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 5-24-2010 by Ord. No. 1311; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005; 5-29-2018 by Ord. No. 18-010; 9-10-2018 by Ord. No. 18-017]

(a) The amount of required off-street parking space for new uses or buildings, additions thereto, and additions to existing buildings as specified in § 52-771 shall be determined in accordance with the following table, and the space so required shall be stated in the application for a building permit and shall be irrevocably reserved for such use and/or shall comply with the initial part of this section:

	Use		Number of Minimum Parking Spaces Per Unit of Measure
(1)	Residential:		
	a.	Residential, one-family and two-family	2 for each dwelling unit
	b.	Residential, multiple-family	2 for each dwelling unit
	c.	Residential, multiple-family, low-rent family public housing	1 for each dwelling unit
	d.	Residential, private elderly/senior citizen housing, independent or assisted living facilities	1 for each 2 dwelling unit, and 1 for each employee on the largest working shift
	e.	Residential, elderly/senior citizens low-rent public housing	1 for each 2 dwelling units, 1 for each employee on the largest working shift
	f.	High-rise multiple-family	1 for each dwelling unit
	g.	Trailer parks and manufactured home courts	See state rules
	h.	Boardinghouses and rooming houses	1 for each sleeping room

Use		Number of Minimum Parking Spaces Per Unit of Measure
i.	Family child-care home	2 per dwelling unit, plus 1 for each nonresident employee. In addition, a designated dropoff area is required not in the public right-of-way
j.	Group day-care home	2 per dwelling unit, plus 1 for each nonresident employee. In addition, 1 space per 4 children licensed
k.	Adult foster care homes (family home, small group home, or large group home)	2 per dwelling unit, plus 1 for each nonresident employee. In addition, 1 space per each 6 adults licensed
l.	CBD residential units	1 per dwelling unit or per § 52-771
m.	Bed-and-breakfast facilities	1 for each room rented and 2 for the residents of the dwelling
(2)	Institutional:	
a.	Churches, temples or synagogues	1 for each 3 seats, based on maximum seating capacity in the main unit of worship
b.	Hospitals	1 per 600 square feet of gross floor area
c.	Nursing homes, homes for the aged, convalescent homes, children's homes, memory care facilities	1 per 4 beds, plus 1 per employee on the largest working shift
d.	Elementary and junior high schools	1 for each 1 teacher and administrator, in addition to the requirements of the auditorium
e.	Senior high schools	1 for each 1 teacher and administrator and 1 for each 10 students, in addition to the requirements for the auditorium
f.	Private clubs or lodge halls	1 for each 3 persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes
g.	Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses	1 for each two-member families or individuals

Use		Number of Minimum Parking Spaces Per Unit of Measure
h.	Marinas, public or private	1 for each 1 boat slip
i.	Golf courses open to the general public, except miniature or par 3 courses	6 for each 1 golf hole and 1 for each 1 employee
j.	Fraternities	1 1/2 for every 2 persons based upon the capacity of the house
k.	Sororities	1 for every 2 persons based upon the capacity of the house
l.	Stadium, sports arena, or similar place of outdoor assembly	1 for each 3 seats or 6 feet of bench
m.	Theaters and auditoriums (indoor)	1 for each 4 seats plus 1 for each 2 employees
n.	Libraries, museums and noncommercial art galleries	1 for each 400 square feet of gross floor area
o.	Nursery schools, day nurseries and child day-care centers	1 per caregiver, teacher, or employee and 1 per 600 square feet of gross floor area
p.	Adult day-care centers	1 per employee plus 1 space per 600 square feet of gross floor area
q.	Colleges	1 for each teacher and administrator and 1 for every 3 students (not living on site) based on classroom occupancy for each building, in addition to the requirements for any auditoriums or stadiums. Student apartments located on campus shall require two parking spaces for each bedroom in the building
(3)	Business and commercial:	
a.	Automobile service/repair facility; automobile fuel stations with or without convenience store	2 for each repair station, lubrication stall, rack or pit and 1 for each employee Two stacking spaces per gas pump Convenience store: add 1 space per 200 square feet of retail space plus 1 per employee
b.	Autowash	1 for each 1 employee

Use		Number of Minimum Parking Spaces Per Unit of Measure
c.	Beauty parlor or barbershop	3 spaces for each of the first 2 beauty or barber chairs and 1 1/2 spaces for each additional chair
d.	Bowling alleys	5 for each 1 bowling lane
e.	Dancehalls, pool or billiard parlors, roller or ice skating rinks, exhibition halls and assembly halls without fixed seats	1 for each 3 seats or 1 for each 100 square feet of gross floor area
f.	Drive-in establishments	1 for each 40 square feet of gross floor area, with a minimum of 25 parking spaces
g.	Restaurants, establishments for sale and consumption on the premises of beverages, food or refreshments	1 for each 100 square feet of gross floor area
h.	Furniture and appliances; household equipment; repair shops; showroom of a plumber, decorator, electrician or similar trade; shoe repair; and other similar uses	1 for each 800 square feet of floor area, exclusive of the floor area occupied in processing or manufacturing, for which requirements see industrial establishments in Subsection (5) of this table
i.	Laundromats and coin-operated dry cleaners	1 for each 2 washing machines
j.	Miniature golf courses	3 for each 1 hole plus 1 for each 1 employee
k.	Mortuary establishments	1 for each 100 square feet of gross floor area
l.	Motel, hotel, tourist home or other commercial lodging establishment	1 for each 1 occupancy unit or leasable room, plus 1 for each 1 employee, plus extra spaces for dining rooms, ballrooms, or meeting rooms based upon maximum occupancy load
m.	Motor vehicle sales and service establishments, trailer sales and rental, boat showrooms	1 for each 400 square feet of gross floor area of salesroom
n.	Open air business	1 for each 600 square feet of lot area
o.	Restaurant, carryout, limited or no dine-in service	1 for each 200 square feet of gross floor area plus 5 stacking spaces per drive-up window

Use		Number of Minimum Parking Spaces Per Unit of Measure
p.	Retail stores, except as otherwise specified	1 for each 200 square feet of gross floor area
q.	Shopping center or clustered commercial	4 square feet of parking and circulation space for every 1 square foot of usable floor area within the shopping center
(4) Offices:		
a.	Banks, savings-and-loan offices, drive-in banks	1 for each 200 square feet of gross floor area; 4 for each teller station within the bank
b.	Business offices or professional offices except as indicated in Subsection (4)c of this table	1 for each 400 square feet of gross floor area
c.	Medical or dental clinics, professional offices of doctors, dentists or similar professions, medical laboratories	1 for each 200 square feet of gross floor area
(5) Industrial:		
a.	Industrial or research establishments	1 for every employee in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.

(b) Parking for commercial and industrial uses may be calculated using usable floor area open to the public instead of gross floor area. A floor plan will be required indicating the sizes of rooms that are for public use and also including those rooms not available to public use such as storage of merchandise, coolers, freezers, mechanical rooms, etc. The parking for any use not included in the chart shall be determined by the Planning Department. The number of parking spaces required for any use will be at the discretion of the Planning Department.

§ 52-773. Off-street parking lot layout, construction and maintenance. [Code 1975, § 39-110; Code 1992, § 32-458; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280; 6-25-2012 by Ord. No. 1337; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

Wherever a new parking lot is constructed or an existing parking lot is expanded as required off-street parking, such parking lot shall be laid out, constructed, and maintained in accordance with the following requirements:

(1) The building of a parking lot is subject to the requirements for a building permit. The Chief Inspector shall review the application on the basis of the requirements set forth in Subsections (2) through (10) of this section, and such application may be referred to the Traffic Study Committee for review as to the effects of traffic

generation and circulation.

(2) Each parking space shall constitute a net land area as determined by the minimum requirements for off-street parking facilities as indicated in this section.

(3) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for vehicles.

(4) Parking lots in residential, industrial, and institutional districts are not allowed in the front yards. In the street side yard, all setbacks, as for buildings, shall apply. Side and rear yard setbacks for parking lots and their access drives in residential districts shall be five feet from the property lines. In a residential district, cars are allowed to park in a permitted paved driveway in front of a garage door within the front yard setback, provided the cars do not overhang into the right-of-way.

(5) The required setback of parking spaces where the parking lot abuts a residential district or residentially occupied property shall apply to commercial, industrial, and institutional parking lots as well as parking lots for multifamily housing adjacent to single- and two-family homes and shall be as follows:

a. Side lot lines: 10 feet from such side lot line.

b. Contiguous common frontage in the same block: Setback from the street lot line shall be the same setback as the adjacent houses.

c. Rear lot line: 10 feet.

(6) Parking lots shall be concrete curbed; in lieu of curbs, there shall be bumper stops, wheel chocks (stops), or parking blocks, provided so as to prevent any vehicle from projecting past its own parking space and into a maneuvering lane, a sidewalk, adjacent parking space, or over the lot line.

(7) The parking lot shall have an approvable drainage plan that complies with requirements for qualitative and quantitative controls. These controls shall be in compliance with the National Pollutant Discharge Elimination System Stormwater Permit as issued to the City of Port Huron.

(8) The surface of any new parking lot, including drives and aisles, excepting the buffer strips, shall be constructed of a concrete or bituminous concrete surfacing. If a parking area has a driveway approach from a gravel street or alley, the parking area can be gravel. Parking is not allowed on the grass. A building permit is required for any new gravel or paved parking area. An existing gravel parking lot can remain as is, unless the building is renovated over 50% of its state equalized value or enlarged. Before occupancy of the building or unit, the gravel parking lot shall be paved, striped, and drained, and shall have enough parking and handicapped spaces to accommodate the new use of the building or unit to be occupied. If additional parking spaces need to be added to an existing gravel lot, or if the lot needs to be modified in any way, the entire lot shall be paved and constructed according to building and zoning codes. The above shall apply to both residential and nonresidential properties.

(9) Outdoor lighting shall be in accordance with the following:

a. Parking areas and other common or public areas and facilities that are lighted to ensure the safety of persons and the security of property shall have outdoor lighting levels as follows (values are provided in minimum average horizontal footcandles maintained at grade):

1. Parking areas: 1.0.

2. Buildings:

i. Entrance and exit areas: 5.0.

ii. General grounds: 0.5.

b. Lighting shall be designed and located such that the maximum illumination at the property line shall not exceed a maximum average horizontal footcandle of 0.3 for noncutoff lights and 1.5 for cutoff lights.

c. Lighting sources shall be shielded or arranged as to not produce glare within any public right-of-way or constitute a nuisance to the occupants of adjacent properties. This can be done through the use of directional lighting, special fixtures, timing devices, appropriate light intensities, luminaires and mounting at appropriate heights.

d. With the exception of lighting along public rights-of-way, lighting is to be designed, located and mounted at heights no greater than:

1. Ten feet above grade for noncutoff lights.

2. Twenty feet above grade for cutoff lights. Only under extreme circumstances shall a light be permitted higher.

(10) Parking structures may be built to satisfy off-street parking requirements, when located in a commercial or industrial district, subject to the area, height, bulk and placement regulations of such district in which located.

(11) Every parcel of land used as an automobile or trailer sales area or as an automobile service station shall be subject to the requirements of Subsections (1) through (10) of this section.

(12) A five-foot-high screening fence, solid masonry wall, or continuous landscaping shall be constructed and maintained along those property lines separating a parking lot from adjoining residential properties.

(13) Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)	Total Width of One Tier of Spaces Plus Maneuvering Lane (feet)	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)
0° (parallel parking)	20	8	23	28	36
30°	12	9	19	30	48
45°	15	9	19	35	55
60°	18	9	19	39	60
90°	25	9	19	44	63

§ 52-774. Off-street waiting area for drive-through facilities. [Code 1975, § 39-111; Code 1992, § 32-459; 10-22-2007 by Ord. No. 1280; 10-24-2016 by Ord. No. 16-005]

(a) For the purposes of this section, an "off-street waiting space" is defined as an area 10 feet wide by 20 feet long and shall not include the use of any public space, street, alley or sidewalk and shall be located entirely within the commercial zoning district.

(b) On the same premises with every building, structure or part thereof erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement where the automobile engine is not turned off, there shall be provided three off-street waiting spaces for each service window.

(c) Automatic autowash establishments shall provide a minimum of five off-street waiting spaces, with at least one off-street waiting space on the exit side, for each wash lane. Manual or coin-operated autowash establishments shall provide at least three off-street waiting spaces on the entrance side of each autowash stall, and one off-street waiting space on the exit side for each autowash stall.

§ 52-775. Off-street loading and unloading. [Code 1975, § 39-112; Code 1992, § 32-460]

(a) On the same premises with every building, structure, or part thereof erected and occupied for manufacturing, storage, warehousing, retailing, display or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services adjacent to the opening used for loading and unloading, designed to avoid interference with public use of the streets or alleys. Such loading and unloading space shall be a minimum of 12 feet in width by 50 feet in length with a fifteen-foot height clearance and shall be provided according to the following table:

Gross Floor Area (square feet)	Loading and Unloading Spaces Required in Terms of Square Feet or Gross Floor Area
0 to 2,000	None
2,101 to 20,000	1 space
20,001 to 100,000	1 space plus 1 space for each 20,000 square feet in excess of 20,000 square feet
100,001 to 500,000	5 spaces plus 1 space for each 40,000 square feet in excess of 100,000 square feet
Over 500,000	15 spaces plus 1 space for each 80,000 square feet in excess of 500,000 square feet

(b) No loading space shall be located closer than 50 feet from any residential district unless adjoining a public alley or located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall or ornamental fence of a type approved by the Planning Commission not less than six feet in height.

§ 52-776. Parking of commercial vehicles on residentially zoned property. [Code 1992, § 32-461; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253]

(a) Commercial vehicles or equipment, for the purposes of this section, shall mean any vehicle used for commercial purposes, whether licensed commercially or not. It shall also include any vehicles advertising the name of a business.

(b) Parking of commercial vehicles or equipment on residentially zoned property is prohibited except under the following conditions:

(1) Commercial vehicle temporary parking is allowed while servicing a residence such as for purposes of delivering merchandise, lawn maintenance, construction, etc.

(2) Commercial vehicles such as panel trucks, vans, or pickup trucks may be parked on the premises if currently licensed and in the name of a member of the immediate family of the property owner, tenant or lessee or their employer. Such vehicle parking is limited to one per property.

(3) Semitruck tractors or trailers are not allowed to be parked on residentially zoned property.

§ 52-777. through § 52-810. (Reserved)

ARTICLE VII
Signs

§ 52-811. Intent. [Code 1992, § 32-755; 8-13-2001 by Ord. No. 1188]

(a) The purpose of this article is to regulate outdoor signs of all types in all zoning districts. The regulation of outdoor signs is further intended to enhance the physical appearance of the City, to preserve scenic and natural beauty, to make the City a more enjoyable and pleasing community and to create an attractive economic and business climate. It is intended by this article to reduce sign or advertising distractions, thereby reducing traffic accidents, to reduce hazards that may be caused by signs overhanging or projecting over the public rights-of-way and to avoid the canceling out effect of conflicting adjacent signs. The primary purpose of this article is to permit the identification of uses permitted by this article.

(b) This article covers the construction, erection and maintenance requirements for signs and outdoor display structures, with respect to safety, size and attachment or anchorage with respect to appearance and geographical location.

§ 52-812. Permit. [Code 1992, § 32-756; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-24-2016 by Ord. No. 16-005]

(a) Required. A building permit shall be required for the erection, construction, or alteration of any sign, except as provided in this article, and all such signs shall be approved by the Building Inspector as to compliance with the requirements of the zoning district wherein such sign is to be located with the requirements of this article and with all applicable City sign regulations as set forth in the local building code as adopted by the City. All illuminated signs are subject in addition to the provisions of the local electrical code as adopted by the City and any permit fees required thereunder.

(b) Application contents, requisites. A building permit can be obtained at the City Inspection Department and shall be completed by the applicant with the following information:

(1) Name and address of the applicant.

(2) Location of the building, structure, or lot to which or upon which the sign is to be attached or erected.

(3) Position of the sign in relation to nearby buildings or structures and to property lines.

(4) One blueprint or ink drawing of the plans and specifications for methods of construction or attachment to the building or on the ground.

(5) A copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in any amount required by this article and all the laws and ordinances of the City as required by the Building Inspector.

(6) Names of persons erecting the structures.

(7) Written consent of the owner of the building or structure to which or on which the sign is to be erected.

(8) Any electrical permit required and issued for the sign.

(9) Such other information as the Building Inspector or Zoning Administrator may require in order to show full compliance with this chapter.

(c) Issuance. If, upon examination of the submitted plans and other data, it appears that the proposed sign is in compliance with all the requirements of this chapter, the Building Inspector shall issue a building permit. If the work authorized under a building permit has not been completed within six months after the date of issuance, the permit will be null and void.

(d) Revocation. All rights and privileges acquired under this article are mere licenses revocable at any time, and all such permits shall contain this provision.

(e) Unsafe, unlawful signs; Inspection Division authority. If the Building Inspector finds that any sign is unsafe or is a menace to the public or has been constructed or erected or is being maintained in violation of this article, she/he shall give written notice to the owner of said sign. If the owner fails to remove or alter the structure so as to comply with this article within 10 days after such notice, the sign shall be removed or altered by the Inspection Division at the expense of the owner. The Inspection Division may cause any sign, which is an immediate peril to persons or property, to be removed immediately and without notice.

§ 52-813. Exemptions from permit. [Code 1992, § 32-757; 8-13-2001 by Ord. No. 1188]

(a) No sign shall be erected, constructed and maintained until a permit for the sign has been issued by the Building Inspector, unless noted otherwise in this article; provided, however, no permit will be required for the following:

(1) A projecting sign not exceeding 2 1/2 square feet of display surface.

(2) Real estate signs allowed in any district, provided such sign conforms to the requirements therein.

(3) Political signs shall be permitted in all districts. Such sign shall not exceed 16 square feet in area in an R and R-1 District or 32 square feet in area in any A-1, A-2, or nonresidential district. The signs shall not be placed in or overhang into any public right-of-way. Political signs shall be removed no later than seven days after the election day to which they pertain. This shall include any political sign attached to benches, trash receptacles, or other freestanding objects.

Suggested guidelines, not otherwise controlled by the sections of this chapter governing the placement and display of political signs, may be provided by administrative regulation of the City. The City Clerk shall notify all local political party chairpersons and all known candidates on the filing deadline for the respective local, state, or national offices or as soon thereafter as practicable of the contents of the suggested guidelines governing the

placement and display of political signs and of the other sections of this chapter applicable to political signs.

(4) Special event signs shall be permitted in all zoning districts. Such sign shall not exceed 16 square feet in area in an R and R-1 District or 32 square feet in area in any A-1, A-1, or nonresidential district. The signs shall only be placed on private property and shall not be placed in or overhang into any public right-of-way. Special event signs shall be removed no later than seven days after the special event to which they pertain. Garage, yard, and porch sale sign postings are limited to the duration of the sale.

(5) Memorial signs or tablets, names of buildings and date of construction when cut in a masonry surface of the building or constructed of bronze of other incombustible materials.

(6) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary, emergency or nonadvertising signs as may be approved by the City Council.

(7) Bulletin boards not over 12 square feet in area for public, charitable or religious institutions when the bulletin boards are located on the premises of the institution.

(8) Direction signs. Directional signs within the zoning lot area and behind the minimum front yard setback shall be permitted when such sign is placed so as to have its highest point below four feet. Such directional sign shall not be used for advertising purposes, but shall direct vehicular or pedestrian traffic to parking areas, to loading areas or to portions of a building. Directional signs shall not exceed six square feet in area. Directional signs at an entrance point shall be permitted to penetrate a required yard to within 10 feet of the public right-of-way line.

(9) A wall sign not more than 10 square feet in area in commercial or industrial districts.

(b) The exemptions provided for in Subsection (a) of this section shall apply only to the requirement for a permit and shall not be construed as relieving the owner of the sign from the responsibility for its erection and maintenance in a good and safe condition.

§ 52-814. Definitions. [Code 1992, § 32-758; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-22-2007 by Ord. No. 1280]

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

SIGN — Any advertising display, including its supporting structure, consisting of any letter, figure, character, mark, point, plane, marquee sign, poster, pictorial picture, stroke, stripe, line, trademark, reading matter of illuminating device, constructed, attached, erected, fastened, painted, or manufactured in any manner whatsoever so that the sign is or may be used for the attraction of the public to any

place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever and displayed in any manner whatsoever out-of-doors for recognized advertising purposes.

(b) Types of signs. The following words, terms and phrases regarding types of signs, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

ACCESSORY SIGN and ON-PREMISES SIGN — A sign which advertises goods, services, facilities, events or attractions pertaining to the principal use of the premises where located. Accessory signs include wall signs, awnings, illuminated signs, projecting signs, roof signs, marquee signs, ground signs and directional signs.

AWNING — A roof-like structure, often made of canvas or plastic, that serves as a shelter, decoration, or advertisement, as over a storefront, window, door, or deck, which projects beyond the face of the building. An awning by itself is not a sign. An awning with lettering, a logo, or some form of advertising display is considered to be a sign.

FESTOON SIGN — A sign where incandescent lightbulbs, banners or pennants or other such features are hung or strung overhead and are not an integral physical part of the building or structure they are intended to serve. Any electrical device shall be installed pursuant to the City electrical code. Festoon signs shall be considered a temporary sign.

FLASHING SIGN, ANIMATED SIGN and MOVING SIGN — A sign that intermittently reflects lights from either an artificial source or from the sun or a sign which has movement of any illumination such as intermittent, flashing, oscillating or varying intensity or a sign that has any visible portion in motion, either constantly or at intervals, which motion may be caused by either artificial or natural sources.

GROUND SIGN — A sign not attached to any building and supported by uprights or braces or some object on the ground. A pole sign is a ground sign. A billboard is not considered a ground sign under this article.

ILLUMINATED SIGN — Any sign which has characters, letters, figures, designs, or outlines illuminated by an electric light or luminous tubes as a part of the sign proper. An LED or digital sign is a type of illuminated sign.

ILLUMINATED TRIM — Luminous tubes outlining windows, doors, or portions of buildings not part of a sign.

LED SIGN or DIGITAL SIGN — A sign illuminated by light-emitting diodes.

MARQUEE SIGN — A sign on a marquee which is a rooflike structure, often meant to bear a signboard, projecting over an entrance, such as to a theater.

NAMEPLATE — An accessory sign stating the name or street number of a person, firm, building or institution of a certain permitted use.

NONACCESSORY SIGN, OFF-PREMISES SIGN and BILLBOARD — A sign which advertises goods, services, facilities, events or attractions not on the premises where located and does not pertain to the principal use of the premises.

OUTDOOR ADVERTISING SIGN — Any card, cloth, paper, metal, glass, wood, plaster, stone or sign of other material or any kind, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure, or thing whatsoever. The term "placed" as used in this definition shall include erecting, construction, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or other fastening, affixing or making visible in any manner whatsoever. The following shall be excluded from this definition:

(1) Signs not exceeding one square foot in area and bearing only property numbers, postbox numbers, names of occupants or premises, or other identification of premises not having commercial connotations.

(2) Flags and insignia of any government except when displayed in connection with commercial promotion.

(3) Legal notices, identification, informational or directional signs erected or required by governmental bodies.

(4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

(5) Signs directing or guiding traffic and parking on private property, but bearing no advertising matter.

POLITICAL SIGN — A sign relating to the election of a person to public office or relating to a political party or relating to a matter to be voted upon at an election called by a public body.

PORTABLE SIGN — Any sign which is not permanently affixed to a building, structure or the ground or which is attached to a mobile vehicle. The following are also considered as portable signs:

(1) FREESTANDING SIGN — A sign other than a ground sign which is not attached to a building and is capable of being moved from one location to another on the site on which it is located. Sandwich boards are considered freestanding signs.

(2) INFLATABLE SIGN — A sign that is either expanded to its full dimension or supported by gases contained within the sign or sign parts at a pressure greater than atmospheric pressure.

PROJECTING SIGN — Any sign which is attached to a building and extends beyond the line of the building or beyond the surface of that portion of the building to which it is attached more than 24 inches.

REAL ESTATE DEVELOPMENT SIGN — A sign placed on the premises of a subdivision or other real estate development to indicate a proposed start or to inform relative to availability.

REAL ESTATE SIGN — A sign placed upon a property advertising that particular property for sale, rent or lease.

ROOF SIGN — A sign erected, constructed and maintained above the roof of any building.

SPECIAL EVENT SIGN — A sign made of wood, plastic, cardboard or paper, which is used to advertise a special event such as Feast of the St. Clair, Pow-Wow, art fairs, garage sales, etc. See § 52-813 for restrictions on special event signs.

SUBDIVISION SIGN — A sign which displays the name of the subdivision or multihousing development. A permanent subdivision sign is a decorative ground sign which is affixed on the premises as a landmark to indicate the name of the subdivision or housing complex. A temporary subdivision sign is a ground sign located on the premises during the construction, development, or leasing stages, displayed as a short-term sign for advertisement purposes.

SWINGING SIGN — A sign installed on an arm, mast, spar or building overhang that is not rigidly attached to such arm, mast, spar or building overhang.

TEMPORARY SIGN — A sign with or without letters and numerals, such as window signs in business and industrial districts, of lightweight cardboard, cloth, plastic or paper materials and intended to be displayed for special events, sales and notices. Temporary signs shall not be permanently fastened to any structure, including posts with permanent footings, and shall not be intended to have a useful life of more than 30 days. A permit is required for the erection of a temporary sign if the sign is in excess of 24 square feet in area and/or located outside of the building.

WALL SIGN — A sign which is affixed to an exterior wall of any building, when such sign shall project not more than 24 inches from the building wall or parts thereof. A picture or mural painted on the side of a building, with or without lettering, advertising a business or denoting the nature of the business on said premises, is also considered a wall sign for the purpose of this article.

(c) Sign terms. The following words, terms and phrases, when used in this article to describe signs, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

DISPLAY SURFACE — The surface made available by the structure, either for the direct mounting of letters and decoration or for the mounting of facing material intended to carry the entire advertising message.

FACING — The surface of the sign upon, against or through which the message of the sign is exhibited.

LETTERS AND DECORATIONS — The letters, illustrations, symbols, figures, insignia and other devices employed to express and illustrate the message of the sign.

LOCATION — A lot, premises, building, wall or any place whatsoever upon which a sign is erected, constructed and maintained.

SIGNS, NUMBER AND SURFACE AREA — For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in the computation of surface area.
For a pole sign or an off-premises sign (billboard), the entire surface area of the face

of the sign shall be included in the computation of the size of the sign, regardless of the area of the advertising display.

Where a sign has two or more faces, the areas of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are three feet or less from one another, the area of the sign shall be taken at the area of one face if the two faces are of equal area or at the area of the larger face if the two faces are of unequal area. For a circle or sphere, the total area of the circle or sphere is divided by two for the purposes of determining the maximum permitted sign area.

STRUCTURAL TRIM — The molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.

STRUCTURE — The supports, uprights, bracings and framework of the sign or outdoor display.

§ 52-815. General provisions applicable to signs in any district. [Code 1992, § 32-759; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253]

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

(1) Unless otherwise specifically provided in this chapter, no sign, except those placed and maintained by the City, county or state, shall be erected or placed in the public right-of-way nor be allowed to project into the public right-of-way. Signs erected on a building may not project more than two feet into the right-of-way.

(2) No sign, unless otherwise permitted, shall exceed the maximum height limitations of the zoning district in which it is located. Lighting reflectors may project beyond the top or face of the sign.

(3) No sign or other advertising structure, as regulated by this chapter, shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or which makes use of the word "stop," "look," "danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

(4) No sign shall be erected, constructed or maintained so as to obstruct any fire escape or any window, door or opening used as a means of egress or for firefighting purposes or so as to prevent free passage from one part of a roof to any other part thereof. No sign shall be attached in any form, shape or manner to a fire escape or be so placed as to interfere with any opening required for legal ventilation.

(5) Advertising signs indicating the direction of service clubs, churches, fraternal organizations and similar organizations are permitted in all zones, subject to the approval of the Planning Commission, provided such signs conform to the conditions established by such Commission to secure harmony with this article. Such sign must conform to size, location, etc., of the zone in which it is located.

§ 52-816. Stresses and details of design. [Code 1992, § 32-760; 8-13-2001 by Ord. No. 1188]

(a) Allowable stresses, materials and details of design. In all signs, the allowable stresses, materials and details of design shall, in the absence of specific requirements, conform to the following latest approved specifications:

(1) For steel, in accordance with the local building code as adopted by the City. The working stress of chains, wire ropes and steel guy rods and their fastenings shall not exceed one-quarter of their ultimate strength.

(2) For wood, in accordance with the local building code as adopted by the City.

(3) For plastic, in accordance with the local building code as adopted by the City. Applications for permits to erect signs in which plastic materials will be employed shall set forth either the manufacturer's trade name for or the common name of the plastic material to be used and shall certify either that the plastic material is noncombustible or that the plastic material has been tested by a recognized testing laboratory and rated as an approved combustible plastic.

(b) Wind pressure resistance. All signs shall be designed to resist wind pressures as provided in the local building code as adopted by the City.

§ 52-817. Nonconforming signs. [Code 1992, § 32-761; 8-13-2001 by Ord. No. 1188]

(a) Nonconforming sign utilization. Existing nonconforming signs may not be utilized if their utilization would involve any of the following conditions:

(1) Changes in the overall dimensions. Nonconforming signs may be relettered, provided the overall dimensions do not change.

(2) Repair of damages caused by accident, vandalism or acts of God in excess of 50% of the sign's replacement value, as determined by the Building Inspector.

(3) Conditions of deterioration or defectiveness hazardous to the health, safety or general welfare of the public, as determined by the Building Inspector.

(b) Nonconforming sign removal procedure. Any nonconforming sign in any district ordered by the Building Inspector to be removed, neutralized or painted over shall be removed, neutralized, or painted over by the owner, agent, or person having the beneficial use of the building or structure upon which such sign is located within 90 days after written notification from the Department of Planning. Upon failure to comply with such notice within the time specified in such order, the Inspection Department is hereby directed and authorized to cause the removal of such sign, and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached as billed by the City. If the owner of such property shall fail to pay such bill within 30 days after the bill has been rendered, the Planning Director shall report the failure to pay the bill to the City Council for collection as a single lot assessment against such property in accordance with the Charter.

§ 52-818. Maintenance. [Code 1992, § 32-762; 8-13-2001 by Ord. No. 1188]

(a) Required. All signs, together with all their supports, braces, guys and anchors, shall be kept in repair and in a proper state of preservation. The Building Inspector may order the removal of any sign that is not maintained in accordance with this section.

(b) Removal of obsolete signs. Any sign which no longer advertises a bona fide business conducted or a product sold on the premises shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign may be found within 90 days after written notification from the Inspection Department. Upon failure to comply with such notice within the time specified, the Inspection Department is hereby directed and authorized to cause the removal of such sign, and any expense incident thereto shall be paid by the owner of the property to which the sign is attached, as billed by the City. If the owner of such property shall fail to pay the bill within 30 days after the bill has been rendered, the Planning Director shall report the failure to pay the bill to the City Council for collection as a single lot assessment against the property.

(c) Inspection required. Every sign is subject to a periodic inspection by the Building Inspector to ascertain whether the sign is secure and whether it is in need of repair.

(d) Painting required. The owner of any sign shall have the sign and all supports properly painted regularly and kept in good condition, unless they are galvanized or otherwise treated to prevent rust.

(e) Property maintenance. Any person occupying any vacant lot or premises by means of a ground sign or billboard sign shall be subject to the same duties and responsibilities as the owner of the lot and premises with respect to keeping the lot and premises clean, sanitary, inoffensive and free and clear of all obnoxious substances and unsightly conditions on the ground in the vicinity of such ground sign or the premises for which he or she may be responsible.

§ 52-819. Portable signs (freestanding signs). [Code 1992, § 32-763; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253]

(a) Portable signs shall be allowed only in nonresidential districts, except on church or school properties.

(b) The property owner and/or occupant and the sign lessor must obtain a building permit before the date of sign placement for approval. This must state the date of placement and removal and shall be accompanied by a plot plan showing the property and placement of the sign in relation to streets, drives, walks, buildings, etc. Setbacks shall be the same as that for ground signs pursuant to district requirements.

(c) The portable sign may be used for a period not exceeding 30 consecutive days.

(d) Placement of a portable sign must be on private property, shall not be in the right-of-way, and shall not interfere with any vision clearance, traffic flow, sidewalk, and such. Signs shall not obstruct parking spaces of automobile or pedestrian travel lanes in parking lots.

(e) No flashing lights, oscillating lights, flashing arrows or other intermittent operation will be allowed within 100 feet of an intersection. Lighting shall not be confused

with traffic control devices and shall not cause distraction to vehicle drivers at any location.

(f) The portable sign may only identify the business conducted on the property plus one of the following:

(1) A product sold by the business.

(2) A service business.

(3) A product made by the business.

(4) Advertising a special event.

(g) The portable sign must be removed on the date stated and cannot be stored on the property unless covered in the rear yard or in a building.

(h) The electrical hookup must be in conformity with the current electrical code as adopted by the City and approved by the Electrical Inspector.

(i) All portable signs shall be anchored or weighted to prevent overturning.

(j) The portable sign shall not exceed 60 square feet or six feet in height.

(k) Permits for a portable sign will be issued only three times per year per property (as defined by Assessor's office records of ownership), including shopping malls and multi-tenant establishments. For a building with multiple tenants there shall only be one portable sign per property at any given time.

(l) Inflatable signs are considered portable signs. They must be securely fastened down to prevent them from blowing away. Permits are not required for inflatable signs during the week of the Port Huron to Mackinac Sailboat Race. These signs need not meet height or size requirements and may extend over a roofline by more than three feet. Such signs may be located solely on or overhang onto the private property for which the sign serves.

§ 52-820. Temporary business signs. [Code 1992, § 32-764; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 1-23-2006 by Ord. No. 1257; 5-24-2010 by Ord. No. 1311]

(a) Signs such as any paper, cardboard, or plastic signs used for window display such as sale signs; help wanted signs; festoon signs such as banners, flags, etc., shall all be considered temporary signs. See the definition of temporary signs in § 52-814.

(b) Sandwich board-style signs less than 18 inches wide and 36 inches in height may be used on private property during daylight hours but must be removed at the end of the business day and stored within the building. No more than one sign per property address is allowed. Sandwich board-style signs must be freestanding and not worn by humans or attached to vehicles, ferries, appurtenances, or animals. Permits shall not be necessary for any temporary signs of less than 24 square feet and displayed in the window from inside the building. Any temporary sign located outside the building shall be limited to less than 24 square feet and shall be limited to one per street frontage. Any temporary sign over 24 square feet and located

outside of the building shall be considered a portable sign and shall require a permit and be limited to the rules of § 52-819.

(c) Temporary signs shall be securely but not permanently attached to the building of which it serves.

(d) Temporary signs shall only be allowed in nonresidential districts.

(e) No temporary sign shall be erected so as to extend over or into any public right-of-way, street, alley, sidewalk, or other public thoroughfare. No temporary sign shall be erected so as to project over any wall opening or so as to prevent free ingress or egress from any door, window or fire escape. Such sign shall not endanger persons or property or obstruct the view of traffic or traffic signals.

(f) Temporary signs shall not be erected for a period of more than 30 consecutive days.

(g) Any temporary sign that is illuminated or electric shall be installed pursuant to the current local electrical code as adopted by the City, and the necessary electrical permits shall be obtained.

(h) Temporary business signs shall only advertise goods, services, facilities, events or attractions pertaining to the principal use of the premises where located.

(i) Temporary signs shall only be allowed on the building or in the window and may not be attached to any accessory building, pole, fence, stanchion, or freestanding frame placed on the premises.

§ 52-821. Ground signs. [Code 1992, § 32-765; 8-13-2001 by Ord. No. 1188]

(a) Not more than one ground sign may be erected accessory to any single building, structure, or shopping center regardless of the number of separate parties, tenants or uses contained therein. However, when any single building, structure, or shopping center is located on a parcel of land that abuts on two or more streets, it may have two or more ground signs, one sign per street frontage, subject further to the use restrictions in this section.

(b) No ground sign for which a permit is required shall be erected of combustible materials, unless the face is constructed of sheet metal or other approved facing materials.

(c) Ground signs shall be required to be set back from the property line in accordance with the building setback requirements for a particular district unless noted otherwise within this article. No ground sign shall be located with the public right-of-way.

(d) Ground signs shall be adequately supported to resist dead load and the wind load acting in any direction on the sign as specified in the current local building code as adopted by the City.

(e) No ground sign shall exceed 200 square feet in area. A billboard is not considered a ground sign under this article.

(f) If a ground sign projects over an area of vehicular traffic, it shall have a ten-foot

clearance above grade; over pedestrian traffic an 8 1/2-foot clearance.

§ 52-822. Wall signs. [Code 1992, § 32-766; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280]

(a) Wall signs attached to exterior walls shall be safely and securely attached pursuant to local building code regulations. No wall sign shall be entirely supported by an unbraced parapet wall. Wall signs shall not exceed 200 square feet in surface area per building face unless otherwise stated.

(b) For signs on shopping or office centers, or cluster commercial buildings, one business wall sign not exceeding 100 square feet per storefront shall be permitted. The anchor store(s) may have one sign per storefront that shall not exceed 200 square feet in area.

§ 52-823. Awnings. [Code 1992, § 32-767; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 5-24-2010 by Ord. No. 1311]

The following shall apply to all awnings:

(1) Awnings which display advertisement shall be allowed in any nonresidential district. They shall be considered a type of accessory sign when there is an advertising display on the awning. Such display may consist of lettering, a logo, picture, etc.

(2) Sign permits are required for any awning with an advertising display.

(3) The awning must be securely attached to the face of a building, and it must be entirely supported by the building.

(4) Collapsible awnings erected on the face of a building, which are located near or on the street right-of-way line, may project not more than four feet into the public right-of-way and must be a minimum of 7 1/2 feet above grade level at the lowest point. Noncollapsible awnings must not project more than two feet into the right-of-way.

(5) When an awning is used for signage or advertising purposes, only the rectangular area containing the logo and lettering shall be considered a sign and shall be in conformance to all signage regulations regarding size, etc.

(6) No awning shall overhang onto adjacent private property.

(7) Any awning which is illuminated shall require an electrical permit and shall be installed pursuant to the City electrical code.

§ 52-824. Illuminated signs. [Code 1992, § 32-768; 8-13-2001 by Ord. No. 1188; 10-24-2016 by Ord. No. 16-005]

(a) All electrical equipment used in connection with signs shall, in addition to specific requirements of this article, be installed in accordance with the City electrical code.

(b) All illuminated signs or any illuminated building trim shall be arranged to prevent glare into adjacent residential districts and shall not be of such brightness as to

cause glare that is hazardous to pedestrians or auto drivers.

(c) All spotlights shall be diffused or shielded to not shine on other properties.

(d) There shall be no flashing, oscillating or intermittent type of illuminated sign or display in any residential district or within 100 feet of any residential district, except that such signs shall be permitted adjacent to a residential district when mounted along the face of a building which does not face such residential district.

§ 52-825. Projecting signs. [Code 1992, § 32-769; 8-13-2001 by Ord. No. 1188]

(a) All projecting signs for which a permit is required shall be constructed of noncombustible materials approved by the Building Inspector for this purpose. Such signs shall be securely attached to the building to which it is hung, pursuant to local building code requirements. No staples or nails shall be used to secure any projecting sign to any building.

(b) Chains and wire ropes and their attachments shall be galvanized or of corrosive-resistant material. Metal supports and braces shall be painted.

(c) A projecting sign shall overhang entirely on the property which it services. It shall not overhang into public rights-of-way by more than two feet or adjacent private property at all.

(d) The maximum distance a sign can project out from the building to which it is attached is four feet over private property. If a sign projects over an area of pedestrian traffic, it shall have an eight-and-one-half-foot clearance, and over vehicular traffic the sign shall be a minimum of 8 1/2 feet from the ground below. A clearance level shall be posted on the sign when hanging over vehicular traffic areas.

(e) Swinging signs shall be permitted as accessory signs when attached to the wall of a building in any nonresidential district, subject to the following conditions:

(1) The area of the sign shall not exceed four square feet.

(2) The sign shall not extend beyond the wall of the building by more than four feet and shall not extend into the right-of-way by more than two feet.

§ 52-826. Marquee signs. [Code 1992, § 32-770; 8-13-2001 by Ord. No. 1188]

(a) Marquee signs constructed of noncombustible material may be attached to the face of the sides and front of a marquee, and such signs may extend the entire length and width of the marquee, provided such signs shall be at least 8 1/2 feet at their lowest level above the sidewalk level. Marquee signs may also be attached to or hung from a marquee and, when hung from the bottom of a marquee, shall be at least 8 1/2 feet at their lowest level above the sidewalk level. No such sign shall extend outside the line of the marquee.

(b) The total distance the marquee and marquee sign together can hang into the right-of-way is two feet.

§ 52-827. Roof signs. [Code 1992, § 32-771; 8-13-2001 by Ord. No. 1188]

(a) Materials. Every roof sign shall be constructed of noncombustible materials, including the uprights, supports and braces, except that the ornamental molding, battens, cappings and nailing strips, platforms and the decorative trimmings may be constructed of combustible materials. Outside the first or inner fire zone, roof signs constructed of combustible materials will be permitted, provided the maximum height above grade shall not exceed the limits of height set forth in the building code for noncombustible buildings in the particular zone in which the sign is located.

(b) Projection. No roof sign shall project beyond the exterior wall, but if illuminated lighting reflectors may project beyond the face of the sign.

(c) Space between roof and sign. When necessary for fire protection, roof signs shall be so constructed as to leave a clear space, except for the structure supporting the sign, not less than one foot between the roof and the lowest part of such sign.

(d) Supports and anchorage. Supports and anchorage shall be provided as follows:

(1) Roof signs shall be thoroughly secured and anchored to the building over which they are constructed and erected. The dead and wind loads from the signs shall be distributed to the structural elements of the building in such a manner that no element shall be overstressed.

(2) Uplift due to overturning of roof signs shall be adequately resisted by proper anchorage to the building walls or structure, proper anchorage to the building as may be needed to integrate and adequately interconnect sufficient dead load to equal not less than 10% in excess of the computed uplift applied to the building sign.

(e) Projection. No roof sign in any district shall project more than three feet above the building's roofline.

§ 52-828. Off-premises signs, nonaccessory signs, billboards. [Code 1992, § 32-772; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 4-24-2006 by Ord. No. 1265; 10-22-2007 by Ord. No. 1280]

Types of off-premises signs (billboards) allowed and standards for such signs shall be as follows:

(1) A billboard structure may be single or double faced, but any double-faced billboard structure shall have advertising surfaces of equal size and shape. For the purpose of this article, the following types of billboards shall be considered double-faced billboards:

a. A billboard structure where the signs are placed back to back as long as the backs of the signs are not separated by more than 36 inches.

b. A billboard structure when constructed in the form of a "V" when viewed from above, provided the internal angle of the apex is not greater than 45° and the billboard's structure is not separated by more than 36 inches at the apex of the "V."

(2) Each face of a single- or double-faced off-premises (billboard) sign structure shall

be allowed an advertising display area of not more than 300 square feet.

(3) No off-premises sign shall be constructed unless it is 500 feet from the nearest existing off-premises sign on the same side of the road.

(4) No off-premises sign shall be constructed unless it is more than 150 feet from residentially zoned property.

(5) All off-premises signs shall be erected on structural steel frames anchored to the ground by concrete piers. The framework shall be designed to resist wind pressure over the panel area of 80 pounds per square foot. Panels should be metal. Trim or border around the panels may be constructed of wood.

(6) No sign shall exceed the maximum height limitations of the district in which it is located. Where it can be shown that topography of the adjacent building would hamper visibility of a sign, the Zoning Board of Appeals can rule on a height variation.

(7) If illuminated, conventional paper or vinyl printed off-premises signs shall be bottom-lit, and such lighting shall be designed to illuminate the sign face only. Hours of illumination shall be limited to dusk to dawn. LED, light-emitting diode, or digital billboards are allowed per the following regulations:

a. LED or digital billboards shall only be allowed on Pine Grove Avenue, 10th Avenue, 10th Street, 24th Street, and I-94.

b. The face of an LED or digital billboard must be 150 feet from a residentially zoned property and cannot face a residential area.

c. In order to eliminate the distraction of drivers, an LED or digital billboard must be placed a minimum of one mile, 5,280 feet, from another LED or digital billboard.

d. The intensity of lights shall not interfere with traffic control devices nor shall they distract motorists or otherwise create a traffic hazard.

e. The frequency of message change shall not be more frequent than once every five seconds.

(8) The location of any sign to be relocated shall be approved by the Planning Department prior to construction. If at any time a sign becomes damaged, including support posts, it may not be replaced. Upon removal of a sign, the number of remaining signs shall serve as the total number allowed. At no time can the number of permitted off-premises sign faces, including LED or digital billboards, in the City exceed 60, which is the number of existing signs as of January 1, 2007, on file with the Planning Department.

(9) The face of a billboard may be replaced. When replacing the face of a permitted off-premises sign with a new sign, the square footage of the new sign face must be 300 square feet or less, regardless of the size of the former sign.

(10) Off-premises signs or billboards are only allowed in the C-1, M-1, and M-2 Zones.

§ 52-829. Signs allowed in residential districts and residential uses in the I District. [Code 1992, § 32-773; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 10-24-2016 by Ord. No. 16-005]

The following signs are permitted in R, R-1, A-1, A-2 Residential Districts and residential uses in the I District:

(1) For each dwelling unit, one nameplate sign displaying the street name and number and name of the occupant, not exceeding one square foot in area. No building permit is required for any such signs.

(2) For permitted principal uses other than dwellings and for permitted uses after special approval, except state licensed care facilities in a residential dwelling, one bulletin or announcement board not exceeding 12 square feet in area. No sign so permitted shall be located nearer to the front lot line than 1/2 the required front yard setback nor nearer the side lot line than the required side yard setback.

(3) In the multiple-family districts, one ground or wall sign indicating the name of the multiple-housing development in addition to individual dwelling nameplates. Such signs indicating the name of the multiple-housing development shall not exceed 48 square feet in area. See permanent subdivision signs in Subsection (6) of this section.

(4) Signs shall be illuminated only by continuous indirect white light and shall not contain any visible moving parts.

(5) Signs advertising real estate for sale, rent or lease when located on the building or land intended to be sold, rented or leased, provided they are used only during the construction of a building or the offering for sale, rent or lease of real estate and provided such signs shall not exceed six square feet in area. Not more than one such sign per building or parcel of land shall be permitted on each street upon which the building or parcel of land fronts. No building permit shall be required for such signs. Real estate signs shall not be located in the public right-of-way.

(6) Permanent subdivision signs which indicate the name of the subdivision or multiple-housing development are allowed on private property, not in the public right-of-way. Signs on private property shall obtain a building permit after receiving a special permit from the Planning Commission. A scaled drawing shall be submitted showing the elevation of the sign indicating the size, layout, color and materials to be used. A site plan shall also be included indicating the location of the sign in relationship to property lines, streets, sidewalks, and utilities. Such signs shall follow the requirements of ground signs and shall be limited to one per entrance to the development. The sign shall not exceed 48 square feet in area or six feet in height. This includes any pillars, posts, or other supporting devices. These signs shall not interfere with visibility in regard to pedestrian or vehicular traffic, and final location shall be at the discretion of the permitting agent if the following rules would cause interference at the particular site: At the intersection with a major thoroughfare, placed at the entry drive of the development, the sign shall be set back a minimum of 30 feet from the curb of the major street and 10 feet from the sidewalk. Subdivision or multifamily housing development signs may be located in the required front yard setback, provided they meet the above criteria. Permanent signs of this nature shall not indicate properties for sale. See temporary subdivision

signs in Subsection (7) of this section.

(7) Temporary subdivision signs not exceeding 100 square feet in area may be permitted subject to their approval by the Planning Commission for a twelve-month period, subject to renewal, provided such signs conform to the conditions established by the Planning Commission to secure harmony with this chapter and there are buildings or home sales continuing in the subdivision being advertised. These temporary signs shall be located only on private property.

§ 52-830. Signs in C-1, CCD and MD Districts and nonresidential uses in I District. [Code 1992, § 32-774; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280; 9-28-2015 by Ord. No. 15-008; 10-24-2016 by Ord. No. 16-005]

The following signs are permitted in the C-1, CCD and MD Districts:

(1) Any sign permitted in residential districts.

(2) Accessory signs pertaining to the business or service being conducted on the premises where the sign is located; however, all such signs must be attached to a building, except ground signs and portable signs. Signs shall not exceed 200 square feet in area per building face, unless stated otherwise. For signs on shopping or office centers, or cluster commercial buildings, one business wall sign not exceeding 100 square feet per storefront shall be permitted. The anchor store(s) may have one sign per storefront that shall not exceed 200 square feet in area. Portable and temporary signs have their own size requirements. The following accessory signs are permitted:

a. Wall signs pursuant to § 52-822.

b. Illuminated signs pursuant to § 52-824.

c. Marquee signs pursuant to § 52-826.

d. Projecting signs pursuant to § 52-825.

e. Ground signs pursuant to § 52-821.

f. Roof signs pursuant to § 52-827.

g. Awning signs pursuant to § 52-823.

h. Portable signs pursuant to § 52-819.

i. Temporary signs pursuant to § 52-820.

(3) Signs advertising real estate for sale, rent or lease when located on the building or land intended to be sold, rented or leased, provided they are used only during the construction of a building or the offering for sale, rent, or lease of real estate and provided such signs shall not exceed 32 square feet in area. Not more than one such sign per building or parcel of land shall be permitted on each street upon which the building or parcel of land fronts. No building permit shall be required for such sign. Real estate signs shall not be located in the public right-of-way.

(4) Standard nonaccessory or off-premises signs (billboards) are permitted only in the

C-1 Zones, subject to the following requirements:

a. Sign surface area must not exceed 300 square feet.

b. No sign shall be located closer to any lot line than the required building setback for that location, but in no event shall any such sign be located closer than 150 feet to any residential district.

§ 52-831. Signs in B and CBD District. [Code 1992, § 32-775; 8-13-2001 by Ord. No. 1188; 10-22-2007 by Ord. No. 1280]

Signs in the B and CBD District shall be permitted or prohibited as follows:

(1) Only signs accessory to a building and pertaining to the business located therein which are supported by a wall of a building and project less than two feet from the building's wall or less than three feet above the roofline are permitted. Such accessory signs shall not exceed 200 square feet in surface area.

(2) Signs advertising real estate for sale, rent or lease when located on the building or land intended to be sold, rented or leased, provided they are used only during the construction of a building or the offering for sale, rent or lease of real estate and provided such signs shall not exceed 32 square feet in area. Not more than one such sign per building or parcel of land shall be permitted on each street upon which the building or parcel of land fronts. No building permit shall be required for such signs. Signs shall not be located in the right-of-way.

(3) Ground signs are not permitted.

(4) New off-premise signs, accessory signs, or billboards are not allowed in the CBD. If any existing billboards in the CBD are damaged or removed, they cannot be replaced or repaired.

§ 52-832. Signs in Military Street Historic District. [Code 1992, § 32-776; 8-13-2001 by Ord. No. 1188; 5-24-2010 by Ord. No. 1311]

Signs in the Military Street Historic District shall be permitted, restricted or prohibited as follows:

(1) Only signs attached to the walls of the building are allowed. Each face of the building shall not have more than two signs each: one primary and one secondary. Signs must be of similar style. Off-premises signs or billboards are not permitted.

(2) A flush-mounted signboard may extend the width of the storefront but shall not be more than 2 1/2 feet high. The sign shall be mounted somewhere above the storefront display windows and below the second story windowsills. Lettering shall be eight to 18 inches high and shall occupy no more than 65% of the sign, including space between letters.

(3) A hanging sign shall be mounted at least 8 1/2 feet above the sidewalk and shall project no more than two feet from the face of the building. The size and location of a hanging sign shall be carefully considered so that it does not interfere with neighboring signs or pedestrian traffic. Projecting signs may not hang into the right-of-way by more than two feet.

(4) Ground signs are not permitted. Signs on the roof or any signs that project above the roofline are not allowed. A projecting sign may not hang into the public right-of-way by more than two feet.

(5) Any lettering or symbols on the sign should be simple and should relate to the period of the building. Lettering can be mounted directly on a signboard, storefront or wall. Signage colors should be chosen to coordinate with the building colors.

(6) Awnings can also serve as signs. Contrasting letters painted or sewn onto the valance are effective. Usually six-inch to eight-inch letters are sufficient. Canvas awnings are acceptable. Aluminum awnings and balloon awnings that cover storefronts that are lighted from underneath are not allowed.

(7) Wood, glass and metal are the preferred sign materials; however, plastic, canvas, neon, stone, and Plexiglas may be acceptable, if the treatment is compatible with the historic guidelines as published by the former Main Street Port Huron. Except for barber poles or clocks, internally lit plastic signs, signs that flash or revolve or have movable parts are not acceptable unless they are authentic historic reproductions. Signage can be lighted in conformance with historic guidelines as published by the former Main Street Port Huron.

(8) Window signs shall not cover more than 25% of any window.

(9) Corporate and franchise logos are required to conform to the historic guidelines as published by the former Main Street Port Huron.

(10) Procedures for obtaining a sign permit are as follows:

a. Application for a sign permit is made through the City Building Inspection Division, Municipal Office Center, 100 McMorran Boulevard. Scale drawings of the sign must be included with the application for the certificate. The detail should be specific enough to show dimension of size, style of lettering and wording, the paint colors, and materials used in the sign.

b. A picture or drawing of the building front showing where the sign will be attached to the building and its method of attachment must be included with the application.

c. The Building Inspector will review the application for compliance with the historic guidelines of the former Main Street Port Huron. If the certificate of appropriateness is issued, the permit to install the signage can be obtained from the Building Inspection Department.

§ 52-833. Signs in M-1 and M-2 Districts. [Code 1992, § 32-777; 8-13-2001 by Ord. No. 1188]

The following signs are permitted in the M-1 and M-2 Industrial Districts:

(1) Accessory signs and ground, wall or roof signs pertaining to the industrial establishment on the premises where the sign is located and not exceeding 100 square feet in area.

(2) No ground sign so permitted in Subsection (1) of this section shall be located nearer

to the front lot line than 1/2 the required front setback nor nearer the side lot line than the required side yard setback.

(3) Signs advertising real estate for sale, rent or lease when located on the building or land intended to be sold, rented or leased, provided they are used only during the construction of a building or the offering for sale, rent or lease of real estate and provided such signs shall not exceed 32 square feet for such signs.

(4) Standard off-premises signs (billboards) are permitted in industrial zones subject to the following requirements:

a. The sign surface area must not exceed 300 square feet.

b. No sign shall be located closer to any lot line than the required building setback for that location, but in no event shall any sign be located closer than 150 feet to any residential district.

§ 52-834. Schedule of Sign Regulations by Zoning District. [Code 1992, § 32-778; 8-13-2001 by Ord. No. 1188; 10-10-2005 by Ord. No. 1253; 4-24-2006 by Ord. No. 1265; 10-22-2007 by Ord. No. 1280; 10-24-2016 by Ord. No. 16-005]

The Schedule of Sign Regulations by Zoning District shall be as follows.[26]

26. Editor's Note: The Schedule of Sign Regulations by Zoning Districts is included as an attachment to this chapter.