

**Zoning Ordinance
City of Durand
Shiawassee County, Michigan**

City of Durand hereby ordains these regulations for the use of land and structures within the City.

Section 101. Short Title

This Ordinance shall be known as the City of Durand Zoning Ordinance.

Section 102. Purpose and Objectives

It is the general purpose of this Ordinance to promote the public safety, health, morals, convenience, and general welfare. To accomplish this purpose, the Ordinance will address the following objectives:

1. Guide the use and development of land, buildings, and natural resources according to their suitability for particular activities.
2. Protect the community's quality of life and enhance the social and economic stability of the City.
3. Reduce congestion on public streets and highways, and facilitate safe and convenient access to buildings and land uses.
4. Guide efforts to provide public services such as water supply, sewers, storm drainage, waste disposal, transportation, education, recreation, and public safety.
5. Establish standards to guide physical development of each Zoning District and of the City as a whole, and provide for enforcement of said standards.
6. Educate citizens and public officials about their shared responsibilities for wise use of community resources.
7. Strive to balance one property owner's right to the peaceful use and enjoyment of his or her parcel with the rights of neighboring property owners to the peaceful use and enjoyment of theirs.
8. Direct the removal of nonconforming uses.
9. Act as a primary tool for the implementation of the Community Master Plan.

Section 103. Date of Adoption

The Ordinance was adopted by the Durand City Council on October 6, 2003.

Article II**Definitions****Section 201. Rules Applying to the Text**

For the purpose of this Ordinance, certain rules of construction apply to the Text, as follows:

1. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
2. The word “person” includes a corporation or firm, as well as an individual.
3. The word “structure” includes the word “building.”
4. The word “lot” includes the words “plot,” “tract,” or “parcel.”
5. The term “shall” is always mandatory and not discretionary; the word “may” is permissive.
6. The words “used” or “occupied” as applied to any land or structure shall be construed to include the words “intended, arranged, or designed used or occupied.”
7. The term “he” shall be read as he, she, or they.
8. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” “either...or,” the conjunction shall be interpreted as follows:
 - a. “And” indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. “Either...or” indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
9. Terms not herein defined shall have the meaning customarily assigned to them.

Section 202. Definitions

1. ABUT: To physically touch or border upon; to share a common property line.
2. ACCESSORY OCCUPATION: An accessory occupation is an occupation carried on within the walls of an accessory building and not visible or noticeable in any manner or form from outside the accessory structure
3. ACCESSORY USE: An accessory use includes a building or structure and is a use clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related.

4. ACTIVITY: See "Use."
5. ADJACENT: A lot or parcel of land which shares all or part of a common lot line with another parcel of land.
6. ADULT BUSINESS: Refer to Section 1337.
7. ADULT FOSTER CARE FACILITIES: A governmental or non-governmental establishment that provides foster care to six (6) or more adults. This includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. "Adult Foster Care Facility" does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released from or assigned to a correctional facility.
 - a. ADULT FOSTER CARE FAMILY HOME: A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
 - b. ADULT FOSTER CARE LARGE GROUP HOME: An adult Foster Care Facility with the approved capacity to receive at least thirteen (13), but not more than twenty (20) adults who shall be provided foster care.
 - c. ADULT FOSTER CARE SMALL GROUP HOME: An adult Foster Care Facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.
8. AUTOMOBILE CAR WASH: An establishment being housed in a building or portion thereof together with the necessary mechanical equipment used for washing automobiles and using production line methods.
9. AUTOMOBILE SALES AND REPAIR SHOP: An auto sales or repair business is an establishment engaged in the sale, rental, or leasing of new or used automobiles, vans, or pickup trucks, or a business performing repairs on such vehicles, including work which requires the engine to be removed, replacement, or modification of the frame, body, transmission, or suspension systems, glass, or upholstery replacement, or the painting or undercoating of vehicles.
10. AUTOMOBILE SERVICE STATION: Any building, land area, other premises, or portion thereof, used for the retail sales of gasoline, oil, grease, batteries, tires and other operational fluids and accessories for automobiles, and the installation of such items, and for other minor automobile repair not to include auto refinishing, body work or painting, dismantling of vehicles for the purpose of reuse or resale of parts, or storage of automobiles other than those in for immediate repair. Such use shall be permitted to include an additional retail use, which may include but not be limited to a restaurant, gift shop, and convenience store.

11. BANK: A business establishment authorized to perform one or more of the following services: receive and safeguard money and other valuables; lend money at interest; execute bills of exchange; and, issue notes of circulation or currency.
12. BAR: A structure or part of a structure used primarily for the sale or dispensing of liquor by the drink.
13. BASE AREA: The area, which is the length times the width, in square feet as of the effective date of this Ordinance.
14. BASEMENT: A story having part, but not more than one half (1/2) of its height above finished grade. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or is used for business or dwelling purposes.
15. BOARDING HOUSE: A dwelling where meals, or lodging and meals, are provided for compensation and where one or more rooms are occupied by persons by prearrangement for definite periods of not less than one month. A boarding house is to be distinguished from a hotel, motel, bed and breakfast establishment, or a convalescent, nursing, or group home.
16. BUILDING: Any structure erected on site, a manufactured home or mobile structure, pre-manufactured or pre-cut structure, above or below ground, intended primarily for the shelter, support, or enclosure of persons, animals, or property of any kind.
17. BUILDING ENVELOPE: That portion of a parcel or lot remaining after excluding required yard setback areas.
18. BUILDING, FRONT LINE OF: The line that coincides with the face of the building nearest the front of the lot. This face includes sun parlors and enclosed porches, but does not include the steps. Said line shall be parallel to the front line and measured as a straight line between the intersecting points with the side yard.
19. BUILDING, HEIGHT OF: The vertical distance measured from the mean elevation of the finished grade line of the at the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height level between eave and ridges for gable, hip, and gambrel roofs.
20. BUILDING LINE: A line defining the minimum front, side or rear yard requirement outside of which no building or structure may be located.
21. BUILDING, PRINCIPAL: A building in which is conducted the main principal use of the lot on which it is located.
22. BULK STATION: A place where crude petroleum, gasoline, naphtha, benzene, kerosene, or any other flammable liquid is stored for wholesale purposes only, where the aggregate capacity of all storage tanks is more than six thousand (6,000) gallons.

23. BUSINESS SERVICES: A business service establishment provides services to other businesses as their primary clientele, and may involve some outside storage of equipment or vehicles, but not of inventory. Business services include, but are not limited to, employee training, audio or visual communication media (including broadcast antennas, sign production and installation, equipment rental or repair, building maintenance, and self service storage).
24. CLINIC: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals.
25. CLUB: An organization catering exclusively to members and their guests, or premises and buildings for recreational, artistic, political, or social purposes, which are not conducted primarily for gain and which do not provide merchandise, vending, or commercial activities, except as required incidentally for the membership and purpose of such club.
26. COMMERCIAL RECREATION: Commercial recreational facilities are for profit establishments providing recreational activities for a fee. Commercial recreational facilities include such uses as bowling alleys, roller rinks, etc.
27. COMMERCIAL SCHOOL: A commercial school is a private educational facility not operated as a nonprofit entity, and offering instruction in art, business, music, dance, trades, continuing professional education or other subjects.
28. COMMON LAND: A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development.
29. CONGREGATE CARE FACILITY: A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons sixty-two (62) years of age or older, or couples where either spouse is sixty-two (62) years of age or older. This does not include a foster care home, nursing home, or convalescent home.
30. CONVALESCENT OR NURSING HOME: A building wherein infirm or incapacitated persons are furnished shelter, care, food, lodging, and needed attention for a compensation.
31. CONVENIENCE STORE: A retail operation selling a variety of items which are primarily grocery products. They include items that may be required by neighborhood residents on a day to day basis. Non-grocery items frequently sold in this kind of establishment include newspapers, magazines, seasonal needs, etc.
32. COVERAGE, LOT: That percent of the plot or lot covered by the building area.
33. CUL-DE-SAC: A street with only one outlet having sufficient space at the closed end to provide vehicular turning area.

34. DAY CARE, FAMILY HOME: A private home in which six (6) or fewer minor children are received for care and supervision for periods of less than twenty-four (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. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
35. DAY CARE, GROUP HOME: A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (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. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
36. DEPTH: For the purposes of interpreting the Dimensions Table, depth is the distance from a property line to a structure.
37. DWELLING: A building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.
38. DWELLING TYPES: For the purposes of this Ordinance, dwellings are separated into the following categories:
- a. SINGLE-FAMILY DWELLING is a detached building containing one (1) dwelling unit only, and complying with the regulations of Article 15, Section 1526.
 - b. TWO-FAMILY DWELLING is a building containing not more than two (2) dwelling units, and complying with the regulations of Section 1300.
 - c. MULTIPLE DWELLING is a building or portion thereof containing three (3) or more dwelling units, and complying with the regulations of Section 1300.
 - d. TOWNHOUSE is a one-family dwelling in a row of two (2) but no more than four (4) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.
 - e. MANUFACTURED HOMES is a factory built, single-family dwelling that meets the national Mobile Home Construction and Safety Standards Act, commonly known as the HUD (U.S. Department of Housing and Urban Development) Code.
39. DWELLING UNIT: One or more rooms, including a single kitchen, in a dwelling designed for occupancy by one family for living and sleeping purposes.
40. ELDERLY HOUSING: A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 62 years of age or older, or couples where either spouse is 62 years of age or older. This does not include a foster care facility, home for the aged, or nursing home.
41. ENTERTAINMENT: For the purposes of this Ordinance, "entertainment" means live performance. Video machines, billiards, etc. are not considered entertainment.

42. ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance of underground surface or overhead electrical gas, water and sewage transmission and collection systems, and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service.
43. FAMILY: An individual or two or more persons related by blood, marriage, or adoption, living together in a dwelling unit or group of not more than four (4) persons, who need not be related, living together in a single dwelling unit or a single individual doing his or her own cooking and living upon the premises as a separate housekeeping unit, or a group of not more than twelve (12) unrelated persons, each of whom is handicapped with the meaning of the Fair Housing Act, 42 U.S.C. Sec. 3602 (h), living together as a single housekeeping unit in an adult foster care home licensed by the State of Michigan, with such nonresident staff as may be needed to assist the residents with their daily life activities, but not receiving funding through a contract with any state or community health or social service agency.
44. FARM: A tract of land which is directly devoted to agricultural purposes, provided further that farms may be considered as including establishments operated as greenhouses, nurseries, orchards, chicken hatcheries, apiaries; but establishments keeping or operating fur bearing animals, riding or boarding stables, kennels, quarries or gravel or sand pits, shall not be considered farms hereunder, unless combined with bonafide farm operations on the same contiguous tract of land of not less than ten (10) acres.
45. FARMING, GENERAL: The practice of agriculture on a farm as defined above.
46. FARM ANIMAL, LARGE: Any four (4) footed creature as livestock which, at maturity, exceeds one hundred (100) pounds. This includes, but is not limited to, the following: cattle, hogs, horses, sheep, goats, deer and elk.
47. FEEDLOT: A small, confined area for fattening cattle or holding temporarily for shipment.
48. FENCE: A structure made of wood, posts, and or wire, erected to enclose an area and act as a barrier.
49. FENCE, PRIVACY: A barrier of at least five (5) feet in height and located so as to serve as a screen or barrier providing at least eighty (80) percent visual block.
50. FENCE, ORNAMENTAL: An open or semi-open fence, ornamental in nature, not intended to provide a permanent barrier to passage or for screening. Decorative fencing does not include chain link fencing.
51. FRUIT ORCHARD: A planting of fruit trees for the purpose of harvesting fruit.
52. FUNERAL HOME: A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.
53. GARBAGE: Animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking and serving of foods.

54. **GREENHOUSE:** A building whose roof and sides are made largely of glass or other transparent or translucent material, and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal use.
55. **GROSS FLOOR AREA:** The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but not including interior parking spaces, loading spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six (6) feet.
- For the purposes of calculating parking and loading requirements, the gross floor area is the floor area used for service to the public. It shall not include floor area used solely for storage or processing and packaging of merchandise.
56. **HOME OCCUPATION:** Any business carried on in a dwelling by one or more members of a family residing on the premises.
57. **HOSPITAL:** An institution for the diagnosis, treatment or care of aged, sick or injured people. The term "hospital" shall include sanatorium, rest home, nursing home and convalescent home, but shall not include any institution for the care of mental disorders or the treatment of alcoholics or drug addicts.
58. **HOUSE TRAVEL TRAILER:** A vehicular portable structure designed as a temporary dwelling for travel, and recreation and vacation uses.
59. **INCINERATOR:** An engineered apparatus used to burn waste substances and, in which all the combustion factors, temperature, retention time, turbulence, and combustion air, can be controlled.
60. **JUNK/SALVAGE YARD:** A licensed open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rages, rubber tires, and bottles. A Junk/Salvage Yard includes automobile-wrecking yards, and two or more inoperative, unlicensed vehicles located on a single lot. Operations with the characteristics of salvage yards, which are called recycling centers, junk yards, scrap yards, etc., shall be considered as salvage yards.
61. **KENNEL:** A kennel is any facility where more than four (4) dogs or four (4) cats or any combination thereof totaling more than four (4) such animals, over four (4) months old are kept, housed, or boarded on a single parcel.
62. **LOADING BIRTH/SPACE:** An off-street space at least ten (10) feet wide, twenty-five (25) long, and fifteen (15) feet high, either within a building or outside on the same lot, provided, maintained and available for the loading or unloading of goods or merchandise, and having direct and unobstructed access to a public street or alley.
63. **LOT:** A parcel of land occupied or intended for occupancy by a main building and accessory buildings thereto, together with such open spaces as are required under the provisions of this Ordinance. Every lot shall abut upon and have permanent access to a public street.

64. LOT AREA: The total horizontal land area within the lot lines of the lot.
65. LOT (CORNER, DOUBLE FRONTAGE, FLAG, INTERIOR, AND THROUGH):
- a. LOT, CORNER: a lot which has at least two (2) contiguous sides abutting upon a street for their full length, and provided the two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees.
 - b. LOT, DOUBLE FRONTAGE: a lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.
 - c. LOT, FLAG: A lot not fronting entirely on or abutting a public road, and where access to the public road is by a narrow, private right-of-way.
 - d. LOT, INTERIOR: is a lot other than a corner lot.
 - e. LOT, THROUGH: is an interior lot having frontage on two (2) streets which do not intersect at a point contiguous to such lot.
66. LOT LINES: The lines abutting a lot as defined herein:
- a. LOT LINE, FRONT: That line separating the lot from a street right-of-way. In the case of a corner lot or through lot, the lines separating the lot from each street.
 - b. LOT LINE, REAR: Lot line which is opposite the front lot line. In the case of a corner lot, the rear lot line may be opposite either front lot line, but there shall only be one rear lot line. In the case of a lot with side lines converging at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than twenty (20) feet long, lying farthest from the front lot line, and wholly within the lot.
 - c. LOT LINE, SIDE: Any lot line, not a front lot line, or not a rear lot line.
67. LOT, WIDTH OF: The horizontal straight line distance between the side lot lines, measured between the two points where the required minimum front yard setback line intersects the side lot lines. For lots fronting on a curved road easement or right-of-way, or a cul-de-sac, lot width shall be the distance along a straight line which is both tangent to an imaginary line equidistant from the front lot line (at a building setback distance established for the zoning district wherein the development exists) and also parallel to the chord of such imaginary line, measured between its point of intersection with the side lot lines.
68. LOT OF RECORD: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds, or in a common use by County and Community officials, and which actually exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

69. LOT, ZONING: A single tract of land, located within a single block which, at the time of filing for a building permit, is designated by its owner or developed as a tract to be used, developed, or built upon as a unit, under single ownership or control.

A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located and in order to comply shall exclude land area located within public rights-of-way. A zoning lot, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, and may include one (1) or more lots of record.

70. LUMBER YARD: A lumber yard is a business which emphasizes the sale of lumber and wood products where material may be stored or displayed in the principal building or in accessory shed type structures.
71. MANUFACTURED HOME PARK: A parcel of land fifteen (15) acres or more intended and designed to accommodate multiple manufactured homes for residential use, which is offered to the public for that use along with any structure, facility, rear or equipment permitted, and incidental to the residential use. Referred to also as "Park."
72. MANUFACTURED HOME SPACE: A plot or parcel of land within the Manufactured Home Park designed to accommodate one (1) manufactured home.
73. MANUFACTURED HOME STAND: That part of a Manufactured Home Space which has been reserved for the placement of Manufactured Home, appurtenant structures, or additions.
74. MINI-WAREHOUSE (SELF-STORAGE) FACILITY: A facility consisting of a building or a group of buildings in a controlled-access compound, where individual stalls or lockers are rented out to different tenants for the dead storage of customers' goods and wares. The use of the premises shall be limited to storage only, and shall not be used for any auction, or sales, or storage and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except, that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc., shall be permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers or explosive materials, as defined in the fire protection code, or toxic materials are expressly prohibited.
75. MODULAR HOME: A fabricated, transportable building unit designed to be incorporated at a building site into a structure on a permanent foundation for residential use.
76. MOTEL/HOTEL: A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile facilities. The term "motel" shall include buildings designed as "auto courts," "tourist courts," "motor courts," "motor hotels," and similar names which are designed as integrated units of individual rooms under common ownership.
77. NONPROFIT ORGANIZATION: The term "nonprofit organization" shall include any church, school, governmental agency, service club or similar organization which owns or leases property in the City of Durand.

78. **NONCONFORMITY**: Any use of land or a building, any parcel of land, or any structure or structure on land in combination which does not comply with all of the District Regulations for the Zoning District in which it is located.
79. **NUISANCE**: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things including but not limited to: noise; dust; smoke; odor; barking dogs; glare; fumes; flashes; vibration; objectionable effluent; noise of a congregation of people, particularly at night; passing traffic; or invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.
80. **OFFICE**: An office is a place of business in which professional services are rendered or management activities of an enterprise are carried out. All such activities take place inside a building. Office activities include, but are not limited to, law, medicine, dentistry, accounting or bookkeeping, tax preparation, insurance, securities brokerage, executive or managerial functions for any type of enterprise, workshop or studio for a graphic artist or photographer, studio for broadcast media, all aspects of a newspaper or publishing business, except actual printing, binding, or distribution centers, and a base of operation for sales people, which does not include storage or display of merchandise.
81. **OPEN SPACE**: Any unoccupied space open to the sky on the same lot with a building.
82. **PARCEL**: A parcel is a continuous piece of land under uniform ownership which is occupied or intended for occupancy by principal building or use, and any accessory structures or uses thereto. Every parcel shall abut upon and have permanent access to a public street. Also, "LOT."
83. **PARKING SPACE**: An off-street space of at least two hundred (200) square feet exclusive of necessary driveways, aisles, or maneuvering areas suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.
84. **PERSONAL SERVICE BUSINESS**: A personal service business primarily serves needs of individual people or families, including but not limited to, hair or skin care, grooming, dry cleaning, millinery or tailoring, shoe repair, and repair of small appliances, watches, or jewelry.
85. **PLANNED UNIT DEVELOPMENT**: An area of minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments, and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.
86. **POOLS, SWIMMING**: Any structure or container intended for swimming, located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches.
87. **POOLS, WADING**: A wading pool is permanent or portable in construction, which has a water depth twenty-four (24) inches or less, and which is also less than twelve (12) feet in diameter.

88. PRINCIPAL BUILDING: A building in which is conducted the principal use of the lot on which it is located.
89. PRINCIPAL USE: The main use to which the premises are devoted and the principal purpose for which the premises exist.
90. PUBLIC STREET: Any vehicular way which:
- a. Is an existing state, county, or municipal roadway, or;
 - b. Is shown upon a plat approved pursuant to law, or;
 - c. Is approved by other official action; and includes the land between the street or right-of-way lines, whether improved or unimproved. A public thoroughfare which affords the principal means of access to abutting property.
91. PUBLIC UTILITY: Any person, firm, corporation, municipal department or board fully authorized to furnish to the public electricity, gas, steam, telephone, telegraph, transportation or water service.
92. RECREATIONAL VEHICLE: Vehicles primarily designed for conveyance upon the public streets or highways, and duly licensable as such, and which will permit temporary occupancy once stationed as a dwelling or sleeping place for one (1) or more persons. These vehicles can either be towed, hauled or affixed to another vehicle or driven from one site to another without requiring a State or County Special Transportation Permit for travel.
93. RESTAURANT, CARRY-OUT: A carry-out restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design or method of operation includes both of the following characteristics:
- a. Foods, desserts, or beverages are usually served in edible containers, or in paper, plastic, or other disposable containers.
 - b. The consumption of foods, desserts, or beverages within the restaurant building or within a motor vehicle parked upon the premises is prohibited. Food is intended primarily to be consumed off the premises.
94. RESTAURANT, DRIVE-IN: A drive-in restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design, method of operation, includes one (1) or both of the following characteristics:
- a. Foods, desserts, or beverages are served directly to the customer in a motor vehicle, either by a carhop, or by other means which eliminate the need for the customer to exit the motor vehicle.
 - b. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is permitted.

95. RESTAURANT, FAST-FOOD: A fast-food restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes both of the following characteristics:
- a. Foods, desserts, or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.
 - b. The consumption of foods, desserts, or beverages within a motor vehicle parked upon the premises is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
96. RESTAURANT, STANDARD: A standard restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one (1) or both of the following characteristics:
- a. Customers, normally provided with an individual menu, are served their foods, desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed.
 - b. A cafeteria type of operation where foods, desserts, or beverages generally are consumed within the restaurant building.
97. RIGHT-OF-WAY: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or utilities.
98. ROADSIDE STAND: A "roadside stand" is a structure for the display of agricultural products, with no space for customers within the structure itself.
99. RUBBISH: A general term for solid waste, excluding food waste and ashes taken from residences, commercial establishments and institutions.
100. SALES AREA: The area open to the public of a retail or wholesale establishment used for the display or transaction of goods.
101. SANITARY LANDFILL: A tract of land developed, designed, and operated to accommodate general types of solid waste, including but not limited to, garbage, rubbish, soils, and concrete, but excluding hazardous waste.
102. SECTIONAL HOME: Two (2) or more units, fabricated and transported to the building site where they are put on a permanent foundation and there on finished as a residential unit.
103. SELF-STORAGE FACILITY: see Mini-Warehouse.
104. S.E.V.: The State Equalized Valuation of the Property in question, as determined by the ownership assessor. This is presumed to be fifty percent (50%) of the property's true cash value.

105. **SIGN:** A name identification, description, display, or illustration which is affixed to or represented directly or indirectly upon a building, structure, or piece of land and which is intended to direct attention to an object, product, place, activity, person, institution, organization, or business. However, a "sign" shall not include a sign located completely within an enclosed building.

For the purpose of this Ordinance, the following sign or sign related terms are defined:

- a. **AREA, OR SURFACE AREA, OF SIGN.** That area per face enclosed by one outline, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display.
- b. **BILLBOARD SIGN.** A freestanding outdoor sign which advertises something not located on the immediate premises.
- c. **CONSTRUCTION SIGNS.** Sign which identify architects, engineers, contractors, and other individuals or firms involved with a construction project, but not including advertisement of any product. These include signs announcing the character of the building enterprise or the purpose for which the building is intended.
- d. **ELECTRIC SIGN.** Any sign containing electric wiring. This does not include signs illuminated by an exterior flood light source.
- e. **ELECTRONIC MESSAGE BOARD.** Changeable copy signs in which the copy consists of an array of lights activated and deactivated simultaneously with a frequency of message change of not less than 20 seconds. Signs displaying time and temperature only may change messages with a frequency of no less than five (5) seconds.
- f. **ENTRANCE/EXIT.** Signs directing traffic movement to or from a parcel.
- g. **FREESTANDING SIGN.** A sign which is affixed to a permanent foundation, but not attached to the building proper. (Also "Ground Mounted" sign.)
- h. **GROUND LEVEL.** The elevation to be used for computing the height of signs. Defined as the roadway centerline grade elevation at its intersection with the centerline of the driveway serving the parcel which is located nearest to the sign location.
- i. **HIGH PROFILE SIGN.** A freestanding identity sign intended to announce the existence of a business located near an expressway interchange to travelers on the expressway so they may react in time to exit safely.
- j. **IDENTITY SIGN.** A sign that identifies the business, owner, or resident and/or the street address and which sets forth no other advertisement.
- k. **ILLUMINATED SIGN.** A sign that provides artificial light directly or through any transparent or translucent material.
- l. **INSTITUTIONAL BULLETIN BOARD.** A structure containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institution, and the announcement of its services or activities.

- m. INTEGRAL SIGN. Names of buildings or farm, date of erection, monumental citations, commemorative tablets, and the like when made an integral part of the walls of the structure (or roof for farm buildings).
- n. JOINT SIGN. A sign which gives direction and identification to a group of adjacent businesses whether or not under single management.
- o. LAND DEVELOPMENT PROJECT SIGNS, TEMPORARY. Signs pertaining to the sale, lease, rent, or development of a subdivision, planned shopping center, office building, industrial park, or similar land parcel.
- p. LOCATION. A lot, premise, building, wall or any place whatsoever upon which a sign is located.
- q. MARQUEE. An identification sign attached to or made a part of a marquee, canopy, or awning project from and supported by the building.
- r. MONUMENT: A sign extending upward from grade which is attached to a permanent foundation for a distance not less than fifty (50) percent of its length, and which may be attached or dependent for support from any pole, posts, or similar uprights provided such supports are concealed within the sign structure.
- s. POLITICAL CAMPAIGN SIGNS. Signs announcing candidates for public political office and other data pertinent to an upcoming election.
- t. PRIVATE TRAFFIC DIRECTION. Signs directing traffic movement or giving instructions, located within a parcel.
- u. PROJECTION. The distance by which a sign extends over public property or beyond the building line.
- v. PROJECTING SIGN. A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.
- w. PROPERTY RENTAL SIGNS. Signs on the premises announcing rooms, apartment, or houses for rent, not to exceed four (4) square feet.
- x. PUBLIC SIGNS. Signs of a governmental nature and in the public interest, erected by, or on the order of, a public officer in the performance of his or her public duty.
- y. REAL ESTATE SIGNS. Signs advertising the sale, rental or lease of the premises or part of the premises on which they are displayed.
- z. ROOF LINE. This shall mean either the high point of the roof or the top of the parapet, whichever forms the top line of the building silhouette, and where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.
- aa. ROOF SIGN. Any sign erected, constructed, and maintained wholly upon or over the roof of any building.

- aa. SPECIAL PURPOSE SIGNS. Any other temporary signs.
- ab. STREET BANNERS. Fabric signs, suspended across public streets advertising a public entertainment or event. The location and contents of each street banner must be specially approved by the Shiawassee County Road Commission.
- ac. TEMPORARY SIGN. A display, informational sign, banner, or other advertising device intended for a limited period of display, including any sign which can be physically lifted, pulled, carried, or wheeled from one location to another.
- ad. WALL SIGN, FLAT. One affixed directly to or otherwise inscribed on an exterior wall and confined within the limits thereof of any building, and which projects from that surface less than twelve (12) inches at all points.
106. SITE, AREA: The total area within the property lines, excluding rights-of-way, easements, etc.
107. SPECIAL USE: The term applies to a use which may be permitted by the issuance of a Special use Permit by the City of Durand City Council. Specified procedures and requirements, as outlined in cited sections, must be complied with prior to final issuance of said permit.
108. STABLE, PRIVATE: An accessory building in which horses are kept for private use and not for hire, remuneration, or sale, and further that no more than three (3) horses are boarded.
109. STATE LICENSED RESIDENTIAL FACILITY: A State Licensed Residential Facility is a private residence licensed by the State of Michigan to receive not more than six (6) aged, emotionally disturbed, developmentally disabled or physically handicapped adults who require ongoing supervision, but not continuing nursing care. Note that the licensee must be a member of the household and an occupant of the residence. Note also that none of the following may be construed to be a State Licensed Residential Facility: a nursing home, home for the aged, or hospital as defined by Act 386 of 1978; a hospital for the mentally ill as defined by Act 258 of 1974; a county infirmary as defined by Act 280 of 1939; a child caring institution, children's camp, foster family home or group home as defined by Act 116 of 1973; a Veterans' facility as defined by Act 152 of 1885; nor an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, a hotel or a rooming house, nor a residential facility licensed by the State to care for four (4) or fewer minors.
110. STORY, HALF: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for the use. A half story (1/2) containing independent apartments or living quarters shall be counted as a full story.
111. STORY, HEIGHT OF: The vertical distance from the top surface of one floor to the top surface of the next above. The height of the top most story is the distance from the top surface of the floor to the top surface of the ceiling joints.

112. **STREETS**: A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. For purposes of this Ordinance, streets shall be defined to also include the term roads. Streets are further classified by the functions they perform.
- a. Local (minor) streets: streets primarily designed to provide access to immediately adjacent properties. Through movement may be possible, but is not encouraged by operational controls; it may be impossible in the case of cul-de-sacs. Part of the street width is usually allocated to vehicle parking without restrictions, although special snow emergency parking prohibitions may be necessary. Each abutting property may have a driveway connection to the street.
 - b. Collector (secondary) streets: streets primarily designed to provide access to abutting land parcels, and also enable moderate quantities of traffic to move expeditiously between local streets and the major street network.
 - c. Major (primary) streets: streets primarily designed for the efficient movement of through traffic at speeds which are as high as can be reasonably allowed in view of safety considerations and the amount of access also being provided. Capacity is obtained by provision of wide street cross sections and high capacity controls at intersections, or by elimination of intersections by grade separation. Speed results from provision of good horizontal and vertical alignments and removal of potential safety hazards, especially access friction.
 - d. Freeway (expressway): A limited access divided multi-lane major arterial street intended for through traffic typically designed with grade separation at major intersections. For purposes of this ordinance, freeways shall not be defined to include rights-of-way for entrance ramps, exit ramps or feeder roads supporting the freeway.
113. **STREET LINE**: The legal line of demarcation between a street right-of-way line and land for service, benefit or enjoyment.
114. **TAVERN**: An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.
115. **TEMPORARY OUTDOOR USE**: A use carried out in an open area or uncovered or temporary structure, which is disbanded when the designated time period, activity, or use for which the temporary structure was erected, has ceased.
116. **USE**: The employment or occupation of a building structure or land for service, benefit, or enjoyment.
117. **VARIANCE**: A modification of the literal provisions of this Ordinance granted when strict enforcement thereof would cause practical difficulty owing to circumstances unique to the specific property on which the modification is granted by the Board of Appeals on Zoning, or undue hardship when pertaining to a use variance request.
118. **VETERINARIAN**: One qualified and authorized to treat diseases and injuries of animals.
119. **VISUAL SCREEN**: A method of shielding or obscuring one abutting structure or use from another by fencing, walls, berms, or densely planted vegetation.

120. WHOLESALE BUSINESS: A wholesale business is an enterprise which buys and/or repackages products for sale to retail businesses. Inventory of a wholesale business is stored within an enclosed building.
121. WIRELESS COMMUNICATION ANTENNA (WCA): Any antenna used for the transmission or reception of wireless communication signals excluding those used for public emergency systems, television, ham radio, satellite antennas and video programming services.
122. WIRELESS COMMUNICATION SUPPORT FACILITY (WCSF): A monopole, guyed or lattice type tower designed for the attachment of or as support for wireless communication antennas or other antennas.
123. YARD: An open space on the same lot with a building, which may not be occupied by buildings, structures, or parking areas, except as otherwise provided. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building line.
124. YARD, FRONT: A yard between the front lot line and the nearest point of the main building.
125. YARD, REAR: A yard between the rear lot line and the nearest point of the main building.
126. YARD, SIDE: A yard between the nearest point of the main building and any side line.
127. ZONING DISTRICT: Zoning Districts are those areas of the community within which similar land use activities are permitted and for which the regulations contained within this Ordinance are the same. Zoning Districts are identified in Section 300.

ARTICLE III**ZONING DISTRICTS AND MAPS****Section 300. Districts Established**

For the purpose of this Ordinance, the City of Durand is hereby divided into the following districts:

- R-1 One-Family Residential District
- R-2 One-Family Residential District
- R-3 One-Family Residential District
- R-M Multiple-Family Residential
- R-O Residential/Office
- C-1 Central Business District
- C-2 Service/Business District
- C-3 General Business District
- I Industrial District

Section 301. District Boundaries

The boundaries of these districts are hereby established as shown on the Zoning Districts Map, City of Durand Zoning Ordinance, which accompanies this Ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of this Ordinance as if fully described herein.

Section 302. District Boundaries Interpreted

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Districts Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.
4. Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.

5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shore line, boundaries indicated as approximately following the center line of streams, rivers, canals, or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above, shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
7. Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Board of Appeals shall interpret the district boundaries.
8. Insofar as some or all of the various districts may be indicated on the Zoning Districts Map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

Section 303. Zoning of Vacated Areas

Whenever any street, alley, or other public way, within the City of Durand shall be vacated, such street, alley, or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

Section 304. Zoning of Annexed Areas

Wherever any area is annexed to the City of Durand, one of the following conditions will apply:

1. Land that is zoned previous to annexation shall be classified temporarily as being in whichever district of this Ordinance most clearly conforms with the zoning that existed prior to annexation, such classification to be recommended by the Planning Commission to the Zoning Board of Appeals and the Council shall approve same by resolution. The City Council shall have a period up to two (2) years to enact the final zoning classification and to amend the zoning districts map.

ARTICLE IV**R-1, R-2, and R-3 ONE-FAMILY RESIDENTIAL DISTRICTS****Section 400. Intent**

The intent of the R-1, R-2, and R-3 One-Family Residential Districts is to provide for an environment of one-family detached dwellings of an urban nature along with other residentially related facilities which serve the residents in the district.

Section 401. Principal Uses Permitted

In a One-Family Residential District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

1. One-family detached dwellings.
2. Adult Foster Care Family Home (Six or Fewer).
3. Publicly owned and operated parks, parkways, and recreational facilities.
4. Family Day Care Homes.
5. Home Occupations, as regulated in Section 1313.
6. Churches.
7. Cemeteries, which lawfully occupied land at the time of adoption of this Ordinance.
8. Public, parochial and other private elementary schools offering courses in general education, and not operated for profit.
9. Wireless Communication Antennas.
10. Accessory buildings and uses, customarily incident to any of the above permitted uses.

Section 402. Principal Uses Permitted Subject to Special Conditions

The following Special Condition Uses shall be permitted, subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval of the City Council, as specified in Section 1400.

1. Public, parochial, and private intermediate or secondary schools offering courses in general education, not operated for profit.
 - a. Access to the site shall be in accordance with Section 1315.

2. Utility and public service buildings and uses (without storage yards), when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity.
3. Nursery schools, day nurseries, and child care centers (not including dormitories), provided that for each child so cared for, there shall be provided and maintained a minimum of one hundred and fifty (150) square feet of outdoor play area. Such play space shall have a total minimum area of not less than five thousand (5,000) square feet and shall be fenced and screened from any adjoining lot in any residential district.
 - a. All access to the site shall be in accordance with Section 1315.
4. Private noncommercial recreational areas, institutional or community recreation centers; nonprofit swimming pool clubs, all subject to the following conditions:
 - a. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare as designated on the Major Thoroughfare Plan, and the site shall be so planned as to provide all access in accordance with Section 1315.
 - b. Front, side, and rear yards shall be at least eighty (80) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition.
 - c. Off-street parking shall be provided so as to accommodate not less than one-half (1/2) of the member families and/or individual members. The Planning Commission may modify the off-street parking requirements in those instances wherein it is specifically determined that the users will originate from the immediately adjacent areas, and will, therefore, be pedestrian. Prior to the issuance of a building permit or zoning compliance permit, bylaws of the organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases, wherein the proposed use or organization does not have bylaws or formal membership, the off-street parking requirement shall be determined by the Planning Commission on the basis of usage.
 - d. Whenever a swimming pool is constructed under this Ordinance, said pool area shall be provided with a protective fence, four (4) feet in height, and entry shall be provided by means of a controlled gate.
5. Golf Courses, which may or may not be operated for profit, subject to the following conditions:
 - a. The site shall be so planned as to provide all access in accordance with Section 1315.
 - b. The site plan shall be laid out to achieve a relationship between the major thoroughfare and any proposed service roads, entrances, driveways, and parking areas which will encourage pedestrian and vehicular traffic safety.

- c. Development features, including the principal and accessory buildings and structures, shall be so located and related as to minimize the possibilities of any adverse affects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than two hundred (200) feet from any property line abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.
 - d. Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence four (4) feet in height, and entry shall be by means of a controlled gate.
6. Cemeteries, provided that access to said site shall be in accordance with Section 1315.
7. Bed and breakfast operations when located only in the R-3, One-Family Residential District.
8. Two-family dwellings (duplex), when located only in the R-3, One-Family Residential District, subject to the following conditions:
 - a. The requirements of Section 1100
 - b. The building shall have an outward appearance of a single-family dwelling.
 - c. Adequate off-street parking shall be provided.
9. Group day care home when located only in the R-2 and R-3, One-Family Residential Districts.
10. Adult Foster Care Small Group Home for not more than twelve (12) adults when located only in the R-2 and R-3, One-Family Residential Districts, and subject to the following conditions:
 - a. Minimum lot size shall be three (3) acres.
 - b. All access to the site shall be in accordance with Section 1315, access to a major thoroughfare.

Section 403. Area and Bulk Requirements

See Article XIII, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setback requirements.

Article V**R-O Residential/Office Districts****Section 500. Intent**

The R-O, Residential Office Districts, are designed to afford a transition of use in existing housing areas by permitting new construction or conversion of existing structures. This district recognizes the existence of older residential areas of the City where larger houses have been or can be converted from single-family and two-family residences to low intensity office use in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization.

Section 501. Principal Uses Permitted

In a Residential Office District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

1. All uses in the One-Family Residential Districts permitted and as regulated by Section 401. The standards of the Schedule of Regulations applicable to the R-2, One-Family Residential District, shall apply as minimum standards when one-family detached dwellings are erected.
2. Professional offices such as: medical (excluding medical and veterinary clinics) and dental, chiropractors, optometrists, osteopaths, and similar or allied professions.
3. Professional services such as: insurance, real estate, legal, financial, and similar or allied professions.
4. Funeral Homes.
5. Churches.
6. Wireless Communication Antennas.
7. Accessory buildings and uses customarily incident to any of the above permitted uses.

Section 502. Principal Uses Permitted Subject to Special Conditions

The following Special Condition Uses shall be permitted, subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the City Council, and as specified in Section 1400.

1. All special condition uses for the One-Family Residential Districts permitted and, as regulated under Section 402.

Section 503. Area and Bulk Requirements

See Article XIII, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

Article VI**R-M Multiple-Family Residential Districts****Section 600. Intent**

The R-M, Multiple-Family Residential District, is designed to provide sites for multiple-family dwelling structures and related uses, which will generally serve as a transitional land use between nonresidential districts and lower density one-family districts. The Multiple-Family District is further provided to serve the limited needs for the apartment type of unit in an otherwise medium density, one-family community.

Section 601. Principal Uses Permitted

In a Multiple-Family Residential District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

1. Two-Family Dwellings.
2. Multiple-Family Dwellings.
3. Housing for the Elderly.
4. Adult foster care large group homes.
5. Adult foster care small group homes.
6. Townhouses.
7. Boarding Houses.
8. Manufactured Home Parks, as regulated in Section 1328.
9. Wireless Communication Antennas.
10. Accessory buildings and uses customarily incident to any of the above permitted uses.

Section 602. Principal Uses Permitted Subject to Special Conditions

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the City Council and, as specified in Section 1400.

1. All special condition uses in the One-Family Residential District permitted, and as regulated under Section 402.
2. Hospitals, with no maximum height restrictions, when the following conditions are met:

- a. All such hospitals shall be developed only on sites consisting of at least three (3) acres in area.
 - b. All access to the site shall be in accordance with Section 1315.
 - c. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least fifty (50) feet for front, rear, and side yards for all two (2) story structures. For each story above two (2), the minimum yard distance shall be increased by at least twenty (20) feet.
 - d. Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence six (6) feet in height.
3. Convalescent or Nursing Homes when the following conditions are met:
- a. The building shall not exceed a building height of two (2) stories.
 - b. The minimum lot size shall be three (3) acres.
 - c. No building shall be closer than forty (40) feet to any property line.
 - d. All access to the site shall be in accordance with Section 1315.
 - e. There shall be provided on the site, not less than fifteen hundred (1,500) square feet of open space for each bed in the home. The fifteen hundred (1,500) square feet of land area shall provide for landscape setting, off-street parking, service drives, loading space, yard requirement, and accessory uses, but shall not include the area covered by main or accessory buildings.
4. Congregate Housing for the Elderly when the following conditions are met:
- a. All housing for senior citizens shall be constructed on parcels of at least three (3) acres and may provide for the following:
 - 1) Cottage type, one-story, dwellings and/or apartment type dwelling units.
 - 2) Common service containing, but not limited to, central dining rooms, recreational rooms, central lounge, and workshops.
 - b. Minimum dwelling unit size shall be three hundred fifty (350) square feet per unit (not including kitchen and sanitary facilities).
 - c. Retail and service uses may be permitted on the site if such uses may be permitted on the site if such uses are accessory to the elderly use. All such uses shall be within the principal residential building. No exterior signs of any type are permitted for these accessory uses.
 - d. All medical waste facilities shall be secured and meet the requirements of the Health Department of the State of Michigan.

- e. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed twenty-five (25) percent of the total site not including any dedicated public right-of-way.
- f. Buildings of greater height than the maximum height allowed in Article XIII, Schedule of Regulations may be allowed, provided front, side, and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.

Section 603. Required Conditions

1. The maximum horizontal length of any one building shall be one hundred eighty (180) feet measured along any front, side, or other exterior elevation.
2. The minimum land area required for each multiple-family dwelling unit in the district shall be in accordance with Section 1101, d.
3. Within any yard setback or area between buildings, an area equivalent to seventy (70) percent of any required yard or any required minimum area between buildings must be landscaped and developed as usable open space or recreation area available to the residents of the development, and further, said areas shall be kept free of all vehicular uses.
4. On sites which are four (4) acres or larger in size, the open land area shall include a landscaped greenbelt of a minimum ten (10) foot width, located and continually maintained, along any property boundary adjoining a residential district, or fronting on a public road right-of-way.
5. The minimum livable floor area per multiple-family unit shall be in accordance with the following schedule:

Unit Type	Maximum Floor Area Required (Square Feet)
Efficiency	350 square feet
One Bedroom	600 square feet
Two Bedroom	800 square feet
Three or More Bedrooms	1,000 square feet

6. See Section 1101 "Notes to Schedule", for additional provisions related to Multiple Family Units.

Section 604. Area and Bulk Requirements

See Article XIII, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted, and providing minimum yard setback requirements.

Article VII**C-1 Central Business District****Section 700. Intent**

The C-1, Central Business District, is designed to cater to the needs of the local and regional consumer population. It is generally characterized by an integrated cluster of establishments serviced by a common parking area, and generating large volumes of pedestrian traffic and ancillary vehicular trips.

Section 701. Principal Uses Permitted

In the Central Business District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

1. Office-type business related to executive, administrative, or professional occupations including, but not limited to, offices of a lawyer, accountant, insurance/real estate agent, architect, engineer, and similar occupation.
2. Clinics, except veterinary clinics having outdoor runs.
3. Medical, dental, and optical laboratories that provide testing services, or provide medical or dental services such as artificial limbs, teeth, eye glasses, etc.
4. Banks, credit unions, savings and loan associations, and similar uses, not offering drive-through facilities.
5. Business service establishments such as typing services, photocopying services, quick printing establishments, office supply stores, and similar establishments.
6. Any retail business whose principal activity is the sale of merchandise in an enclosed building such as, but not limited to, groceries, meats, dairy products, baked goods, or other foods, drugs, dry goods, clothing and notions, or hardware.
7. Personal service business establishments, which perform services on the premises such as, but not limited to, repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, photographic studios, and self-service laundries and dry cleaners.
8. Dry cleaning establishments or pick-up stations, dealing directly with the consumer. Central dry cleaning plants serving more than one retail outlet shall be prohibited.
9. Standard or carry-out restaurants.
10. Theaters, assembly halls, concert halls, or similar places of assembly when conducted completely within enclosed buildings.
11. Post office buildings.

12. New and used car salesrooms, showrooms, or offices which do not provide outdoor sales space and/or service and repair activities.
13. Health and athletic clubs.
14. Discount department or variety stores.
15. Any service establishment of an office, showroom, or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer, or an establishment doing radio or home appliance repair, photographic reproduction, and similar service establishments that require a retail adjunct.
16. Local municipal administration buildings, museums, and libraries, excluding outdoor storage.
17. Wireless Communication Antennas.
18. Other uses similar to the above uses.
19. Accessory structures and uses customarily incident to the above permitted uses.

Section 702. Principal Uses Permitted Subject to Special Conditions

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the City Council, as specified in Section 1400.

1. Residential Units when the following conditions are met:
 - a. The dwelling unit(s) shall be provided on any floor other than a floor where grade level access is provided.
 - b. The minimum floor area per unit shall equal:

Unit Type	Maximum Floor Area Required
One Bedroom	620 square feet
Two Bedroom	720 square feet
Three Bedroom	920 square feet
Four or More Bedrooms	960 square feet

- c. Off-street parking shall be provided in the ratio of two (2) parking spaces for each residential unit provided.

Section 703. Required Conditions

Outdoor storage of commodities shall be expressly prohibited.

Section 704. Area and Bulk Requirements

See Article XIII, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

Article VIII**C-2 Service Commercial District****Section 800. Intent**

The C-2, Service Commercial District, is designed to provide sites for more diversified business types, which would often be incompatible with the pedestrian movement in the Central Business District and, which are oriented to serving the needs of "passer-by" traffic and locations for planned shopping centers. Many of the business types permitted also generate greater volumes of traffic and activities which must be specially considered to minimize adverse effects on adjacent properties.

Section 801. Principal Uses Permitted

In a Service Commercial District, no building or land shall be used and no building shall be erected, except for one or more of the following uses, unless otherwise provided in this Ordinance.

1. All uses in the C-1, Central Business District, permitted and as regulated under Section 701.
2. Private clubs, fraternal organizations, and lodge halls.
3. Hotels/motels subject to the following:
 - a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
 - b. Each unit shall contain not less than two hundred fifty (250) square feet of floor area.
 - c. No guest shall establish permanent residence at a motel for more than thirty (30) consecutive days within any calendar year.
4. Bowling alley, billiard hall, video arcade, indoor archery range, indoor tennis courts, indoor skating rink, or similar forms of indoor commercial recreation when located at least one hundred (100) feet from any front, rear, or side yard of any residential lot in an adjacent residential district.
5. Plant material nursery and other open air business uses.
6. Auto wash establishments.
7. Automotive service facilities providing: tire (but not recapping), battery, muffler, rust proofing/undercoating, auto glass, reupholstering, wheel balancing, shock absorbers, wheel alignments, and minor motor tune-ups only, when developed in accordance with the following:
 - a. There shall be no outside display of any parts and/or products.

- b. Any repair and/or replacement activity shall be conducted within a totally enclosed building.
 - c. All new, used, and/or discarded parts shall be stored within a completely enclosed building approved by the Building Department.
 - d. Any such activity shall be located not less than twenty-five (25) feet from a property line.
 - e. There shall be no outside parking and/or storage or any partially dismantled or inoperative vehicles.
 - f. In operations such as automobile reconditioning, but not necessarily limited to, such activities there shall be no releasing of toxic gases, liquids, or materials in any form into the atmosphere, the water or sewer systems of the City of Durand or on, or into the earth, and further, no adverse affects shall be created by any activity on adjacent property or development.
- 8. Veterinary hospitals and clinics having boarding facilities.
 - 9. Wireless communication antennas.
 - 10. Other uses similar to the above uses.
 - 11. Accessory structures and uses customarily incident to the above permitted uses.

Section 802. Principal Uses Permitted Subject to Special Conditions

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions which may be imposed in accordance with Section 4c (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the City Council, as specified in Section 1400.

- 1. Vehicle dealers with outdoor sales space and/or repair facilities for the sale of new or secondhand automobiles, house trailers, recreational vehicles, or rental trailers and/or automobiles, all subject to the following:
 - a. The lot or area shall be provided with a permanent, durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
 - b. The driveway to an outdoor sales area shall be at least sixty (60) feet from the intersection of any two (2) streets.
 - c. Any servicing of vehicles, including major motor repair and refinishing, shall be subject to the following requirements:
 - 1) Any such activities shall be clearly incidental to the sale of said vehicles and shall occur within a completely enclosed building.
 - 2) Partially dismantled and/or damaged vehicles shall be stored within an enclosed building.

- 3) New, used, and/or discarded parts and supplies shall be stored within a completely enclosed building.
 - 4) Any such activity shall be located not less than fifty (50) feet from any property line.
 - 5) There shall be no external evidence, beyond the building, by way of dust, odor, or noise of such activities.
 - d. All lighting shall be shielded from adjacent residential districts.
2. Business in the character of an open front store or a fast food or drive-in restaurant subject to the following conditions:
 - a. A setback of at least sixty (60) feet from the right-of-way line of any existing or proposed street must be maintained.
 - b. Access points shall be located at least sixty (60) feet from the intersection of any two (2) streets.
 - c. All lighting shall be shielded from adjacent residential districts,
 - d. A six (6) foot high completely obscuring wall shall be provided when abutting or adjacent districts are residentially zoned. The height of the wall shall be measured from the surface of the ground. Said wall shall further meet the requirements of Article XIII, General Provisions.
3. Automobile Service Stations and Accessory Retail Uses subject to the following conditions.
 - a. No repair work shall be permitted, other than incidental service, including the addition of motor oil, windshield/wiper fluid or transmission fluid.
 - b. No steam cleaning or undercoating shall be permitted.
 - c. A principal building, of not less than four hundred (400) square feet in area, shall be required.
 - d. Minimum lot area shall be fifteen thousand (15,000) square feet for an automobile service station. Gasoline filling stations may be permitted on lots of ten thousand (10,000) square feet. For each additional accessory use such as, but not limited to, a fast-food restaurant, car wash, or convenience store, an additional 5,000 square feet of lot area shall be provided. In no instance shall the percentage of building coverage on site exceed 35 percent.
 - e. Minimum lot width and frontage shall be not less than one hundred and fifty (150') feet.
 - f. A building shall be located not less than fifty (50') feet from any right-of-way line.

- g. Ingress and egress to the facility shall only be from a major thoroughfare or from a shared access drive to such roadway. Drives shall not be more than thirty (30') feet in width.
- h. Not more than two (2) driveways onto adjacent roadways shall be permitted per road frontage. Curb cuts shall not be permitted where, in the opinion of the Planning Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
- i. No drive or curb opening shall be located nearer than twenty-five (25') feet to any intersection or adjacent residential property line, as measured along the property line. No drive shall be located nearer than thirty (30') feet, as measured along the property line, to any other drive on the premises. No drive shall be located less than ten (10') feet from any lot line, as measured along the property line.
- j. The entire lot, excluding the area occupied by buildings, shall be hard-surfaced with concrete or asphalt material, except landscaped areas which shall be separated from all paved areas by a low barrier or curb.
- k. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15') feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or encroaching upon any public sidewalk, street or right-of-way.
- l. When adjoining residentially zoned property, a six (6') foot masonry wall shall be erected and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line. All masonry walls shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls may be eliminated or gradually stepped down in height within
- m. Twenty-five (25') feet of any right-of-way line, subject to approval by the Zoning Administrator.
- n. All outside storage areas for trash, auto parts and similar items shall be enclosed by a six (6') foot ornamental masonry wall with such storage being located in the rear yard.
- o. Any stored items may not be stacked higher than the enclosing wall height. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles shall not be permitted for a period exceeding five (5) days.
- p. The sale of new or used cars, trucks, trailers, and any other vehicles on the premises is expressly prohibited.
- q. All exterior lighting shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties. In no instance shall such lighting exceed a brightness of 1.0 foot-candles as measured at the property line.

- r. The site should be no less than two hundred (200') feet from any place of public assembly, including any hospital, sanitarium, school, church, or other institution. Measurement shall be the closest distance between the pump islands and the exterior wall of the building used for public assembly.
- s. The view of all restroom doors and/or service bay doors shall not be visible from adjacent residential districts.
- t. A permanent covered structure shall be provided over that portion of the pump island and drive area of any station wherein customers are required to dispense fuel into their own vehicles on a self-service basis. Such structure shall not be enclosed by walls and shall be provided with a minimum clearance of thirteen feet, six inches (13'-6") between the underside of the roof structure and the drive surface. For purpose of this Ordinance, setback requirements shall not apply to canopies; however, in no instance shall they extend beyond the property line.
- u. All off-street parking areas, maneuvering lanes, and paved surface areas shall be drained so as to preclude drainage of water onto adjacent property and public rights-of-way.
- v. A minimum ten (10') foot greenbelt, planted in accordance with the specifications of Section 1318 shall be provided along all right-of-way lines bordering a major thoroughfare.
- w. Auto wash facilities, when established in connection with the principal use on the same zoning lot, shall comply with the following standards.
 - 1) All washing activities must be carried on within an enclosed building.
 - 2) Vacuuming activities shall be at least fifty (50') feet distant from any adjoining residential zone. In no instance shall the weighted sound level from the vacuuming activity exceed 77dBA when measured at the property line.
 - 3) The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.
 - 4) Provision shall be made for the drying of the automobile's undercarriage during freezing weather prior to entering the public thoroughfare for all automatic auto wash facilities. In addition, such auto washes must also install underground heating elements at each vehicle exit to prevent icing at grade.
 - 5) There shall be provided no less than five (5) stacking spaces for each automatic wash lane.
 - 6) Vehicle stacking spaces shall be clearly separated from pump islands and from routes necessary for entering and exiting the property, and in a manner which precludes pedestrians from traversing through such space.

- x. Convenience stores and/or fast food restaurants, when established in connection with the principal use on the same zoning lot, shall comply with the following standards:
 - 1) The sale of alcoholic beverages is expressly prohibited.
 - 2) Buildings shall be so arranged on site in a manner that screens any drive-through lanes from adjoining residentially zoned land.
 - 3) Drive-through lanes shall be separated from pump islands and from routes necessary for entering and exiting the property.
 - 4) Customer parking for convenience store and/or fast food use shall be located on the site in a manner which precludes pedestrians from traversing through drive-through lanes and off-street loading zones.
 - 5) Loading zones shall be restricted to the rear or side yards.
 - 6) There shall be provided no less than five (5) stacking spaces for the drive-through lane.
 - 7) Food service areas shall be physically separated from vehicle repair and service facilities.
 - 8) The sale of snack food items, commonly consumed by travelers (e.g. pop, candy, packaged snacks and goods dispensed through a vending machine), bread, milk, juice, cigarettes and sundry items
 - 9) shall be permitted as part of a gasoline filling or service station provided that the sale of such items is clearly incidental to the sale of vehicular fuel and lubricants, minor parts and accessories; and further provided that the area used for the sale and storage of food and sundry items does not exceed a usable floor area of five hundred (500) square feet.
 - 10) For facilities consisting of any underground storage tanks, the site shall be three hundred (300') feet from any residential well, eight hundred (800') feet from a non-community public water well and two thousand (2,000') feet from any public water well.
 - y. On-site parking shall equal the sum of the number of parking spaces required separately for each use.
5. Mini-warehouse (self-storage facility) subject to the following conditions:
- a. The minimum size of the site devoted to such use shall not be less than three (3) acres.
 - b. Building setbacks shall be as follows: Front yard not less than twenty (20) feet; side and rear yard not less than ten (10) feet.

- c. Building separation between self-storage buildings on the same site shall be fifteen (15) feet, as measured from side-to-side or front-to-rear, or equal to the building height, whichever is greater.
- d. The total lot coverage of all structures shall be limited to fifty (50) percent of the total lot area.
- e. When adjacent to a residential district, a sight-proof barrier shall be provided around the perimeter of the development. Said barrier shall be located at the setback line and may consist of either the solid facades of the storage structures or a fence. If a fence is provided, it shall be a minimum of six (6) feet in height and shall be constructed of brick, stone, masonry units, or wood products which are determined by the Building Inspector to be durable and weather resistant.
- f. A ten (10) foot landscaped greenbelt shall be provided between the property line and required barrier along all street frontages. A five (5) foot landscaped greenbelt shall be provided between the property line and barrier where the site abuts any residential district. All materials shall be planted in conformance with Section 1518.
- g. Parking shall be provided in the ratio of one (1) space for each two thousand (2,000) square feet of gross building area. At a minimum, two (2) parking spaces must be assigned to, and located conveniently to, each individual storage building. In addition, two (2) spaces for the resident manager, and one (1) additional space for each additional employee shall be provided adjacent to the rental office.
- h. Internal driveway aisles shall be a minimum of twenty-four (24) feet in width.
- i. All off-street parking areas and driveways shall be hard surfaced and drained in accordance with Section 1505.
- j. All ingress and egress from this site shall be directly onto a collector or major thoroughfare as identified on the City Future Land Use Plan.
- k. Building height shall not exceed one (1) story, fifteen (15) feet, except that a caretaker or resident manager's unit may be allowed a building height of two (2) stories, twenty-five (25) feet.
- l. No single storage building shall exceed five thousand (5,000) square feet.
- m. All storage on the property shall be kept within an enclosed building.
- n. The use of the premises shall be limited to storage only, and shall not be used for any auction, sales, storage, and transfer business; for the servicing, repair, or fabrication of any vehicle, boat, trailer, appliance, or similar item; or for the operation of power tools, compressors, kilns, or similar equipment; except that limited sales to tenants of products and supplies incidental to the principal use, such as packing materials, identification labels, rope, locks, tape, etc. shall be permitted on the site devoted to this use. The storage of combustible or flammable liquids, combustible fibers, or explosive materials, is defined in the fire protection code, or toxic materials are expressly prohibited.

Section 803. Area and Bulk Requirements

See Article XIII, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of the lot by permitted land use, and providing minimum yard setback requirements.

Article IX**C-3 General Business District****Section 900. Intent**

The General Business District is established to provide an aesthetically attractive working environment for large commercial offices and specialized retail uses. These are generally uses that draw their market from a regional area as opposed to more local types of businesses. Larger parcels of land will be required to accommodate higher parking and landscape standards.

The provisions of this Article have been developed to coordinate these developments with the intent to:

1. Establish and maintain high aesthetic standards.
2. Preserve the district's visual character by assuring improvements are properly related to their sites and to surrounding developments.
3. Encourage originality, flexibility, and innovation in site planning and development, including architecture, landscaping and graphic design.
4. Encourage development that is compatible with and complementary to nearby residential and commercial uses.

Section 901. Principal Uses Permitted

In the General Business District, no building or land shall be used and no building shall be hereafter erected, reconstructed, altered, or enlarged, except for one (1) or more of the following uses:

1. Corporate headquarters, regional headquarters, and general administrative offices used primarily for conducting the affairs of a business, profession, service, industry, or government.
2. Hospitals, medical clinics, and/or optical facilities that provide testing services or provide medical or dental devices such as artificial limbs, teeth, eyeglasses, etc.
3. Business and technical schools.
4. Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations (but not including service or storage yards) when operating requirements necessitate the location of such facilities within the district.
5. Health and athletic clubs.
6. Common open space, including pedestrian plazas and courts.
7. Wireless Communication Antennas.

8. Other uses similar to the above uses.
9. Accessory structures and uses customarily incident to the above permitted uses.

Section 902. Accessory Uses

The following shall be allowed as accessory uses in the General Business District:

1. Uses and structures customarily accessory and incidental to a permitted use.
2. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.
3. Day care facilities.
4. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, tennis courts, and exercise studios, which are provided in association with a permitted use.
5. Parking and loading structures and areas provided in conjunction with a permitted use.

Section 903. Area and Bulk Requirements

See Article XIII, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of the lot by permitted land use, and providing minimum yard setback requirements.

Article X**I Industrial District****Section 1000. Intent**

The I Industrial District, is designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts.

The general goals of this use district include, among others, the following specific purposes:

1. To provide sufficient space, in appropriate locations, to meet the needs of the Municipality's expected future economy for additional manufacturing and related uses.
2. To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development.
3. To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards, and from offensive noise, vibration, smoke, odor, and other objectionable influences.
4. To protect the most desirable use of land in accordance with a well considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the Municipality's tax revenue.

Section 1001. Principal Uses Permitted

In the Industrial District, no building or land shall be used and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this Ordinance.

1. Any use charged with the principal function of basic research, design and pilot, or experimental product development when conducted within a completely enclosed building.
2. Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building.
 - a. Warehousing and wholesale establishments and trucking facilities.
 - b. The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge, and machine shops.

- c. The manufacture, compounding, assembling, or treatment of articles of merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, sheet metal, shell textiles, tobacco, wax, wire, wood, and yarns.
 - d. The manufacture of pottery and figurines, or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
 - e. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
 - f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radio and phonographs.
 - g. Laboratories – experimental, film, or testing.
 - h. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.
 - i. Central dry cleaning plants or laundries, provided that such plants shall not deal directly with consumer at retail.
 - j. All public utilities, including buildings, necessary structures, storage yards, and other related uses.
- 3. Warehouse, storage, and transfer and electric and gas service building, and yards. Public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations.
 - 4. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies.
 - 5. Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other similar municipal buildings and uses, including outdoor storage.
 - 6. Kennels.
 - 7. Greenhouses.
 - 8. Trade or industrial schools.
 - 9. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to, lumber yard, building materials, outlet, upholsterer, cabinet maker).
 - 10. Recycling centers.
 - 11. Auto engine and body repair, and undercoating shops when located in a completely enclosed building.

12. Wireless Communication Antennas.
13. Mini-warehouses (self-storage facilities) subject to the design requirements of Section 802, 5).
14. Other uses similar to the above uses.
15. Accessory buildings and uses customarily incident to any of the above permitted uses.

Section 1002. Principal Uses Permitted Subject to Special Conditions

The following Special Condition Uses shall be permitted subject to the conditions hereinafter required for each use, subject to any and all reasonable conditions, which may be imposed in accordance with Section 4c (2) of the City-Village Zoning Act, as may be amended, and further subject to the review and approval by the City Council, as specified in Section 1400.

1. Commercial television and radio towers, public utility microwaves, public utility television transmitting towers, subject to the following conditions:
 - a. They shall be located centrally on a continuous parcel of not less than 1.0 times the height of the tower measured from the base of said tower to all points on each property line.
 - b. A barrier, not exceeding eight (8) feet in height shall be installed along the perimeter of the development. Said barriers shall be located at the setback line and consist of either an ornamental masonry wall or fence constructed of materials which are determined by the Building Inspector to be durable and weather resistant.
 - c. A ten (10) foot landscaped greenbelt shall be provided between the property line and required barrier along all street frontages. A five (5) foot landscaped greenbelt shall be provided between the property line and barrier where the site abuts any residential district. All materials shall be planted in conformance with Section 1518.
 - d. A minimum of two (2) parking spaces must be provided on site and interior to the perimeter barrier. The parking area shall be provided with a permanent durable and dustless surface and shall be so graded and drained so as to dispose of all surface water accumulated within said parking area.
 - e. All towers shall be developed on a site consisting of at least two (2) acres in size.
2. Wireless Communication Support Facilities as regulated in Section 1332.

Section 1003. Required Conditions

No use otherwise allowed shall be permitted, within any district, which does not conform to the following standards of use, occupancy and operation, which standards are hereby established as the minimum requirements to be maintained. Generally accepted methods of collection and standard methods of chemical analysis shall be used in the application of these requirements:

1. **Smoke and/or Air Pollution Control.** The emission of gases, smoke, dust, dirt, and fly ash should in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable Federal, State and County health laws pertaining to air pollution and smoke abatement.
2. **Open Storage.** The open storage of junk, scrap or salvage or other waste products where the operations are for the conversion to saleable materials shall be screened from public view, from a public street and from adjoining properties not of a similar nature, by an enclosure consisting of a solid wall or fence not less than six (6') feet in height.
3. **Glare and Radioactive Materials.** Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to emit quantities exceeding those established as safe by the U.S. Bureau of Standards and/or the Atomic Energy Commission when measured at the property line.
4. **Fire and Explosive Hazards.** In the Industrial District the storage, utilization or manufacture of materials or products ranging from incombustible to moderate burning as determined by the Fire Marshall, is permitted subject to compliance with all the other performance standards above mentioned. The storage, utilization or manufacture of materials, goods or products ranging from free or active burning to intense burning, as determined by the Fire Marshall, is permitted subject to compliance with all other yard requirements and performance standards previously mentioned, and providing that the following conditions are met:
 - a. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
 - b. Said materials or products shall be stored, utilized or produced in completely enclosed buildings or structures having incombustible exterior walls, which meet the requirements of Building Codes.
 - c. All such buildings or structures shall be set back at least forty (40') feet from lot lines, or in lieu thereof, all such buildings or structures shall be protected throughout by an automatic sprinkler system complying with installation standards prescribed by the National Board of Fire Underwriters.
 - d. The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the State Rules and Regulations as established by Public Act No. 207 of 1941, as amended.

- e. All handling of flammable or hazardous substances shall be in accordance with State and Federal laws and all required State and Federal permits shall be obtained and the establishment shall remain in conformance therewith.
- 5. Noise. Noise shall not be emitted which exceeds seventy (70) decibels as measured at the property boundary line, except that where normal street traffic noises exceed seventy (70) decibels during such periods, the measurable noise emanating from subject premises may be equal to, but shall not exceed, such traffic noises.
- 6. Vibration. Vibration as measured at the property lines shall not cause a displacement of greater than three thousandths (.003) of one inch.
- 7. Lighting. All lighting or other forms of illumination utilized on private property shall be arranged and so located that it will not shine, reflect, or glare into public streets or surrounding properties in a disturbing manner.

Section 1004. Area and Bulk Requirements

See Article XIII, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

**Article XI
Schedule of Regulations**

Section 1100, Schedule, Limiting Height, Bulk, Density and Area by Zoning District									
	Minimum size per zoning lot (a)		Maximum building height		Maximum building coverage in percent of lot area	Minimum Yard Setback (Per Lot in Feet)			Minimum livable floor area per unit in square foot
	Area in square feet	Width in feet	in stories	in linear feet		Front	Each side	Rear	
Residential Districts									
R-1, One Family Residential	12,500	90	2	25	35%	30 (b)	12 (b), (c)	35(b)	1,200
R-2, One Family Residential	9,600	80	2	25	35%	25 (b)	10 (b), (c)	35 (b)	950
R-3, One Family Residential	7,200	70	2	25	35%	25 (b)	10 (b), (c)	35 (b)	950
R-O, Residential/Office	7,200	70	2	30	35%	25	10	25	950
R-M, Multiple Family Residential									Eff. 350 1 bdr. 620 2 bdr. 720 3 bdr. 920 4 or more 960
A. Duplex	7,200	66	2	25	35%	25 (f)	10 (f)	25%	
B. Multiple	(d)	200	2-1/2	30	30%	25 (e)	20 (e)(g)	20 (e)(g)	
Commercial Districts									
C-1, Central Business				40			(i), (j), (m)	20 (k)	
C-2, Service Commercial				30		(j) (h)	(i) (j) (l) (m)	(j) (l) (k)	
C-3, General Business				30		75 (j) (h)	75 (j) (l) (m)	75 (j) (l) (k)	
Industrial Districts									
I Industrial (n)	43,560			40		50 (j) (h) (n)	25 (j) (l) (m)	20 (j) (k) (l) (p)	

Section 1101. Notes to Schedule

- (a) See Section 1102, "Lot Size Averaging" and Section 1103, "Single-Family Clustering Development," regarding flexibility allowances.
- (b) For all uses permitted other than single-family residential, the setback shall equal the height of the main building or the setback required in Section 1300, or whichever is greater.
- (c) In the case of a rear yard abutting a side yard, the side yard abutting a street shall not be less than the minimum front yard of the district in which located.
- (d) In a R-M, Multiple-Family District, the total number of rooms (not including kitchen, dining, and sanitary facilities) shall not be more than the area of the parcel, in square feet, divided by twelve hundred (1200). All units shall have at least one (1) living room and one (1) bedroom, except that not more than ten (10) percent of the units may be of an efficiency apartment type. For the purpose of computing the permitted number of dwelling units per acre, the following room assignments shall control:

Efficiency -	One room
One Bedroom -	Two rooms
Two Bedroom -	Three rooms
Three Bedroom -	Four rooms
Four Bedroom -	Five rooms

Plans presented showing 1, 2, or 3 bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

The area used for computing density shall be the total site area exclusive of any dedicated public right-of-way of either interior or bounding roads.

- (e) In all R-M, Multiple-Family Residential Districts, the minimum distance between any two (2) buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than thirty (30) feet. Parking may be permitted within a required side or rear yard, but shall not cover more than thirty (30) percent of the area of any required yard, or any minimum distance between buildings. The formula regulating the required minimum distance between two (2) buildings in all R-M Districts is as follows:

$$S = L + L + 2 (H = H), \text{ where}$$

S = Required minimum horizontal distance between any wall of Building A and any wall of Building B or the vertical prolongation of either.

L = Total length of Building A.

The total length of Building B is the length of that portion or portions of a wall or walls of Building B from which, when viewed directly from above, the lines drawn perpendicular to Building B will intersect any wall of Building A.

H = Height of Building A.

The height of Building A at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of Building A. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

H = Height of Building B.

The height of Building B at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of Building B. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

- (f) Minimum landscaped area for two-family (duplex) building sites shall be 20 percent, with that portion of the required front yard not used for access driveways or sidewalks to be landscaped. Landscaping shall be construed to include areas devoted solely to pedestrian use and, unless for aesthetic purposes, shall not consist of any impervious ground cover with the exception of areas devoted to patios.
- (g) Minimum landscaped area for multiple-family developments shall be as follows. Within any side and rear yard setback or area between buildings, an area equivalent to seventy (70) percent of the required yard or any required minimum area between buildings must be landscaped and developed as usable open space or recreation area available to the residents of the development, and further, said areas shall be kept free of all vehicular uses.
- (h) Off-street parking shall be permitted to occupy a portion of the required front yard, provided that there shall be maintained a minimum unobstructed and landscaped setback of ten (10) feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line as indicated on the major thoroughfare plan.
- (i) No side yards are required along the interior side lot lines of the District, except as otherwise specified in the Building Code, provided that if walls of structures facing such interior side lot lines contain windows, or other openings, side yards of not less than ten (10) feet shall be provided.
- (j) On a corner lot which has a common lot line with a residential district, there shall be provided a setback of twenty (20) feet on the side or residential street. Where a lot borders on a residential district or a street, there shall be provided a setback of not less than ten (10) feet on the side bordering the residential district or street.
- (k) Loading space shall be provided in the rear yard in the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from the off-street parking requirements. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of said alley.
- (l) On a zoning lot of three (3) acres or more in area, side and rear yard setbacks shall be sixty (60) feet in depth when abutting a residential district.

- (m) Off-street parking shall be permitted in a side yard setback.
- (n) Off-street parking for visitors, over and above the number of spaces required under Section 1306 may be permitted within the required front yard, provided that such off-street parking is not located within twenty-five (25) feet of the front lot line.
- (o) No building shall be located closer than sixty (60) feet to the outer perimeter (property line) of such district when said property line abuts any residential district.
- (p) All storage shall be in the rear yard and shall be completely screened with an obscuring wall or fence, not less than five (5) feet height, or with a chain link type fence and a greenbelt planting so as to obscure all view from an adjacent residential or business district or from a public street.

Section 1102. Lot Size Averaging

1. The intent of this section is to permit the subdivider or developer to vary his lot sizes and lot widths so as to average the minimum size and lot widths as required in Article XI, "Schedule of Regulations," for each One-Family Residential District. If this option is selected, the following conditions shall be met:
 - a. In meeting the average minimum lot size, the subdivision shall be so designed as not to create lots having an area or width greater than ten (10) percent below that area or width required in the "Schedule of Regulations," and shall not create an attendant increase in the number of lots.
 - b. Each final plat submitted as part of a preliminary plat shall average the minimum required for the district in which it is located.
 - c. All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.

Section 1103. Single Family Cluster Housing

The intent of this Section is to encourage the development of single-family residential patterns that, through design innovation, will introduce flexibility so as to provide for a more appropriate development to encourage the preservation of open space through site planning.

1. The Planning Commission shall convene a public hearing held in accordance with Section 16(b) of the City and Village Zoning Act, (207 of 1921, as amended), as part of its review, study, and approval of an application for the cluster housing option.
2. The minimum yard setbacks, heights, and minimum lot sizes per unit as required by the Schedule of Regulations may be waived and the attaching of dwelling units may be accomplished subject to the following:
 - a. The minimum floor area for all units constructed under this option shall be at least equal to the minimum floor area requirements for the District in which the cluster is to be constructed.

- b. The attaching of single-family dwelling units, one to another, may be permitted when said homes are attached by means of one or more of the following:
 - 1) Through a common party wall which does not have over seventy-five (75) percent of its area in common with an abutting dwelling unit wall.
 - 2) By means of an architectural wall detail which does not form interior room space.
 - 3) Through a common party wall in only the garage portion of an abutting structure.
 - 4) The attachment of more than four (4) units in the above-described manner shall not be permitted.
3. In a single-family cluster housing development, the dwelling unit density shall be no greater than if the gross land area were to be developed in the minimum square foot lot areas as required for the single-family district in which the development is proposed. Exception in the form of a ten (10) percent density bonus may be granted by the Planning Commission in cases where either:
 - a. At least twenty (20) percent of the site is retained as permanent open space or in agricultural activity. In the case of agricultural activity, the method of open space protection shall specifically state that the property shall revert to permanent open space when and if the agricultural activity ceases. The details of the conversion and the maintenance of the open space shall also be provided.
4. Yard requirements shall be provided as follows:
 - a. Spacing between any grouping of four (4) or fewer one-family units and another grouping of such structures shall be equal to at least twenty (20') feet, measured between the nearest point of the two groupings. A grouping may include a single, freestanding unit.
 - b. All such groupings shall be situated so as to have one side of the lot abutting onto a common open space.
 - c. That side of a building adjacent to a dedicated street shall not be closer to said street than twenty-five (25') feet.
 - d. This nature of development, when abutting a front yard of an existing recorded subdivision which is not a part of the site plan submitted under this Section, shall cause all dwelling units facing such subdivision to relate through its front or entrance facade and shall treat said side of the grouping as a front yard.
 - e. No building shall be located closer than thirty (30') feet to the outer perimeter (property line) of the site.

5. A landscaped berm shall be required, at least six (6') feet high, or a ten (10') foot landscaped greenbelt shall be provided along the entire property line abutting the major thoroughfare. This berm may be included within a required side or rear yard. The slopes on said berms shall be gentle enough so as not to erode when planted in grass; and the design of the berm as it relates to street intersections, finding that it conforms with corner clearance visibility regulations found elsewhere in this Ordinance. A natural buffer, if one exists, may satisfy all or part of this requirement.
6. In submitting a proposed layout under this Section, the sponsor of the development shall include, along with the site plan, typical building elevations and floor plans, topography drawn at two (2') foot contour intervals, main floor grade elevations relative to the existing topography, all computation relative to acreage and density, details relative to the proposed berm or greenbelt and any other details which will assist in reviewing the proposed plan.
7. Site plans submitted under this option shall be accompanied by information regarding the following:
 - a. The proposed manner of holding title to open land in perpetuity.
 - b. The proposed method of regulating the use of open land.
 - c. The proposed method of maintenance of property and financing thereof.
 - d. All land not intended to be conveyed to individual dwelling unit owners shall be set-aside for the use of all occupants of the development. All such lands shall be protected by restrictions or covenants running with the land and must be approved by the City Attorney to assure the following:
 - e. That title to the open land is held in common by the owners of all dwelling units in the detached single family cluster development.
 - f. A permanent organization for maintenance and management of all such areas shall be assured by legal documents prior to the issuance of the building permit.

Section 1104. Planned Unit Development

The purpose of this option is to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources and utilities; encourage provision of useful open space; provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the City of Durand and encourage the use, reuse, and improvement of existing sites and buildings when the uniform regulations contained in zoning districts do not provide adequate protection and safeguards for the site or surrounding area.

This option is intended to accommodate developments with mixed or varied uses, to allow some degree of flexibility in the application of standards and regulations in this Ordinance to achieve innovation to development on sites with unusual topography or unique settings within the community, or on land which exhibits difficult or costly development problems, and shall not be allowed where this option is sought primarily to avoid the imposition of standards and requirements of zoning classifications rather than to achieve the stated purposes above.

1. Planned Unit Development Regulations, Standards and Requirements

- a. The entire parcel for which application is made must be under one ownership or the application must be made with the written authorization of all property owners.
- b. The application shall meet the criteria established in each specified zoning district.

2. PUD Review Procedures

- a. The review shall be in two phases:
- b. The preliminary phase shall involve a review of a conceptual PUD plan to determine its suitability.
- c. The final phase shall require a detailed development plan for any part of the approved conceptual PUD plan.

3. Standards for Approval of PUD Plans

The Planning Commission shall approve, deny or modify preliminary PUD plans, based upon the following standards. Likewise, the City Council shall approve, deny, or modify final PUD plans (after review and recommendation by the Planning Commission) based upon the following standards.

- a. The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience of any combination thereof, on present and potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation systems, surrounding properties, or the environment.
- b. The uses proposed should be consistent with the land use plans adopted by the City.
- c. The amount of open space provided, which the Planning Commission or City Council may modify even though such modifications do not conform to that required in other sections of this ordinance.
- d. The amount of off-street parking areas, which the Planning Commission or City Council may modify even though such modifications do not conform to that required in other sections of this ordinance.
- e. The amount of landscaping and buffering areas, which the Planning Commission or City Council may modify even though such modifications do not conform to that required in other sections of this ordinance.

- f. The protection or enhancement of significant natural, historical, or architectural features within the proposed development area.
- g. The uses proposed will result in safe, convenient, uncongested and well defined vehicular and pedestrian circulation systems.

4. Preliminary PUD Plan Submission

The applicant shall submit together with the application for PUD preliminary phase approval:

- a. A general development plan depicting the proposed locations of streets, parking areas, open spaces, buildings and structures, and their spatial relationships, the relationship to off-site improvements and infrastructure and any unusual topographic features.
- b. Approval by the Planning Commission of the PUD Preliminary Plan shall remain in effect for a period not to exceed three (3) years from the date of approval.

5. Final PUD Plan Submission

The applicant shall submit together with the application for PUD final phase approval, development plans in sufficient detail and in so far as possible the specific locations and dimensions of:

- a. all streets, sidewalks, public and private utilities, parking areas, truck docks and service drives;
- b. all buildings and structures, elevations and spacial relationships;
- c. landscaping, buffers, fences, and protective walls;
- d. open space areas and other significant environmental features;
- e. existing and final topographic changes;
- f. identification and directional signage;
- g. a property survey prepared and certified by a licensed land surveyor;

The City Council, in its evaluation of a final PUD Plan submittal, shall hold a public hearing pursuant to Section 4b (5) of PA 207 of 1921, as may be amended.

6. Amendments to an Approved Final PUD Plan

- a. Incidental or minor changes may be approved by the Planning Commission if the proposed modifications do not alter the basic design or land uses of the plan.

- b. If the Planning Commission determines that the proposed modifications are significant or major, a public notice and public hearing in accordance with Section 1202 must be conducted prior to approval or denial.

7. PUD Development Time Limits

- a. Construction of the improvements shown on the approved final PUD plan with all proposed buildings, parking areas, landscaping and infrastructure must commence within one year of approval by the City Council.
- b. Construction must be continued in a reasonable, diligent manner and be completed within five (5) years.
- c. Said five (5) year period may be extended if applied for in writing by the petitioner and granted by the City Council following public notice and public hearing in accordance with Section 1202 of this ordinance. Failure to secure an extension shall result in a stoppage of all construction.

Article XII**Site Plan and Special Approval Use Review****Section 1200. Review and Approval of Site Plans****1. Application**

Prior to the establishment of a new use, change of use, addition to an existing use, or the erection of any building in a zoning district, subject to the conditions listed below, a site plan shall be submitted and approved, approved with conditions, or disapproved by the City Planning Commission, in accordance with the Ordinance requirements of this Article.

- a. Site plan reviews are required for all permitted principal uses and structures in all zoning districts (except for the single-family detached and two-family dwellings and their accessory uses) and all special approval uses in all zoning districts.
- b. When the proposed new construction or remodeling constitutes an addition to an existing building, or use, site plan review procedures may be modified, at the discretion of the Building Official, to provide for an administrative review by the Building Official in lieu of a more formal review by the City Planning Commission. The Building Official may conduct an administrative review provided both of the following are true:
 - 1) No variances to the Ordinance are required.
 - 2) The proposed new construction would not increase the total square footage of the building greater than twenty-five (25) percent or one thousand (1,000) square feet, whichever is less.
- c. For those cases requiring site plan review solely as a result of building re-occupancy, site plan review procedures may be modified, at the discretion of the Building Official, to provide for an administrative review by the Building Official in lieu of a more formal review by the City Planning Commission. The Building Official may conduct an administrative review provided all of the following are true:
 - 1) No variances to the Ordinance are required.
 - 2) Such use is conducted within a completely enclosed building.
 - 3) Re-occupancy does not create additional parking demands, beyond ten (10) percent of that which exists.
 - 4) Re-occupancy does not substantially alter the character of the site.
- d. Every site plan submitted for review shall be in accordance with the requirements of this Ordinance. Administrative review procedures are not intended to modify any Ordinance, regulation, or development standard.

2. Copies Required

Every site plan submitted to the Planning Commission shall be in accordance with the requirements of this Ordinance. Fourteen (14) copies of all site plans shall be filed with the Clerk who shall place the request on the next Planning Commission agenda.

3. Information Required

The following information shall be included on the site plan:

- a. A scale of not less than 1" equals 50" if the subject property is less than three (3) acres and; 1" equal 100" if three (3) acres or more.
- b. Date, north point, and scale.
- c. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties.
- d. Legal description of parcel.
- e. Existing and proposed topography with contours at two (2) foot intervals, (based on U.S.G.S. datum), extending a minimum of 100 feet beyond site boundaries.
- f. An inventory of existing vegetation on the site and an indication of any alterations.
- g. The location and nature of any streams, drains, swamps, marshes, and/or unstable soils.
- h. An indication of basic drainage patterns, existing and proposed, and including any structures, retention basins and fencing, which are proposed. The applicant shall contact the Municipality and Municipal Engineer to determine the adequacy of utility and storm water proposals, slope, and soil erosion requirements to determine if any such requirements will adversely affect the site plan.
- i. A schedule of parking needs. Separate drawings may be submitted to indicate usable floor area, etc., for computation of parking needs.
- j. A detailed planting plan and schedule of plant materials and sizes.
- k. Cross section drawings of any walls, berms, etc.
- l. The location and width of all existing and proposed sidewalks on or bordering the subject site. Where the subject site borders a public right-of-way, a sidewalk five (5) feet in width shall be provided within the public right-of-way one (1) foot from the subjects site's property line. If a sidewalk in good condition exists within the public right-of-way, the above requirement may be waived by the Planning Commission.

- m. The location of all existing and proposed structures of the subject property and all existing structures within 100 feet of the subject property. The setbacks to all existing and proposed structures to be retained or constructed on the site shall be indicated; this includes buildings, signs, trash storage areas, walls, fences, berms, parking areas, etc. The height of all proposed structures shall also be indicated.
- n. The location of all existing and proposed drives and parking areas.
- o. The location and right-of-way widths of all abutting streets and alleys.
- p. The names, addresses, and telephone numbers of the architect, planner, designer, engineer, or person responsible for the preparation of the site plan.
- q. The names, addresses, and telephone numbers of the developers.
- r. A detailed site maintenance agreement shall be presented to the City stating how the property, including, landscaping structures, and private roads and sidewalks shall be maintained in perpetuity.
- s. In addition to the above information, the applicant shall submit a supplementary explanation as to the specific type(s) of activities proposed. Such information shall include, but not be limited to:
 - 1) Estimated number of employees, resident shoppers, etc.
 - 2) Hours of operation.
 - 3) Any changes anticipated in terms of dust, odor, smoke, fumes, noise, lights, etc.
 - 4) Modifications to vegetative cover, drainage patterns, earth work, problem areas.
 - 5) Any ancillary improvements that the applicant proposes to remedy or prevent problems created by the development.
 - 6) Estimated costs of proposed landscaping berms, walls, acceleration-deceleration lanes, or by-pass lanes, or any other required site improvement not covered in the Building Permit cost estimates, shall be provided.
- t. The Planning Commission may also, at their discretion, request additional studies including but not limited to the following:
 - 1) An Access Management/Traffic Impact study according to the guidelines provided in Section 1336, provided that such studies shall be required for all developments in the following areas of the City:

- a) Lansing Highway
 - b) Durand Road north of Lansing Road
 - c) East Monroe between South Durand and Lansing Highway
- 2) An Environmental Impact Analysis in order to view the possible impact of the proposed development on the natural surrounding using the criteria provided in Section 1333.
 - 3) The impact of Hazardous Substances stored on non-residential properties to the surrounding environment using the criteria provided in Section 1335.
 - 4) The visual impact of a proposed development on the surrounding neighboring areas and development using the criteria provided in Section 1334.

4. Content of Site Plan File

The site plan(s), all supplementary data, together with minutes of any meeting and/or hearings related to the proposed site plan shall become part of the official site plan file.

5. Standards for Site Plan Approval

In the process of reviewing the site plan, the Planning Commission shall consider:

- a. Specific development requirements set forth in the Zoning Ordinance.
- b. The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.
- c. Natural Features: Site plans shall demonstrate that as many natural features as possible have been retained, particularly where such features provide a buffer between adjoining properties or assist in preserving the general appearance of the neighborhood or help control soil erosion or stormwater.
- d. All elements shall be located, designed and organized in relation to the character of adjoining property and the type and size of the buildings. The site shall be developed so as not to impede the normal and orderly development or improvements of surrounding property for uses permitted in this Zoning Ordinance.
- e. The traffic circulation features within the site and location of automobile parking areas; and may make such requirements with respect to any matters as will assure:
 - 1) Safety and convenience of both vehicular and pedestrian traffic, both within the site and in relation to access streets.

- 2) Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of contiguous land and adjacent neighborhoods.
 - 3) Accessibility afforded to emergency vehicles.
- f. The arrangement of use areas on the site in relation to functional, efficient, and compatible arrangements within the site, and also to adjacent uses.
 - g. The Planning Commission may further require landscaping, fences, and walls in pursuance of these objectives and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.
 - h. The Planning Commission may waive site plan information for topography, vegetation, problem soils, landscaping, employment data, environmental considerations, etc., when such concerns are obviously not pertinent to the proposed development.
6. Planning Commission Actions

The Planning Commission, upon reviewing a site plan, shall take one of the following actions:

- a. Approval: If the site plan meets all the Zoning Ordinance and related development requirements and standards, the Planning Commission shall record such approval and the Chairman shall sign three (3) copies of the site plan filing one in the official site plan file, forwarding one to the Building Official, and returning one to the applicant.
- b. Disapproval: If the site plan does not meet Zoning Ordinance and related development requirements and standards, the Planning Commission shall record the reasons for denial. The applicant may subsequently re-file a corrected site plan under the same procedures followed for the initial submission.
- c. Conditional Approval: If minor corrections to the site are necessary, which can be clearly noted, then the Planning Commission shall so note such conditions and the Chairman shall sign three (3) site plans as conditionally approved and stating the necessary conditions. One copy shall be retained in the official site plan file, one forwarded to the Building Official, and one returned to the applicant.
- d. Table: If the site plan is found to be in violation of requirements or incomplete, with respect to necessary information or presenting a unique situation, the Planning Commission may table the site to permit the applicant time to provide the additional information, make the necessary modifications, or to seek the necessary variance(s) from the Board of Appeals.

7. Performance Guarantees

To ensure compliance with the Zoning Ordinance and any conditions imposed thereunder, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City covering the estimated cost of improvements associated with a project for which site plan approval is sought, be deposited with the Clerk of the City to ensure faithful completion of the improvements, and also be subject to the following:

- a. The performance guarantee shall be deposited at the time of the issuance of the building permit authorizing the activity of the project. The City may not require the deposit of the performance guarantee prior to the time when the City is prepared to issue the permit. The City shall establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvement will be made as work progresses. Any partial release of funds shall be less than ten (10) percent, which shall be retained by the Municipality until all work has been completed and subsequently inspected and approved by the Building Official. This does not relieve the applicant from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper functioning of said public improvements.
- b. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act 288 of the Public Acts of 1967, as amended.
- c. As used in this section, "improvements" mean those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping, and surface drainage. Improvements do not include the entire project, which is the subject of zoning approval.

8. Revocation

- a. Any site plan review approval may be revoked by the Planning Commission after determination that one or more of the following circumstances exist:
 - 1) A material error in the original approval has been discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency.
 - 2) There has been a material departure from the commitments made and the requirements of an approved site plan.
 - 3) Material and substantial pollution, impairment or destruction of the environment, or to another legally protected public interest, would occur if the project were to be constructed as previously approved.

- 4) Failure to perform within twelve (12) months, unless the applicant applies to the Planning Commission for an extension. Extensions may be granted in six month intervals not to exceed a total of eighteen (18) months.
- 5) Revocation of an approved site plan shall be communicated in writing with reasons therefore to the property owner. The Zoning Administrator shall also be notified to withhold any building permit until a new site plan is approved.

Section 1201. Review and Approval of Condominium Developments

The following regulations shall apply to all condominium developments within the City of Durand.

1. Initial Information

Concurrently with notice required to be given the City, pursuant to Section 71 of Public Act 59 of 1978, as amended (the Condominium Act), a person, firm, or corporation intending to develop a condominium development shall provide the following information:

- a. The name, address, and telephone number of:
 - 1) All persons, firms, or corporations with an ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
 - 2) All engineers, attorneys, architects, or registered land surveyors associated with the project.
 - 3) The developer or proprietor of the condominium development.
- b. The legal description of the land on which the condominium development will be developed together with appropriate tax identification numbers.
- c. The acreage content of the land on which the condominium development will be developed.
- d. The purpose of the development (for example: residential, commercial, industrial, etc.).
- e. Approximate number of condominium units to be developed on the subject parcel.
- f. Whether or not a community water system is contemplated.
- g. Whether or not a community septic system is contemplated.

2. Information to be Kept Current

The information shall be furnished to the Building Official and shall be kept updated until such time as a Certificate of Occupancy has been issued pursuant to Section 1504, of the Ordinance.

3. Site Plans for New Projects

Prior to recording of the Master Deed required by Section 72 of Public Act 59 of 1978, as amended, the condominium development shall undergo site plan review and approval pursuant to Section 1400 of this Ordinance. In addition, the City shall require appropriate engineering plans and inspections prior to the issuance of any Certifications of Occupancy.

4. Site Plans for Expandable or Convertible Projects

Prior to expansion or conversion of a condominium development to additional land, the new phase of the project shall undergo site plan review and approval pursuant to Section 1200 of this Ordinance.

5. Master Deed, Restrictive Covenants, and "As Built" Survey to be Furnished

The condominium development developer or proprietor shall furnish the Building Official with the following: one (1) copy of recorded Master Deed, one (1) copy of all restrictive covenants, and two (2) copies of an "As Built" survey. The "As Built" survey shall be reviewed by the City Engineer for compliance with local Ordinances. Fees for this review shall be established by resolution of the City Council.

6. Monuments Required

All condominium developments which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this subsection.

- a. All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inches in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
- b. Monuments shall be located in the ground at all angles in the boundaries of the condominium development; at the intersection lines of streets, and at the intersection of the lines of streets with the boundaries of the condominium development; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature, and angle points in the side lines of streets and alleys, and at all angles of an intermediate traverse line. It is not intended nor required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the side lines of the streets.
- c. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.

- d. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
- e. All required monuments shall be placed flush with the ground where practicable.
- f. All unit corners and the intersection of all limited common elements and all common elements shall be monumented in the field by iron or steel bars or iron pipe at least eighteen (18) inches long and one-half (1/2) inch in diameter, or other approved markers.
- g. The City Council may waive the placing of any of the required monuments and markers for a reasonable time, not-to-exceed one (1) year, on the condition that the proprietor deposits with the City Clerk cash, certified check, or irrevocable bank letter of credit to the City, whichever the proprietor selects in an amount to be established by Council, by resolution. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

7. Compliance with Federal, State, and Local Law

All condominium developments shall comply with Federal and State statutes and local ordinances.

8. The Building Official may allow occupancy of the condominium development before all improvements required by this Ordinance are installed provided that cash, a certified check, or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the Temporary Occupancy Permit without expense to the City.

9. Single-Family Detached Condominiums

- a. Single-family detached condominium project shall be subject to all requirements and standards of the One-Family Residential District.
- b. The design of a single-family detached condominium projects shall be subject to the design layout standards of the City, as may be provided by the City of Durand Subdivision Regulatory Ordinance (Chapter 56, Title 5, of the Durand City Code, adopted January 15, 1973 as amended) except as may otherwise be provided by this Ordinance.
- c. The construction of a single-family detached condominium project shall be subject to the engineering design standards of the City, as may be provided by local ordinance, except as may otherwise be provided by this Ordinance.

- d. Walkways shall be installed in all single-family detached condominium developments. Such walkways shall be a minimum of five (5) feet in width and shall be constructed of concrete four (4) inches thick. In addition, walkways shall be located on both sides of all interior roadways and so located as to provide access to all general common areas. Upon review of the site plan, the Planning Commission may approve alternative locations for the walkways or may waive the walkway requirement if it would not serve the purpose of providing adequate pedestrian circulation.
- e. The natural features and character of the lands shall be preserved wherever practicable. In addition, street trees shall be provided in the ratio of at least one per dwelling unit. All unimproved surface area on the site shall be planted with grass, ground cover, shrubbery, or other suitable landscape material, except that patios, terraces, decks, and similar site features may be allowed.

10. Final Documents to be Provided

After submittal of the condominium plan and by-laws, as part of the Master Deed, the proprietor shall furnish to the City a copy of the site plan on a mylar sheet of at least thirteen by sixteen (13 x 16) inches with an image not-to-exceed ten and one-half by fourteen (10-1/2 x 14) inches.

Section 1202. Review and Approval of Special Condition Uses

1. Application

- a. The uses identified as special condition uses are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, public utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safe guard the general health, safety and welfare of the community.
- b. The City Council, as provided herein, shall have the authority to approve special condition use permits, subject to such conditions of design, operation, and appropriate and reasonable safeguards as the City may require for any special condition use approval included in the various provisions of this Zoning Ordinance.
- c. Site plans related to Special Condition Use petitions may be reviewed concurrently with approvals contingent on each other.

2. Data Required

- a. Application for any approval use permit, as provided under the provisions of this Ordinance, shall be made to the Building Official by filing an official special approval use permit application form; submitting required data, exhibits, and information; and depositing the required fee as established by resolution of the City Council, and as may be amended from time-to-time. No portion of such fee shall be reimbursable to the applicant.
- b. An application for a special condition use permit shall contain the following:

- 1) Applicant's name, address and telephone number.
- 2) Address and tax description number of the subject parcel.
- 3) A signed statement that the applicant is the owner of the subject parcel, or is acting as the owner's representative.
- 4) A certified survey drawing of the subject parcel.
- 5) A complete site plan containing all of the applicable data outlined in Section 1200, Review and Approval of Site Plans.
- 6) Supporting statements, evidence, data, information, and exhibits which address those standards and requirements for assessing special condition use permit applications outlined in Section 1202, 4 below.

3. Public Hearing Requirements

Upon receipt of an application for a special condition use requiring approval, the Planning Commission shall hold a public hearing, one (1) notice of which shall be published not less than five (5) nor more than fifteen (15) days prior to the public hearing date in a newspaper of general circulation in the City and sent by First Class mail to the owners of the property for which special approval is being considered, to the owners of record of all real property, and to the occupants of all structures located within 300 feet of the boundaries of the property in question. The notice shall:

- a. Describe the nature of the special condition use request.
- b. Adequately describe the property in question.
- c. State the date, time, and place of the public hearing.
- d. Indicate when and where written comments concerning the request will be received.

4. Standards for Special Use Approval

- a. The Planning Commission shall review the particular circumstances and facts applicable to each proposed special approval use in terms of the following standards and requirements, and shall make a determination as to whether the use proposed to be developed on the subject parcel meets the following standards and requirements:
 - 1) Will be harmonious with and in accordance with the general objective of the Future Land Use Plan.
 - 2) Will be designed, constructed, operated, maintained, in harmony with existing and intended character of the general vicinity and so that such use will not change the essential character of that area.

- 3) Will not be hazardous or disturbing to existing or future neighboring uses.
 - 4) Will represent a substantial improvement to property in the immediate vicinity and to the community as a whole.
 - 5) Will be served adequately by essential public services and facilities, such as highways, streets, drainage structures, police and fire protection and refuse disposal; or persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
 - 6) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.
 - 7) Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive smoke, fumes, glare, noise, vibration, or odors.
 - 8) Will be consistent with the intent and purposes of this Ordinance.
- b. If the facts regarding the special condition use being reviewed do not establish by a preponderance of the evidence that the standards and requirements set forth in this Zoning Ordinance will be met by the proposed use, the Planning Commission shall not recommend approval to the City Council.

5. Appeals

- a. Decisions on Special Condition Use petitions are not appealable to the City Zoning Board of Appeals.

Article XIII

General Provisions

Section 1300. Conflicting Regulations

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

Section 1301. Building Regulations

1. Scope

No building or structure, or part thereof, shall hereafter be erected, constructed, used, reconstructed, altered or maintained and no new use made of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance.

2. Unlawful Building

In case any building, or part thereof, is used, erected, occupied or altered contrary to law or the provisions of this Ordinance, such building shall be deemed an unlawful structure and a nuisance and may be required to be vacated, torn down or abated by any legal means, and shall not be used or occupied until it has been made to conform to the provisions of this Ordinance. Public expenditures toward abating such nuisance shall become a lien upon the land.

3. Temporary Building

No temporary building shall be erected unless a valid building permit exists for a permanent building or a new use of land on the same site. Any temporary building shall be removed from the site within thirty (30) days of issuance of a certificate of occupancy. The approval of a temporary building may not exceed one (1) year; however, as the Zoning Board of Appeals, may grant multiple extensions up to three (3) months each for good cause shown, when the approval is due to expire.

4. Building Occupancy

No basement shall be used or occupied as a dwelling unit at any time, nor shall a dwelling be erected in a nonresidential district, except for the living quarters of a watchman, caretaker, or resident manager.

5. Frontage on a Public Street

No building shall be erected on a lot unless said lot fronts its full width, as required by Section 1300, upon a street or road that has been dedicated to the public. Multiple family developments, or commercial, office, or industrial centers need not front each structure within the development upon publicly dedicated streets or roads, provided that adequate vehicular circulation and access can be assured in a site plan submitted for approval to the City.

In all districts, only one (1) principal building shall be placed on a single lot of record or parcel, except as provided by Section 1301, 5, above.

Section 1302. Building Appearance, Structure Completion and Personal Construction Authority

1. Residential Zones

In residential zones, after twenty-five (25) percent of the lots and frontages on the side of the street on any block where the proposed improvement is contemplated have been improved by the erection on the residences thereon, if one-half or more of the residences built in any such block are of a certain type and style, the remainder of the residences built in any such block and to be constructed, altered, relocated, or repaired in such block shall be of a substantially similar type and style so that new or altered buildings will be in harmony with the character of the neighborhood. Nothing herein shall prevent the upgrading of any residential block by installing an exterior finish having fire or weather resistance, which is greater than the minimum herein required, or by constructing in such block a residence having floor area greater than the average area of residences in such block provided, however, such type and style shall be such as not to impair or destroy property values in the block.

2. Nonresidential Zones

In any case, where a building or accessory building in a nonresidential district is erected or placed within two hundred (200) feet of the front lot line of any parcel of land fronting upon any public street, the front walls of said building or accessory building within said distance of two hundred (200) feet be constructed of stone, face brick, or other ornamental materials approved by the Building Official consistent with neighboring property, and no building so situated shall be constructed of tarred paper, tin, corrugated iron, or any form of pressed board, felt, or similar material within the limits herein specified, nor shall any occupant of such premises be permitted to place open stock, scrap, or junk piles within said two hundred (200) feet unless the same shall be obscured from view from the street by the existence of a building, solid wall, earth berm, or evergreen screen sufficient to properly obscure the same from view from the street. (See also Section 1334, Urban Design Standards.)

3. Building Completion Period

All structures shall be completed within one (1) year of the issue date of the building permit for such structure, unless an extension for not more than one (1) additional year is granted for good cause by the Building Official. When a part of a building is ready for occupancy, a temporary occupancy permit may be issued, provided that the premises complies with health and fire standards required under this Ordinance, or any other ordinance, regulation, or statute.

4. Personal Construction Authority

Nothing in this Ordinance shall be construed as prohibiting an owner, tenant, occupant, or land contract vendee from doing his or her own building, altering, plumbing, electrical installations, etc., provided the minimum requirements of the Electrical and Plumbing Codes of the State of Michigan, and the applicable County Health Department regulations are complied with.

Section 1303 Nonconforming Lots, Nonconforming uses of Land, Nonconforming Structures, and Nonconforming Uses of Structures and Premises

1. Intent

- a. It is the intent of this Ordinance to permit existing, legal nonconforming lots, structures, or uses to continue until they are removed, but not to encourage their survival.
- b. It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures, and use of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.
- c. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- d. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved unless a variance is granted by the Zoning Board of Appeals.

- e. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

2. Nonconforming Lots

- a. Contiguous nonconforming lots existing under common ownership must be combined to satisfy current lot size and width requirements.
- b. In any single-family district, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record which is under separate and distinct ownership from adjacent lots at the effective date of adoption or amendment of this Ordinance. This provision shall even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Board of Appeals.

3. Nonconforming Uses of Land

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- a. A nonconforming use shall not be enlarged or moved, in whole or in part, to any other portion of the lot or parcel that was not occupied by the use at the time the use became nonconforming, unless approval is granted by the Zoning Board of Appeals. However, a nonconforming use may be extended throughout any part of a building which was designed for such use and which existed at the time the use became nonconforming. In deciding requests for expansion of nonconforming uses, the ZBA shall consider whether the extension or enlargement will substantially extend the probable duration of such nonconforming use, and whether the extension or enlargement will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned, or with the use of such other properties in compliance with this ordinance.
- b. A structure occupied by a nonconforming use shall not be structurally altered in any manner or moved except in connection with a change to a use permitted in the district in which it is located.

- c. If such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for this district in which such land is located.
- d. Substitution of Uses: A nonconforming use may be changed to another nonconforming use upon approval of the Planning Commission subject to the following conditions:
 - 1) No structural alterations are required to accommodate the new nonconforming use and that the proposed use is equally or more appropriate in the district than the existing use. In approving such a request, the Planning Commission may require appropriate conditions in accordance with the purposes and intent of this Ordinance.
 - 2) Once a nonconforming use is changed to a more restrictive classification, it shall not thereafter be changed to a less restrictive classification.
 - 3) When a nonconforming use is replaced by a permitted use, it shall thereafter conform to the regulations of the district in which the use is located and the nonconforming use may not thereafter be resumed.

4. Nonconforming Structures

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

- a. No such structure may be enlarged or altered in a way which increases its nonconformity. For example, existing residences on lots of a width less than required herein may add a rear porch, provided that other requirements relative to yard space and land coverage are met.
- b. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost, exclusive of the foundation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- c. Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for this district in which it is located after it is removed.

5. Nonconforming Uses of Structures

If a lawful use of a structure, or of structure and land in combination exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No existing structure devoted to a use not permitted by this Ordinance 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.
- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- c. If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or more restricted classification, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a nonconforming use of a structure, land, or structure and land combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- e. When a nonconforming use of structure, or structure and premises in combination, is discontinued or ceases to exist for six (6) consecutive months or 18 months during any three (3) year period, the structure, or structure and premises in combination, shall not thereafter be used, except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses (one season out of each year) shall be excepted from this provision.
- f. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

6. Repairs and Maintenance

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty percent (50%) of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased, except through permission of the Zoning Board of Appeals.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

7. Conditional Use Interpretation

Any conditional use as provided for in this Ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

8. Change of Tenancy or Ownership

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

9. Acquisition

The City Council may acquire, by purchase, condemnation, or otherwise, private property or an interest in private property for the removal of nonconforming uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of special assessment districts for public improvements in cities. The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The City Council may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with Act 149 of the Public Acts of 1911, as amended, being Sections 213.21 to 213.41 of the Michigan Compiled Laws or other applicable statute.

Section 1304. Accessory Buildings and Structures

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

1. Where the accessory building is structurally attached to a main building it shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.
2. Accessory buildings and structures shall not be erected in any front yard.
3. An accessory building shall not occupy more than twenty-five (25) percent of a required rear yard.
4. No detached accessory building shall be located closer than ten (10) feet to any main building or other accessory building, nor shall any accessory building or structure it be located closer than three (3) feet to any side or rear line.
5. No more than one (1) accessory building shall be located on any parcel within an "R-1", "R-2," "R-3," or "R-O" district, except that two (2) may be permitted when one is a garage or other shelter for automobiles belonging to the residence.
6. Height of Accessory Building:
 - a. Detached accessory buildings and structures in residential districts.

- 1) A detached accessory building or structure shall not exceed one (1) story or fifteen (15) feet in height.
 - 2) The vertical exterior of a building, not forming part of the roof, shall not exceed a height of ten (10) feet, measured from grade to the top plate of the wall.
- b. Detached accessory buildings and structures in nonresidential districts.
- 1) Detached accessory buildings or structures in all nonresidential districts may be constructed to equal to permitted maximum building height in said districts, subject to Planning Commission review and approval, if the building or structure exceeds two (2) stories or twenty-four (24) feet in height.
7. When an accessory building is located on a corner lot, the lot line of which is substantially a continuation of the front line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot to the rear of such corner lot.
 8. When an accessory building in excess of one hundred fifty (150) square feet in any Residence, is intended for other than the storage of private vehicles, the accessory use shall be subject to the approval of the Planning Commission.
 9. Household animal enclosures, dog runs, central air conditioning units, heat pumps, and other mechanical system components that could or are likely to produce noise, odors, and other nuisances, shall not be located adjacent to an adjoining property owner's sleeping area where windows and/or doors on the adjacent property would be exposed to the nuisance.

Section 1305. Off-Street Parking Requirements

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to the issuance of a certificate of occupancy, as hereinafter prescribed.

1. Off-street parking spaces may be located within a rear yard or within a non-required side yard unless otherwise provided in this Ordinance. Off-street parking shall not be permitted within a front yard nor with a required side yard setback unless otherwise provided in this Ordinance.
2. Off-street parking shall be on the same lot of the building it is intended to serve, except as may be otherwise provided for by this Ordinance.
3. Required residential off-street parking space shall consist of a parking strip, parking bay, driveways, garage, or combination thereof and shall be located on the premises they are intended to serve, and also subject to the provisions of Section 1504, Accessory Buildings and Structures for garages.
4. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.

5. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereafter required for a similar new building or new use.
6. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
7. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Board of Zoning Appeals may grant an exception.
8. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.
9. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a use which the Planning Commission considers is similar in type.
10. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
11. For the purpose of computing the number of parking spaces required, the definition of Usable Floor Area shall govern and be defined as that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.
12. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use	Number of Minimum Parking Spaces Spaces Per Unit of Measure
a. <u>Residential</u>	
1) Single or Two Family Unit	Two (2) per dwelling unit.
2) Multiple Family Dwelling	Two (2) per dwelling unit plus 0.25 parking spaces per unit for visitor parking.
3) Housing for the Elderly	One (1) space per efficiency dwelling unit (no separate bedroom), 1.25 spaces per each one (1) bedroom unit, and 1.5 spaces per two (2) or more bedroom units.

Use	Number of Minimum Parking Spaces Spaces Per Unit of Measure
4) Mobile Home Park	Two (2) for each mobile home site and one (1) for each employee of the mobile home park.
b. <u>Institutional</u>	
1) Churches or Temples	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
2) Hospitals	One (1) for each one (1) bed.
3) Convalescent or Nursing Homes	One (1) for each four (4) beds.
4) Elementary and Junior High Schools	One (1) for each teacher, employee, or administrator, in addition to the requirements of auditorium.
5) Senior High Schools	One (1) for each one (1) teacher, employee, or administrator, and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
6) Private Clubs	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, or state fire, building, or health codes.
7) Private Golf Clubs, Swimming Pool Clubs, Tennis Clubs, or Other Similar Uses	One (1) for each two (2) member families or individuals and one (1) for each employee in addition to the requirements for each accessory use such as a restaurant or bar.
8) Golf Courses Open to General Public, except Miniature or "Par 3" Courses	Six (6) for each one (1) golf hole and one (1) for each employee, in addition to the requirements for each accessory use, such as a restaurant or bar.
9) Fraternity or Sorority	One (1) for each five (5) permitted active members or one (1) for each two (2) beds, whichever is greater.
10) Stadium, Sports Arena, or Similar Place of Outdoor Assembly	One (1) for each three (3) seats or six (6) feet of benches.
11) Theaters and Auditoriums	One (1) for each three (3) seats, plus one (1) for each two (2) employees.

Use	Number of Minimum Parking Spaces Spaces Per Unit of Measure
12) Nursery School, Day Nurseries or Child Care Centers	One (1) for each employee and one (1) for each seven students in attendance at any particular time.
13) Library	One (1) for each 2.5 persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes, and one (1) for each employee in the largest working shift.
c. <u>Business and Commercial</u>	
1) Planned Commercial or Shopping Center	Four (4) per one thousand (1,000) square feet of gross floor area for planned commercial or shopping centers having between ten thousand (10,000) and fifty thousand (50,000) square feet of gross floor area. Planned commercial or shopping centers containing more than fifty thousand (50,000) square feet of gross floor area shall provide five (5) per one thousand (1,000) square feet of gross floor area. when a restaurant, lounge, or other establishment whose primary business offers prepared food for sale or consumption on the premises, or carry-out, and is part of a planned commercial or shopping center, the parking for such use shall be computed separately, based on the need for a free standing use of this nature, and the resulting increase shall be added to the other uses in the center.
2) Auto Wash (Automatic) parking spaces equal in number	One (1) for each one (1) employee. In addition, reservoir to five (5) times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible under going some phase of washing at the same time, which shall be determined by dividing the length in feet in each wash line by twenty (20).
3) Auto Wash (Self-Service or Coin Operated)	Five (5) reservoir parking spaces for each washing stall.
4) Beauty Parlor or Barber Shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1-1/2) spaces for each additional chair.

Use	Number of Minimum Parking Spaces Spaces Per Unit of Measure
5) Bowling Alleys	Five (5) for each one (1) bowling lane in addition to the requirements for each accessory use, such as a restaurant or bars.
6) Dance Halls, Roller Skating Rinks, Exhibition Halls, and Assembly Halls without Fixed Seats	One (1) for each two (2) persons allowed within the maximum occupancy load, as established by local, county, or state fire, building or health codes.
7) Standard Restaurant	One (1) for each three (3) persons allowed within the maximum occupancy load, as established by local, county, or state fire, building, or health codes, plus one (1) for each two (2) employees.
8) Furniture and Appliance, Household Equipment, Repair Shops, Showroom of a Plumber, Decorator, Electrician, or Similar Trade, Shoe Repair, and Other Similar Uses	One (1) for each eight hundred (800) square feet of usable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.)
9) Gasoline Service Stations	Two (2) for each lubrication stall, rack, or pit; one (1) for each gasoline pump; and one (1) for each one hundred (150) square feet of usable floor space devoted to retail sales.
10) Laundromats and Coin Operated Dry Cleaners	One (1) for each two (2) washing and dry-cleaning machines.
11) Miniature or "Par 3" Golf Courses	Three (3) for each one (1) hole plus one (1) for each one (1) employee.
12) Mortuary Establishments	One (1) for each fifty (50) square feet of usable floor space.
13) Motel, Hotel, or Other Commercial Lodging Establishments	One (1) for each one (1) occupancy unit, plus one (1) for each employee.
14) Motor Vehicle Sales and Service Establishments	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room.

Use	Number of Minimum Parking Spaces Spaces Per Unit of Measure
15) Retail Stores, Except as Otherwise Specified Herein	One (1) for each one hundred fifty (150) square feet of usable floor space.
16) Establishments Offering Carry-Out Service, Being Establishments Primarily Serving Customers over a Counter or Through a Window, i.e., Food Carry Out, Dry Cleaner Pick Up, Meat Markets, Bakeries, Shoe Repair, Etc.	One (1) parking space for each employee in the largest working shift and one (1) parking space for each thirty (30) square feet of usable floor area devoted to customer assembly and/or waiting area. Parking needs for areas devoted to the consumption of food on the premises shall be computed separately for such seating areas.
17) Pool or Billiard Parlors, Card Rooms, Arcades, or Other Similar Establishments	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
18) Drive-In/Through Restaurant	One (1) parking space for each employee in the largest working shift; one (1) for each two (2) seats provided; and one (1) for each thirty (30) square feet of usable floor area devoted to customer waiting area.
19) Mini-Warehouse Facility	One (1) parking space for each two thousand (2,000) square foot of gross building area. At a minimum, two (2) parking spaces must be assigned to, and located conveniently to, each individual storage building. In addition, two (2) spaces for the resident manager, and one (1) additional space for each additional employee shall be provided adjacent to the rental office.
d. <u>Office</u>	
1) Banks	One (1) for each one hundred (100) square feet of usable floor space.
2) Business Offices, or Professional Offices, Except as indicated in the Following Item 3	One (1) for each two hundred (200) square feet of usable floor space.

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| Use | Number of Minimum Parking Spaces
Spaces Per Unit of Measure |
| 3) Professional Offices of Doctors, Dentists, or Similar Professionals | One (1) for each fifty (50) square feet of usable floor area in waiting rooms, and one (1) for each examining room, dental chair, or similar use area. |
| e. <u>Industrial</u> | |
| 1) Industrial or Research Establishments, and Related Accessory Offices | Three (3) plus one (1) for every one (1) employee in the largest working shift, or three (3) plus one (1) for every five hundred fifty (550) square feet of usable floor area; whichever is greater. |
| 2) Warehouses and Wholesale Establishments and Related Accessory Offices | Three (3) plus one (1) for every one (1) employee in the largest working shift, or three (3) plus one (1) for every seventeen hundred (1,700) square feet of usable floor space, whichever is greater. Space on-site shall also be provided for all construction workers during periods of plant construction. |

13. Each parking lot that services a building entrance, except single two-family residential or temporary structures, have a number of level parking spaces for the physically handicapped as set forth in the following table, and identified by above grade signs as reserved for physically handicapped persons.

Handicapped Accessible Parking Space Requirements

Total Spaces in Parking Lot	Required Number of Accessible Spaces Min 96" Wide	Van Accessible Parking Spaces with Min. 96" wide access aisle.	Accessible Parking Spaces with min. 60" wide access aisle.
Up to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1,000	Two (2) percent of total	1/8 of Column A*	7/8 of Column A**
Over 1,000	Twenty (20), plus one (1) for each one hundred (100) over one thousand (1,000).	1/8 of Column A*	7/8 of Column A**
* one out of every 8 accessible spaces		** out of every 8 accessible parking spaces	

Section 1306. Off-Street Parking Space Layout, Standards, Construction, and Maintenance

Whenever the off-street parking requirements in Section 1505 require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following standards and regulations.

1. No parking lot shall be constructed unless and until a permit, therefore, is issued by the Building Official. Applications for a permit shall be submitted to the Building Department in such form as may be determined by the Building Official and shall be accompanied with two (2) sets of site plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the Municipal Engineer. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.

2. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Off-Street Parking Layout Requirements						
Parking Pattern	Maneuvering Lane Width		Parking Stall Width	Parking Stall Depth (90° Measure)	Total Depth of One Tier of Spaces Plus Maneuvering Lane	Total Depth of Two Tiers of Spaces Plus Maneuvering Lane
	2-Way Movement	1-Way Movement				
0° (parallel parking)	24'	12'	8.0'	23'	20'	28'
45°	N/A	12'	9.0'	20'	32'	52'
60°	N/A	15'	9.0'	20'	36'-6'	58'
90°	24'	N/A	10.0'	20'	42'	64'

3. All maneuvering lane widths shall permit one-way traffic movement, except that the 90° pattern shall permit two-way movement.
4. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
5. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

6. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from adjacent property located in any single-family residential district.
7. A wall shall be provided on all sides of the off-street parking area abutting or adjacent to a residential district. The obscuring wall shall not be less than four feet six inches (4'-6") in height measured from the surface of the parking area.

All land between the required obscuring wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and/or ornamental trees. The ground area shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

The Planning Commission, upon application by the property owner of the off-street parking area, may waive or modify the wall requirement by approving either an earth berm or evergreen screen in its place. The Planning Commission may also waive the wall requirement if in specific cases where cause can be shown that no good purpose would be served by compliance with the requirements of this Section.

8. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only. (see Section 1323 for footcandle measurement.)
9. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking area.
10. Parking aisles shall not exceed three hundred (300) feet without a break in circulation.
11. Except for those serving single and two-family dwellings, all parking lots shall be provided with wheel stops, curbs or bumper guards so located that no part of parked vehicles will extend beyond the property line or into required landscaped areas or pedestrian ways.
12. No parking lot shall have more than one (1) attendant shelter building. All shelter buildings shall conform to setback requirements for structures in the district in which it is located.

Section 1307. Parking Lot Landscaping

Off-street parking areas shall be landscaped as follows:

1. In off-street parking areas containing twenty (20) or more parking spaces, an area equal to at least five (5) percent of the total parking area shall be used for interior landscaping. Whenever possible, parking lot landscaping shall be arranged to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area, through the even distribution of the landscape effort across the total off-street parking area, rather than to concentrate all effort in one location.

2. Parking lot landscaping shall be not less than five (5) feet in any single dimension and not less than one hundred fifty (150) square feet in any single island area. Not more than two (2) landscaped units of one hundred fifty (150) square feet may be combined in plans designed to meet the minimum requirements.
3. The landscape plan shall designate the sizes, quantities, and types of plant material to be used in parking lot landscaping.
4. Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements.
5. A minimum of one (1) deciduous tree shall be planted in each landscaped area.

Section 1308. Off-Site Parking Facilities

Required parking for a development may be located off-site under certain circumstances. Request for off-site parking must meet the following requirements:

1. Residential Uses

Parking facilities accessory to dwelling units shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings (such as churches) may be located on a lot adjacent to or directly across a street or alley from the lot occupied by the use served; but in no case at a distance in excess of three hundred (300) feet from such zoning lot.

2. Nonresidential Uses

Parking facilities accessory to nonresidential uses may be located on other than the same zoning lots as the use served (off-site). All required parking spaces shall be within five hundred (500) feet of such zoning lot. No parking spaces accessory to a use in a business or industrial district shall be located in a residential district, unless authorized by the Planning Commission.

3. Agreement Required

A written agreement shall be drawn to the satisfaction of the City Attorney and executed by all parties concerned assuring the continued availability of the off-site parking facilities for the use they are intended to serve.

Section 1309. Payment in Lieu of Providing Required Parking

The provisions and requirements as set forth in Section 1305 shall apply to all areas within the City except as modified by this Section. The City recognizes that special provisions should be considered for the downtown area, including the reduction of required parking spaces due to the availability of public parking. To this end:

1. Portions of the City shall be contained within areas described as special parking districts as established by the City Council with recommendation from the Planning Commission and City Downtown Development Authority Board. In the absence of such demarcation, the district shall be coincidental with the DDA District boundary.
2. The number of off-street parking spaces and the size of loading and unloading areas required for any new use, expanded or intensified use of property located within, or partially within, a special parking district shall be determined as set forth in Section 1305, except as provided for in this section.
 - a. Off-street parking. The determination of parking needs within a special parking district shall be based upon the standards specified in this subsection. For those uses not specified, an adjustment may be made by the City Council, following Planning Commission recommendation, when it is found that a reduction from the standards set forth in Section 1305 would not adversely affect the retail, office and ancillary service facilities forming the commercial nucleus of these older core business areas. In this latter regard primary consideration shall be given to uses which are generally the object of special purpose trips and thereby have little or no interrelation with those business activities in the core business areas. The following standards reflect the gross floor areas actively used in day-to-day operations and shall exclude only vacant space and storage areas.
 - 1) Retail stores except as otherwise specified: One space for 400 square feet of usable floor area.
 - 2) Furniture and appliance stores: One space for each 1,800 square feet of usable floor area.
 - 3) Business and professional offices except as otherwise specified: One space for each 500 square feet of usable floor area.
 - 4) Real estate offices: One space for each 150 square feet of usable floor area.
 - 5) Medical and dental offices: One space for each employee plus one space for each examining or treatment room.
 - 6) Banks, excluding drive-in stations: One space for each 150 square feet of floor area devoted for public use plus one space for each 300 square feet devoted to office use.
 - 7) Establishments offering food, beverages, or refreshments for sale and consumption on the premises: One space for each four seats of dining and/or drinking area.
 - 8) Apartments: One space for any dwelling unit containing more than one bedroom.
 - 9) Nail salon: One and one-half parking spaces for every two service chairs.

- 10) Dance schools/dance studios: Four spaces for every 1,000 square feet of gross leasable area.
 - b. Off-street loading. The Planning Commission shall have the right to modify or waive the requirement for off-street loading areas as specified in Section 1310. Any such modification or waiver shall be based upon a review of a site plan and/or the surrounding area and a determination that there is satisfactory loading space serving the building or that the provision of such loading space is physically and/or functionally impractical to provide.
- 3. The owner or owners of such new or expanded use may make application to the City Building Official for the option of paying a dollar amount established by resolution of the City Council per required parking space and loading and unloading space in lieu of providing such required spaces. These monies would be paid in to the special parking district fund established by the City Council specifically for the purpose of constructing and improving off-street parking areas to serve uses located within the special parking districts. The timing of parking spaces provided and their location shall be at the sole discretion of the City Council.
- 4. The amount paid into the parking fund described above shall not apply against any present or future special assessments levied by the City for parking improvements.
- 5. The exception authorized by this section may only be granted by the City Council. Granting of such exception shall be based upon evidence presented by the property owner or owners showing that the reasonable ability to provide any or all of the required parking spaces and/or loading and unloading areas as required in sections 1305 and 1310 does not exist.
- 6. A property owner or owners granted the exception of contributing to the parking fund will not receive an occupancy permit until such monies have been paid into such fund in full.
- 7. The provisions of this section also apply to any change in use of property located within a special parking district that would require parking spaces in excess of those required for the previous use.

Section 1310. Off-Street Loading and Unloading

On the same premises with every building, structure, or part thereof, 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 in order to avoid undue interference with public use of dedicated rights-of-way. Such space shall be provided as follows:

	Total Floor Area of the Building	Off-Street Loading Space Requirements
Office Use	0 – 50,000 square feet	One (1) usable loading space 10' x 50'
	Over 50,000 square feet	Two (2) usable loading spaces 10' x 50'

- b. Machinery and Building Materials Storage: Unusable, rusty, or inoperable machinery, equipment, or machines and/or equipment parts of machines or equipment not intended for use upon the premises, or old and/or used building materials shall not be kept or stored outside of a building. However, the temporary storage of building materials intended to be used to improve the premises may be stored outside if piled off the ground so as not to become a suitable environment for rats or rodents. The temporary storage of building materials to be used for the purpose of new construction shall also be permitted. In no case shall usable or unusable machinery, building materials, or other items be stored on permanent basis in a truck trailer or other type of trailer, with or without its wheels.

Section 1312. Recreational Vehicle Storage

1. The open parking or storage of tractors, boats, or similar vehicles not owned by the property owners or tenant of the City on lands not specifically designated for such parking or storage shall be permitted for a period of up to seventy-two (72) hours. However, a travel trailer may be kept in the rear or side yard of a single-family lot for a period of up to four (4) weeks, provided a permit has first been secured from the Building Official.
2. Residents of the City may keep not more than one (1) of their own trailer, boats, camper, motor home, and similar vehicles on their property for an indefinite period of time, provided such vehicles are in operable condition, licensed, and are not kept within twenty (20) feet of the closest edge of any neighboring road surface area. Such vehicles shall be subject to all other applicable provisions concerning accessory buildings set forth in Section 1504.
3. Recreational vehicles (RV's) shall not be parked or stored closer to neighboring or adjacent lot lines than accessory buildings in the same district.
4. A travel trailer, motor home, or camper parked or stored on a residential lot shall not be connected to sanitary facilities and shall not be occupied.

Section 1313. Home Occupations

1. No article or service shall be sold or offered for sale on the premises, except as such is produced on the premises by such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the dwelling unit, (not counting areas of unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches) shall be used for purposes of the home occupation.
3. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation, other than signage as provided in Section 1328.
4. The outdoor storage of goods and materials shall be prohibited. No interior display shall be visible from the exterior of a dwelling unit used for purposes of a home occupation.
5. No more than one (1) home occupation per dwelling unit shall be permitted.

6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.
7. There shall be no alteration in the residential character or function of the premise in connection herewith; nor shall any garage or parking area be used in connection herewith.
8. There shall be no commodity or stock in trade sold or stored upon the premises.
9. No assistants or employees shall be employed in connection with the home occupations, provided that family members, as defined in Section 202, shall not be counted as employees.
10. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.
11. No home occupation shall be permitted to be established or continued when the same is objectionable as determined by the Planning Commission due to noise, dust, smoke, odor, traffic congestion, reduction of the living environment, or other causes detrimental to the neighborhood in which located.

Section 1314. Bed and Breakfast Operations

Any dwelling unit used for bed and breakfast operation shall comply with the following requirements:

1. Not more than twenty-five (25) percent of the total floor area shall be used for bed and breakfast sleeping rooms.
2. There shall be no separate cooking facilities used for the bed and breakfast stay.
3. Occupancy by guests shall be restricted from one (1) to seven (7) days.
4. One (1) additional parking space shall be provided for each guest room, on-site; further, said parking shall not be permitted within a required front yard.

Section 1315. Access to a Major Thoroughfare or Collector Street

For uses making reference to this Section 1315, vehicular access shall be provided only to an existing or planned major thoroughfare, freeway service drive, or collector street. Provided, however, that access driveways may be permitted to other than a major thoroughfare, freeway service drive, or collector street where such access is provided to a street where the property directly across the street between the driveway and the major thoroughfare, freeway service drive, or collector street is zoned for multiple-family use or any nonresidential uses is developed with permanent uses other than single-family residences or is an area which, in the opinion of the Planning Commission, will be used for other than single-family purposes in the future. This exception shall apply only if the Planning Commission finds that there are special circumstances which indicate that there will be a substantial improvement in traffic safety by reducing the number of driveways to a thoroughfare.

Section 1316. Residential Entranceway

In all Residential Districts, so called entranceway structures including but not limited to walls, columns, and gates marking entrances to single-family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in Section 1316, provided that such entranceway structures shall be at least ten (10) feet in width, shall comply to all codes of the Municipality, and shall be approved by the Building Official and a permit issued.

Section 1317. Corner Clearance

Except as may otherwise be provided in the Ordinance, no fence, wall, shrubbery, sign, or other obstruction to vision above a height of two (2) feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line as required in Section 1318,3,f.

Section 1318. Landscaping**1. Intent**

Landscaping, greenbelts, and screening are necessary for the protection and enhancement of the environment and for the continued vitality of all land uses in the City. Landscaping and greenbelts are capable of enhancing the visual environment, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual disruption related to intensive uses. The purpose of this section is to set minimum standards for the protection and enhancement of the environment through requirements for the design and use of landscaping, greenbelts, and screening.

2. Scope of Application

The requirements set forth in this section shall apply to all uses, lots, sites, and parcels which are developed or expanded following the effective date of this Ordinance. No site plan shall be approved unless said site plan shows landscaping consistent with the provisions of this Section. Furthermore, where landscaping is required, a building permit shall not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy shall not be issued unless provisions set forth in this section have been met or a performance bond has been posted in accordance with the provisions set forth in Section 1200, 7.

In cases where the use of an existing building changes or an existing building is changed or otherwise altered or reoccupied, all of the standards set forth herein shall be met.

The requirements of this section are minimum requirements, and nothing herein shall preclude a developer and the City from agreeing to more extensive landscaping.

3. Landscaping Design Standards

Except as otherwise specified in the general requirements for each Zoning District, all landscaping shall conform to the following standards:

a. General Site Landscaping

All portions of the lot or parcel area not covered by buildings, paving, or other impervious surfaces, shall be landscaped with vegetative ground cover and other ornamental materials as required below, except where specific landscape elements, such as a greenbelt, berm, or screening are required:

- 1) All portions of the landscaped area shall be planted with grass, ground cover, shrubbery, or other suitable plant material, except that paved patios, terraces, sidewalks and similar site features may be incorporated with Planning Commission approval.
- 2) A mixture of evergreen and deciduous trees shall be planted at the rate of one (1) tree for each 1,000 square feet or portion thereof of landscaped open-space area.
- 3) Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.
- 4) On sites which are two (2) acres or larger in size, the landscaped area shall include a greenbelt of a minimum ten (10) foot width, located and continually maintained along a public right-of-way.
- 5) In consideration of the overall design and impact of the landscape plan, the Planning Commission may reduce or waive the requirements outlined herein for General Landscaping, or for landscaping in greenbelt area, on berms, or as part of a screen, provided that any such adjustment is in keeping with the intent of the Ordinance, and more specifically, with the intent of Section 1318, 1.
- 6) The total landscaped area shall be the basis for determining the required number of trees or shrubs, irrespective of the portion which is devoted to patios, terraces, sidewalks, or other site features.
- 7) Trees shall be planted in a manner that avoids conflicts with overhead utility lines to the maximum extent practicable.

b. Greenbelt Buffer

Where required, greenbelts and greenbelt buffers shall conform to the following standards:

- 1) A required greenbelt or greenbelt buffer may be interrupted only to provide for roads or driveways for vehicular access.
- 2) Grass, ground cover, or other suitable live plant material shall be planted over the entire greenbelt area, except that paving may be used in areas of intensive pedestrian circulation.

- 3) A minimum of one (1) deciduous tree or evergreen tree shall be planted for each thirty (30) linear feet or portion thereof of required greenbelt length. Required trees shall be at least five (5) feet tall and may be planted at uniform intervals, at random, or in groupings.
- 4) For each fifty (50) linear feet or portion thereof of required greenbelt length, at least one (1) ornamental spring flowering tree at least five (5) feet in height shall be installed and maintained.
- 5) Two (2) eighteen (18) inch high or wide shrubs shall be required for each fifteen (15) linear feet of greenbelt area. Required shrubs may be planted at uniform intervals, at random, or in groupings.
- 6) For the purpose of determining required plant material, required greenbelt area length shall be measured along the exterior periphery of the greenbelt area inclusive of all driveways.

c. Berms

Where required, earth berms or landscaped berms shall conform to the following standards:

- 1) The berm shall be at least three (3) feet above the grade elevation, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. For the purposes of this provision, grade elevation shall be the ground elevation at the property line adjacent to the proposed berm.
- 2) The berm area shall be planted with grass or other suitable ground cover to ensure that it withstands wind and weather and retains its height and shape.
- 3) A minimum of one (1) deciduous or evergreen tree shall be planted for each thirty (30) linear feet or portion of required berm.
- 4) Eight (8) shrubs per tree maybe planted as substitute for trees (see item "three" above).
- 5) Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.
- 6) For the purpose of determining required plant material, required berm length shall be measured along the exterior periphery of the berm.

d. Evergreen Screening

Where required, evergreen screening shall consist of closely spaced plantings, which form a visual barrier that is at least eight (8) feet above ground level within five (5) years of planting.

e. Landscaping of Rights-of-Way and Other Adjacent Public Open-Space Areas

Public rights-of-way and other public open-space areas adjacent to required landscaped areas and greenbelts shall be planted with grass or other suitable ground cover and maintained by the owner of the adjacent property as if they were part of required landscaped areas and greenbelts.

f. Regulations Pertaining to Landscaping Areas Used for Sight Distance

When a driveway intersects a public right-of-way or when the subject property abuts the intersection of public rights-of-way, all landscaping within the corner triangular areas described below shall permit unobstructed cross-visibility. Shrubs located in the triangular area shall not be permitted to grow to a height of more than two (2) feet above the pavement grade at the edge of the pavement. Portions of required berms located within sight distance triangular areas shall also not exceed a height of two (2) feet above the pavement grade at the edge of the pavement. Trees may be maintained in this area, provided that all branches are trimmed to maintain a clear vision for a vertical height of eight (8) feet above the roadway surface. Landscaping, except grass or ground cover, shall not be located closer than three (3) feet from the edge of a driveway.

The triangular areas referred to above are:

- 1) The area formed at the corner intersection of a public right-of-way and a driveway, two (2) sides of the triangle area being ten (10) feet in length measured along the right-of-way line and driveway line and the third side being a line connecting these two (2) sides.
- 2) The area formed at a corner intersection of two (2) public rights-of-way lines, the two (2) sides of the triangular area being twenty-five (25) feet in length measured along the abutting public rights-of-way lines and the third side being a line connecting these two (2) sides.

g. Maintenance of Landscaping

All required non-residential landscape areas greater than 200 square feet shall be required to install an underground irrigation (sprinkler) system and be planted and maintained with living materials. Failure to maintain required landscaped areas, including the removal and replacement of dead or diseased plant materials, shall constitute a violation of this Ordinance.

Section 1319. Plant Materials

Whenever in this Ordinance planting is required, it shall be planted within six (6) months from the date of completion of the building or improvement, and shall thereafter be reasonably maintained with permanent plant materials. Plastic and other non-organic, nonliving plant materials shall be prohibited from use and shall not be in compliance with the spirit and intent of this Ordinance.

1. Plant Material Spacing

- a. Plant materials shall not be placed closer than four (4) feet from the fence line or property line, except that shrubs may be planted no closer than two (2) feet from the fence or property line.
- b. Where plant materials are planted in two (2) or more rows, plantings shall be staggered in rows.
- c. Evergreen trees shall be planted not more than thirty (30) feet on center.
- d. Narrow evergreens shall be planted not more than three (3) feet on center.
- e. Deciduous trees shall be planted not more than thirty (30) feet on center.
- f. Tree-like shrubs shall be planted not more than ten (10) feet on center.
- g. Large deciduous shrubs shall be planted not more than four (4) feet on center.

2. Suggested Plant Materials

Minimum Size

- a. Evergreen Trees: Six (6) feet in height
 - 1) Hemlock
 - 2) Fir
 - 3) Pine
 - 4) Spruce
 - 5) Douglas-Fir
- b. Narrow Evergreens: Four (4) feet in height
 - 1) Column Honoki Cypress
 - 2) Blue Columnar Chinese Juniper
 - 3) Pyramidal Red-Cedar
 - 4) Irish Yew
 - 5) Douglas Arborvitae
 - 6) Columnar Giant Arborvitae
- c. Tree-like Shrubs: Six (6) feet in height
 - 1) Amur Maple
 - 2) Russian Olive
 - 3) Amelanchip
 - 4) Dogwood
 - 5) Redbud
 - 6) Rose of Sharon
 - 7) Hornbeam
 - 8) Hawthorn
 - 9) Goldenrain

- d. Large Deciduous Shrubs: Four (4) feet in height
- 1) Honeysuckle
 - 2) Viburnum
 - 3) Mock-Orange
 - 4) Forsythia
 - 5) Lilac
 - 6) Cotoneaster
 - 7) Hazelnut
 - 8) Euonymus
 - 9) Privet
 - 10) Buckthorn
 - 11) Sumac
- e. Deciduous Trees: Two (2) to three (3) inch caliper
- 1) Oaks
 - 2) Hard Maple
 - 3) Hackberry
 - 4) Birch
 - 5) Planetree (Sycamore)
 - 6) Gingko (male)
 - 7) Beech
 - 8) Sweet-Gum
 - 9) Honey locust
 - 10) Hop Hornbeam
 - 11) Linden
- f. Ornamental Trees One (1) inch caliper
- 1) Flowering Crabapple
 - 2) Dogwood
 - 3) Birch
 - 4) Magnolia
 - 5) Fruit (Pear, Plum, Cherry, Peach)
3. Trees Not Permitted
- a. Box Elder
 - b. Soft Maples (Red-Silver)
 - c. Slippery Elms
 - d. Poplars
 - e. Willows
 - f. Horse Chestnut (nut bearing)
 - g. Tree of Heaven

- h. Catalpa
- i. Ginkgo (female)

4. Existing Plant Materials

In instances where healthy plant material exists on a site prior to its development, the Building Official may adjust the application of the above standards to allow credit for such plant material if such an adjustment is in keeping with, and will preserve, the intent of this section.

All existing plant materials must first be inspected by the Building Official to determine the health and desirability of such materials. In the event plant materials are to be saved, prior approval must be obtained from the Building Official before any delimiting, root pruning, or other work is done.

If such existing plant material is labeled "*To Be Saved*" on site plans, protective techniques, upon as (but not limited to) fencing placed at the drip-line around the perimeter of the plant material, shall be installed. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved.

In the event that health trees labeled "*To Be Saved*" on the approved site plan are destroyed or damaged, as determined by the Building Official, the owner, developer, or contractor shall replace said trees with trees of comparable type.

Section 1320. Screening Walls

1. For the Use Districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a single- or two-family residential district, an obscuring wall. The height of the wall shall be measured from the surface of the parking area on the non-residential side of the wall:

Use	Minimum Height Requirements
a. Off-street Parking Area	4'-6" high wall (see also Section 1306)
b. RM (with 17 or more units), C-1, C-2, C-3, and R-0 Districts	4'-6" high wall
c. Industrial District	4'-6" high wall
d. Open Storage Areas and Loading and Unloading Zones	4'-6" to 8'-0" high walls or fence (see also Sections 1311 and 1310)
e. Trash Receptacles	6'-0" high wall (see also Section 1322)
f. Utility Buildings, Stations, and Substations	6'-0" high wall or fence

2. In the case of the variable wall height requirement in (d) above, the extent of obscuring wall shall be determined by the Planning Commission on the basis of land usage, provided further that no wall or fence shall be less than the above required minimum, nor greater than the above required maximum height.
3. Required walls shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance and, except such openings as may be approved by the Planning Commission. All walls herein required shall be constructed of materials approved by the Building Official to be durable, weather resistant, and easily maintained.
4. The requirement for an obscuring wall between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than two hundred (200) feet distance from abutting residential district(s).

Section 1321. Fences

1. Scope

The installation, erection, and/or maintenance of a fence is hereby prohibited, except in strict compliance with this Ordinance. A permit to be issued by the Building Official shall be obtained prior to installation or erection of any fence within the corporate limits of the City of Durand. Application shall be made upon a form provided by the Building Department and shall require such information as may be required by the City Clerk. All applications for a fence permit shall be accompanied by a filing fee as may be established by City Council resolution.

2. Calculation of Fence Height

The height of the fence shall be computed as the distance from the base of the fence at normal grade to the top of the highest component of the fence.

3. Design Requirements

a. Residential Fences:

All fences in areas zoned or used for residential purposes shall be of an ornamental type, and shall not be more than six (6) feet in height, above the grade level. Any metal or masonry fence further shall not be more than four (4) feet in height above grade level.

b. Business, Office, or Commercial Fences:

All fences in areas zoned or used for business, office, or commercial purposes shall be of an ornamental type and shall not be more than six (6) feet in height above grade level.

c. Industrial Fences:

All fences in areas zoned or used for industrial purposes shall not exceed eight (8) feet in height above grade level.

d. Fences Separating Single or Two-Family Residential Property from Multiple-Family Residential Property:

Areas zoned or used for multiple family residential purposes, with five (5) to sixteen (16) total number of units, which abut single or two-family property shall have erected upon said adjoining property line a fence or an ornamental type to be six (6) feet in height above grade level.

e. Fences for Parks, Schools, Public Buildings, Etc.:

The height and type of fences enclosing municipal parks, public and parochial school grounds, public building and church grounds, or land used for playgrounds, parks, picnic groves, golf courses, golf driving ranges, or similar facilities for outdoor exercise and recreation shall require the approval of the Building Official.

f. Fences Required for Swimming Pools and Ponds:

For the protection of the general public, any swimming pool, reflector pool, fish pond, lily pond, or artificially constructed body of water, which contains eighteen (18) inches or more of water in depth at any point, shall be enclosed by a fence not less than four (4) feet in height above grade level. The gate(s) shall be of a self-closing and latching type, with the latch on the inside of the gate not readily accessible for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods; provided, however, that if the entire premises is enclosed with a fence of not less than four (4) feet in height above grade level, this provision may be waived by the Building Department.

4. Material Specifications

Fences shall be constructed of wood, metal, or masonry, and other acceptable materials, excluding plastic interwoven weave designs. Only new material shall be used, which has been manufactured and/or treated in a manner to prevent rust and corrosion, and/or rot or decay.

a. All Fences Shall Be Constructed of a Minimum of:

1. Two (2) inch iron pipe; or
2. Two (2) inch angle iron; or
3. Four (4) inch wooden posts; or
4. Four (4) inch reinforced concrete posts; or any other member having equal stability. All posts shall be sunk in the soil to a depth of at least three (3) feet.

- b. No Person Shall Erect or Cause to be Erected a Fence Which is:
1. Made with or upon which is fixed barbed wire; or
 2. Has any protective spike, nail, or sharp pointed object; or
 3. Charged with electronic current

Provided, however, that a fence in an industrial area may be erected with barbed wire on arms or brackets extending inward over such property upon application and approval by City Council.

5. Location

- a. Fences shall be placed twelve (12) inches from the property line to permit maintenance of the fence without trespassing on a neighboring property, or, with permission of the neighbor, on the property line.
- b. No fence shall be erected between the front building line and the front property of the premises except as ornamental fences of thirty six (36") inches or less in height.

6. Maintenance of Nuisance

Fences must be maintained in a neat and safe condition, so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or otherwise endangers life or property, is hereby deemed a nuisance. The Building Department shall notify the owner, agent, or person in control of the property on which such fence is located of the existence of such nuisance and specify the required repairs or modifications to be made to render the fence safe, or require that the unsafe fence or any portion thereof to be removed, and shall provide a time limiting such repairs, modification, or removal.

7. Existing Fences

- a. Fences presently in existence shall not be enlarged, rebuilt, or reconstructed without first having obtained a permit thereof from the Building Department. Such fences, when repaired or replaced, shall conform with all provisions of this Ordinance.
- b. Any newly rezoned property shall comply with all fence requirements for the newly zoned district.

Section 1322. Screening of Trash Storage Areas

1. In all Commercial and Industrial zone districts, there shall be provided an outdoor trash storage area. Any such area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly, and sanitary condition. The requirement for such a trash storage area may be waived by the Planning Commission upon a finding that it is unnecessary due to the nature of the use, or owing to provisions for indoor trash storage.

2. In no instance shall any such refuse be visible above the required screening.
3. A screen wall in accordance with Section 1320 of six (6) feet in height shall enclose three (3) sides of the storage area. Bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. The surface under any storage area shall be constructed of concrete which complies with local building requirements.
4. Any such storage area shall be located in a rear and/or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission shall require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.
5. All trash storage areas and/or enclosures shall be located a minimum of ten (10) feet from any building or structure.

Section 1323. Exterior Lighting

1. All outdoor lighting in all use districts other than residential shall be shielded so the surface of the source of the light shall not be visible from all adjacent residential districts, adjacent residences and public rights-of-way.
2. Illumination guidelines shall be in accordance with the following standards:
 - a. Street Illumination:

Street Hierarchy Footcandle	Nonresidential		Residential	
	Lux	Footcandles	Lux	Footcandles
"Major"	12	1.2	6	.06
"Collector"	8	0.8	4	.04
"Local"	6	0.6	3	.08

Major

The part of the roadway system that serves as the principal network for through traffic flow. The routes connect areas of principal traffic generation and important rural highways entering the City.

Collector

The distributor and collector roadways serving traffic between major and local roadways. These are roadways used mainly for traffic movements within residential, commercial, and industrial areas.

Local

Roadways used primarily for direct access to residential, commercial, industrial, or other abutting property. They do not include roadways carrying through traffic. Long local roadways will generally be divided into short sections by collector roadway systems.

b. Parking Illumination

Level of Activity	Vehicular Use Area Only		General Parking and Pedestrian Safety	
	Lux	Footcandles	Lux	Footcandles
Low Activity	5	0.5	2	0.2
Medium Activity	11	1.0	6	0.6
High Activity	22	2.0	10	0.9

High Activity

Examples include major league athletic events, major cultural or civic events, regional shopping centers, and fast food facilities.

Medium Activity

Examples include community shopping centers, office parks, hospital parking areas, transportation parking (airports, etc.), cultural, civic or recreational events, and residential complex parking.

Low Activity

Examples include neighborhood shopping, industrial employee parking, educational facility parking, and church parking.

3. There shall be no flashing, oscillating or intermittent illumination of any sign. No sign shall contain any visible moving parts or messages. Time and temperature numerals are exempt from this provision. If a sign is permitted to be illuminated, it may be illuminated only by continuous indirect white light. Only the sign face shall be illuminated. The illumination of any sign shall not be detrimental or annoying to occupants of surrounding property nor constitute a safety hazard, as determined by the Zoning Administrator.
4. Light pole height shall not exceed 30 ft. in height.

Section 1324. Noise

1. Noise. The pressure level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

SOUND LEVEL ADJACENT USE	WHERE MEASURED
65dBA Residential	Boundary Property Line*
75dBA Commercial/Office	Boundary Property Line
80dBA Industrial/Other	Boundary Property Line

*Except if normal road traffic noise levels exceed sixty-five (65dBA) decibels, the use noise level may equal but not exceed the traffic noise level.

2. The sound levels shall be measured using a weighted decibel measurement and with a type of audio out meter approved by the National Institute of Standards and Technology. Objectionable noise as determined by the building inspector, of an intermittent nature, or high frequency sounds, even if falling below the aforementioned decibel readings, shall be muffled so as not to become a nuisance to adjacent uses.
3. Where street traffic noises directly adjacent to the boundary line exceed these maximum permitted levels, the intensity levels permitted may then exceed those levels specified in the tables, but may not exceed the level of the subject adjacent street traffic noise.
4. Noise resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section.

Section 1325. Satellite Dish Antenna

These provisions shall apply to any satellite earth station antenna (that is over two (2) meters and located in a commercial and industrial area or any satellite earth station over one (1) meter in diameter in any other district).

1. A ground mounted satellite antenna shall be located only in the rear yard and shall be subject to the accessory structures setback requirements of the Zoning District in which it is located, as measured at the property line to the nearest edge of the dish.
2. Not more than one (1) satellite antenna shall be allowed on any single residential lot of record.
3. Any satellite dish antenna shall be installed and maintained with a screen that shall not interfere with the reception, but will obscure the view from adjacent lots or streets.
4. No satellite dish antenna shall exceed twelve (12) feet in diameter.
5. A roof mount location may be considered as an alternative to a ground mount for nonresidential structures. The maximum height of a roof mounted satellite antenna shall be not greater than fifteen (15) feet, including its base, nor shall the building and antenna exceed the maximum height permitted for a structure in its respective zoning district.
6. The satellite antenna and structural support shall be of noncombustible and corrosive resistant material.

7. All satellite antennas shall be grounded as required by the applicable building codes to alleviate electrical potential differences between exposed "dead" metal parts of the antenna and the premises A.C. electrical system.
8. Each satellite antenna shall be designed to withstand a wind force of 75 mph without the use of any supporting guide wires.
9. Wiring between a satellite dish and the receiver shall be placed at least eighteen (18) inches beneath the surface of the ground with a cable approved for direct burial.
10. Any driving motor shall be limited to 100v maximum power design and be encased in protective guards. Any motor with operating voltage of more than 50v A.C. nominal shall comply with Article 430 of the National Electrical Code, as may be amended.
11. A satellite antenna shall be permanently mounted. A satellite antenna may only be on wheels or temporarily installed when used to demonstrate and/or test the feasibility of use for no more than two (2) weeks.
12. No satellite dish antenna permanently mounted shall be used, nor contain a commercial or residential advertisement, except signs indicating the manufacturer, sales or servicing agent, the total of which shall not exceed twenty (20) square inches.

Section 1326. Private Swimming Pools

1. For permanent above or below ground swimming pools, and for portable pools with a diameter exceeding twelve (12) feet or an area exceeding one hundred (100) square feet, a building permit must be obtained for its alteration, erection, and construction. Before a permit is issued, an application shall be approved by the enforcing official (building official or authorized representative). An application is not required for a wading pool less than twenty four (24") inches in depth. An application for a permit should provide the following information: name of the owner, plot plan specifying dimensions, site location of the pool, as well as nearby fences, buildings, gates, septic tanks, tile fields, public utilities, and easements. The application for a below ground pool must include plans and specifications to scale of the pool walls, slope, bottom, walkway, diving boards, type and rating of auxiliary equipment, piping, and valve layout.
2. For permanent above or below ground swimming pools, and for portable pools with a diameter exceeding twelve (12) feet or an area exceeding one hundred (100) square feet, a building permit must be obtained for its alteration, erection, and construction. Before a permit is issued, an application shall be approved by the enforcing official (building official or authorized representative). An application is not required for a wading pool. An application for a permit should provide the following information: name of the owner, plot plan specifying dimensions, site location of the pool, as well as nearby fences, buildings, gates, septic tanks, tile fields, public utilities, and easements. The application for a below ground pool must include plans and specifications to scale of the pool walls, slope, bottom, walkway, diving boards, type and rating of auxiliary equipment, piping, and valve layout.
3. Rear and side lot line setbacks shall not be less than ten (10) feet between the pool outside wall and the side or rear property line, and not less than ten (10) feet between pool wall and any building on the lot.

4. With regard to overhead electrical or telephone wires, a distance of not less than ten (10) feet horizontally from the water's edge shall be enforced. Under no circumstances shall wire of any kind cross over the water surface.
5. A swimming pool shall not be less than twenty-five (25) feet horizontally to any semi-public water well, unless a shorter distance is approved by the County Health Department.
6. A distance of at least three (3) feet horizontally must be maintained from a permanent pool to any sewer. There shall be ten (10) feet horizontally to a septic tank and tile field or other treatment facility, provided the water level in the pool is one (1) foot or more above the ground surface elevation of such treatment facility.
7. A distance of three (3) feet shall be provided from any portion of the pool to any underground water, electrical, telephone, gas, or other pipes and conduits, except for parts of the swimming pool system.
8. No yard containing a swimming pool or wading pool shall be constructed or maintained unless such swimming pool is entirely enclosed by a building, wall, and/or fence. The minimum height of all parts of the fence or wall, including gates, shall be four (4) feet in height, and not more than six (6) feet in height, measured from grade. The fence shall be designed and constructed so as to make the pool inaccessible to children by climbing or entering through the fence openings. The fence must be no closer than ten (10) feet to the water's edge. All openings in any such fence or building shall be equipped with a self-closing, self-latching gate or door which shall be securely locked with a tamper proof lock when the pool is not in use.
9. A private swimming pool shall be located only in the rear yard.

Section 1327. One-Family Dwelling Standards

1. Every dwelling unit hereafter erected shall have a minimum of 800 square feet of floor space on the ground floor. For the purpose of this paragraph, a basement or cellar shall not count as a story, and a breezeway or garage shall not be included in the computation of ground floor area.
2. It has a minimum width across any section of 24 feet and complies in all respects with the local Building 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 allow standards of construction which are less stringent than those imposed by the Building Code, then, and in that event, the less stringent Federal or State standard or regulation shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accordance with the local Building Code and co-extensive with the perimeter of the building, which attachment shall also meet all applicable building codes and other State and Federal regulations.
4. It does not have exposed wheels, 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 local Health Department.

6. The dwelling contains storage area whether in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure being of standard construction similar to, or of better quality than, the principal dwelling. Such storage shall be in addition to the space for the storage of automobiles and shall be addition to the space for the storage of automobiles and shall be equal to not less than fifteen (15%) percent of the minimum square footage requirement. In no case, however, shall more than 200 square feet of storage area be required by this provision.
7. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, and with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling; with not less than two (2) exterior doors with one being in the front of the dwelling and the other being in either the rear or side of the dwelling; and contains permanently attached steps connected to said exterior door area where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Building Official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved applicant to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Building Official's decision. Any determination of compatibility shall be based upon the following standards:

- a. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to its surroundings.
- b. Buildings shall have a good scale and be in harmonious conformance with permanent neighboring development.
 - 1) Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
 - 2) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
 - 3) Materials shall be of durable quality.
 - 4) In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
- c. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
- d. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.

- e. The roof overhang and pitch shall be comparable to the overhang and pitch of homes typically found in the surrounding area, provided the pitch of the roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run.
 - f. Any determination of compatibility shall be based upon the standard set forth in this section, as compared against the character, design, and appearance of one (1) or more residential dwellings located outside of mobile home parks within two thousand (2,000) feet of the subject dwelling where such area is developed with dwellings to the extent of not less than twenty (20) percent of the lots situated within said area; or, where said area is not developed, by the character, design, and appearance of one (1) or more residential dwellings located outside of mobile 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 standard design home.
8. The dwelling contains no additions or rooms or other areas which are not constructed with similar materials and which are similar in appearance and which have similar quality of workmanship as the original structure, including the above-described foundation and permanent attachment to the principal structure.
9. The dwelling complies with all pertinent building and fire codes. In the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards" as amended, shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
10. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by State or Federal law, or otherwise specifically required in the Ordinance of the City pertaining to such parks.
11. All construction required herein shall be commenced only after a Building Permit has been obtained in accordance with the applicable local Building Code provisions and requirements.

Section 1328. Manufactured Home Parks

1. Manufactured home parks are subject to the following provisions:
- a. Locational Requirements
 - 1) Manufactured home parks shall be permitted in R-M Districts where suitable access exists to major street thoroughfares, public water and sanitary and storm sewer facilities are available or, could be provided by the developer at no cost to the City.
 - b. Use Restrictions
 - 1) In all R-M Districts, no building or land, except as otherwise provided in this Ordinance, shall be erected or used, except for one or more of the following specified uses, on approval of the City Council, with respect to site layout and pedestrian and vehicular circulation.

- 2) The building or structure herein after erected or altered in a manufactured home park shall not exceed one (1) story in height or fifteen (15) feet.

c. Space Requirements

- 1) Open area shall be provided on each manufactured home lot, to insure privacy, adequate natural light, and ventilation to each home and, to provide sufficient area for outdoor uses essential to the manufactured home. All lots shall contain a minimum area of at least three thousand (3,000) square feet. All such manufactured home site areas shall be computed exclusive of service drives, facilities, and recreation space.
- 2) There shall be unobstructed open spaces between each manufactured home of not less than fifteen (15) feet, and not less than fifteen (15) feet of unobstructed open space between the ends of adjacent manufactured homes. Hitches shall not extend beyond the boundary lines of the sites.
- 3) No manufactured home shall be located closer than fifty (50) feet from the right-of-way line of public thoroughfare or twenty-five (25) feet from the manufactured home park property line.
- 4) No manufactured home occupying a site shall be less than ten (10) feet in width, nor less than five hundred (500) square feet in area.
- 5) Each manufactured home site shall be provided with one (1) utility cabinet, which shall not be less than four (4) feet in width, three (3) feet in depth, and five (5) feet in height from the right-of-way line of public thoroughfare or, twenty-five (25) feet from the manufactured home park property line.

d. Parking Provisions

- 1) Two (2) parking spaces shall be provided for each manufactured home site and one (1) for each employee of the manufactured home park.
- 2) All manufactured homes shall be parked on forty-two (42) inch pilings ten feet apart, the width and length of which shall be at least equal to the width and length of the manufactured home.
- 3) Area shall be provided for additional parking spaces for visitors.

e. Roads and Sidewalks

- 1) Each individual manufactured home park site shall abut or face a driveway, roadway, or street for a distance of at least thirty (30) feet, which street shall have unobstructed access to a public street, or highway. All roadways and off-street parking areas shall be to specifications as prescribed by the City Council, which in no event shall be less than required for city streets.
- 2) A ten (10) foot greenbelt space shall be provided between sidewalk and curb.

- 3) Each manufactured home park shall provide a thirty (30) inch concrete walk from the entrance of each manufactured home to all required service facilities.
- 4) Roadways and streets within all existing and new manufactured home parks shall conform to the following schedule regarding vehicle traffic use, including motor vehicle parking:

No parking on road (separate lot or on-site parking provided),
Parallel parking (One side only, two-way road, 20 feet wide),
Parallel parking (Two sides, one-way road, 20 feet wide),
Parallel parking (Two sides, one-way road, 26 feet wide); and,
Parallel parking (Two sides, two-way road, 36 feet wide)

- 5) Sidewalks shall be required and the space shall be in addition to the above schedule.

f. Plumbing, Heating, and Electrical Installations

- 1) Plumbing, heating, and electrical installations in manufactured home parks shall be maintained in accordance with the City of Durand plumbing, heating, and electrical codes. All utilities shall be underground. Only a single master antenna system shall be utilized within manufactured home parks as an exterior television receiver.

g. Additional Requirements

- 1) There shall be provided an area of not less than one hundred (100) square feet for recreation for each manufactured home space in the manufactured home park, with a minimum area of not less than five thousand (5,000) square feet, which shall be no longer than two (2) times its width. Such area shall be developed and maintained by the management so as to provide healthful recreation for the children of the manufactured home park.
- 2) A greenbelt planting strip, as provided in Section 1318, herein shall be located along all perimeter lot lines.
- 3) When property adjacent to the manufactured home park is zoned for residential or agricultural purpose, a structural fence or wall at least four (4) feet, but not more than six (6) feet in height shall be erected and used in combination with plant material to effectively screen the manufactured home park from surrounding uses.
- 4) The front yard and the side yard adjacent to a street shall be landscaped, and the entire manufactured home park shall be maintained in a good, clean, and presentable condition at all times.
- 5) No business of any kind shall be conducted in any manufactured home or building on the premises of the mobile park, except that of the management office.

- 6) Street and yard light, sufficient in number and intensity to permit the safe movement of vehicles and pedestrians at night, shall be provided and shall be effectively related to buildings, trees, walks, steps, and ramps.
 - 7) No spot or flood lights shall be used for lighting or advertising purposes. No other lighting for identification or advertising purposes shall have a visible source of illumination. No lighting shall shine on adjacent properties. All other lighting shall be in accordance with the State of Michigan, Act 243, Public Acts of 1959, as amended.
 - 8) All fuel oil and all gas tanks shall be located on each manufactured home site in a uniform manner. All tanks shall be of an approved type to comply with Building Code standards, and shall be equipped with vent pipes and with fused valves.
 - 9) There shall be no storage underneath any manufactured home, and each manufactured home site shall be maintained in a clean and presentable condition at all times. Each manufactured home shall be skirted within thirty (30) days of site occupancy.
 - 10) Fences, other than those surrounding the park, shall be uniform in height, shall not exceed thirty (30) inches in height, and shall be constructed in such a manner as to provide firemen access to all sides of each manufactured home.
 - 11) Fire hydrants of a size and a pressure to be used by the City of Durand Fire Department shall be placed within said manufactured home park so that no manufactured home shall be more than three hundred (300) feet from a fire hydrant. Said hydrants shall be maintained in good working condition.
- g. A one-family dwelling may be permitted in the manufactured home park, provided that such dwelling is limited to the management's residence and provided further, such dwelling complies with the requirements of the R-1 District of this Ordinance. A portion of such dwelling may be utilized for management's office, in accordance with other provisions of this Ordinance.

Section 1329. Signs

1. Intent

The City finds that signs and other visual outdoor advertising tends to promote commerce and are related to the health, safety, and/or general welfare of the residents of the City, and that the preservation of the existing character of the community requires regulation of signs and of other visual outdoor advertising. The City finds that failure to regulate the size, location, and construction of signs and other outdoor advertising may have an adverse effect upon the promotion of business and commerce in the City, may lead to poor identification of businesses, may have an adverse effect upon the existing aesthetic character of the City, and may cause deterioration of business and residential areas of the community. Therefore, the purpose of this section and the subsections thereunder is to permit such signs and visual outdoor advertising as will not by reason of their size, location, or manner of display, endanger public health and/or safety; confuse or mislead traffic; or obstruct vision necessary for traffic and pedestrian safety; and further, to regulate signs and other visual outdoor advertising in such a way as to prevent the placement of signs, and such other visual outdoor advertising in a manner that will conceal or obscure other signs and other visual outdoor advertising on adjacent businesses; to keep the number of sign and sign messages at a minimum level reasonably necessary to identify a business and its products; to keep signs within a reasonable scale with respect to the buildings to which they relate; and further, to prevent off-premise signs from conflicting with business, residential and public land uses, and to prohibit signs and other visual outdoor advertising which will have an adverse effect upon the existing aesthetic character of not only the zoning district in which they are located, but also upon the overall existing aesthetic character of the City.

2. Sign Permit Procedures

Except as otherwise provided, the following conditions shall apply in all districts:

- a. Application for a sign permit shall be made in writing to the Zoning Administrator and deposited at the City Hall.
- b. Permit fees, as established by the City Council, must accompany the application.
- c. The Zoning Administrator may either issue or deny a permit. If the permit is not issued or denied within thirty (30) days after receipt of the application, the applicant may, on the thirty-first (31st) day, after the application was deposited at the City Hall, demand a permit and the Zoning Administrator shall then issue such permit.
- d. Permits may be revoked if the sign has deteriorated or is dilapidated.
- e. No sign, except those maintained by the City, County, State, or Federal governments, or as otherwise provided for in this Ordinance, shall be located in, project into, or overhang a public right-of-way or dedicated public easement.

- f. No sign shall be permitted in any required setback area. A "Front Setback" is measured from the edge of the right-of-way of any abutting roadway. A "Rear Setback" is measured from the property line opposite the roadway. A "Side Setback" is measured from any other abutting property line. Corner lots shall require two (2) front setbacks, but only one (1) rear setback.

3. Measurement of Sign Area

The area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all the display area of the sign and including all of the elements of the matter displayed. An area so created shall include all solid surfaces, as well as all openings. Frames and structural members not bearing copy or display material shall not be included in computation of sign area. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where two (2) such faces are placed back-to-back, parallel to one another, and less than twenty-four (24) inches apart, the area of the sign shall be the area of one (1) face. Where a sign has two (2) or more faces, that portion of the sign structure connecting the sign faces shall not be used for display purposes. Signs painted on a wall are also regulated by the provisions of this Ordinance; however, super graphics or wall murals are excluded if they do not advertise a business name, product, service, etc.

4. Sign Height

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of: 1) existing grade prior to construction; or, 2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoning lot, whichever is lower.

5. Permitted Signs in the Residential Districts

- a. One (1) sign advertising the sale or lease of the lot or building not exceeding six (6) square feet in area on any one (1) lot. Such sign not to be placed in the public right-of-way, and shall be removed within twenty-four (24) hours of closing.
- b. One (1) unlighted sign announcing a home occupation, or professional service, not-to-exceed three (3) square feet in area. The sign shall be attached flat against the front wall of the building.
- c. One (1) sign advertising a recorded subdivision or development not-to-exceed thirty-two (32) square feet in area and placed no closer to any street right-of-way than one-third (1/3) the minimum authorized front yard depth. Such sign shall be removed within one (1) year after the sale of ninety (90) percent of all lots or units within said subdivision or development.

- d. One (1) sign identifying a multiple-family building or development, not having commercial connotations, not-to-exceed thirty-two (32) square feet in area and placed no closer to any street right-of-way line than one-third (1/3) the minimum authorized front yard depth, and no closer than fifty (50) feet to any property line in any adjacent one-family district.
 - e. One (1) sign identifying a park, school, church, public building, other authorized use, or a lawful nonconforming use, not exceeding fifty (50) square feet and be placed no closer to the street right-of-way line than one-third (1/3) the minimum authorized front yard depth.
 - f. One (1) unlighted sign announcing a bed and breakfast establishment or similar use not-to-exceed three (3) square feet in area. The sign shall be attached flat against the front wall of the building.
 - g. One (1) unlighted nameplate, identifying the name of the occupant, not-to-exceed three (3) square feet in area. The nameplate shall be attached flat against the front wall of the building.
6. Residential development signs indicating only the name of the development and the management/developer thereof, subject to the following:
- a. The residential development signs shall be monument signs.
 - b. There shall not be more than two (2) residential development signs for each major point of vehicular access to a development.
 - c. Residential development signs shall not exceed fifty (50) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of one hundred (100) square feet.
 - d. Residential development signs may be located in any required yard but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Building Official.
 - e. Residential development signs shall not project higher than eight (8) feet.
7. Permitted Signs in the Nonresidential Districts

Signs shall be limited to one (1) flat wall sign and one (1) freestanding sign on the premises of a business establishment or composite of businesses under a single ownership by an individual, firm, or corporation, subject to the following conditions:

- a. Wall Signs:
 - 1) Flat wall signs may not project above the roof or parapet line and may not project more than one (1) foot beyond the face of the wall of the building. Wall signs shall be attached to, and be parallel to, the wall of the building.

- 2) Wall signs shall be limited in number to one (1) wall sign per business on each wall having an individual means of access. The maximum size of any such sign shall not exceed ten (10) percent of the building façade where so provided, however, that no such sign shall exceed one hundred (100) square feet.
- 3) In the instance of several tenants utilizing a common public entranceway, a common wall sign shall be permitted provided any such sign shall not exceed two (2) square feet in area for each tenant listed, or one hundred (100) square feet in area for all tenants listed, whichever is more restrictive. No occupant shall be listed on more than one (1) such sign per side of building having an individual means of access.

b. Freestanding Ground Signs

- 1) A maximum of one (1) freestanding sign, or one (1) for each front lot line on parcels with a minimum of three (3) acres or more, shall be permitted per structure or planned grouping of structures where a building does not cover the full area of the property. Signs may be freestanding or ground supported anywhere back of the property line provided, however, that such signs shall not be placed closer than fifty (50) feet to any residential district; or closer than a distance equal to its height to a public right-of-way or adjacent nonresidential properties.
- 2) The allowable height for such signs shall not be over twenty (20) feet.
- 3) The maximum sign area shall be fifty (50) square feet.
- 4) Freestanding signs shall be two-sided. Signs other than two-sided may be permitted after review and approval by the Planning Commission, subject to the following criteria:
 - i) Signs made in the image of animals, plants, or machines shall be subject to design review by the Planning Commission.
 - ii) The signs shall not display moving or animated parts or images.

8. Signs Permitted in the Downtown (Development Authority District) Overlay Zone

- a. Signs permitted in the Downtown Overlay Zone shall be limited to wall signs as regulated by Section 1329, 8, (b). In addition, canopy/awning sign(s), projecting sign(s) and monument signs may be installed subject to the limitations presented below.
- b. Wall signs. Wall signs shall be permitted subject to the following conditions:
 - 1) Flat wall signs may not project above the roof or parapet line and may not project more than one foot beyond the wall of the building. Wall signs shall be attached to, and parallel to, the wall of the building.

- 2) One wall sign for each business shall be allowed on each building face. The maximum amount of sign area allowed on each building face shall not exceed ten percent of the building façade where so provided; however, no such sign area shall exceed 100 square feet in area.
- c. Awning or canopy signs. The canopy of awning shall be constructed of durable material and maintained in such a manner so as to continue its original appearance and to provide safety to the persons and property it may affect. No canopy or awning sign shall contain back lighting or be illuminated for purposes of drawing attention to, or enhancing the visibility of, the canopy or canopy sign during its use. This restriction shall not be construed to preclude the use of site lighting principally used to illuminate adjacent sidewalks, parking lots, loading and unloading zones and similar use areas. The area of signage on a canopy or awning shall be limited to the name of the business and/or property owner, and the address.
- 1) Location
 - i) A canopy or awning sign shall be restricted to the canopy valance, consisting of short strips or bands of material hung at the lower edge of the canopy or awning.
 - ii) Canopy or awning signs shall be restricted to only the valance of canopies/awnings at the first story.
 - iii) Any such canopy structure shall be at least two feet from any vehicular parking space or maneuvering lane.
 - iv) Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.
 - v) No sign shall be erected, relocated or maintained so as to prevent free ingress to, or egress from, any door, window or fire escape.
 - 2) Area
 - i) The sign shall not be greater than eight inches in height and occupy no more than 33 percent of the total valance area. The sign shall be restricted to the valance area which is directed to the adjacent right-of-way.
 - ii) Only the copy area of the canopy should be identified as sign area used for calculation purposes.
 - 3) Height
 - i) A minimum under-clearance of eight feet shall be maintained by all canopy structures, as measured from the bottom edge of canopy to grade immediately beneath the canopy.

- ii) Canopies hereafter erected shall, whenever practical, match the established under-clearance height and projection of canopies which exist on abutting parcels and/or businesses.
 - 4) Number. One per each canopy so provided.
 - 5) Under-canopy sign. A suspended sign, perpendicular to the building façade and not greater than two square feet in area shall be permitted under the canopy and which shall also not hang below the lowest part of the canopy.
- d. Projecting signs. The projecting sign shall be constructed of durable material and maintained in such a manner so as to continue its original appearance and to provide proper safety to the persons and property it may affect. Identifying symbology is encouraged on all projecting signs.
 - 1) Location
 - i) Projecting signs shall extend no more than four feet from the building, or one-third of the sidewalk width, whichever is less. In measuring the sign projection, the measurement shall be taken from the building from which it protrudes, including any open area between the wall face and the sign face.
 - ii) Projecting signs shall not extend vertically beyond the windowsill of the second story.
 - iii) Projecting signs shall have a minimum six-inch separation between the sign and the wall face.
 - iv) Projecting signs shall project from the wall at an angle of 90 degrees.
 - v) No sign shall be erected, relocated or maintained so as to prevent free ingress to, or egress from, any door, window or fire escape.
 - vi) Angular projection at the corner of a building is prohibited.
 - 2) Area
 - i) Projecting signs shall not exceed a display area of ten square feet per face.
 - 3) Height
 - i) Projecting signs shall clear grade level below the sign by a minimum of eight feet.

- 4) Number
 - i) There may be one individual projecting sign on each side of the building offering customer access, provided that such signs are spaced not less than 20 feet apart horizontally.
 - e. Monument sign. One monument sign may be permitted in lieu of a wall sign on sites having a front yard setback of not less than ten feet, subject to the following conditions:
 - 1) The monument sign shall be located on private property, outside of the public right-of-way, within the front yard setback. The monument sign shall not be closer than three feet to any lot line.
 - 2) The monument sign shall contain not more than two sides.
 - 3) The monument sign shall not exceed a height of four feet or a sign area of 20 square feet of each face.
 - 4) The monument sign shall not be translucent to an extent greater than 30 percent of any one face and, further, any resultant internal illumination shall be restricted to highlight only the individual lettering or logo used in the composition of the sign message. The monument sign may also instead be illuminated from a freestanding light source.
 - 5) The monument sign shall be situated in a manner that allows adequate sight distance for motorists entering or exiting the site. It may not encroach into a clear vision sign triangle as defined in Section 1318.
9. Other Permitted Signs
- a. Highway signs erected by the U.S. Government, State of Michigan, County, or City of Durand.
 - b. Governmental use signs erected by governmental agencies to designate the hours of activity or conditions of use for parks, parking lots, recreational areas, other public space, or for governmental buildings.
 - c. Directional signs in conjunction with drives or off-street parking areas, provided any such sign does not exceed four (4) square feet in area, is limited to traffic control functions, does not obstruct traffic vision, and does not contain any advertising copy or logos.
 - d. Historic signs designating sites recognized by the State Historical Commission as Centennial Farms or Historical Landmarks.
 - e. Placards posted to control or prohibit hunting and/or trespassing within the City.
 - f. Essential service signs denoting utility lines, railroad lines, hazards, and precautions.

- g. Memorial signs or tablets which are either:
 - 1) Cut into the face of a masonry surface; or
 - 2) Constructed of bronze or other incombustible material when located flat on the face of a building.
- h. Canopy signs, when used in substitution of wall sign or freestanding sign, may be permitted subject to the following conditions:
 - 1) Canopies and awnings extending into the public right-of-way shall be subject to the review and approval by the City Council.
 - 2) Any such structure shall not extend closer than twenty-four (24) inches to any vehicular parking space or moving vehicle lane.
 - 3) Canopies and awnings shall be a minimum of seven (7) feet six (6) inches above pedestrian walkways.
 - 4) Any such structure shall not conflict with necessary sight distances, landscape feature, traffic control device or adjacent properties.
 - 5) The structure shall be maintained in a manner to continue its original appearance and to provide proper safety to persons or property.
 - 6) "Backlighting" of canopy signs shall only be permitted subject to the following conditions:
 - i) Fluorescent lighting only.
 - ii) Lighting shall not exceed 12 watts per foot

10. Temporary Signs

- a. Nonilluminating temporary signs promoting political parties, candidates, or proposals so long as such signs are removed within five (5) days after completion of election activities, and not-to-exceed thirty-two (32) square feet in area.
- b. Special decorative displays or signs used for holidays, public demonstrations or promotion of civic welfare or charitable purposes when authorized by the Building Department. In considering such authorization, the City shall consider the following standards:
 - 1) The size, character and nature of the display or sign.
 - 2) The duration or time period during which the display or sign will be utilized.

- 3) The purpose(s) for which the sign display is to be erected.
 - 4) The arrangements made for the removal of the sign or display after the termination of its usefulness.
 - 5) The effect of the proposed sign or display on light and air circulation for lots which are both the adjoining and in the surround neighborhood of the proposed sign or display.
 - 6) Whether or not the sign or display will constitute a traffic hazard.
- c. Construction signs showing names of building contractors, professional firms, and lending institutions on sites under construction not to exceed thirty-two (32) square feet in area and not located nearer than ten (10) feet to a public right-of-way. The sign shall be confined to the site of the construction, construction shed, or trailer and shall be removed within fourteen (14) days of the beginning of the use of the project.
- d. Portable signs for a period of not more than ten (10) days prior to each special event per year, such as grand openings, fair and festivals, and announcements of new products, service or management, and including the event period, provided the following conditions are met:
- 1) They do not exceed fifty (50) square feet in any area on any side.
 - 2) They are not located closer than ten (10) feet to a street right-of-way.
 - 3) They may be illuminated, provided such lights are not flashing or intermittent and are not placed or designed such that they can be confused with, or appear similar to, a highway sign or traffic safety device and are connected to an electrical outlet approved by State code.
 - 4) No portable sign shall exceed ten (10) feet in height.
 - 5) No portable sign shall be located in such a manner as to interfere with vehicular or pedestrian traffic flow or visibility.
 - 6) Portable signs must be removed within two (2) days of the end of the special event period.
11. Prohibited Signs
- a. Inflatable signs.
 - b. Signs which incorporate, in any manner or are illuminated by, any flashing or moving lights other than for the conveyance of noncommercial information which requires periodic change, such as temperature, stock average, time, and date.
 - c. Exterior banners, pennants, spinners and streamers, other than a sign as permitted by Section 10, b above.

- d. Exterior string lights used in the connection with a commercial premise, other than holiday decorations.
- e. Any sign which is structurally or electrically unsafe.
- f. Any business sign or sign structure now or hereafter existing which no longer advertises a bona fide business conducted or a product sold.
- g. Any sign on a motor vehicle or trailer which is parked in front of a business for the purpose of advertising a business, or product, or service, of a business located on the premises where such vehicle is parked.
- h. Any sign structure or frame no longer containing a sign.

12. Nonconforming Signs

- a. Be re-established after the activity, business, or use to which it relates has been discontinued for ninety (90) days or longer.
- b. Be structurally altered so as to prolong the life of the sign or as to change the shape, size, type or design of the sign.
- c. Be re-established after damage or destruction, if the estimated expense of reconstruction exceeds fifty (50) percent of the replacement cost as determined by the Building Official.

13. Nonaccessory Signs

- a. Nonaccessory signs are permitted in the Industrial districts.
- b. Nonaccessory signs shall be regulated as follows:
 - 1) They shall be located a minimum of two hundred (200) feet from adjacent residentially zoned property;
 - 2) They shall be located a minimum of one thousand (1,000) feet from other freestanding signs or billboard on the same side of the right-of-way;
 - 3) They shall have the same setbacks as other principal structures in the zone in which they are situated;
 - 4) They shall not exceed three hundred (300) square feet in area;
 - 5) They shall not exceed forty-five (45) feet in height; and
 - 6) They shall be freestanding ground signs. No sign shall be erected on the roof of any building, nor have any (1) sign above another.

Section 1330. Canopies and Awnings

Canopies and awnings offering partial protection from the weather, but not fully enclosed, and which extend into a public right-of-way or required yard, may be considered for approval subject to the following conditions:

1. Canopies and awnings extending into a public right-of-way are subject to the following requirements:
 - a. Such approval shall only be granted by the City Council following Planning Commission recommendation.
 - b. Any such structure shall not extend closer than twenty-four (24) inches to any vehicular parking space or moving vehicle lane.
 - c. Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.
 - d. Any such structure shall not conflict with any existing or proposed landscape features, traffic control device, adjacent properties and signs, and pedestrian movements.
 - e. The height, location, materials, construction and signage involved in any such structure shall specifically be subject to review and approval by the City Council.
 - f. The structure shall be maintained in such a manner as to continue its original appearance and provide safety to the persons and property it may affect.
 - g. The City of Durand, its officials, employees, and any of its representatives shall be guaranteed full protection against any liability or damages resulting from the construction and existence of any such structure. The nature of such protection and its continuous effect shall be subject to City Council determination.
2. Canopies and awnings extending into a required yard are subject to the following requirements:
 - a. Such approval shall only be granted by the Planning Commission.
 - b. Any such structure shall not extend closer than the height of the structure to any property line adjacent to a residential district.
 - c. Any such structure shall not conflict with necessary sight distances for proper vehicular and pedestrian movements.

- d. Any such structure shall not conflict with any existing or potential development on adjacent property.
- e. The height, location, materials, construction and signage involved in any such structure shall specifically be subject to review and approval.
- f. The structure shall be maintained in such a manner as to continue its original appearance and provide proper safety to the persons and property it may affect.

Section 1331. Decks

A deck which is associated with a residential structure shall maintain a distance of at least fifteen (15) feet from the rear lot line and shall not occupy any required side yard or front yard area, and shall be subject to the following restrictions:

1. The portion of a deck which occupies the required rear yard shall not be above the elevation of the first floor of the residence;
2. No more than twenty-five percent (25%) of any deck shall be covered with structures such as a gazebo or a screened porch and such structures shall be nonhabitable; provided, that the portion of a deck which occupies the required rear yard shall not contain any such covered structures;
3. The portion of a deck which occupies the required rear yard shall not be converted into any enclosed habitable space.
4. A deck shall be subject to lot coverage limitations.

Section 1332. Wireless Communication Facilities

1. Wireless Communication Antennas
 - a. In order to encourage location on public property, co-location with existing facilities and to minimize the number of Wireless Communication Support Facilities (WCSFs) within the City, Wireless Communication Antennas (WCAs) shall be considered a permitted accessory use in all non-residential Zoning Districts when placed on or attached to any structure which constitutes a principle use, including existing WCSFs, provided that any WCA shall not extend more than twenty (20') feet above the tallest portion of the structure on or to which it is attached. Provided further that the height of any WCA shall not exceed one hundred (100') feet unless:
 - 1) Located on a lawfully existing or approved WCSF; or
 - 2) Located on a structure existing prior to the adoption of this regulation; or
 - 3) Located on a structure which has received a height variance.
 - b. An application to install a WCA in a non-residential zoning district shall be required to receive approval from the City Zoning Administrator.

- c. An application to install a WCA in a residential zoning district shall require a review by the Planning Commission, and shall include but not be limited to the following:
 - 1) Evidence that adequate servicing cannot be attained from the placement of a WCA in a non-residential zoning district.
 - d. WCAs shall require no personnel on the premises except as necessary for maintenance and repair.
 - e. If a WCA requires an accessory equipment storage structure, it shall not be greater than fifteen (15') feet in height and shall meet all zoning requirements.
 - f. WCAs shall not be allowed on any site used as a single-family dwelling unit.
 - g. All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.
 - h. No accessory equipment structure or area shall be allowed in any rights-of-way which creates a public safety hazard.
 - i. This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).
2. Wireless Communication Support Facilities (WCSF)
- a. All WCSF shall be constructed in compliance with all applicable construction codes, which include the Electronic Industries Association/Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures.
 - b. The WCSF shall comply with all applicable Federal Aviation Administration (FAA) requirements.
 - c. The WCSF shall not be used for advertising purposes and shall not contain any signage except signage which shall show the identity of the service provider and emergency telephone numbers.
 - d. The WCSF may be located on a zoning lot containing other principal uses. The WCSF may be located within an area smaller than the minimum lot size of the applicable zoning district provided the zoning lot complies with the applicable minimum lot size for the existing principal use or is a legal nonconforming or grandfathered lot. The area within which the WCSF is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein.

- e. The WCSF shall meet all requirements of the zoning district in which it is located which are not inconsistent with this section. Minimum yard requirements shall be measured from the boundary of the zoning lot to the closest portion of the WCSF or the accessory equipment structure or storage area, whichever is closer.
 - f. The WCSF shall have a landscaped greenbelt so that the base of the WCSF and accessory equipment structure or storage area shall be screened from any right-of-way or adjacent properties. A greenbelt, as selected by the Zoning Administrator or Planning Commission from among those provided in Appendix B, shall be constructed around the perimeter of a WCSF. Screen fencing shall also be required for public safety reasons. A chain linked or a solid wood fence at least six (6) feet in height shall be erected entirely around any communication tower and any related support facilities being utilized for commercial purposes. "No Trespassing" signs shall be posted around the wireless communication facility with a telephone number of a person to contact in the event of an emergency.
 - g. The construction of the WCSF shall be of monopole design unless it can be demonstrated that such design is not feasible to accommodate the user or co-location.
 - h. The application shall contain information showing the geographic search area within which the proposed WCSF must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.
 - i. If co-location is not part of the application, then the applicant shall provide evidence as to why co-location is not possible. (Co-location shall not require Planning Commission approval.)
 - j. This section shall not exempt the applicant from such other government review and permitting procedures (i.e., FCC, FAA, etc.).
 - k. WCSFs shall not have a shiny or metallic finish.
 - l. The applicant is required to disclose whose wires will be connecting proposed towers so the City can assess any separate franchise fees.
3. Replacement of Existing WCSF
- An existing WCSF which was lawful at the time of its construction may be replaced for purposes of accommodating co-location of additional WCAs or otherwise provided that:
- a. The replacement WCSF shall not exceed a total height of one hundred and fifty (150') feet or, if the existing WCSF has an approved height greater than one hundred and fifty (150') feet, the replacement WCSF shall not exceed the approved height.

- b. The replacement WCSF shall be located within the same zoning lot as the existing WCSF and shall be located so as to maximize compliance with existing minimum yard requirements.
 - c. The applicant shall cause the existing WCSF to be removed within ninety (90) days of completion of the replacement WCSF and the relocation or installation of the WCA. In any event, the existing WCSF shall be removed within one hundred and eighty (180) days of the City's final construction inspection of the replacement WCSF.
 - d. If the location of the replacement WCSF is such that the existing WCSF must be moved before the replacement WCSF is constructed, temporary portable antennae support facilities may be used, but must be removed within thirty (30) days of the completion of the replacement WCSF and the relocation or installation of the WCA. In any event, the temporary portable antennae facilities must be removed within sixty (60) days of the City's final construction inspection of the replacement WCSF.
 - e. The installation of a replacement WCSF in any zoning district must be reviewed by the Planning Commission which shall approve such requests that meet the requirements of this section.
4. Review Criteria for all new WCSFs, except replacement WCSFs
- a. A new WCSF shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSF which cannot be met by placing WCA on an existing WCSF or on other structures or replacement of an existing WCSF. Information concerning the following factors shall be considered in determining that such need exists:
 - 1) Insufficient structural capacity of existing WCSFs or other suitable structures and infeasibility of reinforcing or replacing an existing WCSF;
 - 2) Unavailability of suitable locations to accommodate system design or engineering on existing WCSF or other structures;
 - 3) Radio frequency interference or other signal interference problems at existing WCSF or others structures;
 - 4) Other factors which demonstrate the reasonable need for the new WCSF.
 - 5) The denial of the application for a proposed WCSF will result in unreasonable discrimination among providers of functionally equivalent personal wireless communication services and/or will have the effect of prohibiting the provision of personal wireless communication services.
 - 6) The refusal of owners or parties who control WCSFs or other structures to permit a WCA to be attached to such WCSFs or structures.

- b. WCSFs shall be designed to have sufficient structural capacity to allow for three (3) providers to be located on the structure. The wireless communication facility shall also be designed to show that the applicant has sufficient space on its site plan for an equipment building large enough to accommodate three (3) users. If an equipment building is initially constructed to accommodate only one (1) user, space shall be reserved on site for equipment building expansions to accommodate three (3) users.
- c. The applicant must include a statement in the application of its good faith intent to allow the co-location of the WCA of other entities, provided that the cost of modifying the WCSF to accommodate the co-location WCA is borne by the co-locating entity, and that all requests for co-location of wireless communication facilities will be responded to within thirty (30) days from the date of receipt of written request.
- d. As an additional condition of issuing the permit to construct and operate the tower, the owner/operator of the tower is required to sign a statement that all disputes with future providers concerning co-location and the terms and conditions of co-location shall be submitted to commercial arbitration under a system selected by the parties but if the parties are unable to agree, then under the auspices of the Commercial Arbitration Provisions of the American Arbitration Association.
- e. The applicant shall send a written notice to all potential users of the new WCSF offering an opportunity for co-location. The list of potential users shall be provided by the City based on those entities who have requested approval of WSCF in the past, current FCC license holders, and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the City at the time the application is filed.
- f. New WCSFs shall meet the following additional criteria:
 - 1) The WCSF shall not exceed one hundred and fifty (150') feet in height;
 - 2) All WCSF's over one hundred (100') feet in height shall be designed for the co-location of three additional WCAs, and shall therefore also be able to accommodate additional equipment storage structures.
 - 3) All WCSFs shall be setback a minimum of two hundred and fifty (250') feet from any residential zoning districts.
 - 4) The installation of a WCSF must be reviewed by the Planning Commission which shall approve such WCSFs that meet the requirements of this section. Such review by the Planning Commission shall be without notice.

- g. Application Requirements for New WCSFs
- 1) A site plan prepared in accordance with Article 17 of this ordinance (Site Plan Review Procedures) shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
 - 2) The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed. The purpose of landscaping is to provide screening for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities which may be unsafe.
 - 3) The application shall include a certification by a State of Michigan licensed and registered professional engineer of the applicant with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulation for the district in question, in determining the appropriate setback to be required for the structure (WCSF) and other facilities.
 - 4) The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as required in subsection 6. In this regard, the security shall be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the City Council establishing the land in question as security for removal.
 - 5) The application shall include a map showing existing and known proposed WCFs within the City, and further showing existing and known WCFs within areas surrounding the borders of the City in the location, and in the area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility.
 - 6) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the WCF is on the premises.

5. Additional Criteria for Special Approval Condition Use and Review
 - a. The installation of a WCSF in any residential zoning district shall be located on lots or parcels of not less than two acres;
 - b. As a condition of issuing a permit to place a WCSF in a Residential Zoning District, the applicant is required to provide proof that no suitable locations exist within any other "permitted use" or "conditional use" areas determined by the Ordinance.
 - c. If the WCSF is not entirely surrounded by commercial or industrial uses, a written justification of the need for this site showing why other non-residential sites are not suitable;
 - d. The Planning Commission may require a visual/line of site analysis to enable the City to assess impacts. Such analysis may require the applicant to provide visualization of the WCSF on-site which may include graphic representations or other acceptable methods to demonstrate the visualization.
6. Removal of Abandoned WCSFs
 - a. Any WCSF which is abandoned shall immediately be removed or demolished. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSF for 180 days or more. Where the removal or demolition of an abandoned WCSF has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected from the security posted at the time application was made for establishing the WCF or the City may place a lien on the property to cover costs for the removal of the WCF. A lien on the property shall be superior to all other liens except taxes.
7. Variances and Appeals
 - a. Variances from this section may be requested from the Zoning Board of Appeals. Requests for additional height to any permitted or previously approved WCSF may be granted by the Planning Commission to provide for co-location of additional WCA so long as such additional height does not exceed thirty (30') feet. Appeals of a Planning Commission decision shall be taken to the Zoning Board of Appeals.
8. Certification of Registered Engineer
 - a. The City may require a review by an independent registered engineer engaged by the City and paid for by the applicant for the construction of wireless communication towers. Among other things, the Engineer may review and approve the written certification of the applicant's Engineer and may review and approve the applicant's studies showing the necessity for and location of the tower; and may review and approve the structural integrity, electrical integrity and electrical safeness of the wireless communication facility in its projected uses so as to assure the protection of the health, safety and welfare of the City residents.

Section 1333. Preservation of Environmental Quality

1. Intent

It is the intent of this section to specify certain materials which must be prepared and submitted by land developers to assist the City in order to evaluate if a project will have a negative effect on community natural resources, means for reducing or eliminating negative consequences on them, and to determine if a proposed development is in compliance with local ordinance and state and federal statutes, which are enacted to protect wildlife, preserve ecologically important features, and retain natural resources.

2. Applicability

It is the intent of this Section to apply the provisions stated herein solely to those projects requiring site plan approval. The development of detached single-family units on an individual basis is hereby excluded from the requirements of this section.

In any Zoning District, no natural resource shall be altered, changed, transformed, or otherwise varied by any person except as provided by this Ordinance, and such person having submitted to the City Planning Commission the required data, exhibits, and information as hereafter required. The applicant may be relieved from the requirements of this Section by clearly showing the Planning Commission through the use of reports, exhibits, and/or expert testimony at the time of site plan review that the proposed development will not alter, change, transform, or otherwise vary any natural resource contained on the subject parcel.

3. Information and Data Required

A Natural Resources Analysis shall be submitted by and at the expense of the petitioner to the Planning Commission as part of its review of the site plan in accordance with Section 1200. Submission shall be made concurrently with the payment of site plan review fees.

The Natural Resources Analysis shall include, but not be limited to, the following information:

- a. Site conditions of the subject property indicating the location, size, and type of existing natural resources. Such information shall be displayed on a map in relation to the subject parcel's property lines and existing development pattern.
- b. A project description which, in narrative form, shall describe the proposed development in terms of use, density, building coverage, height, gross floor area, number of units, parking, landscaping, internal site circulation, traffic to be generated, and other applicable design features.

- c. The petitioner shall provide a full analysis and description of the proposed project's impact on the natural resources existing on the site. This analysis shall include an evaluation of alternatives affecting the natural resources in terms of alternative site location or actions. The analysis shall also assess the impact of affecting the natural resource(s) in terms of the natural environment (topography, habitat, hazards, etc.), social concerns (aesthetics, historic and cultural values, etc.), and legal constraints (permits required, intergovernmental review, conformance with local plans/ordinances, etc.). These factors shall be evaluated in terms of both positive and negative impacts, direct and indirect impacts, as well as long-term vs. short-term effects.
 - d. The applicant shall identify measures to mitigate or eliminate negative effects to natural resources identified in step 4(c) above.
 - e. The Natural Resources Analysis shall be approved by the Planning Commission upon a finding that the measures proposed by the petitioner adequately eliminate or reduce negative effects on natural resources in consideration of the standards presented in 1333, 4, b below. Approval of a Natural Resources Analysis shall be a condition of site plan review and approval for affected properties.
4. Natural Resources Analysis Review
- a. The Natural Resources Analysis shall be approved by the Planning Commission upon a finding that the measures proposed by the petitioner adequately eliminate or reduce negative effects on natural resources in consideration of the standards presented in 1333, 4, b below. Approval of a Natural Resources Analysis shall be a precondition of site plan review and approval for affected properties.
 - b. The following standards shall govern the acceptance or rejection of a Natural Resources Analysis by the Planning Commission:
 - (1) The preservation and conservation of natural resources has been demonstrated in the Natural Resources Analysis to have priority over development where there are feasible and prudent location alternatives on the site for proposed buildings, structures, and other site improvements;
 - (2) Where the proposed activity requires a natural resource to be altered, changed, transformed, or otherwise varied, it shall be to the maximum extent feasible, limited to designated street rights-of-way, drainage and utility areas, and areas necessary for the construction of buildings, structures, or other necessary site improvements. It is the intent of this subsection to limit unnecessary site clearing, grading and similar activities to the maximum extent practicable; and,
 - (3) The proposed activity shall, to the extent reasonably feasible, be designed and constructed to blend into the natural setting of the landscape.

- c. As part of its review and approval of a site plan, the City may reduce or waive horizontal dimensional standards contained within the Zoning Ordinance applicable to setbacks, building separation, and similar requirements provided all of the following conditions are found to be true:
- (1) The conditions and circumstances which motivate such modification result from the unique natural characteristics of the property which are not similarly applicable to other nearby properties;
 - (2) Strict enforcement of these provisions would cause an unnecessary hardship and deprive the owner of virtually all development rights enjoyed by other property similarly zoned unencumbered by natural resources;
 - (3) The circumstances and conditions of the property motivating such modification were not created by the owner or his predecessor in title; and
 - (4) The requested modification will not be contrary to the spirit and intent of this Zoning Ordinance.

5. Nullification and Conflict of Authority

Nothing contained herein shall relieve the project's sponsor from complying with other land development or environmental standards established by other public agencies having jurisdiction.

Section 1334. Urban Design Standards

1. Intent.

The exterior appearance of any building located within a multiple-family, business, or industrial zoning district of the City has an effect upon the desirability of the immediate area and of neighboring areas for business and other purposes. Maintenance of an attractive, compatible and pleasing exterior appearance of such buildings will prevent impairment of the stability of the value of other real property in the area, permit the most appropriate development of such area, and will prevent attendant deterioration of conditions affecting the general welfare of the citizens of the City.

2. Scope of Application.

Except for those items listed below, all plans submitted under Section 1200, Site Plan Review, shall be subject to design review requirements of this section. Those items exempt from these provisions are:

- a. Single-family residential buildings and structures.
- b. Items such as gutters, downspouts, door and window replacement, antennas, roof vents, small mechanical equipment not readily visible to the public, painting to a similar color, and items of ordinary repair and maintenance.

3. Approval Procedure.

The Planning Commission shall review submitted materials concurrently with site plan review when such is required. All approvals for site plans shall be conditioned upon an affirmative review of the building design.

4. Information Required.

The Planning Commission shall receive, and promptly review all drawings, data, plans and specifications required under this subsection. This information shall include:

- a. An application form, indicating:
 - 1) The name, address, and telephone number of the petitioner, property owner, and site designer.
 - 2) The general location of the subject parcel.
 - 3) A project description.
- c. A site plan, providing data as required by Section 1200.
- d. Elevation drawings of all sides of buildings visible to the public, showing general design treatment including color and materials of all walls, screens, towers, openings, and signs and the treatment to be utilized in concealing any exposed mechanical or electrical equipment.
- e. Description information, including samples or swatches, indicating the color and texture of the buildings as they will appear following construction or renovation.
- f. Any other material, drawings, and documents which may be helpful to, or requested by the Planning Commission.

5. Design Criteria.

In the process of reviewing the submitted materials, the Planning Commission shall consider:

- a. Relationship of Buildings to Site
 - 1) The site shall be planned to accomplish a desirable transition, between the building(s), with the streetscape to provide for adequate planting, safe pedestrian movement, and parking areas.
 - 2) Site planning in which setbacks and yards are in excess of zoning restrictions is encouraged, where feasible, to provide an interesting relationship between buildings.
 - 3) Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

- 4) Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground, where feasible.
- b. Relationship of Buildings and Site to Adjoining Area
- 1) Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.
 - 2) Attractive landscape transition to adjoining properties shall be provided.
 - 3) Harmony in texture, lines, and masses is required. Monotony shall be avoided.
 - 4) Effort should be made to provide connectivity between developments and points of interest in the City. It is the intent of this ordinance that a connectivity index of 1.40 is optimal. Connectivity shall be measured using the following formula.
 - a.) The connectivity index shall be measured by dividing the number of street linkages by the number of street ends including cul-de-sacs.
6. Building Design
- a. Architectural style is not restricted but shall incorporate elements representative of, or compatible with, the historical theme of the community. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
 - b. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
 - c.
 - (i) Materials shall have good architectural character and shall be selected for harmony of the buildings with adjoining buildings.
 - (ii) Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
 - (iii) Materials shall be of durable quality.
 - (iv) In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
 - d. Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationships to one another.
 - e. Colors shall be harmonious and shall use only compatible accents.

- f. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
- g. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
- h. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.
- i. Gutters and downspouts are to be painted to match the surface to which they are attached, unless used as a major design element, in which case the color is to be consistent with the color scheme of the building.
- j. The design should be compatible with future construction both on and off the site.

7. Maintenance Factors

- a. Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, must be conducive to easy maintenance and upkeep.
- b. Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage, and abuse.
- c. Configurations that tend to catch and accumulate debris, leaves, trash, dirt, and rubbish shall be avoided.
- d. Owners of all buildings incorporating painted or stained exteriors shall be required to provide evidence that such buildings will be retained in good condition (no peeling, blistering or unsightly fading).

8. Approval Standards.

The Planning Commission shall review the particular circumstances and facts applicable to each submittal in terms of the preceding design criteria, and shall make a finding as to whether the proposal meets the following standards:

- a. The appearance, color, texture and materials being used will preserve property values in the immediate vicinity and will not adversely affect any property values.
- b. The appearance of the building exterior will not detract from the general harmony of and is compatible with other buildings already existing in the immediate vicinity.
- c. The appearance of the building exterior will not be garish or otherwise offensive to the sense of sight.

- d. The appearance of the building exterior will tend to minimize or prevent discordant and unsightly surroundings in the immediate neighborhood.

Section 1335. Hazardous Substance Regulation

1. Purpose

The purpose of the hazardous substances overlay zone is to provide supplemental development regulations in designated areas so as to permanently protect City properties from long-term contamination originating from the improper use, storage or generation of hazardous substances or polluting materials to ensure they remain in productive use; to prevent the migration of contaminants off the site of origin, and to protect groundwater aquifers as a means to protect those entities in the region still dependent upon well systems for their water consumption needs.

2. Application

Except as specified below under Exemptions and Waivers, the provisions of the hazardous substances overlay zone, as set out in this section, shall apply to all nonresidential uses and facilities, including private and public facilities, which use, store or generate hazardous substances in a quantity greater than 100 kilograms per month (25 gallons).

3. Hazardous Substance Protection Standards

- a. The project and related improvements shall be designed to protect the natural environment, including ponds, streams, creeks, rivers, wetlands, and floodplains.
- b. Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not significantly increase flooding or the potential for environmental contamination of surface waters or groundwaters, on-site or off-site.
- c. General purpose floor drains shall be connected to a public sewer system or an on-site holding tank in accordance with state, county, and City requirements. No releases to groundwater, including direct and indirect releases, shall be allowed without an applicable groundwater discharge permit or permit exclusion from the State Department of Environmental Quality.
- d. Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges of hazardous substances to the air, surface of the ground, groundwater, ponds, streams, creeks, rivers, wetlands or floodplains.
- e. State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met.

4. Above-Ground Storage Areas

- a. Primary containment of hazardous substances shall be product-tight. Secondary containment of hazardous substances shall be provided for all facilities. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of five (5) gallons or less packaged for retail use shall be exempt from this subsection.
- b. Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the operator to recover any released substance, including an allowance for the expected accumulation of precipitation.
- c. Outbuildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, a public sewer system, groundwater, nearby drains or natural water bodies unless a surface water or groundwater discharge permit has been obtained from the Michigan Department of Natural Resources according to applicable requirements of Section 3112 of Act 451 of the Public Acts of Michigan of 1994.
- d. Areas and facilities for loading and unloading of hazardous substances, as well as areas where such materials are handled, used and stored, shall be designed and constructed to prevent unpermitted discharge or runoff to floor drains, rivers, creeks, streams, floodplains, wetlands, soils, or groundwater.

5. Underground Storage Tanks

- a. Existing and new underground storage tank systems as defined under Section 21101 of Act 451 of the Public Acts of Michigan of 1994, shall be registered with the authorized state agency in accordance with applicable requirements of the Environmental Protection Agency and the State Department of Natural Resources.
- b. Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with applicable requirements of the State Department of Natural Resources. Applicable leak detection, corrosion protection, spill prevention, and overfill protection requirements shall be met. Records shall be required to be retained and available for review by state or City officials for a period of five (5) years for tank tightness and for a two (2) year period for retention and all other monitoring or test results.
- c. Out-of-service and/or abandoned underground storage tanks shall be emptied and permanently closed in accordance with the requirements of the State Department of Environmental Quality and the City.

6. Development Review Requirements

The following requirements are in addition to those specified under Article 1200, Site Plan Review:

- a. Specify location and size of interior and exterior areas and structures to be used for on-site storage, loading/unloading, recycling and use or disposal of hazardous substances or polluting materials.
- b. Specify location of all underground and above-ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated storm water or wash water, and all similar uses.
- c. Specify location of exterior drains, dry wells, catch basins, retention/detention areas, pumps, and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
- d. Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.
- e. Submit a list of the types and quantities of hazardous substances and polluting materials which will be used, stored, or generated on-site, including chemicals, hazardous substances/materials, petroleum products, hazardous wastes and other polluting materials. The list shall include common name (trade name) of materials, chemical name (components), form (liquid, pressurized liquid, solid, gas, pressurized gas, etc.), maximum quantity on hand at any one time, and type of storage containers (above-ground tank, underground tank, drums, cylinders, metal container, wooden or composition container, portable tank). Material safety data supplied to the fire department and to employees by an employer must also be submitted for site plan review purposes.
- f. Submit any state/county environmental permits necessary for the storage of and/or discharge of hazardous substances or polluting materials.

7. Exemptions and Waivers

The transportation of any hazardous substance or polluting material shall be exempt from the provisions of this section provided the transporting motor vehicle or railcar is in continuous transit, or that it is transporting substances to or from a properly licensed solid or hazardous waste treatment, storage, or disposal facility.

Section 1336. Access Management

1. Intent

The intent of this section is to establish standards for driveway spacing and the number of driveways for application during the site plan review process. The standards of this section are intended to promote safe and efficient travel within the City; minimize disruptive and potentially hazardous traffic conflicts; separate traffic conflict areas by reducing the number of driveways; provide efficient spacing standards between driveways, and between driveways and intersections; implement the Master Plan and protect the substantial public investment in the street system; and to ensure reasonable access to properties, though not always be the most direct access.

The standards herein apply to site plans and plats along roads which are under the jurisdiction of the Shiawassee County Road Commission or Michigan Department of Transportation (MDOT). Both of those agencies have driveway design and permit requirements, however, those general standards may not be sufficient to meet the particular traffic issues and objectives of the City of Durand. Therefore, the driveway standards herein may be more restrictive than those provided by the road agencies.

Construction within the public right-of-way under the jurisdiction of Shiawassee County or MDOT still must also meet the permit requirements of the road agency. Where any conflicts arise, the more stringent standard shall apply.

2. General Standards for Driveway Location

- 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 right turn lanes, passing lanes and tapers, shall be located entirely within the right-of-way frontage, unless otherwise approved by Shiawassee County and upon written certification from the adjacent property owner agreeing to such encroachment.

3. Standards for the Number of Commercial Driveways:

The number of commercial driveways shall be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles, while preserving traffic operations and safety along the public roadway. Additional driveways may be permitted for a property only under one of the following:

- a. One (1) additional driveway may be allowed for properties with a continuous frontage of over three hundred (300) feet, and one (1) additional driveway for each additional three hundred (300) feet of frontage, if the Planning Commission determines there are no other reasonable access opportunities.

- b. Two one-way driveways may be permitted along a frontage of at least one hundred twenty five (125) feet, provided the driveways do not interfere with operations at other driveways or along the street.
- c. The Planning Commission may determine additional driveways are justified due to the amount of traffic generated by the use without compromising traffic operations along the public street, based upon a traffic impact study.

4. Driveway Spacing Standards

- a. Between driveways: The minimum spacing between two commercial driveways shall be determined based upon posted speed limits along the parcel frontage. The minimum spacings indicated below are measured from centerline to centerline.

<u>Posted Speed Limit (MPH)</u>	<u>Minimum Driveway Spacing (In Feet)</u>
25	125
30	155
35	185
40	225
45+	300

- 1) For sites with insufficient street frontage to meet the above criterion, the Planning Commission 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/frontage road.
- b. Offsets: To reduce left-turn conflicts, new commercial driveways should be aligned with driveways or streets on the opposite side the roadway where possible. If alignment is not possible, driveways should be offset a minimum of two hundred fifty (250) feet along an Arterial roadway and one hundred fifty (1 50) feet along other roadways. Longer offsets may be required depending on the expected inbound left-turn volumes of the driveways.
- c. Spacing from intersections: 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 by the Planning Commission during site plan review but in no instance shall be less than the distances listed below. 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.

5. Standards for Shared Driveways and Service/Frontage Roads

The use of service roads, in conjunction with driveway spacing, is intended to preserve traffic flow along major thoroughfares and minimize traffic conflicts, while retaining reasonable access to the property. Where noted above, or where the Planning Commission 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, access from a side street, a shared driveway or service road connecting two or more properties or uses may be required. In particular, service drives, frontage roads or at least a connection between uses may be required in the following cases:

- a. Where the driveway spacing standards of this section can not be met.
- b. When the driveway could potentially interfere with traffic operations at an existing or potential traffic signal location.
- c. The site is along Regional Arterials or Arterials, particularly along segments experiencing congestion or a relatively high number of accidents.
- d. The property frontage has limited sight distance.
- e. The fire department recommends a second means of emergency access.

6. Design Standards for Service Drives

Service roads as an alternate to numerous individual driveways serving a series of uses or lots shall be designed according to the following additional standards:

- a. **Location:** Service roads shall generally be parallel or perpendicular to the front property line and may be located either in front of, adjacent to, or behind, principal buildings and may be placed in required yards.
- b. **Access Easement:** The service road shall be within an access easement permitting traffic circulation between properties. This easement shall be at least forty (40) feet wide.
- c. **Construction and Materials:** Service roads shall have a base, pavement, and curb and gutter in accordance with City standards, except the width of the service road shall be twenty-six (26) feet wide, measured from curb edge-to-edge.
- d. **Parking:** The service road is intended to be used exclusively for circulation, not as a parking maneuvering aisle. The Planning Commission may require the posting of "no parking" signs along the service road. In reviewing the site plan, the Planning Commission may permit temporary parking in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow extension of the service road.

- e. Access The Planning Commission shall approve the location of all accesses to the service/frontage road, based on the driveway spacing standards of this Article.
- f. Temporary Access: The Planning Commission may approve temporary access points where a continuous service road is not yet available and a performance bond or escrow is created to assure elimination of temporary access when the service road is continued.
- g. Elevation: The site plan shall indicate the proposed elevation of the service/frontage road at the property line and the Building Department shall maintain a record of all service road elevations so that their grades can be coordinated.
- h. Landscaping: The greenbelt between a service road and the public street right-of-way shall be landscaped as specified in Section 1517 of the Landscaping Standards.
- i. Maintenance: Each property owner shall be responsible for maintaining the service/frontage road.

7. Modification of Standards for Special Situations

During site plan review the Planning Commission shall have the authority to modify the standards of this Article upon consideration of the following:

- a. The standards of this section would prevent reasonable access to the site.
- b. Access via a shared driveway or service/frontage road is not possible due to the presence of existing buildings or topographic conditions.
- c. Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
- d. The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
- e. The proposed location and design is supported by the Shiawassee County Road Commission as an acceptable design under the conditions. The Planning Commission may also request the applicant provide a traffic impact study.
- f. The modification shall be of the minimum amount necessary, but in no case shall spacing of a full-access driveway be less than sixty (60) feet, measured centerline to centerline.

Section 1337. Regulation of Sexually Oriented Businesses

1. Purpose and Intent

The purpose and intent of this section of this Ordinance is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the City and to minimize their negative secondary effects. It is recognized that sexually oriented businesses because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses, based on the evidence concerning the adverse secondary effects of adult uses in the findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, KY*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d (6th Cir.1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir.1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir.1995); and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir.1984), as well as studies conducted in other cities including, but not limited to: Garden Grove, California; Tucson, Arizona; Seattle, Washington; Indianapolis, Indiana; and, Houston, Texas. The regulation of sexually oriented uses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of property values of surrounding areas and will not negatively impact the health, safety, and general welfare of City residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United State Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by City ordinance, state, or federal law.

2. Definitions

For purposes of this section, the following definitions shall control.

- a. *Adult Arcade* – Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities,” “specified anatomical areas,” or “specified acts of violence.”
- b. *Adult Cabaret* – An establishment where materials or entertainment is presented, displayed, permitted or provided, which is distinguished or characterized by an emphasis on or related to “specified sexual activities,” “specified anatomical areas,” or “specified acts of violence.”

- c. *Adult Motel* – A hotel, motel, or similar commercial establishment that: offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of “specified sexual activities,” “specified anatomical areas,” or “specified acts of violence;” and has a sign visible from the public right-of-way that advertises the availability of this adult type of photographic reproductions; or offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.
- d. *Adult Mini-Motion Picture Theater* – Any enclosed building with the capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities,” “specified acts of violence,” or “specified anatomical areas” for observation by patrons therein.
- e. *Adult Motion Picture Theater* – Any enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities,” “specified acts of violence,” or “specified anatomical areas” for observation by patrons therein.
- f. *Adult Personal Service Establishment* – Any business agency, or service which arranges, solicits, or provides for the benefit of its customers or clients, escorts, dates, models, “therapists,” companions or entertainers, either on or off the premises, for the purposes of depicting or engaging in “specified sexual activities,” “specified anatomical areas,” or “specified acts of violence.”
- g. *Adult Physical Culture Establishment* – Any establishment, club, or business by whatever name designated, which provides, offers, or advertises, or is equipped or arranged so as to provide as part of its services, either on or off the premises, massages, body rubs, physical stimulation, baths, tattoos, or other similar treatment by any person. The following uses shall not be included within the definition of an adult physical culture establishment:
- 1) Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed or certified physical or massage therapist, a licensed practical nurse, or any other similarly licensed medical professional;
 - 2) Electrolysis treatment by a licensed operator of electrolysis equipment;
 - 3) Continuing instruction in martial or performing arts or in organized athletic activities;
 - 4) Hospitals, nursing homes, medical clinics, or medical offices; and,
 - 5) Barbershops or beauty parlors, health spas and/or salons which offer massage to the scalp, face, the neck, or shoulders only.

- h. *Adult Supply Store* – Any premises wherein a significant portion or area is used for the sale, rental, distribution, or display of books, magazines, novelties, periodicals, films, videos, recordings, devices, objects, toys, paraphernalia or similar materials, which are used for or characterized by an emphasis on "specified sexual activities," "specified acts of violence" or "specified anatomical areas." Retail establishments which display, sell, distribute, provide or rent such materials within a segregated enclosed area not greater than five (5) percent of the total, useable retail space which is limited to persons eighteen (18) years or over, shall not be included in the definition of "Adult Supply Store."
- i. *Nude Model Studio* – Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.
- j. *Sexual Encounter Center* – A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration: physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.
- k. *Sexually Oriented Business* – An adult supply store, adult motion picture theater, adult mini-motion picture theater, adult cabaret, adult personal service establishment, adult physical culture establishment, adult arcade, adult motel, nude model studio, or sexual encounter center.
- l. *Specified Acts of Violence* shall include:
- 1). The graphic depiction, or simulation of human or animal: 1) decapitation; 2) dismemberment; 3) physical torture; 4) stabbing; 5) shooting; 6) strangulation; 7) drowning; 8) electrocution; 9) aggravated assault, whether accomplished by human contact, instruments, or weapons; 10) rape; 11) disfigurement; 12) mutilation; 13) burning; and, 14) disembowelment.
- m. *Specified Anatomical Areas* is defined as:
- 1) Less than completely and opaquely covered: 1) human genitals, pubic region; 2) buttock; and 3) female breasts below a point immediately above top of the areola; and
 - 2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

- n. *Specified Sexual Activities* shall be defined as:
- 1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral/anal copulation, bestiality, direct physical stimulation or unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, sapphism, or sodomy;
 - 2) Clearly depicted human genitals in a state of sexual stimulation, arousal, tumescence;
 - 3) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation;
 - 4) Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts;
 - 5) Masochism, erotic, or sexually oriented torture, beating, or the infliction of pain;
 - 6) Erotic or lewd touching, fondling, or other contact with an animal by a human being;
 - 7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

3. Development Standards

Sexually oriented businesses shall only be allowed in the C-2 and I-1 Districts subject to the following standards:

- a. The proposed sexually oriented business will not be located within 500 feet of any residence, residentially zoned property, park, school, child care organization, place of worship or other sexually oriented business. The distance between a proposed sexually oriented business and any residence, residentially zoned property, park, school, child care organization, place of worship or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is intended to be located to the nearest property line of the residence, residentially zoned property, school, child care organization, place of worship, or other sexually oriented business.
- b. Any sign or signs proposed for the sexually oriented business shall comply with the provisions of Section 1329 of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.

- c. Entrances to the proposed sexually oriented business shall be posted on both the exterior or interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that:
- 1) "Persons under the age of 18 are not permitted to enter the premises" and
 - 2) "No alcoholic beverages of any type are permitted within the premises" unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.
- d. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining road right-of-way or a neighboring property.
- e. Hours of operation shall be limited to 8:00 a.m. to 11:00 p.m.
- f. All off-street parking areas shall be illuminated to a level of one (1) footcandle as measured at the property line during all hours of operation of the sexually oriented business, and until one (1) hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.
- g. The site shall be so located as to abut a major thoroughfare as designated by the City with all ingress-egress to the site directly from such major thoroughfare.
- h. Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized as showing "specified anatomical areas," "specified sexual activities," or "specified acts of violence" shall:
- 1) Be handicap accessible to the extent required by the Americans with Disabilities Act;
 - 2) Be unobstructed by any door, lock, or other entrance and exit control device;
 - 3) Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view at all times for the adjoining aisle of any occupant;
 - 4) Be illuminated by a light bulb of wattage not less than fifty (50) watts; and
 - 5) Have no holes or openings, other than doorways, in any side or rear walls.
- i. All adult entertainment uses shall be contained in a freestanding building. Enclosed malls, commercial strip stores, common wall structures, and multi-uses within the same structure do not constitute a freestanding building.

4. Review Procedures for Sexually Oriented Businesses

All applications to establish a sexually oriented business shall be processed as a conditional use in accordance with the procedures specified in Section 1402. The Planning Commission shall adhere to the following procedures when reviewing a conditional land use application for a sexually oriented business:

- a. If the Planning Commission determines that a conditional land use application for a sexually oriented business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first class mail within five (5) business days of said determination detailing the items required to complete the application.
- b. Only when the Planning Commission determines that the application is complete, it shall within ninety (90) days of said determination make and adopt specific findings with respect to whether the sexually oriented business is in compliance with the approval standards of Section 1402 and the development standards of Section 1536, c above. If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved or denied the issuance of a conditional use permit for the same within ninety (90) days of its determination that a completed application has been filed, then the conditional use permit shall be deemed to have been approved.
- c. In the event an application for a conditional use permit is denied by the Planning Commission, the applicant shall be entitled to an automatic and prompt review by the City Board of Appeals as a means to exhaust local remedies and to be consistent with the intent of *Paragon Properties Co., v. Novi*, 206, Mich App 74; 520 NW 2d 344 (1994). The applicant shall be notified of the date of the review by the City Clerk within ten (10) business days of the date of the denial of the conditional use permit application by the Planning Commission. The review shall be conducted at a special Board of Appeals meeting convened within forty-five (45) days of the date of denial of the conditional use permit by the Planning Commission. Notification of the special meeting shall be in accordance with Section 1805 of the Zoning Ordinance. The City Board of Appeals shall review the record of the proceedings conducted before the Planning Commission to determine whether the Planning Commission's determination was based upon competent material and substantial evidence in the record and otherwise review the Planning Commission's decision to ensure that it complies with all requirements of both the Michigan and the United States Constitutions.
- d. The decision of the Zoning Board of Appeals shall be final. However, the applicant may appeal to circuit court pursuant to Section 5, (11) of state Public Act 207 of 1921, as amended (the City and Village Zoning Act).

Article XIV

General Exceptions

Section 1400. Area, Height, and Use Exceptions

The regulations in this Ordinance shall be subject to the following interpretations and exceptions.

Section 1401. Essential Services

Essential services serving the City of Durand shall be permitted as authorized and regulated by law and other ordinances of the Municipality. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the Municipality shall receive the review and approval, after a public hearing, of the City Council acting in the capacity of appeal board. Such review shall consider abutting property and uses as they relate to easements, rights-of-way, overhead lines, poles and towers and further, shall consider injurious effects on property abutting or adjacent thereto and on the orderly appearance of the City of Durand.

Section 1402. Voting Place

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a Municipal or other public election.

Section 1403. Height Limit

The height limitations of this Ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments or television antennae for personal use; provided, however, that the City Council may specify a height limit for any such structure when such structure requires authorization as a conditional use.

Section 1404. Lot Area

Any lot existing and of record on the effective date of this Ordinance may be used for any principal use permitted in the district which such lot is located, other than conditional uses for which special lot area requirements are specified in this Ordinance, whether or not such lot complies with the lot area and width requirements of this Ordinance. Such use may be made provided that all requirements other than lot area and width prescribed in this Ordinance are complied with and provided that not more than one (1) dwelling unit shall occupy any lot except in conformance with the provisions of this Ordinance for required lot area for each dwelling unit. (See also Section 1503, Nonconforming Lots.)

Section 1405. Yard Regulations

When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography, or due to architectural or site arrangement, such regulations may be modified as determined by the City Council, acting as appeal board.

Section 1406. Porches

An open, unenclosed, and uncovered porch or paved terrace may project into a front yard for a distance not exceeding ten (10) feet, but this shall not be interpreted to include or permit fixed canopies.

Section 1407. Projections Into Yards

Architectural features, not including vertical projections, may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three (3) feet.

Section 1408. Access Through Yards

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards, accessory, or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace, or other pavement servicing a like function, and not in excess of nine (9) inches above the grade upon which placed, shall for the purpose of this Ordinance not be considered to be a structure and shall be permitted in any required yard.

Article XV**Administration and Enforcement****Section 1500. Enforcement**

The provisions of this Ordinance shall be administered and enforced by the Building Official or by such deputies of his department as the Building Official may delegate to enforce the provisions of this Ordinance.

Section 1501. Duties of Building Official

The Building Official shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Building Official to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this Ordinance.

The Building Official shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Section 1303.

Under no circumstances is the Building Official permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his duties as Building Official.

The Building Official shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

Section 1502. Plot Plan

The Building Official shall require that all applications for Building Permits shall be accompanied by plans and specifications including a plot plan, in triplicate, drawn to scale showing the following:

1. The actual shape, location, and dimensions of the lot.
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved and of any building or other structures already on the lot.
3. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

Section 1503. Permits

The following shall apply in the issuance of any permit:

1. Permits Not to be Issued

No building permit shall be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance.

2. Permits for New Use of Land

No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

3. Permits for New Use of Buildings

No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.

4. Permits Required

No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a building, zoning or engineering permit shall have been first issued for such work. The terms “*altered*” and “*repaired*” shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the City of Durand Building Code, Housing Law, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features. The term “structure” as defined herein means anything constructed or erected, the use of which requires location on or under the ground or attachment to something having location on or under the ground, such as, but not limited to, utility equipment, cables, sidewalks, fences, driveways and storage sheds.

Section 1504. Certificates

No land, building, or part thereof, shall be occupied by or for any use unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

1. Certificate Not to be Issued

No certificates of occupancy shall be issued for any buildings, structure, or part thereof, or for the use of any land, which is not in accordance with all the provisions of this Ordinance.

2. Certificates Required

No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.

3. Certificates Including Zoning

Certificates of occupancy, as required by the City Building Code, for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this Ordinance.

4. Certificates for Existing Buildings

Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land, are in conformity with the provisions of this Ordinance.

5. Record of Certificates

A record of all certificates issued shall be kept on file in the office of the Building Official, and copies shall be furnished upon request to any person have a proprietary or tenancy interest in the property involved.

6. Certificates for Dwelling Accessory Buildings

Buildings or structures accessory to dwellings shall not require separate certificates of occupancy, but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

7. Application for Certificates

Application for certificates of occupancy shall be made in writing to the Building Official on forms furnished by that Department, and such certificates shall be issued within ten (10) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this Ordinance. If such certificate is refused for cause, the applicant, therefore, shall be notified of such refusal and cause thereof, within the aforesaid ten (10) day period.

Section 1505. Final Inspection

The holder of every building permit for the construction, erection, alteration, repair, or moving of any building structure or part thereof, shall notify the Building Official immediately upon the completion of the work authorized by such permit, for a final inspection.

Section 1506. Fees

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance may be collected by the Building Official in advance of issuance. The amount of such fees shall be established by resolution of the City Council and shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance.

Article XVI**Board of Appeals****Section 1600. Purpose**

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public is secured, and that justice be done, there is hereby established a Zoning Board of Appeals (ZBA).

Section 1601. Creation and Membership

The ZBA shall perform its duties and exercise its powers as provided in Section V of Act 207 of the Public Acts of 1921, as amended. The ZBA shall consist of five (5) members, appointed from the electorate, by and with the consent of the City Council.

1. The first member of the ZBA shall be a member of the Planning Commission.
2. The remaining four (4) members shall have been a resident of the City for at least one (1) year prior to the date of appointment, and shall be a qualified and registered elector of the City on such day and throughout his tenure of office.
3. An employee or contractor of the City may not serve as a member of the ZBA.
4. Terms of appointments shall be as follows:
 - a. Appointments of the first members shall be for terms of 1, 2, and 3 years, respectively, so as nearly as possible to provide for the appointment of an equal number of members each year.
 - b. Thereafter, each member is to hold office for a full three (3) year term.
5. Any appointive vacancies in the ZBA shall be filled by the City Council for the remainder of the unexpired term.
6. The City Council shall also appoint two (2) alternate members to the ZBA. Appointments shall be as follows:
 - a. One (1) alternate member shall be appointed for a period of two (2) years and the second alternate shall be appointed for a period of three (3) years; thereafter, each alternate member shall hold office for a full three (3) year term.

Any vacancies in the alternative membership of the Board shall be filled by appointment by the City Council for the remainder of the unexpired term. The alternate member shall:

- a. Sit as regular members of the ZBA in the absence of a regular member if a regular member is absent from, or unable to attend two (2) or more consecutive meetings of the ZBA, or for a period of more than thirty (30) consecutive days.
- b. Be called to serve in the place of a regular member for the purpose of reaching a decision in a case in which the regular member has abstained for reasons of conflict of interest, or due to an immediate, unnotified absence of a regular member. The alternate member having been appointed shall serve in the case until a final decision has been made.

Alternate members shall have the same voting rights as a regular member of the ZBA. Whenever possible, these two (2) alternates should be provided the opportunity to rotate as members of the ZBA.

Section 1602. Compensation

Each member and alternate member shall receive a reasonable sum as determined by the City Council for his services in attending each regular or special meeting of the ZBA. Sums to pay said compensation and the expenses of the ZBA shall be provided annually in advance by the City Council.

Section 1603. Removal

Appointed members may be removed for nonperformance of duty or misconduct in office by the City Council only after consideration of written charges and a public hearing. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.

Section 1604. Meetings

1. The Board of Appeals shall annually elect its own chairman, vice-chairman, and secretary.
2. All meetings of the Board of Appeals shall be held at the call of the chairman and at such times as such Board may determine.
3. All hearings conducted by the ZBA shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member in question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings and other official actions in the office of the City Clerk, and shall be a public record.
4. The ZBA shall not conduct business unless a majority of the members are present. The concurring vote of a majority of the total membership of the ZBA shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which they are required to pass under an ordinance, or to effect a variation in an ordinance, except that a concurring two-thirds vote of the total membership shall be required for the granting of a use variance.

The ZBA shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony, and the production of books, papers, files, and other evidence pertinent to the matters before it.

Section 1605. Appeal and Notice Requirements

1. An appeal may be taken to the ZBA by any person, firm, or corporation, or by an officer, department, board, or bureau affected by a decision of the Building Official. Such appeal shall be taken within such time as shall be prescribed by the ZBA general rule, by filing with the Building Official and with the ZBA, a Notice of Appeal, specifying the grounds thereof. The Building Official shall forthwith transmit to the Board, all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Official certifies to the Board of Appeals, after notice of appeal has been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case, the proceedings shall not be stayed, otherwise than by a restraining order which may be granted by a court of record.
2. The Board shall select a reasonable time and place for the hearing of the appeal and give due notice of the appeal to the parties, and to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single and two-family dwellings within 300 feet, the notice to be delivered personally, or by mail, addressed to the respective owners and tenants at the address given in the last assessment role. The ZBA shall decide the appeal within a reasonable time. If the tenants name is unknown, the term occupants may be used. Public notice of the time, date, and place of the hearing shall also be given in the manner required by Act 267 of the Public Acts of 1976, and by insertion in a newspaper of general circulation in the City 15 days prior to said hearing date. Such notice shall contain the address, if available, and the location of the property for which the ruling of the ZBA is sought, as well as a brief description of the nature of the appeal. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.
3. No appeal shall be taken to the ZBA from a decision of the Planning Commission and City Council in connection with a special approval use.
4. No appeal shall be taken to the ZBA from a decision of the Planning Commission in connection with an approved site plan unless such appeal has first been reviewed by the Planning Commission and a recommendation on the variance is provided by the Planning Commission.

Section 1606. Jurisdiction

The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision of 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 was taken and may issue or direct the issuance of a permit. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the ZBA shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done. Nothing herein contained shall be construed to give or grant to the Zoning Board of Appeals the authority to make changes in the Zoning Ordinance or the Zoning Map, such power and authority being reserved to the City Council in the manner herein provided by law.

Section 1607. Powers and Duties

The ZBA shall have the following specified powers and duties:

1. Administrative Review

To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision, or refusal made by the Building Official or any other administrative official in carrying out, or enforcing, any provisions of this Ordinance.

2. Interpretation

To hear and decide in accordance with the provisions of this Ordinance:

a. Appeals for the interpretation of the provisions of this Ordinance.

b. Requests to determine the precise location of the boundary lines between the zoning districts as they are displayed on the Zoning Map, when there is dissatisfaction with the decision on such subject.

3. Variances

a. Dimensional or Non-Use Variances

To authorize, upon an appeal, a variance from the strict application of the provisions of this Ordinance where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this Ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties upon the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance. In granting a dimensional variance, the Board of Appeals may attach thereto such conditions regarding the location, character, and other features of the proposed use as it may deem reasonable in furtherance of the purpose of this Ordinance. A dimensional variance shall not be granted unless all of the following standards are met:

- 1) Special conditions and circumstances exist that are unique to the land, structures, or buildings involved, and are not applicable to other lands, structures, or buildings in the same district.
- 2) The special conditions and circumstances on which the variance request is based do not result from the actions of the applicant.
- 3) Literal interpretation of this Ordinance would deprive the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this Ordinance.
- 4) Granting the variance requested would not confer upon the applicant any special privilege that is denied by the Ordinance to other lands, structures, or buildings in the same district.
- 5) The existence of non-conforming uses of neighboring lands, structures, or buildings in the same district; permitted or non-conforming uses of land, structures, or buildings in other districts; and non-conforming structures, shall not be considered grounds for the issuance of a variance.
- 6) A variance granted shall be the minimum that will make possible a reasonable use of the land, building or structure.
- 7) The variance granted shall be in harmony with the intent of this Ordinance and will not be injurious to the environment, neighborhood, or otherwise detrimental to the public interest.

b. Use Variances

To authorize, upon an appeal, a variance for a specific use of land that is not otherwise permitted in the district in which the property is located where the strict application of the regulations enacted would result in an unnecessary hardship upon the owner of such property. In granting a use variance, the Board of Appeals may attach thereto such conditions regarding the location, character, and other features of the proposed use as it may deem reasonable in the furtherance of the purpose of this Ordinance. A use variance shall not be granted unless all the following standards have been met:

- 1) The property cannot reasonably be put to a conforming use (i.e., that the property cannot yield a reasonable economic return if it is used in strict compliance with the Ordinance).
- 2) The plight of the owner is due to unique circumstances of the property and not to general neighborhood conditions which may reflect the unreasonableness of the zoning itself.
- 3) The use to be authorized will not alter the essential character of the locality.
- 4) The problem is not self-created.

- 5) A variance granted shall be the minimum that will make possible a reasonable use of the land, building, or structure.

4. Variance Revocation

The variance shall be revoked at the end of 12 months, unless a land use permit for authorizing the construction has been obtained and construction has started and proceeds to completion in accordance with the terms of the land use permit.

5. Approval of Temporary Uses

The ZBA shall have the power to grant permits authorizing temporary land uses for:

- a. Tent sales, sidewalk sales, seasonal sales of produce, firewood or Christmas trees, and similar uses, under the following conditions:

- 1) Zoning Districts Where Permitted

Temporary uses shall be restricted to nonresidential zoning districts; except that temporary uses shall be permitted on parcels of three (3) acres or more in any residential district.

- 2) Application and Submittal Requirements

The application for a temporary use permit shall be accompanied by plans and specifications, including a plot plan, in triplicate, drawn to scale, showing the following:

- i) The shape, location, and dimensions of the lot, including the shape, size, and location of all buildings or other structures already on the lot, off-street parking layout, and the location of any designated fire lanes.
- ii) The materials to be utilized and the shape, size, and location of all buildings and structures to be erected or moved onto the lot, including all tents, tables, stands, or display racks.
- iii) The anticipated automobile traffic flow to and from the lot and any adjacent thoroughfares, loss of off-street parking spaces, if any, as well as the anticipated flow of pedestrian traffic upon lot sidewalks.

3) Time Limitations

- i) A temporary use permit for a tent or sidewalk sale shall by its terms be effective for no longer than five (5) days. No more than three (3) temporary use permits for tent sales or sidewalk sales shall be issued for a given location within a single calendar year. Temporary use permits for tent sales or sidewalk sales shall not be issued for any given location for consecutive time periods.
- ii) A temporary use permit for the sale of Christmas trees shall be its terms be effective for no longer than thirty (30) days. No more than one (1) temporary use permit for the sale of Christmas trees shall be issued for any given location within a single calendar year.
- iii) A temporary use permit for a vegetable, fruit, or produce stand or for the sale of firewood or similar use shall, by its terms, be effective for no longer than three (3) months. No more than one (1) temporary use permit for such uses shall be issued for any given location within a single calendar year.

4) Standards for Approval

A temporary use permit shall only be granted if the ZBA determines that the proposed use, including the erection of any temporary building or structure, will:

- i) Provide adequate light and ventilation between buildings and structures.
- ii) Provide adequate automobile and pedestrian traffic flow and provide adequate off-street parking.
- iii) Provide adequate lot access for fire protection purposes.
- iv) Not adversely affect the stability and integrity of the Zoning plan prescribed by this Ordinance or otherwise interfere with the protection of public health, safety, and general welfare.
- v) Not be incompatible with or otherwise adversely affect the physical character of the community and, in particular, the surrounding area with a distance of one thousand (1,000) feet.
- vi) When the proposed temporary use is to be conducted on an otherwise vacant or unused lot, the use shall comply with all applicable Zoning regulations for the district in which the temporary special use is to be located, including all requirements pertaining to lot size, height, set back, open space ratio, maximum percentage of covered lot area, and off-street parking.

- b. Permit in any residential district the temporary location of a premanufactured building in new subdivisions for periods not to exceed ninety (90) days, provided:
- 1) The use shall be only for offices for the specific purpose of selling lots or new homes to be erected in the subdivision.
 - 2) All applicable building height, bulk, and area requirements of the district are met.
 - 3) The structure shall be removed from the subdivision upon completion of the first permanently built model home intended for display, but in no case shall the premanufactured dwelling remain beyond the time limitation specified above.
- c. Permit the location of temporary building and uses for periods not to exceed two (2) years in undeveloped sections of the City, with the granting of twelve (12) month extensions being permissible, provided the conditions set forth in Section 1607, 5, e, below are met. In no instance shall a permit be extended when the property surrounding the temporary use has developed during the life of the temporary permit.
- d. Permit uses which do not require the erection of any capital improvement of a structural nature, not otherwise permitted in any district (such as art fairs, carnivals, and civic festival events), not to exceed twelve (12) months, provided the conditions set forth in Section 1807, 4, e, below are met.

In classifying uses as not requiring capital improvement, the Zoning Board of Appeals shall determine that they are either demountable structures related to the permitted use of land; recreation developments, such as, but not limited to: golf driving range and outdoor archery courts; or structures which do not require foundations, heating systems, or sanitary connections.

- e. The ZBA, in granting permits for temporary uses described in Sections 1607, 5, c and d, above, shall do so under the following conditions:
- 1) The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district, nor on the property wherein the temporary use is permitted.
 - 2) The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
 - 3) All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City shall be made at the discretion of the Board of Appeals.

- 4) The use shall be in harmony with the general character of the area.
- f. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as further provided for in this Ordinance. Further, the Board of Appeals shall seek the review and recommendation of the Planning Commission prior to the taking of any action.

Section 1608. Attachment of Conditions

The ZBA may impose conditions upon an affirmative decision. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well being of those who will use the land or activity under consideration, residents, and land owners immediately adjacent to the proposed land use, or activity, and the community as a whole.
2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
3. Be necessary to meet the intent and purpose of the Zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
4. The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged, except upon the mutual consent of the approving authority and the land owner. The approving authority shall maintain a record of changes granted in conditions.

Section 1609. Approval Period

No order of the Board permitting the erection of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such a use is established within such period; however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall contain in force and effect if building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

Section 1610. Fees

The City Council may, from time to time, prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for Zoning Board of Appeals proceedings. At the time an application is filed, said fee shall be paid to the City Clerk.

Section 1611. Rehearing

1. The decision of the ZBA shall be final. However, a person having an interest affected by the Zoning Ordinance may appeal to Circuit Court.
2. The ZBA is without general authority to reconsider a matter it has decided and from reversing its previous decision unless the facts and circumstances which actuated the decision have so changed as to vitiate or materially affect the reason which produced and supported it, and no vested rights have intervened.

Article XVII**Planning Commission****Section 1700. Creation**

The Planning Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, and shall perform the Zoning duties of said Commission, as provided in the statute in connection with the amendment of this Ordinance.

Section 1701. Approval

In cases where the Durand Planning Commission is empowered to approve certain use of premises under the provisions of this Ordinance, the applicant shall furnish such surveys, plans, or other information as may be reasonably required by said Commission for the proper consideration of the matter.

The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.

Any approval given by the Planning Commission, under which premises are not used or work is not started within six (6) months, or when such use or work has been abandoned for a period of six (6) months, shall lapse and cease to be in effect.

Article XVIII**Amending the Ordinance**

All amendments to the Zoning Ordinance must be reviewed by the City Planning Commission. Amendments may take the form of the City Council proposal, staff initiated recommendations or citizen petitions, for either zoning text or zoning district boundary changes. In any event the Planning commission shall hold a public hearing, as provided in Public Act 207 of 1921, as amended. After the public hearing has been closed, the Planning Commission shall submit a report and recommendations to the City Council on the proposed change.

Whenever the Planning Commission holds a public hearing to consider a proposed change in the Zoning District Boundaries, a written notice of such time and place for a public hearing shall be mailed to the owners, at the address given in the last assessment rolls, of all lots or parcels of land lying within three hundred (300) feet of the boundaries, or within lots in every direction of the area proposed to be rezoned, whichever is the greater area. Notices of public hearing shall also be sent to each public utility company and each railroad owning or operating within the districts or zones affected. Such notices shall be delivered personally or by first class mail, at least fifteen (15) days prior to the date of the hearing. Notices to public utilities or railroads shall only be sent to those which register their name and mailing address for the purpose of receiving the notice.

A request for zoning ordinance amendments shall be submitted to the City Clerk on standard forms provided at least fifteen (15) days prior to the next regularly scheduled Planning Commission meeting. At the next regularly scheduled meeting, the Planning Commission shall set a date for a public hearing to receive public comment. The standard forms shall be completed in the manner prescribed and such documents, as required by the resolution of the City Council, shall be levied against each petition to cover the cost of administering the application process and for advertising public hearings and other incidental costs relative to said petition. The City Clerk shall transmit the application to the Planning Commission.

A zoning amendment application once denied by City Council, shall not be resubmitted for recommendation or action within one (1) year from date of denial.

Upon presentation of a protest petition, an amendment to a Zoning Ordinance, which is the object of the petition, shall be passed only by a 2/3 vote of the legislative body unless a larger vote, but not to exceed 3/4 vote, is required by Ordinance or Charter. The protest petition shall be presented to a legislative body before final legislative action on the amendment, and shall be signed by one of the following:

1. The owners of at least twenty percent (20%) of the area of land included in the proposed change. (Publicly owned land is excluded in calculating the twenty percent (20%) land area requirement.)
2. The owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of land included in the proposed change.

Procedures for publishing a notice of ordinance adoption are as follows:

1. A notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. The notice shall include the following information:
 - a. In the case of a newly adopted zoning ordinance the following statement; "A zoning ordinance regulation the development and use of land has been adopted by the City Council of the City of Durand".
 - b. In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
 - c. The effective date of the ordinance.
 - d. The place and time where a copy of the ordinance may be purchased or inspected. The filing and publication requirements in this section relating to city and village zoning ordinances supersede charter provisions relating to the filing and publication of city ordinances.

Article XIX**Vested Right****Section 1900. Application**

1. Vested rights shall accrue when substantial physical construction work for the facilities needed for the use has begun.
2. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change, or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

Article XX**Violations, Penalties, and Other Remedies****Section 2000. Violations**

Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$500.00 dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the cost of such prosecution.

Section 2001. Fines/Imprisonment

The owner of any building, structure, or premises or part thereof, where any condition in violation of this Ordinance shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

Section 2002. Each Day a Separate Offense

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

Section 2003. Rights and Remedies are Cumulative

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Article XXI**Severance Clause**

Section 24 of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the Courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part so declared to be unconstitutional or invalid.

Article XXII**Interpretation**

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations, or permits; the provisions of this Ordinance shall control.

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