

Chapter 78 - ZONING ORDINANCE

Footnotes:

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Editor's note— Printed herein is the zoning ordinance of the city, as approved June 18th, 2007, effective July 1, 2007. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets [].

Cross reference— Any ordinance pertaining to the zoning map amendment or rezoning saved from repeal, § 1-6(a)(12); amusements and entertainments, ch. 6; buildings and building regulations, ch. 14; environment, ch. 30; land division, ch. 38; signs, ch. 48; streets, sidewalks and other public places, ch. 58; telecommunications, ch. 60; vegetation, ch. 70.

ARTICLE I. - GENERAL AUTHORITY

Sec. 78-1. - Title.

This chapter shall be known and may be cited as the "City of DeWitt Zoning Ordinance."

Sec. 78-2. - Purpose.

Pursuant to the authority granted to the city by the Public Acts of the state, this chapter is established in order to:

- a. Promote and protect the public health, safety, and welfare.
- b. Protect the character and stability of the open space, residential, and nonresidential areas within the city and promote the orderly and beneficial development of such areas.
- c. Provide adequate light, air, privacy and convenience of access to property.
- d. Regulate the intensity of use of land and lot areas and determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health.
- e. Avoid congestion on the public highways and streets.
- f. Promote healthful surroundings for family life in residential areas.
- g. Protect the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, and other health and safety hazards.
- h. Prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them.
- i. Enhance the social and economic stability of the city.
- j. Enhance the aesthetic desirability of the environment throughout the city.
- k. Conserve the expenditure of funds for public improvements and services.
- l. Protect natural resources and features.

Sec. 78-3. - Legislative intent.

- a. Zoning districts in this chapter each have a purpose and are based on the city's comprehensive development plan. The districts are sized to be adequate to handle long-term needs, and yet must be monitored relative to any necessary changes or updating as time passes.

- b. While the regulations limit the use of properties, this chapter is intended to provide landowners with a range of choices flexibility, and options for development.

Sec. 78-4. - Scope.

- a. *Interpretation and application.* In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this chapter to impair or interfere with any other existing provision of law or ordinance. However, where this chapter imposes a greater restriction than is required by existing ordinances or by rules, regulations, or permits, the provisions of this chapter shall control.
- b. *Vested rights.* Except as otherwise noted in this chapter, nothing in this chapter shall 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 all rights are hereby declared to be subject to such subsequent amendment, change or modification hereof as may be necessary to the preservation or protection of public health, safety, and welfare.
- c. *Permitted uses.* Except as otherwise provided for in this chapter, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of or addition to an existing use, building and structure occurring after the effective date of the ordinance from which this chapter is derived, shall be subject to this chapter.
 1. *Uses permitted by right.* All land development specifically listed under the heading "uses permitted by right" shall be allowed when determined to be in accordance with all provisions of this chapter and all other applicable laws, regulations or ordinances having jurisdiction over the proposed use of land.
 2. *Uses permitted by special land use.* All land development specifically listed under the heading of "uses permitted by special land use" in the district description contained in this chapter shall be conducted in accordance with the requirements of article X, special land uses of this chapter.
 3. *Uses not specifically mentioned.*
 - (a) Any use of land or development activity not specifically mentioned in this chapter is prohibited unless determined to be a similar use by the zoning board of appeals (ZBA).

If the ZBA finds that the use is not similar in character to uses listed in this chapter, either by right or as a special use, the applicant may then make application to the planning commission for consideration of an amendment to the zoning ordinance to include the proposed use in one (1) or more of the zoning districts of this chapter.
 4. *Uses existing before ordinance.* Any use of the land or development activity existing on the effective date of the ordinance from which this chapter is derived may continue subject to the provisions contained in article XIII, non-conforming uses, buildings or structures, lots, and sites of this chapter.

Sec. 78-5. - Application of regulations.

The right to continue a land use or activity or construct a building or structure which is either permitted by this chapter or established as a legal nonconformity shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to article XIII, non-conforming uses, buildings or structures, lots, and sites of this chapter.

Secs. 78-6—78-20. - Reserved.

ARTICLE II. - GENERAL PROVISIONS

Sec. 78-21. - Intent and purpose.

- a. The purpose of this article to establish regulations and conditions which are generally applicable to all districts of this chapter, unless otherwise indicated, and to provide uniform regulations applicable within the city which supplement the specific requirements for each district and each permitted use.
- b. The regulations of this article shall apply to all districts unless specifically excepted elsewhere in this chapter.

Sec. 78-22. - Access to streets.

All lots created after the effective date of the ordinance from which this chapter is derived shall have road frontage that is at least equal to the required minimum lot width except as regulated in Section 78-27, Cul-de-sac Lots, and direct access from the lot to a public street or a private drive created in accordance with the requirements of this chapter.

Sec. 78-23. - Accessory buildings and structures general requirements.

- a. Accessory buildings and structures that are customarily incidental and subordinate to an existing principal building, structure or use permitted by right within the applicable district, located on the same lot and not otherwise regulated by this article, shall be permitted subject to the regulations of this article.
- b. Attached accessory buildings and structures shall be made structurally a part of the principal building and shall conform to the site development standards of the district in which the building or structure is located.
- c. Accessory buildings and structures are not to be constructed of canvas, plastic film, or similar material that does not provide long-term durability.
- d. Accessory buildings and structures are not to be built of tubular frame construction.
- e. Accessory buildings and structures two hundred (200) square feet in floor area or greater shall be securely attached to a foundation, footings or a concrete slab so that they are a permanent fixture on the property.

Sec. 78-24. - Accessory buildings and structures; residential districts or uses, excluding MF-N.

- a. Accessory buildings and structures shall only be located in the rear yard of an interior lot and within a side yard of a corner lot. On a through lot, an accessory structure may be located in the yard behind the dwelling, but shall meet the front yard setback requirement for the zoning district. Detached buildings and structures up to one thousand five hundred (1,500) square feet in size shall be no closer than six (6) feet from any lot line. Detached buildings and structures greater than one thousand five hundred (1,500) square feet in size shall be no closer than twelve (12) feet from any lot line. In both instances, the setback is measured from the closest point of the building.
- b. Accessory buildings shall be permitted in conjunction with Table II-01, Residential Accessory Buildings and Structures:

**Table II-01
Residential Accessory Buildings and Structures**

Lot Size	Maximum Number of Accessory Buildings	Maximum Building Size (square feet)	Maximum Building Height (feet to highest point)

10,000 square feet or less	1	720	16
Greater than 10,000 square feet, up to 1 acre	1	960	18
Greater than 1 acre up to 2 acres	2	3,000	24
Greater than 2 acres	4	6,000	28

- c. One (1) additional storage shed shall be permitted for a residential district or use not to exceed one hundred twenty (120) square feet in area. A swimming pool or cover structure shall also be permitted on a lot, subject to the requirements of Section 78-43, Swimming Pools, Spas or Hot Tubs and any other applicable ordinance.

(Ord. of 2-14-2012; Ord. of 8-27-2018(1), § 4)

Editor's note— Ord. of 8-27-2018 changed the title of § 78-24 to read as set out herein. Formally § 78-24 was entitled "Accessory buildings and structures; residential districts or uses."

Sec. 78-25. - Accessory buildings; nonresidential districts or uses.

- a. No more than two (2) accessory buildings shall be permitted on any lot.
- b. The total area of all accessory buildings shall not exceed twenty-five (25) percent of the floor area of the main building.
- c. Accessory buildings shall meet all setback requirements for the principal building, except that in no case shall they be closer than ten (10) feet from any lot line.
- d. No accessory building shall be located nearer than ten (10) feet to any principal building.
- e. No accessory building shall exceed the permitted height for principal buildings in the district in which it is located.

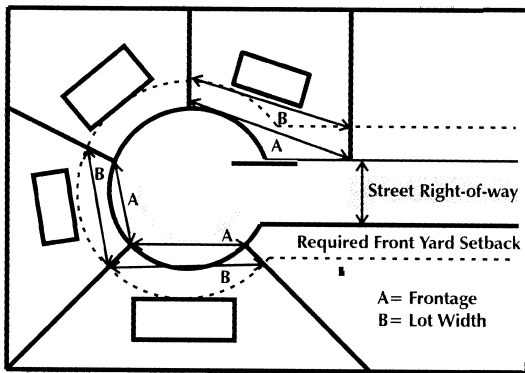
Sec. 78-26. - Change of use or alteration.

Except as may otherwise be permitted in this chapter, any change in the use of a lot or structure, or any alteration of an existing lot or structure shall require the issuance of a development permit and the compliance with all provisions of this chapter.

Sec. 78-27. - Cul-de-sac lots.

- a. The cul-de-sac, when permitted, shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
- b. The minimum lot width for a lot on a cul-de-sac shall be measured at a line drawn between the two (2) points located at the intersection of a line extending along the side lot lines equal to the distance of the required front setback (shown as line "B" in the figure).
- c. A lot on a cul-de-sac shall have not less than forty (40) feet of lot frontage (shown as line "A" in the figure).

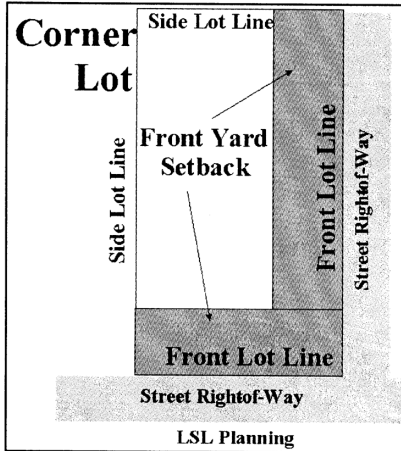
Lot Width for a Cul-de-Sac Lot



Lot Width for a Cul-de-Sac Lot

Sec. 78-28. - Lot width/depth ratio.

Lots created after the effective date of the ordinance from which this chapter is derived having a lot area of less than ten (10) acres shall have a lot width which is equal to, or greater than, one-third (1/3) the depth of the lot.



Lot Measurements

Sec. 78-29. - Determination of lot measurements.

- a. A corner lot and a through lot shall have two front lot lines, two side lot lines, and no rear lot line.
- b. Required front yard setbacks shall be measured from both front lot lines.
- c. The minimum lot width of a corner lot shall be defined as the shorter of the two (2) front lot lines.
- d. On curvilinear streets, the minimum front yard setback is measured along a curve parallel to the front lot line.
- e. Average setbacks:
 - 1. Where the front setbacks for existing main buildings entirely or partially within two hundred (200) feet of the side lot lines on the same side of the street and in the same zoning district of the subject lot are less than the required front setbacks for the zoning district of the subject lot, the required front setback for the subject lot shall be the average of the front setbacks of existing main buildings within the two hundred (200) foot distance.
 - 2. A front setback reduction shall only be permitted if there are two (2) or more lots occupied by main buildings within the two hundred (200) foot distance.

3. In no case shall the required front setback resulting from the application of this subsection be less than twelve (12) feet, six (6) inches except in the central business district which does not require a front setback.

(Ord. of 2-14-2012)

Sec. 78-30. - Principal building or principal use.

Each parcel shall contain only one (1) principal building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple-family dwellings, contained within a single; integrated complex. An integrated complex shall share parking, signs, access, and other similar features which together form a unified function and appearance.

Sec. 78-31. - Earth removal, grading and filling.

In order to protect adjacent properties; public roads and public watercourses, and to provide for adequate drainage of surface water the following requirements shall apply to all construction activities requiring a development permit pursuant to this chapter.

- a. Filling of property to an elevation above the established grade of adjacent developed property shall not be permitted without the expressed written approval of the city engineer.
- b. The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped so surface water flows away from the building or structure and is managed to avoid increased flow onto adjacent properties or public roads, erosion or earthen filling of a roadside ditch, the blockage of public watercourse, or creation of standing water over a private sewage disposal drainage field.
- c. Any land development which disturbs the existing grade of more than one (1) acre of land or lies within five hundred (500) feet of a river, stream, lake or open drain, shall require a soil erosion and sedimentation control permit pursuant to law prior to the issuance of a development permit.
- d. Any land development, dredging, filling, or other activity requiring a permit pursuant to part 301 of the Natural Resources and Environmental Protection Act (MCL 324.30101 et seq.) shall be required to obtain the permit prior to the issuance of a development permit.

Sec. 78-32. - Essential public services.

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district.

Sec. 78-33. - Fences and walls.

- a. A fence or wall is permitted in a front yard provided it is not higher than three and one-half (3½) feet. The type of fence is to be non-solid in construction with openings of at least seventy-five (75) percent in each square foot of fencing.
- b. Walls and fences, not exceeding six (6) feet in height, are permitted in side and rear yards of all districts except that the requirements of Section 78-36, Intersection Visibility shall be met, unless otherwise permitted in this chapter.
- c. Refer to Section 78-435e., Landscaping for Additional Fence and Wall Regulations.

Sec. 78-34. - Height exceptions.

Chimneys, church spires, cupolas, domes, towers, water tanks, and monuments may be erected to a height up to sixty (60) feet; flag poles may be erected to a height up to thirty (30) feet. The city shall be provided sufficient evidence to assure that adjacent uses and structures are not threatened due to a collapse of the structure for any reason.

Sec. 78-35. - Home occupations.

- a. Home occupations shall be approved by the development official, who may issue a home occupation permit approval upon receipt of an application from the applicant stating his/her intent to comply with the requirements of this section and the specific measures by which compliance will be maintained. The dwelling shall conform to all Zoning District requirements.
- b. A home occupation shall be conducted only within the premises of a single-family detached dwelling unit. Home occupations are not permitted within two-family or multiple-family dwellings.
- c. There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation. The on-site storage of commercial vehicles used incidentally for or used in the home occupation business shall not be permitted.
- d. An operator of the home occupation shall make the dwelling unit within which the home occupation is conducted his/her legal and primary place of residence, where all activities such as sleeping, eating, entertaining and other functions and activities normally associated with home life are conducted. If an operator is not an owner of the residence he or she shall have written permission of the owner prior to the commencement of operations.
- e. Home occupations are permitted only in the principal structure or building. All activities related to the home occupation shall be carried on entirely within the dwelling unit. In no case shall more than 20 percent or 480 square feet, whichever is smaller, of the gross floor area of the principal building be utilized for a home occupation.
- f. A home occupation shall not generate a traffic burden through excessive traffic or create an adverse effect for the general area in which it is located. The following factors shall be considered by the development official to determine whether the traffic effects on a neighborhood may be excessive:
 1. Whether the subject parcel is located at the entrance or the interior of a subdivision where increased traffic volumes may be otherwise anticipated.
 2. Whether the nature of the proposed home occupation requires scheduled appointments or whether traffic volumes may be higher at certain times of the day.
 3. Whether traffic volumes may vary on a seasonal basis.
 4. Whether the home occupation could be conducted in such a manner as to reduce traffic generated in the area.
- g. Any parking for vehicles associated with the home occupation shall be provided off the street.
- h. No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products directly related to and necessary for the home occupation.
- i. The establishment of a home occupation shall not necessitate exterior modifications to any building on the property, except as may be required by the development official to comply with adopted building codes and requirements. No new external entrance to the space devoted to the occupation shall be created. Any permanent structural alterations to the interior of the dwelling unit for purposes of conducting the home occupation, which would render it unsuitable for residential use, shall be prohibited.
- j. The applicant shall certify that the home occupation will not be detectable to the normal sense off the lot or produce fumes, odors, dust, vibration, noise, smoke, electrical or cell phone interference, fire hazard, excessive light or glare, or other conditions which might pose a nuisance to adjacent properties. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
- k. The development official may identify allowable hours of operations to avoid possible disquieting effects from the home occupation to adjacent properties.

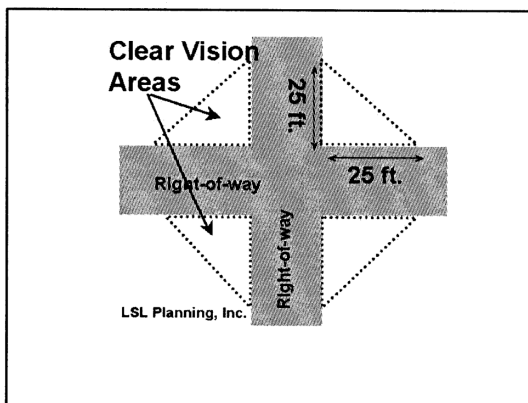
- l. Signs shall be allowed as permitted in article XV, signs, of this chapter, except for signs regarding medical marihuana, w are prohibited. In no case shall a sign exceed two square feet in area. The permitted sign shall be non-illuminated and mounted flat against the wall of the dwelling.
- m. Other codes. All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.
- n. Prohibited occupations. Prohibited home occupations include, but are not limited to, the following:
 1. Animal processing.
 2. Any repair of motorized vehicles, including the painting or repair of automobiles, trucks, trailers, boats, and lawn equipment.
 3. Animal hospitals or kennels.
 4. Barber shops or beauty parlors having more than one chair.
 5. Restaurants.
 6. Medical or dental offices.
 7. Construction businesses or landscaping businesses that provide the storage of goods, equipment and materials to be utilized in the operation of the business or use.
 8. Furniture finishing and refinishing.
 9. Warehousing.
 10. Welding or machine shops.
- o. Fine art/craft/music instruction. Instruction in a fine art, craft or music is a permitted home occupation.
- p. Medical marihuana. A registered primary caregiver, in compliance with the General Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26421 et seq., and the requirements of this chapter, shall be allowed as a home occupation. Nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the General Rules. Also, since Federal law is not affected by the Act or the General Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. The Michigan Medical Marihuana Act does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:
 1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 2. A registered primary caregiver must be located outside of a 1,000 foot radius from any school, including child care or day care facility, to insure community compliance with Federal "Drug-Free School Zone" requirements, and from any church or drug rehabilitation facility.
 3. Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel. No more than two registered qualifying patients shall be allowed on the premises at any one time.
 4. Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.

5. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualified caregiver.
 6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
 7. If a room with windows is utilized as a growing location, any lighting methods used during the hours of 11 p.m. and 7 a.m. shall employ shielding, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
 8. Upon request of the city administrator or his or her designee, the fire chief, or his or her designee may perform a fire inspection.
- q. The medical use of marihuana as a home occupation shall be kept confidential, as provided in Section 6(h) of the Michigan Medical Marihuana Act, MCL 333.26426(h).
 - r. Marihuana dispensary, collective, compassion club or cooperative. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective, compassion club, or cooperative within the city.

(Ord. of 1-10-12)

Sec. 78-36. - Intersection visibility.

- a. No fence, wall, hedge, screen or any planting shall be erected or maintained to obstruct vision between a height of three (3) feet and eight (8) feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines twenty-five (25) feet from the point of intersection of the right-of-way lines.
- b. The three (3) foot and eight (8) foot height limit shall be measured from the lowest elevation of the segment of the intersecting roads centerline which lies between the point of the intersection of the other centerline and the extension of the line drawn through the points twenty-five (25) feet from the intersection of the right-of-way lines.



Intersection visibility

Sec. 78-37. - Keeping of animals.

The keeping, housing, raising, use or care of animals is permitted within the provisions of the city animal ordinance, and subject to the following limitations and conditions:

- a. Domestic animals (pets) may be kept on a noncommercial basis provided that the number of such animals does not exceed six (6).

- b. Livestock animals may be kept subject to the following requirements:
 - 1. Minimum lot size of three (3) acres for the first two (2) livestock animals.
 - 2. An additional one-half (½) acre for each additional livestock animal provided that no more than a total of twenty (20) acres shall be allowed to accommodate livestock animals under this limitation.
 - 3. In no case shall more than twelve (12) animals be kept on a property.
 - 4. When livestock animals are kept or permitted to roam outdoors, an adequate fence shall be provided and maintained to confine such livestock animals from adjoining property and roads.
- c. The keeping of exotic animals is prohibited in all zoning districts.

Sec. 78-38. - Projections into yards.

- a. Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be permitted to encroach upon the minimum setback requirements of the chapter, provided such projection into a required front or rear yard area is no closer than ten (10) feet from a street right-of-way line or rear lot line.
- b. Projections into yards within residential districts shall be regulated in Table II-02, Projections into Yards: Residential Districts.

**Table II-02
Projections into Yards: Residential Districts**

District	Regulations
GCR R-1 MF	1. Covered terraces, patios, porches and decks, not including steps leading to the structure, shall be attached to and considered part of the main building and comply with all the regulations applicable to the principal building. 2. Terraces, patios, porches, and decks, including steps leading to the structure shall be permitted to encroach upon the minimum setback requirements provided the encroachments are: <ul style="list-style-type: none"> a. Attached to the main building; b. Not covered with a roof; c. Located no closer than 20 feet from a street right-of-way line or rear lot line; d. Where the floor of the structure is level with or below the threshold of the front door.

R-2	<p>1. Covered terraces, patios, porches; and decks, not including steps leading to the structure; shall be attached to and be considered part of the main building and comply with all the regulations applicable to principal buildings;</p> <p>2. Terraces, patios, porches, and decks, including steps leading to the structure shall be permitted to encroach upon the minimum setback requirements, provided the encroachments are:</p> <ol style="list-style-type: none"> Attached to the main building; Not covered with a roof; Located no closer than 20 feet from a street right-of-way line or rear lot line; Where the floor of the structure is level with or below the threshold of the front door; Not enclosed by a wall or fence over four feet in height from the floor of the porch or patio; and Are architecturally compatible with the house and surrounding homes in terms of design, style and materials. <p>3. Structures identified above shall not be considered non-conforming, and therefore, shall be permitted to be rebuilt even if damaged or destroyed by a natural or unnatural occurrence, or by the owner or occupant of the structure.</p>
R-3	<p>1. Terraces, patios, porches, and decks, including steps leading to the structure, shall be permitted to encroach upon the minimum setback requirements provided the encroachments are:</p> <ol style="list-style-type: none"> Attached to the main building; Located no closer than ten feet from a street right-of-way line or rear lot line; Not to encroach into the required side yard; Not fully enclosed; Not containing heating or cooling elements; Not used for living space; Where the floor of the structure is level with or below the threshold of the front door; Not enclosed by a wall or fence over four feet in height from the floor of the porch or patio; and Are architecturally compatible with the house and surrounding homes in terms of design, style and materials; <p>2. Structures identified above shall not be considered non-conforming, and therefore, shall be permitted to be rebuilt even if damaged or destroyed by a natural or unnatural occurrence, or by the owner or occupant of the structure.</p>

Sec. 78-39. - Regulations applicable to single-family dwellings outside manufactured home parks.

Any single-family dwelling, whether constructed and erected on a lot, or a manufactured home, shall be permitted outside a manufactured home park only if it complies with all of the following requirements:

- The dwelling shall meet the minimum square footage requirements for the district in which it is located.
- Design features.
 - The minimum width across any front, side, or rear architectural elevation shall be at least twenty-four (24) continuous feet of exterior wall.
 - All dwellings shall have either a roof with a minimum 4:12 pitch and an overhang of not less than six (6) inches on all sides or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.

3. The dwelling shall contain permanently attached steps connected to exterior door areas or to porches connecte areas where a difference in elevation requires them.
 4. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required in this section.
 5. The dwelling shall contain an interior storage area in a habitable basement or cellar located under the dwelling, or in a defined storage room space separate from closet areas, garage, and utility or furnace rooms. The minimum storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
 6. Laundry facilities are required.
- c. The dwelling shall conform to the city building code and all other pertinent construction and fire codes. 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 in effect in the city, the more stringent local standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
 - d. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to such manufactured home shall be of a type and quality conforming to the mobile home construction and safety standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
 - e. The dwelling shall be placed upon and secured to a permanent foundation in accordance with the city building code.
 - f. All wheels, towing mechanisms or undercarriages, shall be removed.
 - g. The dwelling shall be connected to a public sanitary sewer and water, if available.
 - h. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, as follows.
 1. The compatibility of design and appearance shall be determined in the first instance by the development official upon review of the plans, which may include elevational sketches or photographs, submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning board of appeals within a period of fifteen (15) days from the receipt of notice of the development official's decision.
 2. Any determination of compatibility shall be based upon the standards set forth in this subsection regarding dwellings as well as the character, design and appearance of one (1) or more residential dwellings located outside of mobile home parks within nine hundred (900) feet of the subject dwelling.
 - i. The requirements of this section shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
 - j. The foregoing standards shall not apply to manufactured homes located in a state licensed manufactured home park except as required by state or federal law or otherwise specifically required in any city ordinance pertaining to such parks.

Sec. 78-40. - Required area or space.

No lot, yard, court, parking area or other space shall be so reduced in area or dimension as to make the area or dimension less than the minimum required under this chapter. If already less than the minimum required under this chapter, such area or dimension shall not be further reduced.

Sec. 78-41. - Required water supply and sanitary sewage facilities.

No structure for human occupancy shall be erected, altered, or moved upon any premises and used in whole or in part for residential, assembly, business, industrial, institutional, mercantile or storage purposes unless the water supply and wastewater disposal system conforms with the requirements of the state department of public health, Mid-Michigan District Health Department, and any city ordinance applicable to public sanitary sewer and public water supply.

Sec. 78-42. - Satellite dish antennas.

- a. In residential districts, a satellite dish antenna shall be permitted only in a rear yard, or mounted or attached to a building.
- b. A satellite dish antenna shall comply with the side and rear yard setback requirements applicable to main buildings in the district in which it is located.
- c. In nonresidential districts, a satellite dish antenna shall be located only in the side or rear yard or mounted on top of a building. No more than two (2) satellite dish antennas shall be located on the same lot as a main building. Satellite dish antennas are permitted only in connection with, incidental to and on the same lot as a principal use or main building.
- d. Satellite dishes less than one (1) meter in diameter shall be exempt from the regulations of this section.

Sec. 78-43. - Swimming pools, spas or hot tubs.

- a. Swimming pools, spas or hot tubs shall conform to the setback requirements for accessory uses pursuant to Section 78-23, Accessory Buildings and Structures General Requirements; Section 78-24, Accessory Buildings and Structures; Residential Districts or Uses, excluding MF-N and Section 78-25, Accessory Buildings; Nonresidential Districts or Uses.
- b. All in-ground swimming pools shall be enclosed by a fence. Fences or enclosures, including the gates, shall not be less than four (4) feet in height or greater than six (6) feet in height. All gates shall be self-latching with latches placed no less than four (4) feet above grade. The composition of the fence shall meet the barrier requirements contained in the city building code.
- c. All above-ground or on-ground swimming pools with side walls at least four (4) feet in height and with the means of access being a ladder or steps shall have a ladder or steps capable of being secured, locked or removed to prevent access or the ladder or steps shall be surrounded by a fence constructed per c. above.
- d. All above-ground or on-ground swimming pools without side walls at least four (4) feet in height must be fenced per the fencing requirements contained in c. above or can be secured by mounting a fence or other barrier on top of the pool structure so that the pool is enclosed by a barrier at least four (4) feet in height. If the means of access to the pool is a ladder or steps, the ladder or steps shall be capable of being secured, locked or removed to prevent access.
- e. Spas or hot tubs with a safety cover which complies with ASTM F1346 (2003 Michigan Residential Building Code) and swimming pools with a water depth of twenty-four (24) inches or less shall be exempt from c.—e. above.

Sec. 78-44. - Temporary buildings.

Mobile offices, tool sheds, and storage trailers shall be permitted during the time of actual construction provided they are located pursuant to Section 78-23, Accessory Buildings and Structures General Requirements; Section 78-24, Accessory Buildings and Structures; Residential Districts or Uses, excluding MF-N and Section 78-25, Accessory Buildings; Nonresidential Districts or Uses and are in compliance with the Mid-Michigan District Health Department Sanitary Code. These structures shall be removed within twelve (12) working days after the completion or abandonment of construction work on the property.

Sec. 78-45. - Temporary occupancy in vehicular dwelling.

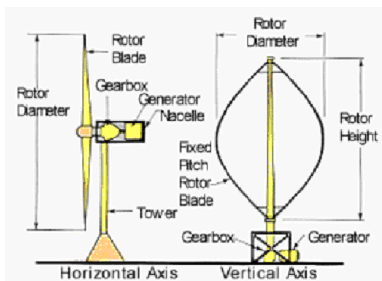
- a. No building or structure erected or moved upon a lot which does not meet the requirements of this article shall be used or occupied as a dwelling.
- b. The owner or renter of any premises upon which a dwelling is situated may permit the parking of an occupied recreational vehicle (RV), motor home, mobile home, or travel trailer, of a guest or visitor on the premises for a period not exceeding a total of fifteen (15) days in any period of three hundred sixty-five (365) consecutive days, provided that a permit is applied for by the owner of the property and issued by the development official. Application for such permit shall include the serial number and license number of the unit, the name and permanent address of the owner thereof, and a statement warranting that the occupants of the unit shall have unrestricted use of the sewer and water supply facilities of the dwelling.

Sec. 78-46 - Wind energy conversion systems.

This subsection establishes standards and procedures by which the installation and operation of an on-site service WECS shall be governed within the City of DeWitt.

A. Definitions:

1. Wind energy conversion system (WECS): Shall mean a combination of:
 - a. A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical power; and
 - b. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
 - c. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
 - d. The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.



- e. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.

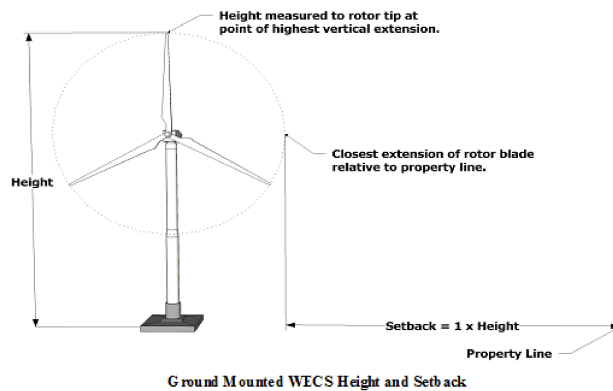
A WECS may have a horizontal axis, with a rotor that spins perpendicular to the ground, or a vertical axis, with a rotor that spins parallel to the ground.

2. WECS height: The distance measured between the ground (at normal grade) and the highest point of a WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position).
3. On-site service WECS: A single WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.

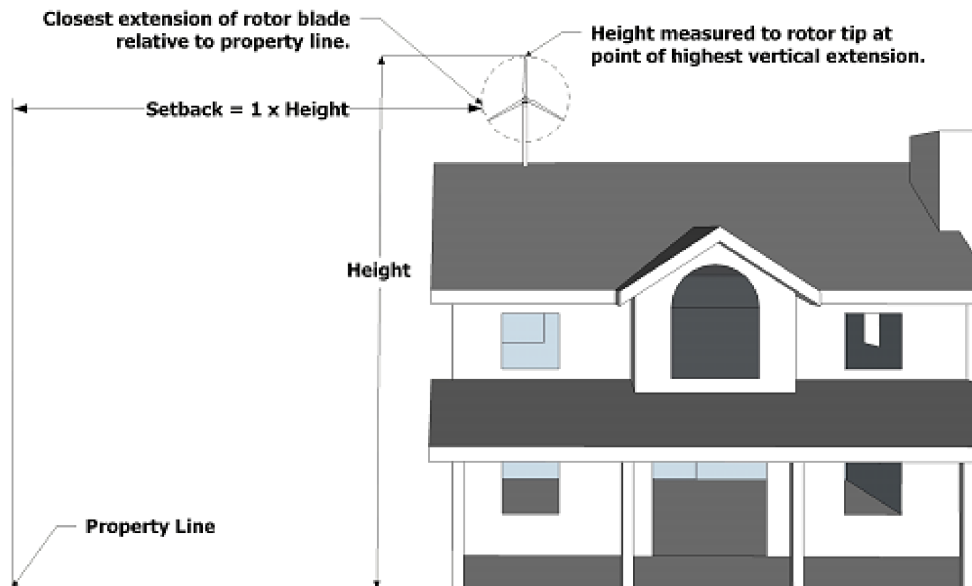
B. On-site service WECS general requirements:

1. Except as may otherwise be required by this ordinance, an on-site service WECS shall be allowed as an accessory use in any district, subject to the requirements of this section.
 2. The minimum lot area for installation of a WECS shall be 12,000 square feet.
 3. Review requirements: For any WECS exceeding 50 feet in height, a special land use must be approved by the city council, according to section 78-236.
 4. Power rating of the WECS turbine shall not be greater than 25 kW.
 5. The WECS shall provide energy only to the structures and uses on the same property upon which the tower is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to the local utility company of any power that is generated beyond the needs of the structures or uses on the property. Except for the local utility company, power generated by the WECS may not be provided to any other property or entity.
 6. No sound attributed to the WECS in excess of 55 dB(A) shall be discernible at the property line.
 7. There shall be no signs on the WECS other than the name of the manufacturer, which may only be affixed to the base of the tower or to the nacelle. No sign shall exceed three square feet in area.
 8. There shall be no lighting on or directed to the WECS.
 9. The WECS shall be painted in a neutral matte color, such as gray or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
 10. A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding. Emergency shut-off information shall be posted on the tower in an easily viewable location.
 11. A WECS shall employ an anti-climbing device or be designed to prevent climbing and other unauthorized access.
 12. The applicant's engineer must certify that the WECS will not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception. Such interference shall constitute a nuisance per se in violation of section 30-36.
 13. The applicant shall ensure that the WECS complies with all applicable federal, state and county requirements, in addition to City ordinances and required permits.
 14. The applicant's engineer must demonstrate that the WECS will comply with applicable ANSI (American National Standards Institute) and the National Electric Code requirements.
 15. A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned or no longer operating when it has not produced electrical energy for 12 consecutive months.
 16. An existing and approved WECS may be repaired and maintained; however, a WECS may only be replaced with a new WECS upon approval of the Development Official, provided that the new WECS is of the same height, rotor diameter, setback, etc. as the WECS it replaces. For the purposes of this paragraph, a "new or replacement WECS" shall mean all of the WECS, excluding the tower or support structure.
- C. *Ground-mounted on-site service WECS.*
1. The WECS shall be located on the property so that it is set back from all property lines a distance equal to the WECS height. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line

(see graphic). No part of a single WECS (including guy wire anchors) shall be located within or above any required setback.



2. The WECS height shall be limited by available setbacks as required in paragraph 1) above; however, no WECS height shall exceed 50 feet on a property at least 12,000 square feet but less than one acre in area; or 75 feet on a property one acre in area or greater. Any WECS over 50 feet high is subject to Special Land Use review according to Article X, regardless of lot size.
 3. The minimum rotor blade tip clearance from grade shall be 20 feet.
 4. The minimum rotor blade tip clearance from any structure shall be 20 feet.
 5. The diameter of the rotor shall be dependent upon maximum WECS height and rotor blade tip clearance, but in no case shall it exceed 50 feet.
 6. The tower used to support a WECS shall be adequately anchored meeting applicable Building Code standards, as certified by an engineer.
 7. The WECS shall be located on the property so that it is set back from all off-site overhead power lines by a distance equal to the WECS height.
- D. Building Mounted On-Site Service WECS
1. The diameter of the rotor shall not exceed 20 feet.
 2. The WECS height shall not exceed the maximum permitted height for principal buildings in the district, plus 15 feet.
 3. The WECS shall be mounted so that it is set back from adjoining property lines a distance equal to the combined height of the WECS and the height of the portion of the building on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic).



Building Mounted WECS Height and Setback

4. A building mounted WECS shall not be mounted to the vertical face of a gable end or dormer that is visible from the street. To the greatest degree possible, the WECS shall be mounted to the building in the least visible location.
 5. The mount and the structure used to support a building mounted WECS shall meet applicable standards, as certified by an engineer.
- E. Discretionary conditions: The planning commission, or in the case of a special land use, the city council, may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any WECS. Such other terms and conditions may include, but are not limited to, the following:
1. The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
 2. The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.
 3. Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this Section are met.

(Ord. of 6-15-2010)

Secs. 78-47—78-80. - Reserved.

ARTICLE III. - ZONING DISTRICTS IN GENERAL

Sec. 78-81. - Establishment of districts.

For the purposes of this chapter, the city is divided into zoning districts which shall be known by names and symbols as described in Table III-01 Zoning Districts:

**Table III-01
Zoning Districts**

Residential Districts	
R-1	Single-Family, Low Density Residential District.
R-2	Single-Family, Moderate Density Residential District
R-3	Moderate Density Mixed Residential District
GCR	Golf Course Residential District
MF	Multiple-Family Residential District
MHP	Manufactured Home District
Non Residential Districts	
PQ	Public and Quasi-Public District
O	Office District
CB	Central Business District
LC	Limited Commercial District
Overlay Districts	
F	Flood Hazard Area Overlay District
PUD	Planned Unit Development

Sec. 78-82. - Official zoning districts map.

The boundaries of the zoning districts enumerated in Section 78-81, Establishment of Districts are established as shown on the official zoning map of the city, which accompanies this text. Such map with all notations, references and other information shown on the map is adopted by reference as a part of this chapter. One (1) copy of the official zoning map shall be maintained and kept up to date by the city clerk, accessible to the public, and shall be the final authority as to the current zoning status of all property in the city.

Sec. 78-83. - Interpretation of district boundaries.

If because of the scale, lack of details, or illegibility of the official zoning map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of district boundary lines shall be determined, upon written application to the zoning board of appeals (ZBA). In arriving at a decision, the ZBA shall apply the following standards:

- a. The boundaries of zoning districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the official zoning map.
- b. Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries.
- c. Unless shown by dimension on the official zoning map, where a district boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.
- d. Where district boundaries are indicated as approximately following city limits, they shall be construed as following the city limits.
- e. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of a naturally occurring change in a shoreline, the boundary shall be construed as following the actual shoreline. A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline.
- f. If a district boundary is indicated as being parallel to, or an extension of a feature described in this section it shall be so construed.
- g. 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 in this section the ZBA shall determine the district boundaries.

Sec. 78-84. - Zoning of vacated areas.

If a street, alley or other public right-of-way within the city is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley or public right-of-way, such lands shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands, and shall be governed by this chapter.

Sec. 78-85. - Zoning of filled land; use of waters.

If earthen fill is placed in any lake or stream, the created land shall automatically and without further governmental action acquire and be subject to the same zoning regulations applicable for lands to which the land attaches or is adjacent; and the created land shall be used for those purposes as are permitted under this chapter for the adjoining lands.

Sec. 78-86. - Zoning of annexed areas.

When property is annexed into the city, the planning commission shall consider the appropriate district classification and shall propose an amendment to this chapter concerning the annexed land to the city council within one (1) year of the effective date of the annexation. In the interim period, the existing city zoning regulations shall remain in effect pursuant to law.

Secs. 78-87—78-100. - Reserved.

ARTICLE IV. - RESIDENTIAL DISTRICTS

Sec. 78-101. - Intent and purpose.

- a. *Golf course residential district (GCR)*. The golf course district is intended to provide for open space areas, parks, conservation areas, golf courses, recreational areas, and to provide for residential uses when developed in association with an existing or proposed nine (9) or eighteen (18) hole public or private golf course. The purpose of this district is to enhance, preserve and stabilize private recreational resources, promote public recreation, protect environmentally sensitive areas, and provide for an increased variety of housing.
- b. *Single-family, low density residential district (R-1)*. The single-family, low density residential district is intended to provide stability in existing low density areas by ensuring compatible residential density, encouraging a safe environment for family life, and protecting such areas from incompatible land uses. The purpose of this district is to preserve the character, amenities and property values associated with low density residential development.
- c. *Single-family, moderate density residential district (R-2)*. The single-family, moderate density residential district is intended to promote stability in existing moderate density neighborhoods by ensuring comparable residential densities, encouraging a safe environment for family life, and preserving amenities. The purpose of this district is to maintain the character and conserve the value of property in existing moderate density areas while allowing flexibility in the design and site planning of new development.
- d. *Moderate density mixed residential district (R-3)*. The moderate density mixed residential district is intended to provide for the stability of the existing residential development location in older neighborhoods of the city, while accommodating a range of compatible residential uses. The purpose of this district is to preserve and enhance the character of established neighborhoods while providing for the controlled remodeling and redevelopment as needed to prevent blight and encourage the productive use of existing buildings.
- e. *Multiple-family residential district (MF)*. The multiple-family district is intended to provide for a mixture of housing types. The purpose of this district is to ensure that multiple-family housing is located in areas which afford adequate street capacity, is served by public sanitary sewer, and is in close proximity to commercial services and schools.
- f. *Multiple-family neighborhood district (MF-N)*. The multiple-family neighborhood district is primarily intended to increase the availability of senior housing facilities in the city, but only in areas that can support such use and where consistent with the city's 2010 master plan. The purpose of this district is to create a neighborhood setting for multi-family dwellings for senior housing, but which also could allow for a mixture of other housing types such as single-family or duplex style dwellings located in areas which afford adequate street capacity, public sanitary sewer, water and other critical infrastructure, and which are in close proximity to commercial services that are not provided on site.

(Ord. of 8-27-2018(1), § 1)

Sec. 78-102. - Uses permitted.

Land and/or buildings in the districts indicated at the top of the Table IV-01 Schedule of Residential Uses may be used for the purposes denoted by a "P" in the column below by right. Land and/or buildings in the districts indicated at the top of the following table may be used for the purposes denoted by "S" after special land use approval by the planning commission in accordance with the procedures and requirements of article X, special land uses and article XI, site plan review. A notation of "—" indicates that the use is not permitted within the district.

Table IV-01
Schedule of Residential Uses

	GCR	R-1	R-2	R-3	MF	MF-N
Agriculture						
Cropland & Horticulture without Livestock	—	P	—	—	—	—
Residential						
Duplex Dwellings	S	—	S	P	P	P
Home Occupations	P*	P*	P*	P*	—	—
Multiple Family Dwellings	—	—	—	S	P	P
Single Family Dwellings	S	P	P	P	—	P
Care Facilities						
State Licensed Residential Care Family Facilities	P	P	P	P	P	P
State Licensed Residential Care Group Facilities	S	S	S	S	S	P
State Licensed Family Day Care Centers	P	P	P	P	P	—
State Licensed Group Day Care Centers	S	S	S	S	S	—
Entertainment & Recreational						
Golf Courses & Country Clubs & Related Uses	P	S	S	S	S	—
Parks & Recreation Facilities, Noncommercial	S	S	S	S	S	—
Service & Retail Trade						
Cemeteries	—	S	S	—	—	—
Off-street Parking for Uses located in the CB District	—	—	S	S	S	—
Public, Institutional, & Utilities						
Churches, Temples, & other Places of Worship or Public Assembly	—	S	S	S	S	—
Educational Institutions	—	S	S	S	S	—
Government & Community Service Facilities	—	S	S	S	S	S
Communal Spaces ***						
Indoor exercise/ fitness facilities						A
Outdoor recreation facilities						A
Theatre, auditorium, or public assembly room						A
Offices						A ***

Note: * Subject to the approval of the development official pursuant to the requirements of Section 78-102.

*** The total square footage of all "communal spaces" are not to exceed 15 percent of the total useable floor area of the principal building.

**** The office space may not be leased, rented, or sold to another entity. Office space must be solely used by employees of the establishment(s) on site.

"A" denotes accessory space.

(Ord. No. 2017-01, § 2, 2-28-2017; Ord. of 8-27-2018(1), § 2)

Sec. 78-103. - Site development requirements.

All lots, buildings, and structures shall comply with the following site development requirements:

- a. Site plan review is required in accordance with article XI, site plan review of this chapter.
- b. Parking is required in accordance with article XIV, off-street parking and loading of this chapter.
- c. Signs are permitted in accordance with the requirements of article XV, signs of this chapter.
- d. Landscaping, lighting and building design requirements are required in accordance with article XVI, landscaping requirements, article XVII, lighting requirements and article XVIII, site design requirements of this chapter.
- e. All lots, buildings, and structures shall comply with the area height and bulk requirements as noted in Table IV-02 Residential Schedule of Area and Bulk Requirements.

Table IV-02
Residential Schedule of Area and Bulk Requirements ^(a)

Districts		GCR	R-1	R-2	R-3	MF	MF-N
Lot Requirements							
Minimum Lot Area (sq. ft.)	Single-Family/Duplex	40,000	20,000	10,000	8,500	8,750	8,750
	Multiple Family	—	—	—	5,000 per unit	5,000 ^(b)	16,000 ^(f)
Minimum Lot Width (ft.)		150	80	80	65	65	100
Setback Requirements^(c)							
Front Yard (ft.)		50	40	30	25	25	25
Side Yard (ft.)		15	15	10	8 ^(d)	25	25
Rear Yard (ft.)		30	30	30	25	25	25
Natural Feature/Waterfront (ft.) ^(e)		25	25	25	25	25	25
Maximum Building Height (whichever is less)							
In Feet		35	35	35	35	35	35

In Stories		2½	2½	2½	2½	2½	2½
Minimum Useable Floor Area							
Min. Useable Floor Area (sq. ft.)	Single Family/Duplex	—	1,200 w/624 on ground floor	1,000 w/624 on ground floor	1,000 w/624 on ground floor	—	800
	Multiple Family	—	—	800	800	800	375
Maximum Lot Coverage							
Max. Lot Coverage (%)		20	25	25	30	30	50

Footnotes:

- (a) *Planned unit development (PUD)*. Modifications to dimensional requirements and maximum density may be permitted with a PUD approved under article IX, planned unit developments.
- (b) *Multiple-family maximum dwelling units per structure*. A maximum of ten (10) dwelling units can be contained in each multiple family structure.
- (c) *Projections into yards*. Architectural features and vertical projections may extend or project into a required yard as provided in Section 78-38, Projections into Yards.
- (d) *R-3 minimum side yard setback for multiple-family*. The minimum side yard setback for multiple family structures in the R-3 district shall be twenty-five (25) feet.
- (e) *Natural features setback*. A twenty-five (25) foot natural feature setback buffer shall be maintained from the ordinary high water mark (shoreline) of any lake, pond, or stream and to the edge of any drainageway, or regulated wetland.
- (f) *Multiple-family maximum dwelling units per structure*. A maximum of forty-five (45) dwelling units can be contained in each multiple family structure.

(Ord. No. 2017-01, § 3, 2-28-2017; Ord. of 8-27-2018(1), § 3)

Secs. 78-104—78-120. - Reserved.

ARTICLE V. - MANUFACTURED HOME PARK DISTRICT (MHP)

Sec. 78-121. - Intent and uses permitted by right.

- a. For the preservation of the interests of various types of residential developments which should be permitted in every

community and for the protection of the residents of any manufactured home park development, these regulations are considered to be minimum standards to be applied to all manufactured home park developments in the city.

- b. All manufactured home parks shall comply with the applicable requirements of Public Act No. 96 of 1987 (MCL 125.2301 et seq.), and shall meet the standards and conditions and all other provisions as established in this article.
- c. Manufactured home parks are permitted by right in the MHP district, subject to the requirements of this chapter.

Sec. 78-122. - Application procedures.

- a. Application for approval of a manufactured home park shall not be considered by the city until an application for a rezoning has been approved by the city in accordance with the provisions of this chapter. Such application shall be accompanied by a site plan conforming with the provisions and requirements of article XI, site plan review of this chapter. The following standards shall be satisfied before a rezoning for the manufactured home park is granted.
 - 1. Whether the proposal is in accordance with the comprehensive development plan.
 - 2. Whether the proposal meets all the design standards of this chapter and other applicable local codes, regulations, or ordinances.
 - 3. Whether the density of the proposed development could adversely affect adjacent properties and land uses.
 - 4. Whether the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate or inadequate sanitation and/or drainage facilities.
 - 5. Whether the proposed development produces an extreme or undue demand on available fire and police protection.
 - 6. Whether the traffic characteristics of the proposed development can be expected to place an extreme or undue burden on the adjacent publicly available vehicular and/or pedestrian circulation facilities.
- b. Site plan. Following approval of a rezoning, if required, any application for the extension, alteration, or construction of a manufactured home park shall follow the site plan approval procedures set out in this ordinance.

Sec. 78-123. - Standards and regulations.

All manufactured home parks shall be designed and developed in accordance with the following standards and regulations:

- a. Minimum site size for a manufactured home park shall be thirty (30) acres.
- b. Minimum number of manufactured home spaces shall be forty (40). Required streets and utilities shall be completed for at least twenty-five (25) manufactured home spaces along with related improvements before first occupancy.
- c. Each manufactured home park shall have direct access only to a major street or state trunkline highway.
- d. No access to the site shall be located closer than two hundred (200) feet from any public street intersection. Minimum street widths within the manufactured home park shall be in accordance with Table V-01
Manufactured Home Park Street Width Requirements:

**Table V-01
Manufactured Home Park Street Width Requirements**

Parking	Direction	Minimum Street Width
No on-street parking	one way	13 feet

	two-way	21 feet
Parallel parking one side	one-way	21 feet
	two-way	31 feet
Parallel parking both sides	one-way	34 feet
	two-way	40 feet

- e. No manufactured home or other building or structure for residential purposes shall be in excess of two and one-half (2½) stories, or in excess of a maximum height of thirty-five (35) feet.
- f. Each manufactured home lot, exclusive of streets, shall have a minimum size of five thousand (5,000) square feet and a minimum width of forty (40) feet, as measured at the minimum building setback line. No more than one (1) manufactured home shall be parked on any one (1) lot, and no manufactured home shall be occupied by more than one (1) family.
- g. All manufactured homes placed on the perimeter of the manufactured home park and abutting any residential district shall be at least twenty (20) feet in horizontal width and shall be placed parallel to the manufactured home park roadway from which access to the manufactured home site is gained.
- h. The minimum setback between any part of any manufactured home and/or structure permanently or temporarily attached thereto (excluding hitch), or used in connection therewith, including, but not limited to, storage sheds, cabanas, and porches shall be:
1. Ten (10) feet from the inside of the sidewalk.
 2. Fourteen (14) feet from the rear lot line;
 3. Sixteen (16) feet from the side lot line on the entry side; and
 4. Ten (10) feet from the side yard on the non-entry side, except that a manufactured home may be placed on the side lot line, provided there is minimum of fifteen (15) feet of open space between the lot line and any other structure or manufactured home, including, but not by way of limitation, storage sheds, cabanas or porches.
- i. Each lot shall front on sidewalks at least four (4) feet in width and parallel to the manufactured home park street.
- j. Each lot shall provide a minimum of two (2) off-street parking spaces, each of which shall have a paved area of not less than one hundred eighty (180) square feet (nine (9) feet by twenty (20) feet).
- k. The front, back and side yards of every lot shall be suitably landscaped and properly maintained with lawn area, and there shall be one (1) shade tree at least ten (10) feet in height provided for each lot.
- l. The manufactured home park shall provide a buffer zone in accordance with the requirements of article XVI, landscaping requirements, article XVII, lighting requirements, and article XVIII, site design requirements of this chapter.
- m. Any buildings associated with the manufactured home park shall have minimum setback from any public street of fifty (50) feet, which shall be properly landscaped with grassed area and maintained by the owner and operator of the manufactured home park.

- n. All streets within the manufactured home park shall be of a paved or similar hard surface meeting AASHTO public street construction specifications.
- o. The manufactured home park shall contain one (1) or more open space areas intended primarily for the use of park residents on a minimum ratio of two hundred fifty (250) square feet for every manufactured home lot provided that buffer zone areas shall not be included as part of such requirement.
- p. The manufactured home park shall provide one (1) or more storm shelters of size and capacity so as to accommodate all the residents of the park.
- q. All street intersections and designated pedestrian crosswalks shall be illuminated by not less than 0.25 footcandles. All roads, parking bays and pedestrian walkways shall be illuminated by not less than 0.5 footcandles.

Sec. 78-124. - Utility standards.

The following utility standards shall apply to all manufactured home parks.

- a. All utilities shall be underground.
- b. All lots shall be provided with a public water and sanitary sewer service approved by the city and other applicable agencies. All manufactured homes shall be connected thereto and all expenses of installation and connection shall be borne by the owner or operator of the manufactured home park. No costs shall be applied or taxed against owners of any adjacent property or along any main extended from the manufactured home park to the present public sanitary sewer system, unless the adjacent owners shall install a sewer connection to the main.
- c. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots within the park in accordance with the requirements of article XX, stormwater management. All storm drainage and surface drainage facilities flowing from the park to adjacent areas shall be approved by the city.

Sec. 78-125. - Manufactured home standards.

- a. Every manufactured home shall be supported on a permanent concrete pad or foundation for at least the width and length of the manufactured home, and a minimum of four (4) inches thick. All areas between the trailer and ground shall be enclosed by a fire resistant skirt.
- b. If the soil or topographic conditions of the proposed manufactured home park are such that other foundations or support are needed, and the developer provides to the development official a report by a certified engineer that piers are equal to or superior to the specifications as set forth in a. of this section. These foundations may be approved by the development official provided the construction includes provisions for proper drainage and ground under each manufactured home.
- c. Every manufactured home shall be at least twelve (12) feet in width and have a minimum of six hundred (600) square feet of living area, exclusive of porches and cabanas.

Sec. 78-126. - Installation and occupation of manufactured homes.

- a. No manufactured home shall be placed or parked or installed in a manufactured home park until such time as a building permit is obtained from the development official. Such permit shall be issued by the development official after making a finding that the manufactured home meets construction standards as approved by the federal department of housing and urban development (HUD) code, or has been certified by a manufacturer as constructed according to the requirements of the federal HUD code.

- b. No manufactured home shall be occupied by any person as a residence or for any other purpose until such time as the manufactured home is placed or situated on a specific lot in the manufactured home park and has been inspected by the development official and issued an occupancy permit.
 - 1. The inspection as required in this subsection shall include the placement, the connection to utilities, and compliance with all necessary state, city, or other ordinances and regulations. The permit required in a. of this section shall be issued by the development official on payment of an inspection fee as may be authorized by resolution of the city council from time to time.
 - 2. If the manufactured home is moved to another lot or another manufactured home is placed on the specific lot, a new certificate of occupancy must be obtained by the owner or resident from the development official.

Sec. 78-127. - Inspection and permits.

The development official or such other person designated by the city council shall have the right to inspect the manufactured home park to determine whether or not the park owners, operators, or any owners or person occupying manufactured homes within the park are in violation of this article, any other ordinance or any other state statute or state or governmental regulations covering manufactured home parks affecting the health, safety and welfare of inhabitants, under the following conditions:

- a. The development official has reasonable cause to believe that the owner or operator, or a resident or owner of a manufactured home in the park is in violation of any part of this or any other municipal ordinance.
- b. That notice of the specific violation has been sent to the owner or operator of the manufactured home park at their last known address, and to the owner or resident of the manufactured home at their last known address as shown on the occupancy permit for such manufactured home, and that the city has not received satisfactory proof or indication that the purported violation is not a violation, or that the purported violation has been corrected within fifteen (15) days from the date of mailing the notice.

Sec. 78-128. - Manufactured home sales.

- a. No person desiring to rent a dwelling unit site shall be required, as a condition to such rental, to purchase a manufactured home from the owner or operator of the park, as long as the manufactured home intended to be located on such rented site conforms in size, style, shape, quality, etc., as may be required by any reasonable rules and regulations governing the operation of the manufactured home park.
- b. Nothing contained in this article shall be deemed as prohibiting the sale of a manufactured home by the individual owner or his agent, provided such sales are permitted by the park regulations; and provided further that a commercial manufactured home sales business shall not be permitted in conjunction with any manufactured home park.

Secs. 78-129—78-150. - Reserved.

ARTICLE VI. - PUBLIC AND QUASI-PUBLIC DISTRICT (PQ)

Sec. 78-151. - Intent and purpose.

The public and quasi-public district is intended to provide for open space areas, parks, conservation areas, public schools, religious institutions, governmental facilities and the preservation of historic places. The purpose of this district is to enhance, preserve and stabilize community resources, promote public recreation, protect environmentally sensitive areas, and provide

for the future need to expand public buildings and community service facilities.

Sec. 78-152. - Uses permitted.

Land and/or buildings in the district indicated in Table VI-01 Schedule of Public and Quasi-Public Uses may be used for the purposes denoted by a "P" in the column below by right. Land and/or buildings in the districts indicated at the top of the following table may be used for the purposes denoted by "S" after special land use approval by the planning commission in accordance with the procedures and requirements of article X, special land uses and article XI, site plan review. A notation of "—" indicates that the use is not permitted within the district.

Table VI-01
Schedule of Public and Quasi-Public Uses

	PQ
Agriculture	
Agricultural Businesses	S
Cropland & Horticulture without Livestock	P
Entertainment & Recreational	
Golf Courses & Country Clubs & Related Uses	S
Parks & Recreation Facilities, Commercial	S
Parks & Recreation Facilities, Noncommercial	P
Service & Retail Trade	
Cemeteries	S
Commercial Wireless Telecommunication Service Towers & Antennas	S
Off-Street Parking Lots	P
Public, Institutional, & Utilities	
Churches, Temples, & other Places of Worship or Public Assembly	P
Educational Institutions	S
Government & Community Service Facilities	P

Sec. 78-153. - Site development requirements.

All lots, buildings, and structures shall comply with the following site development requirements:

- a. Site plan review is required in accordance with article XI, site plan review of this chapter.
- b. Parking is required in accordance with article XIV, off-street parking and loading of this chapter.
- c. Stormwater is to be managed in accordance with article XX, stormwater management.
- d. Signs are permitted in accordance with the requirements of article XV, signs of this chapter.
- e. Landscaping, lighting and building design requirements are required in accordance with article XVI, landscaping requirements, article XVII, lighting requirements and article XVIII, site design requirements of this chapter.
- f. All lots, buildings, and structures shall comply with the area height and bulk requirements as noted in Table VI-02 Public and Quasi-Public Schedule of Area and Bulk Requirements.

Table VI-02
Public and Quasi-Public Schedule of Area and Bulk Requirements ^(a)

	PQ
Lot Requirements	
Minimum Lot Area (sq. ft.)	40,000
Minimum Lot Width (ft.)	150
Setback Requirements	
Front Yard (ft.)	50
Side Yard (ft.)	15
Rear Yard (ft.)	30
Natural Feature/Waterfront (ft.) ^(b)	25
Maximum Building Height (whichever is less)	
In Feet	35
In Stories	2½
Maximum Lot Coverage	
Max. Lot Coverage (%)	20

- (a) *PUD*. Modifications to dimensional requirements and maximum density may be permitted with a PUD approved under article IX, planned unit developments.
- (b) *Natural features setback*. A twenty-five (25) foot natural feature setback shall be maintained from the ordinary high water mark (shoreline) of any lake, pond, or stream and to the edge of any drainageway, or regulated wetland.

Secs. 78-154—78-170. - Reserved.

ARTICLE VII. - BUSINESS DISTRICTS

Sec. 78-171. - Intent and purpose.

- a. *Central business district (CB)*. The central business district is intended to promote the consolidation of commercial activities in the existing town center by providing for a variety of retail, office, restaurant and entertainment activities within the district. The purpose of this district is to encourage and promote the business use of existing residential buildings within the district and the development and expansion of the town center to serve the needs of the surrounding area. The central business area of the city is viewed as the older, traditional center of the city, and is characterized by smaller lot sizes, more intense land uses, mixed land uses and higher percentages of lot coverage. This area permits the integration of business activity, governmental functions, services and residential land uses.
- b. *Limited commercial district (LC)*. This district is intended to provide for the limited need for convenience commercial establishments and other businesses which due to either size or nature, are not well suited for locations within the central business zoning district. This district is further intended to be used sparingly and only when necessary in order to protect and preserve the vitality and dominant role of the central business district (CB). The purpose of this district is to enhance the living environment of residential areas by allowing, when needed, small convenience establishments; and to maintain the character of the central business district by providing an alternate location for incompatible business.
- c. *Office district (O)*. This district is intended to accommodate a variety of nonresidential land uses of an administrative, business and professional nature which are necessary to the normal conduct of a community's activities. It is designed to direct office uses to areas which serve as transition between residential land uses and nonresidential districts only in the vicinity of the central business districts (CB) and having access to arterial streets. The regulations contained in this article are designed to promote harmonious relationships between office uses and abutting land uses.

Sec. 78-172. - Permitted uses.

Land and/or buildings in the districts indicated in Table VII-01 Schedule of Business Uses may be used for the purposes denoted by a "P" in the column below by right. Land and/or buildings in the districts indicated at the top of the following table may be used for the purposes denoted by "S" after special land use approval by the planning commission in accordance with the procedures and requirements of article X, special land uses and article XI, site plan review. A notation of "—" indicates that the use is not permitted within the district.

**Table VII-01
Schedule of Business Uses**

	LC	CB	O
Agriculture			
Nurseries & Greenhouses	S	S	—
Residential			
Residential Uses within the Central Business District	—	S	—
Mixed Use			
Combined Office & Residential Uses	S	S	S
Entertainment & Recreational			
Adult Entertainment Uses	—	S	—
Parks & Recreation Facilities, Commercial	S	S	S
Parks & Recreation Facilities, Noncommercial	P	P	P
Private Clubs, Lodges & Meeting Halls	S	S	S
Theaters, Assembly or Concert Halls	S	P	S
Finance, Insurance Real Estate, & Professional Office			
Banks, S & L, Credit Unions	P	P	P
Insurance Carriers, Agents, Broker, & Service	P	P	P
Mortgage, Loan Security, & Commodity Brokers	P	P	P
Offices for General Executive, Administrative Functions, Accounting, Law, Professional Engineering, & Management Services	P	P	P
Real Estate Agents, Leasers, Developers, Operators, & Title Companies	P	P	P
Research & Development Establishments	—	—	P
Health Care			

Hospitals	S	—	S
Medical/Dental Offices/Clinics/Optometrists/Chiropractors	P	P	P
Service & Retail Trade			
Automobile Repair Establishments	S	—	—
Automobile Washes	S	—	S
Bed & Breakfasts	—	P	S
Building Material Suppliers	S	—	—
Commercial Day Care	P	S	S
Comparison Retail Stores selling commodities including, but not limited to, food, drugs, liquor, furniture, clothing, dry goods, notions, gifts or hardware and using no more than 20% of the usable floor area for repair facilities.	P	P	—
Drive Through Facilities	S	S	—
Funeral Homes & Mortuaries	S	P	S
Indoor Kennels	S	—	S
Off-Street Parking Lots	—	P	S
Offices and Showrooms of Contractors, Decorators or Similar Trades	S	P	S
Personal Service Establishments	S	P	S
Printing or Publishing Plants	S	—	—
Restaurants, Lounge or Taverns	S	P	—
Shopping Centers & Malls under 30,000 sq. ft.	S	P	—
Shopping Centers & Malls 30,000 sq. ft. & over	S	S	—
Vehicle, Boat or Farm Implement Sales, New & Used, including Incidental Servicing & Minor Repair	S	—	—

Veterinary Clinics, Hospitals	P	S	P
Public, Institutional, & Utilities			
Churches, Temples, & other Places of Worship or Public Assembly	S	P	S
Educational Institutions	P	S	S
Government & Community Service Facilities	S	P	P
Radio & Television Broadcasting Facilities, without Towers	S	S	S

;hn0; (Amend. of 4-15-2012; Amend. of 7-22-2014)

Sec. 78-173. - Site development requirements.

All lots, buildings, and structures shall comply with the following site development requirements:

- a. Site plan review is required in accordance with article XI, site plan review of this chapter.
- b. Parking is required in accordance with article XIV, off-street parking and loading of this chapter.
- c. Signs are permitted in accordance with the requirements of article XV, signs of this chapter.
- d. Landscaping, lighting and building design requirements are required in accordance with article XVI, landscaping, article XVII, lighting and article XVIII, building design requirements of this chapter.
- e. All lots, buildings, and structures shall comply with the area height and bulk requirements as noted in Table VII-02 Business Schedule of Area and Bulk Requirements.

Table VII-02
Business Schedule of Area and Bulk Requirements ^(a)

District	LC	CB	O
Lot Requirements			
Minimum Lot Area (sq. ft.)	20,000	0	20,000
Minimum Lot Width (ft.)	100	0	150
Setback Requirements			
Front Yard (ft.)	20	0	40
Side Yard (ft.)	50	0	40

Rear Yard (ft.)	35	15	35
Natural Feature/Waterfront (ft.) ^(b)	25	25	25
Maximum Building Height			
In Feet	35	35	35
Maximum Lot Coverage			
Max. Lot Coverage (%)	50	90	50
Maximum Dwelling Units			
Max. Dwelling Units (per Structure)	4	4	4

(a) *PUD*. Modifications to dimensional requirements and maximum density may be permitted with a PUD approved under article IX Planned Unit Developments.

(b) *Natural features setback*. A twenty-five (25) foot natural feature setback shall be maintained from the ordinary high water mark (shoreline) of any lake, pond, or stream and to the edge of any drainage way, or regulated wetland.

f. Nonhazardous solid waste. Nonhazardous solid waste which is normally and reasonably discarded from commercial uses of property may be externally stored, provided such storage areas are completely screened in accordance with Table VII-03 Nonhazardous Solid Waste Storage Screening Requirements. Any proposed material storage must also be conducted in accordance with all State and Federal requirements.

Table VII-03

Nonhazardous Solid Waste Storage Screening Requirements

District	Regulation
LC	opaque fence of not less than 5 feet in height
CB	opaque fence of not less than 6 feet in height
O	opaque fence or enclosed in an accessory structure with a height or not less than 6 feet, such fence or accessory structure shall be shown on the site plan & be designed and constructed consistent with the exterior materials & site landscaping of the primary structure & land use

- g. Veterinary clinics and hospitals. All principal uses activities, shall be conducted within a totally enclosed main building shall be escape proof by any animals to the maximum extent possible.

(Amend. of 7-22-2014)

Secs. 78-174—78-190. - Reserved.

ARTICLE VIII. - CONDOMINIUMS

Sec. 78-191. - Condominium regulations.

- a. *Intent.* This article is intended to provide for condominium projects within the city and establish regulations to guide development of such projects in a manner similar to comparable development allowed within the zoning ordinance and the subdivision ordinance. This article also establishes development standards and required information to assure compliance within the purposes of this ordinance including:
1. Orderly growth and harmonious development of the community as planned for in the city comprehensive development plan;
 2. To secure adequate traffic circulation and safety through coordinated street systems with relation to the city street system, future development, public services and facilities;
 3. To provide for development which can be timed in a manner consistent with planned or needed public improvements so as not to create an undue inconvenience, hazard or financial burden for residents of the city;
 4. To secure adequate provisions for water supply, storm drainage, sanitary sewage disposal, pedestrian facilities, bicycle facilities, street lighting, and other public health and safety needs, including safe and coordinated interconnection with existing streets, and to provide for the achievement of these purposes; and
 5. To evaluate the impact of proposed developments to assure minimum impact of the natural environment including but not limited to the surface waters, groundwater, flora and fauna of the community.
- b. *Definitions.* In addition to the terms defined in the city zoning ordinance and subdivision regulations the following terms shall have the meanings as shown in this section. Terms defined in the Condominium Act, in addition to the terms defined herein, shall have the meanings as defined therein:
1. *Building site:* The functional equivalent of a lot when lot is used as a reference in the zoning ordinance the regulation shall also refer to building site.
 2. *Condominium Act:* Public Act 59 of the 1978 Acts of the Michigan Legislature, as amended (Section 559.101 et seq. of the Michigan Compiled Laws).
 3. *Condominium plan:* The plans, drawings and information prepared for a condominium project, as required by Section 66 of the Condominium Act and as required by this chapter for review of the condominium project by planning commission and city council.
 4. *Condominium project:* A plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act.
 5. *Condominium subdivision plan:* Shall mean the same as condominium plan.
 6. *Condominium unit:* That portion of the condominium project designed and intended for separate ownership and use as described in the master deed and shall be equivalent to the term 'lot' as used in city ordinances.
- c. *Required information.* In addition to and concurrently with the notice required to be given the city pursuant to

Section 71 of the Condominium Act, as amended, (MCL 559.171) a person, firm or corporation intending to develop a condominium project shall provide the following information with the preliminary site plan:

1. The name, address and telephone number of:
 - (a) The owner(s) of record in the land on which the condominium project will be located together with a description of the nature of and the identity of, any other entity's interest in the property (for example, fee owner, optionee or land contract vendee).
 - (b) The engineer who prepared the site plan, attorney who prepared the master deed, and other professionals associated with the project.
 - (c) The developer or proprietor of the condominium project.
 2. The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.
 3. The acreage content of the land on which the condominium project will be developed.
 4. The purpose of the project (for example, residential, commercial, industrial, etc.).
 5. Number of condominium units to be developed on the subject parcel.
 6. A site plan meeting the requirements of article XI for any project requiring site plan approval, as set out in Section 78-266.
 7. The size, location, area and horizontal boundaries of each unit as well as vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit.
 8. The nature, location and approximate size of common elements.
 9. All plans and materials required to demonstrate compliance with the city's municipal standards and the city stormwater management ordinance.
 10. A draft of the master deed and bylaws shall be submitted with the final preliminary site plan.
- d. *Current information.* All information shall be furnished to the city and shall be kept updated until such time as a certificate of occupancy has been issued.
- e. *Condominium review procedures.* Prior to recording of the master deed required by Section 72 of the Condominium Act, as amended (MCL 559.172), the condominium project shall undergo site plan review and approval under the requirements of article XI and this section. In addition, the city shall require appropriate engineering plans and inspection prior to the issuance of any certificate of occupancy. Prior to expansion or conversion of a condominium project onto additional land, the new phase of the project shall undergo site plan review and approval. Fees for these reviews shall be established by resolution of the city council in addition to those otherwise required by city ordinances.

All condominium plans shall be reviewed under the following procedures:

- A. *Tentative preliminary approval:* A full site plan, meeting the requirements of article XI, and a preliminary street plan shall be submitted for preliminary condominium site plan review by the planning commission. Plans shall be reviewed by the city staff and consultants and written recommendations are to be submitted to the planning commission.

Planning commission shall hold a public hearing to receive comments from the applicant, city staff, consultants and the public. Following the public hearing the planning commission shall review the site plan, in accordance with the procedures of article XI. If a condominium site plan is incomplete, the planning commission may table the request and direct the applicant to prepare additional information or revise the plan.

Planning commission shall make a recommendation to the city council to approve, approve with conditions or deny approval of the tentative preliminary plan.

If the tentative preliminary plan is approved or approved with conditions, an application for final preliminary condominium site plan approval must be submitted within one (1) year after the date of tentative approval of the preliminary condominium site plan by the city council, or such tentative preliminary approval shall be deemed null and void. The proprietor may be granted one (1) six-month extension with approval from the city council.

Installation or construction of any improvements or land balancing or grading shall not begin until the final preliminary condominium site plan has been approved and the public improvements agreement is entered into between the developer and the city. Trees and/or other vegetation shall not be removed until after construction plan approval, except for minor clearing required for surveying and staking purposes.

- B. *Agency reviews:* Upon receipt of tentative preliminary site plan approval, the applicant shall submit the preliminary condominium site plan to all authorities for necessary permits, as required by local, county and state regulations. Approvals and/or any required permits shall be obtained from the county drain commissioner, MDEQ and health department. Where streams, regulated wetlands or floodplains are proposed to be impacted, MDEQ approval shall also be obtained.
- C. *Final preliminary approval:* The following information shall be submitted for final preliminary condominium site plan approval by the city council, based upon a recommendation by the planning commission. Plans shall be reviewed and written recommendations are to be provided to the planning commission by:
- (a) City staff;
 - (b) City engineer;
 - (c) City planner;
 - (d) City assessor;
 - (e) Fire chief;
 - (f) Police chief;
 - (g) Superintendent of DeWitt Public Schools;
 - (h) City public services superintendent;
 - (i) Lansing Board of Water and Light;
 - (j) Mid-Michigan District Health Department, Environmental Health Division; and
 - (k) Southern Clinton County Municipal Utilities Authority.

The planning commission shall review the site plan following the procedures of article XI and make a recommendation to the city council to approve, approve with conditions or deny. If a condominium site plan is incomplete, the planning commission may table the request and direct the applicant to prepare additional information or revise the plan. Submittals shall include:

1. Full site plan meeting the requirements of article XI. Within a phased project, the final plan shall constitute only that portion of the approved preliminary plan which the proprietor proposes to record and develop at that time.
2. County and state approvals applicable to the development.
3. Proposed condominium master deed and bylaws.

- D. *Construction plan approval:* Following final preliminary site plan approval by the city council, detailed

construction plans shall be submitted for review and approval by the city engineer. Site clearing, grading or construction shall not commence until the city engineer has approved the construction plans.

- E. *Final approval of master deed, restrictive covenants and as-built survey:* The applicant shall furnish the city with one (1) copy of the finalized draft of the 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 and the city planner for compliance with city ordinances. The master deed, restrictive covenants and as-built survey shall be approved by the city council. The master deed shall be recorded with the county register of deeds following final approval by the city council and prior to the issuance of any building permits for construction of any condominium units.
1. It shall be the responsibility of the applicant to obtain all other applicable city, county, or state permits prior to issuance of a building permit.
 2. If construction has not commenced within one (1) year of site plan approval, approval becomes null and void and a new application for condominium approval shall be required. The applicant may request a one (1) year extension by the planning commission, provided a written request is received before the expiration date and the site plan complies with all zoning ordinance requirements.
- F. *Public improvements agreement:* Prior to receiving final preliminary site plan approval, the developer shall enter into a public improvements agreement with the city to construct within a reasonable time certain improvements within the condominium project area. No construction shall be undertaken in the project area prior to the grant of all approvals of the final preliminary condominium site plan as provided in this chapter. The agreement shall provide for plan review approval and construction inspection and fees associated with their cost as provided by ordinance, for streets, water system, sanitary system and stormwater management. The agreement shall require deposit for fees and for financial security in the amount of the construction cost and for liability insurance with the city and its engineer as named insureds, in the form and amount approved by the city. In the event the developer shall fail to complete the public improvements required by the city in the agreement within the period of time stated in the agreement for the completion of the improvements, the city council shall proceed to have such work completed from the security available to it for such purpose.
- G. *Monuments required—All condominium projects.* All condominium projects shall be marked at their boundaries with all required monuments. Monuments are also required, where necessary, to mark the boundaries of units in the condominium.
- H. *Compliance with area, height and bulk requirements.* The areas and setbacks required for condominium buildings shall be based on the density provisions contained in the schedule of regulations of the zoning district. The submerged area of a lake, pond, drain or stream shall not be included in the unit area of a condominium lot, but shall be recorded as a general common element.
- I. *Condominium standards.* All condominium projects shall comply with the design standards contained in the city subdivision regulations, all applicable requirements of this chapter and any other applicable regulations and are herein incorporated by reference. The intent of this section is to require that condominium projects meet the same standards required for other projects in the same district.
- J. *Street standards, site plan submittal, inspections.* All streets located within a condominium project shall be constructed and paved in accordance with the standards and specifications of the city's municipal standards and dedicated to the city.
- K. *Compliance with stormwater management ordinance.* All stormwater facilities shall be installed in accordance with the standards and specifications of the city's stormwater management ordinance.
- L. *Compliance with federal, state and local law.* All condominium projects shall comply with federal and state

statutes and local ordinances.

- M. *Temporary occupancy.* The city may allow occupancy of the condominium project before all improvements required by this ordinance are installed provided that a bond 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.

Secs. 78-192—78-210. - Reserved.

ARTICLE IX. - PLANNED UNIT DEVELOPMENTS (PUD)

Sec. 78-211. - Intent and purpose.

The planned unit development (PUD) process is provided as a design option, intended to permit flexibility in the regulation of land development; to encourage innovation in and use and variety in design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land; to preserve significant natural, historical, architectural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide better housing, employment, and shopping opportunities particularly suited to residents of the city; and to encourage development of convenient recreational facilities. PUD is intended to:

- a. Result in a more efficient development pattern with shorter streets and utility networks.
- b. Preserve existing natural assets, such as stands of trees, floodplains, open spaces and wetlands.
- c. Accomplish a more desirable residential environment than would be possible through the strict application of minimum requirements of this chapter.
- d. Encourage the utilization of open space and the development of recreational facilities generally located within a reasonable distance of all living units.
- e. Encourage development that consists of individual lots or common building sites. Common land and open space are essential elements of the plan related to affecting the long-term aesthetic and economic values of the entire development.
- f. Provide for planned commercial and professional offices in conjunction with the planned living environments which enhance the residential stability and economic base of the city.
- g. Provide for supportive amenities such as recreational uses and similar uses, which, in the opinion of the planning commission, are in conformance with the comprehensive development plan and the objectives of the proposed development.
- h. Permit flexibility in the regulation of land development allowing for higher quality of design through innovation in land use, variety in design, layout, and type of structures constructed.
- i. Promote low impact development, high quality residential development, energy efficient buildings, and innovative landscaping and stormwater management.
- j. Ensure compatibility of design and function between neighboring properties.
- k. Protect and preserve natural resources, natural features, open space, and historical or significant architectural features.
- l. Promote efficient provision of public services, utilities and transportation facilities.
- m. Provide convenient vehicular access throughout the development and minimize adverse traffic impacts.

- n. Provide complete non-motorized circulation to, from, and within developments.
- o. Encourage development of convenient recreational facilities as an integral part of residential developments.
- p. Ensure various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- q. Encourage development that is consistent with the goals stated within the city's comprehensive development plan.
- r. Eliminate or reduce the degree of non-conforming uses or structures.

These PUD regulations are not intended to be used for circumventing the more specific standards in the zoning ordinance, or the planning upon which the standards are based. Rather, these provisions are intended to result in development which is substantially consistent with the zoning standards as generally applied to the proposed uses, but with specific modifications to the general standards that, in the judgment of the city, assure a superior quality of development. If this improved quality is not clearly apparent upon city review, a site shall not qualify for the modifications allowable under this article.

Sec. 78-212. - Eligibility criteria.

In order to qualify for PUD approval, the minimum project area included within the boundaries of the PUD shall be not less than forty (40) acres of contiguous lands. The planning commission may permit a PUD on lesser area if the proposed PUD substantially furthers the intent and purposes described in this section for PUDs.

To be eligible for PUD approval, the applicant must demonstrate that all seven (7) of the following criteria will be met:

1. *Demonstrated benefit.* The PUD shall provide one (1) or more of the following benefits not possible under the requirements of another zoning district, as determined by the planning commission:
 - (a) Preservation of significant natural or historic features.
 - (b) A complementary mixture of uses or a variety of housing types.
 - (c) Common open space for passive or active recreational use.
 - (d) Any adverse impacts on the community and/or surrounding properties are minimized.
 - (e) Redevelopment of a non-conforming site where creative design can address unique site constraints.
2. *Availability and capacity of public services.* The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
3. *Compatibility with the city comprehensive development plan.* The proposed development shall not have an adverse impact on future development as proposed in the city comprehensive development plan.
4. *Compatibility with the planned unit development intent.* The proposed development shall be consistent with the intent and spirit of this ordinance.
5. *Access.* The principal means of access to the PUD project area must be from a public street.
6. *Development impact.* The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this ordinance.
7. *Unified control of property.* The proposed development shall be under single ownership or control so that there is a single entity having responsibility for completing the project in conformity with the PUD regulations. This provision shall not prohibit a transfer of ownership or control, provided that notice of such transfer is provided to the city clerk. The new owner shall sign an acknowledgement that he/she will abide by the requirements of the PUD.

Sec. 78-213. - Approval process.

***PUD Approval
Process***

Step 1 - Pre-Application Conference

Step 2 - PUD Preliminary Plan (with all required information) Submitted to City

Step 3 - PUD Preliminary Plan Circulated to Consultants & Agencies for Review and Comment

Step 4 - Planning Commission Holds Public Hearing on PUD Preliminary Plan

Step 5 - Planning Commission Makes Recommendation to City Council on PUD Preliminary Plan

Step 6 - City Council approves, denies, or approves with conditions the PUD Preliminary Plan

Step 7 – Applicant develops development agreement per Section 78-216 of this Article

a. *Pre-application conference.*

1. Prior to submission of an application for a PUD, the applicant shall meet with the city administrator, development official, and other appropriate staff to outline the basic elements of the proposed development; location, acreage, residential density, nonresidential uses, building types, accessory uses, wetlands, open space and natural features, and proposed vehicular and pedestrian circulation.
2. The applicant shall receive at the pre-application conference an explanation of ordinance requirement procedures, and estimated schedule for review meetings.
3. The pre-application conference may be used to identify studies which may be required by the city, at the applicant's expense, addressing issues such as, but not limited to, traffic circulation and safety, stormwater management, utility systems, and environmental impact.

b. *PUD preliminary plan review.*

1. The planning commission shall conduct a public hearing on the proposed PUD preliminary plan using the

provisions for public hearings set out in article XXIV. A complete application and all supportive materials shall be submitted at least thirty (30) days prior to the scheduled public hearing.

2. The following information shall be submitted to the planning commission prior to its review of the PUD preliminary plan. No application shall be deemed complete until all required information is submitted:
 - (a) Evidence of ownership or authorized representative in the proposed site of the PUD.
 - (b) Legal description and general location, including a site location map.
 - (c) Written, detailed description of the proposed uses.
 - (d) Development summary data: Acres, units, parking spaces, gross/net density, gross building square footage.
 - (e) Description of development ownership, proposed ownership form for residential and nonresidential components, and proposed maintenance concept.

Step 8 - Final PUD Development Plan (with all required information) submitted to Planning Commission

Step 9 - Final PUD Development Plan Circulated to Consultants & Agencies for Review and Comment

Step 10 - Planning Commission approves, denies, or approves with conditions the Final PUD Development Plan and/or Specified Phase(s)

Step 11 - Initial construction on PUD must begin within two (2) years of final development plan approval by Planning Commission

- (f) Twenty (20) copies of a preliminary plan for the proposed development at a scale not to exceed one (1) inch equals one hundred (100) feet, containing the following minimum information:
 - (1) Date of preparation/revision.
 - (2) Name and address of the preparer.
 - (3) Existing zoning of the site and adjacent properties.
 - (4) Existing land use of the site and adjacent properties.
 - (5) Location of proposed structures, parking areas, and common open space.
 - (6) General locations of water, sanitary and storm drainage systems including retention and detention

basins.

- (7) Identification of existing natural features of the site and location of specific wetland area.
 - (8) Description of proposed landscape features, buffers, and pedestrian circulation system.
 - (9) Stormwater management plan that conforms to article XX of this ordinance.
 - (10) Identification of existing and proposed easements.
 - (11) Identification of existing and proposed public and private rights-of-way and adjacent curb cuts within one hundred (100) feet of the boundaries of the PUD site.
 - (12) Identification of any proposed nonresidential land uses.
- (g) The planning commission may require the completion of studies, completed at the applicant's expense, which address issues such as but not limited to, traffic circulation and safety, utility systems, and environmental impact.
3. Following the public hearing and ample time for deliberation, the planning commission shall consider the development standards of this subsection and Section 78-214 and Section 78-215. After deliberation the planning commission shall submit a recommendation to the city council regarding the special land use review of the PUD preliminary plan, in accordance with the requirements of this article.
 4. Upon receipt of a report and summary of the hearing comments from the planning commission, the city council shall approve, deny, or approve with conditions the PUD preliminary plan in accordance with the requirements of this section.
 5. Upon approval of the preliminary plan for the PUD, the applicant shall develop with the city a development agreement to ensure that all the customary municipal improvements required by existing ordinances and regulations will be properly made and that funds will be made available by the applicant to ensure the installation of certain site improvements prior to any permits being issued.
- c. *Final development plan.*
1. Following approval of the PUD preliminary plan by the city council, the applicant shall submit a final development plan to the planning commission. The final development plan shall be submitted within one (1) year following approval of the preliminary plan by the city council.
 2. The planning commission may permit one (1) six-month extension of the preliminary plan's approval, if conditions beyond the control of the applicant are encountered and if the extension is applied for, in writing, prior to the expiration of the special land use approval.
 3. The complete application for the final development plan and all supportive materials shall be submitted at least thirty (30) days prior to the next regularly scheduled planning commission meeting.
 4. The final development plan for the PUD, or phase thereof shall meet the requirements for a final site plan as noted in Section 78-263, Procedure for Site Plan Review.
 5. The planning commission shall review the final development plan for the entire PUD, or any phase thereof, to ensure that it substantially complies with the approved preliminary plan. The planning commission may approve, deny, or approve with conditions the final development plan.
 6. If the planning commission determines that the PUD final development plan, or phase thereof, does not substantially comply with the approved preliminary plan, it may require resubmission of the preliminary plan in accordance with the requirements of this article.
 7. If developed in phases, application for review of the final development plan for the first phase must be submitted within one (1) year of approval of the preliminary plan.

8. Meaningful construction on the first phase of the PUD must begin within two (2) years of final development plan approval by the planning commission. The Plan becomes null and void if meaningful construction has not occurred within two (2) years of final development plan approval by the planning commission.
- d. *Amendments.* Amendments to the preliminary plan for the PUD which, in the opinion of the development official, will increase the intensity of use or increase the impact on adjacent properties must be resubmitted to planning commission in accordance with the requirements of this article and with applicable fees.

Sec. 78-214. - Review standards.

- a. Prior to approval of a PUD application, the city council, after recommendation from the planning commission, shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this chapter, shall be satisfied by the completion of the PUD under consideration.
- b. The city council, after recommendation of the planning commission, shall review the particular circumstances of the PUD application and shall approve a PUD only upon a finding of compliance with each of the following standards:
 1. *Access.* Every structure or dwelling unit shall have access to a public or private street, or other areas dedicated to common use.
 2. *Land use.* The approximate location of structures, shown on the preliminary plan, shall be so arranged as not to be detrimental to existing or proposed structures within the development or surrounding neighborhood.
 3. *Privacy.* Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.
 4. *Off-street parking.* Parking shall be located in locations convenient to all dwelling units and other uses. Common driveways, parking areas, walks and steps may be required together with appropriate lighting, in order to ensure the safety of the occupants and the general public. Screening of parking and service areas may be required through use of trees, shrubs, hedges or screening walls.
 5. *Development concept.* All of the elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. Arrangement of buildings shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond the site.
 6. *Pedestrian circulation.* The pedestrian circulation system and its related walkways shall be insulated as completely and as reasonably as possible from vehicular movement.
 7. *Recreation areas.* Recreation facilities for the residents of the project, not impairing the view and privacy of the living units, shall be provided in easily accessible locations.
 8. *Natural features and landscaping.* The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features. Additional new landscaping shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features.
 9. *Circulation facilities.* The arrangements of public and common ways for pedestrian and vehicular circulations shall be coordinated with other existing or planned streets in the area.

Sec. 78-215. - Development standards.

- a. *Uses permitted in the PUD.* The following uses shall be permitted within the PUD subject to the requirements of this section:
 1. Single-family dwellings.

2. Two-family dwellings, provided that such units make up no more than twenty (20) percent of the total number of residential dwelling units in the entire PUD.
 3. Multiple-family dwellings, provided that such units make up no more than fifteen (15) percent of the total number of residential dwelling units in the entire PUD.
 4. Private recreational facilities such as golf courses, swimming pools, or other recreational facilities.
 5. Commercial uses, as permitted in the limited commercial district, either as a use permitted by right or a special land use, which are compatible with the residential development and which form an integral part of such development, subject to the following requirements:
 - (a) All nonresidential uses allowed in the PUD, shall occupy no more than twenty (20) percent of the PUD project's gross developable area; however, the common open space and active outdoor use areas associated with recreational activities such as golf courses, ski trails, and like uses shall not be counted as part of the twenty (20) percent.
 - (b) All such uses shall be integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc.
 - (c) Such uses shall be designed to be compatible with the residential character of the neighborhood and/or the PUD.
 - (d) All merchandise for display, sale or lease shall be entirely within an enclosed building.
 - (e) Lots and buildings on which such uses are established shall meet the development requirements of the limited commercial district.
 - (f) Nonresidential uses shall be established according to the following requirements:
 - (1) If the entire PUD contains fewer than twenty (20) dwelling units, seventy-five (75) percent of these units must be constructed prior to the establishment of any nonresidential use.
 - (2) If the PUD contains more than twenty (20) dwelling units, fifty (50) percent of these units shall be constructed prior to the establishment of any nonresidential use.
 - (g) Accessory buildings and uses, in accordance with the requirements of Section 78-23, Accessory Buildings and Structures General Requirements, Section 78-24, Accessory Buildings and Structures; Residential Districts or Uses, excluding MF-N, and Section 78-25, Accessory Buildings; Nonresidential Districts or Uses.
- b. *Residential density and development requirements.*
1. Density. Residential density shall be computed using the lot area requirements of the underlying district. The planning commission will require submission of a parallel plan showing a lot layout complying with the lot area, lot width, and setback requirements of the underlying district. The parallel plan will be used to establish the base density to be permitted on the site to which bonus densities may be applied, as approved by the city council, after receipt of a recommendation by the planning commission, in accordance with the requirements of this subsection.
 2. Site development requirements. Any dwelling units within the PUD shall meet the requirements of the R-2 district for single- and two-family dwellings and the MF district for multiple-family dwellings.
 3. Density bonus. The city council may permit an increase in the number of dwelling units permitted within the PUD according to the following, provided that the increase of the number of dwelling units permitted shall not exceed ten (10) percent of the units permitted by Section 78-215, Development Standards b.1. above:
 - (a) For each five (5) percent increment of additional open space above that required by Section 78-215, Development Standards d.2. an additional five (5) percent of dwelling units may be allowed. Areas preserved

under paragraph (c) below, may not be included in the additional open space.

- (b) Up to an additional five (5) percent of dwelling units may be permitted when walking trails, active recreational areas (such as soccer fields, ball fields, etc.), or other active or passive recreational facilities are provided. The council shall determine the number of units to be awarded according to the extent of such recreational areas.
- (c) Up to an additional five (5) percent of dwelling units may be permitted when significant natural features (wetlands, woodlands, etc.) are preserved on the site that might otherwise be developed if the parallel plan required by Section 78-215, Development Standards b.1. above was constructed. The intent of this provision is to preserve larger contiguous areas of natural features, as opposed to individual trees or small, isolated natural or open space areas.
- (d) The bonus densities may be accommodated through alterations to the site development requirements applicable to the appropriate residential use within the PUD, including lot area and lot width.
- (e) The density bonus and alterations to the site development requirements shall only be granted if the intent and purposes of this section are substantially furthered by such alteration.

c. *General development requirements.*

- 1. The PUD shall meet the off-street parking and loading requirements of article XIV, off-street parking and loading.
- 2. The PUD shall meet the flood hazard area regulations of article XXI, flood hazard area regulations, as applicable.
- 3. The PUD shall be subject to the sign regulations of article XV, signs.
- 4. The PUD shall meet the requirements of article XVI, landscaping requirements, article XVII, lighting requirements and article XVIII, site design requirements.
- 5. Public water and public sanitary sewer facilities shall be available or shall be provided as part of the development.
- 6. PUDs shall provide for underground installation of utilities, including electricity and telephone, in both public ways and private extensions thereof.
- 7. Provisions shall be made for construction of storm sewer facilities. Stormwater management shall be carried out in conformity with article XX, stormwater management.
- 8. All streets, whether public or private, shall meet the design and construction standards of the subdivision control ordinance and the municipal standards ordinance.
- 9. The development shall be designed to preserve natural resources. The limits of tree clearing and grading shall be clearly shown on the preliminary site plan or plat.
- 10. Site design and landscaping shall diminish the prominence of parking lots as viewed from public roads.
- 11. Financial guarantees may be required by the city council in accordance with the requirements of Section 78-627, Performance Guarantees to ensure compliance with such requirements as infrastructure, drives, walks, parking, landscaping or other applicable features of the development.

d. *Common open space requirements.*

1. *General requirements.*

- (a) A variety of open space and recreational area is encouraged such as: children's informal play areas in close proximity to individual dwellings; formal parks, picnic areas; playgrounds; and scenic open areas and recreational facilities.
- (b) Common open space within the PUD may be established to separate use areas, preserve significant natural features, and/or be used for passive or active recreation.

- (c) Evidence shall be given of satisfactory arrangements for the maintenance of such designated land to relieve the future maintenance thereof.
 - (d) All common open space shall be in the joint ownership of the property owners within the PUD. A property owner's association shall be formed which shall be responsible for the maintenance of the common open space.
 - (e) The maintenance requirements of dedicated common open space are not intended to require regular clearing and mowing or other active maintenance where such level of maintenance is inappropriate, such as for natural areas. In these cases, maintenance is intended to include, but not be limited to, the removal of any trash or waste material within the dedicated common open space area, clean up of storm damage, or removal of diseased plant materials.
 - (f) To the extent possible, dedicated common open space areas shall be continuous and contiguous throughout the PUD with adequate access, through easements or other similar arrangements, such that all properties within the entire PUD may utilize the available common open space. Common open space areas shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the PUD.
2. *Amount.* The area of common open space within a PUD project shall encompass not less than twenty-five (25) percent of the total land area of the project. Notwithstanding the other provisions of this section, the area of a golf course may be included toward the twenty-five (25) percent open space.
3. *Areas not considered open space.* The following land areas are not included as dedicated open space for the purposes of meeting minimum open space requirements:
- (a) Area proposed as single-family residential or condominium lots.
 - (b) Area proposed to be occupied by multiple-family dwellings, including the minimum required setbacks around buildings.
 - (c) The area of any road right-of-way or private road easement.
 - (d) Any submerged land area of a pond, lake or stream. Protected wetlands and stormwater ponds designed to appear and function similar to a natural wetland may be counted for up to fifty (50) percent of the minimum required open space.
 - (e) Parking and loading areas, including landscaped islands, except those exclusively associated with a common open space area.
 - (f) Any other undeveloped areas not specifically addressed in this article, but determined by the planning commission to inadequately meet the intent and standards for open space.
4. *Open space location.* Common open space shall be planned in locations visible and accessible to all in the development. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent farmland, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
- (a) Open space shall be situated to maximize the preservation of any existing site woodlands or natural features.
 - (b) A minimum one hundred (100) foot wide undisturbed open space setback shall be maintained from the edge of any stream or natural lake and fifty (50) feet from the edge of any wetland; provided that the planning commission may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
 - (c) Where adjacent land includes open space, public land or existing or planned bike paths, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open

space development shall be constructed to allow future interconnection between neighborhoods.

5. *Open space protection.* The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement that is found acceptable to the city. The conservation easement shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The conservation easement shall provide the following:
- (a) Allowable use(s) of the dedicated open space shall be indicated. The city may require restrictions on open space to prohibit the following:
 - (1) Dumping or storing of any material or refuse.
 - (2) Activity that may cause risk of soil erosion or threaten any living plant material.
 - (3) Cutting or removal of live plant material except for removal of dying or diseased vegetation.
 - (4) Use of motorized off road vehicles.
 - (5) Cutting, filling, or removal of vegetation from wetland areas.
 - (6) Use of pesticides, herbicides, or fertilizers within or adjacent to wetlands.
 - (b) Require that the dedicated open space shall be maintained by parties who have an ownership interest in the open space. Requirements for scheduled maintenance of the open space shall be provided. The conservation easement shall provide for maintenance to be undertaken by the city in the event that the open space is not adequately maintained, or is determined by the city to be a public nuisance with the assessment of costs upon the owners of the open space.
 - (c) The dedicated open space shall forever remain open space, subject only to uses approved by the planning commission on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be prohibited. Any change in use of the open space from what is shown on the approved site plan shall require city council approval, based upon a recommendation by the planning commission, and shall not diminish compliance with the requirements of this article.
 - (d) Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.

Sec. 78-216. - Development agreement.

The development agreement, after review by the planning commission and approval by the city council, shall be entered into between the city and the applicant and be recorded with the county register of deeds. Approval shall be effective upon recording. At a minimum, the agreement shall provide:

- a. A survey of the acreage comprising the proposed development.
- b. The manner of ownership of the developed land.
- c. The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space.
- d. Provision assuring that those open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose. The city may require conveyances or other documents to accomplish this.
- e. Satisfactory provisions have been made to provide for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the city council.

The city may require a performance guarantee to accomplish this.

- f. Provisions to ensure adequate protection of natural features.
- g. The preliminary site plan shall be incorporated by reference and attached as an exhibit.

Secs. 78-217—78-230. - Reserved.

ARTICLE X. - SPECIAL LAND USES

Sec. 78-231. - Intent and purpose.

- a. This article is intended to respond to the functions and characteristics of an increasing number of new kinds of land uses, combined with conclusive experience regarding some of the older, familiar kinds of uses, which call for a more flexible and equitable procedure for properly accommodating these land uses in the community, Rather than assigning all uses to special, individual, and limited zoning districts, it is important to provide control and reasonable flexibility in requirements for certain kinds of uses that will allow practical latitude for the applicant, but will maintain adequate provision for the security of the health, safety, convenience, and general welfare of the community's inhabitants and health and general welfare of the environment.
- b. To accomplish this dual objective, provisions are made in this article for a more detailed consideration of each special land use as it may relate to proposed conditions of location and design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors.
- c. Special land uses may be authorized by the issuance of a special land use permit, which contains conditions and safeguards necessary for the protection of the public welfare, community and general welfare of the environment.
- d. The following sections, together with previous references in other articles of this chapter, designate those uses requiring a special land use permit. Within any noted exceptions, the procedures for obtaining such a special land use permit shall apply to all special land uses.

Sec. 78-232. - Application procedures.

- a. *Complete application.*
 - 1. An application for a special land use shall be submitted to the development official.
 - 2. The application for a special land use shall be submitted at least thirty (30) days prior to the planning commission meeting at which the application will be considered.
 - 3. An application for a special land use shall not be considered complete until all of the materials required to be submitted with a special land use application have been submitted and determined to be administratively complete by the development official.
 - 4. If the application is determined to be administratively complete at least ten (10) business days prior to the next regularly scheduled planning commission meeting, it shall be placed on that meeting's agenda.
- b. *Incomplete application.*
 - 1. The city development official shall have up to ten (10) business days to determine whether the application is administratively complete. An incomplete application will not be placed on the planning commission agenda.
 - 2. Incomplete applications shall be returned to the applicant by the development official with a written explanation of the items necessary to make up a complete application.

Sec. 78-233. - Requirements for complete special land use application.

1. A completed application form, as provided by the city. The application shall be submitted by the owner of an interest in the land for which site plan approval is sought, or the designated agent of the owner.
2. Twenty (20) copies of the preliminary or final site plan, meeting the requirements of Section 78-263, Procedure for Site Plan Review, shall be submitted to the development official.
3. Payment of a fee, in accordance with a fee schedule, as determined by city council resolution.
4. A legal description, including the permanent parcel number, of the subject property.
5. A statement with supporting evidence regarding the required findings as specified in Section 78-239, *Special Land Use General Requirements*.
6. Other materials as may be required by this article, the development official, planning commission or city council.

Sec. 78-234. - Review and findings.

Step 1 – SLU Application submitted to Development Official (with all required information). Application must be submitted at least 30 days prior to PC meeting at which it will be considered.

Step 2 - Planning Commission Holds Public Hearing on Application.

Step 3 - Planning Commission Makes Recommendation to City Council on SLU Application.

Step 4 - City Council approves, denies, or approves with conditions the SLU Application.

Step 5 – If Application is approved, Site Plan review is required, subject to requirements of Article 11.

a. *Public hearing.*

1. The planning commission shall schedule a public hearing within sixty (60) days after the development official's receipt of a complete application. This date may be extended upon written request by the applicant.
2. The city clerk shall publish a notice of public hearing in accordance with the requirements for public hearings set out in article XXIV.
3. Any person may speak or present documents or evidence in support of a position regarding the application at the public hearing.

Sec. 78-235. - Planning commission deliberations.

a. Upon conclusion of the hearing and after time for deliberation, the planning commission shall make a recommendation to the city council for approval, approval with conditions, or denial to the city council. The commission shall state its reasons for such recommendation in its minutes for submission to the council. The planning commission's recommendation shall include any recommended conditions.

Sec. 78-236. - Council review procedures.

a. Upon receipt of a report and summary of hearing comments from the planning commission, the city council may hold an additional public hearing, if it considers a further hearing necessary, using the same hearing requirements as the hearing held before the planning commission. The city council upon approval of an application for special land use permit, shall authorize the development official to issue the permit subject to any conditions specified by the city council.

Sec. 78-237. - Conditions and safeguards.

- a. Before granting a special land use permit as required by this article, the city council may impose reasonable conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use authorized by the special land use permit as may be necessary for the protection of the public interest.
- b. Such conditions may include those necessary to ensure that public services and facilities affected will be capable of accommodating increased demand and facility loads; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; to promote the use of land in a socially and economically desirable manner and be consistent with the general standards as established in this article and are necessary to meet the intent and purpose of the regulations contained in this article.
- c. The conditions imposed shall be recorded in the minutes of the city council and shall remain unchanged except upon mutual consent of the city council and the owner of the property affected. The city council shall record in its minutes any changes in conditions of approval of special land use permits.
- d. Conditions and requirements stated as part of special land use permit authorization, including all plans, specifications and statements submitted with the application for a special land use permit, shall be a continuing obligation of its holder. The development official shall make periodic investigations of uses authorized by special land use permits to determine compliance with all requirements.
- e. Certification of compliance. At final inspection or at other appropriate times the development official shall certify whether all conditions and other requirements of the city council in its approval of the special land use have been fulfilled.
- f. An application for a special land use permit which had been denied wholly or in part by the city council shall not be resubmitted until the expiration of one (1) year or more from the date of denial, except in the case of newly discovered evidence or changed conditions found to be sufficient to justify reconsideration by the city council.

Sec. 78-238. - Special land use amendments or expansions.

Any person or agency shall notify the development official of any change in an existing special land use. The development official shall determine whether the proposed amendment constitutes a minor or major amendment, based on the requirements below:

- a. *Major amendments.* A major amendment to an approved special land use includes:

1. Increase in building. Changes increase the building's usable floor area by more than twenty-five (25) percent since special land use approval.
2. Increase in parking. Parking lots are expanded by more than twenty-five (25) percent since the original special land use approval.
3. Other changes. Other significant changes to an approved special land use, as determined by the development official.
4. Existing special land uses. Any expansion of a special land use that predates the special land use requirements of this ordinance and has not previously received a special land use permit.

Any major amendment to an approved special land use shall require submittal of a new application for special land use and follow the review procedures contained in this article. Amendments to the site plan shall bring the site into compliance with all zoning ordinance requirements determined to be reasonable by the planning commission in proportion with the extent of the change at the site and in consideration with the physical constraints of the site.

b. *Minor amendment.* A minor amendment to an approved special land use includes:

1. Increase in building. Changes increase the buildings usable floor area by twenty-five (25) percent or less since the originally approved building.
2. Increase in parking. Parking lots are expanded by twenty-five (25) percent or less since the originally approved lot.
3. Other changes. Other minor changes to an approved special land use, as determined by the development official.

Any minor amendment to an approved special land use does not require submittal of a new application for a special land use.

c. *Change in use.* Change to another special land use shall require submittal of a new application for special land use and follow the review procedures contained in this article.

d. *Required site plan.* Any changes, whether minor and major, shall require submittal of a site plan in accordance with article XI, site plan review.

e. *Multiple uses.* For a use or building which involves more than one (1) activity classified as a special land use, a separate special land use permit shall be required for each use requiring special land use review on a lot.

Sec. 78-239. - Special land use general requirements.

- a. The planning commission and city council shall review the particular facts, circumstances and evidence presented. The planning commission and city council decisions shall be based on the general standards of this section and the applicable specific requirements contained in Section 78-240, Special Land Use Specific Requirements.
- b. It shall be incumbent upon the representatives of the applicant for a special land use permit to provide documentation and evidence in support of the proposal. It shall also be the obligation of the applicant to furnish evidence, or proof of compliance with the specific and general criteria contained in this article.
- c. The following general standards are basic to all special land uses; and the specific requirements of Section 78-240, Special Land Use Specific Requirements are in addition to and shall be required in all applicable situations.
 1. *Compatible with the city comprehensive development plan.* The proposed use shall comply with the general objectives and land use policies contained in the city comprehensive development plan.
 2. *Compatible with the surrounding area.* The proposed use shall be designed, constructed, operated, and

maintained so as to be harmonious and appropriate in appearance with the existing character of the general vicinity.

3. *Served by adequate public services.* The proposed use is served by necessary public facilities which are adequate or can be made adequate to serve the proposed use. Specifically, existing streets, stormwater drainage, water supply, fire protection, police, emergency medical care, sanitary sewer disposal, solid waste disposal, and public recreation shall be adequate to serve the proposed project.
4. *Impact on public health safety, and welfare.* The proposed use shall not involve activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors. Safe vehicular and pedestrian access must be provided to the proposed use.
5. *Compliance with local, state and federal requirements.* All applicable local, state and federal statutes and requirements must be met.

Sec. 78-240. - Special land use specific requirements.

The general requirements of Section 78-239, Special Land Use General Requirements are basic to all uses authorized by a special land use approval. However, certain special land uses, because of their unique character and potential impacts on the welfare of adjacent properties and the city, require additional specific requirements. Such uses are subject to specific regulations that must be met in addition to the general standards of Section 78-239, Special Land Use General Requirements and other sections of this ordinance.

a. *Adult entertainment uses.*

1. *Intent.* It is the intent of this section to provide regulations controlling those uses which are recognized as having serious, objectionable, operational characteristics inducing a deleterious impact on adjacent uses and areas. Special regulations of these uses are necessary to ensure that the anticipated adverse impacts will not contribute to the blighting or downgrading of the surrounding neighborhood. Uses subject to these controls include adult bookstores, adult motion picture theaters, adult motels, and massage parlors.
2. *Definitions.* For purposes of this section, the adult entertainment uses listed in 1. above shall have the meanings as noted in article XXV, definitions.
3. *General requirements and restrictions.* Establishments where uses subject to the control of this section are located shall not be expanded in any manner without first applying for and receiving the approval of the city council as provided in this section. The city council shall only issue a special land use permit for adult entertainment uses which comply with the following requirements.
 - (a) Adult entertainment uses shall not be located in any zoning district except the central business district.
 - (b) Adult entertainment uses shall not be allowed within five hundred (500) feet of another existing adult entertainment use, any residential zoning district, any existing church, school, park daycare or playground.
 - (c) All persons massaging any client or customer must be certified as massage therapists by the American Massage Therapy Association or be a graduate of a school of massage therapy that is certified by the state, or have such other similar qualifications which must be submitted to and approved by the planning commission.
 - (1) All massage clinics are subject to inspection from time to time by the building inspector and shall be required to file reports as may be required by the city, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the

massage establishment.

- (2) This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, chiropractor, or physical therapist duly licensed by the state, nor barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulders.
- (3) This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.
- (d) Any sign or signs proposed for the adult use business must comply with the requirements of this chapter, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, nor include any animated illumination or flashing illumination.
- (e) Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, and read:
 - (1) "Persons under the age of eighteen (18) years are not permitted to enter the premises."
 - (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.
- (f) No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual ability from the nearest adjoining roadway or adjoining property.

b. *Agricultural businesses.*

1. Animal holding areas shall be set back one hundred (100) feet from all property lines and the road rights-of-way.
2. No manure or dust-producing material shall be stored within one hundred (100) feet of any property line or road right-of-way.

c. *Automobile repair establishments.*

1. Parking or storage of inoperative vehicles shall be completely surrounded by an opaque fence of not less than six (6) feet in height.
2. A minimum lot frontage of one hundred (100) feet is required.
3. All buildings and accessory structures shall be set back at least fifty (50) feet from any lot line or street right-of-way.
4. All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment.
5. Aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gases are prohibited. In ground storage of flammable liquids shall be in nonmetallic containers, pressure tested under the supervision of the development official and annually approved thereafter by the applicable state agency.

d. *Automobile washes.*

1. Only one (1) ingress/egress driveway shall be permitted on any single street.
2. Where adjoining residentially zoned property or an existing residential use, a decorative masonry wall six (6)

feet in height shall be erected along any common lot line. Such wall shall be continuously maintained in good condition. The planning commission may approve a fence, landscaped berm, or landscaping as an alternative.

3. All washing facilities shall be within a completely enclosed building. Self-service facilities may be within a partially enclosed building.
4. Vacuuming and drying may be located outside the building, but shall not be in the required front yard and shall be set back at least fifty (50) feet from any residential district. Such areas shall be screened with obscuring landscaping as determined by the planning commission.
5. Adequate stacking space shall be provided in accordance with the requirements of article XIV, off-street parking and loading. Stacking spaces shall not be permitted in the public right-of-way.

e. *Bed and breakfasts.*

1. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
2. The facility shall be in compliance with all applicable state licensing requirements.
3. Such uses shall only be established in a detached single-family dwelling.
4. Parking shall be located to minimize negative effects on adjacent properties.
5. The total number of guest rooms in the establishment shall not exceed five (5).
6. Exterior refuse storage facilities beyond what might normally be expected for a detached single-family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence or wall.
7. The establishment shall contain the principal residence of the operator.
8. Meals may only be served to overnight guests.

f. *Building material suppliers.*

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.
3. The planning commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
4. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained in a manner that conforms to the city's stormwater management regulations.

g. *Cemeteries.* Cemeteries shall be established in compliance with the Public Health Code (Public Act 368 of 1978 et seq.) and other applicable state laws.

h. *Churches, temples, & other places of worship or public assembly.*

1. The minimum lot area shall be at least thirty thousand (30,000) square feet.
2. No building shall be closer than forty (40) feet to any property line or street right-of-way.

i. *Combined office and residential uses.*

1. The residential use within each building shall be limited to the approved area for such use unless modified by further site plan approval.
2. No residential use shall be permitted below the second floor of any building within this district. Residential uses shall be incidental uses in office buildings and shall not be freestanding structures except as may be permitted through the approval of a planned unit development.

3. The business office use of any building within this district shall be the primary use. Residential uses within a building occupy greater floor area than the primary use insofar that all residential space is above the first floor.
4. The minimum square footage for multiple residential units in the multiple family (MF) district in Table IV-02 Residential Schedule of Area and Bulk Requirements shall apply to all residential units within the central business district and shall apply to all residential units in the office district.
5. Each residential unit shall be a separate unit for water, sewer and electrical purposes and metering.
6. Parking:
 - (a) All parking shall either be in the rear yard or along the side of the main building but must remain behind the front building line of the structure.
 - (b) Parking for any residential uses shall be provided in the rear of the building and marked to distinguish them from parking spaces associated with the office uses.
 - (c) The parking plan layout, points of access and screening shall require the approval of the city council. Screening shall be provided in accordance with the requirements of article XVI, landscaping requirements, article XVII, lighting requirements and article XVIII, site design requirements.
 - (d) The number of parking spaces for each use on the site shall be in accordance with article XIV, off-street parking and loading.
 - (e) If the office use is located adjacent to community parking facilities, such parking area may be for office use with approval of the city council and noted on the site plan.
- j. *Commercial day care.*
 1. Off-street parking shall be provided for employees of the facility. Client pickup and drop off areas shall be located so that vehicles do not stop in the travel lane of the adjacent roadway.
 2. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
 3. The facility shall be in compliance with all applicable state licensing requirements.
- k. *Drive-through facilities.*
 1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way in accordance with Section 78-375, Schedule of Parking Requirements. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
 2. The maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
 3. Vehicular access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of such access.
 4. Outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.
 5. Only one (1) drive-through service lane shall be permitted. All services, including vehicle queuing, ordering, payment and delivery, shall be from this single lane.
 6. The drive-through facility shall be clearly accessory and ancillary to the principal retail or service use.
 7. In the CB District, the drive through facility shall not be located on a wall of the building that faces Bridge Street or Main Street.
- l. *Duplex dwellings, including conversion of existing single-family detached dwellings.*

1. If applicable approval of two-family conversion from the Mid-Michigan District Health Department shall be provided stating the maximum number of inhabitants capable of being served by the approved on-site sewage disposal system and water supply, or approval from the city engineer stating that the existing public sanitary sewer and/or municipal water supply lines are adequate for two (2) families.
 2. The building and lot shall conform to the site development requirements for the zoning district in which it is located.
 3. No dwelling unit shall have its access more than one hundred (100) feet from either an access drive, public street, or required off-street parking area.
- m. *Private educational institutions.*
1. No building shall be closer than forty (40) feet to any property line or street right-of-way line.
 2. No more than twenty-five (25) percent of the gross site area shall be covered by buildings.
- n. *Funeral homes and mortuaries.*
1. Minimum lot area shall be one (1) acre with a minimum width of one hundred fifty (150) feet.
 2. A well designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
 3. A caretaker's residence may be provided within the principal building.
- o. *Golf courses, country clubs, and related uses.* The following regulations apply to golf courses and country clubs, including related uses, such as snack bars, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use:
1. The site area shall be at a minimum of twenty (20) acres and shall be located on a collector street.
 2. All buildings, parking areas, swimming pools, and tennis courts shall be set back a minimum of fifty (50) feet from any property line or street right-of-way lines.
 3. A landscaped buffer strip shall be provided between the parking area its principal building area and any adjacent residential district.
- The following regulations apply to single-family detached dwellings and duplex dwellings accessory to, adjoining, or in proximity to a golf course.
1. The residential uses shall be harmonious with the character of the surrounding area and the natural features associated with the golf course in terms of number, density, arrangement, design, architecture and other impacts.
 2. The arrangement of the residential uses should not unduly interfere with the operations of the golf course. The city may require a review by an independent golf course design professional.
 3. The city encourages clustering of residential uses, where appropriate, to assist in the integration of the residential uses into the golf course development. Where clustering is not feasible, the residential uses should be provided with sufficient landscaping and other design considerations to allow them to be complementary to the golf course.
 4. The residential uses shall be subject to the R-2 district's site development requirements.
- p. *Government and community service facilities.*
1. *In residential districts:*
 - (a) No building shall be closer than forty (40) feet to any property line or street right-of-way line.

(b) No more than twenty-five (25) percent of the gross site area shall be covered by buildings.

2. *In non-residential districts:*

- (a) Minimum lot size shall be one (1) acre.
- (b) The lot shall provide direct vehicular access to a public street.
- (c) Ingress and egress shall be at least fifty (50) feet from an intersection.
- (d) Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of at least ten (10) feet.
- (e) No commercial, for-profit enterprise shall be permitted to operate on the lot, except that vending machines shall be permitted.
- (f) All principal buildings or outdoor activity areas shall be set back at least fifty (50) feet from any property line.

q. *Hospitals.*

- 1. The minimum lot area shall be at least two (2) acres and have direct access to a major street as defined in Act 51, as amended.
- 2. The emergency entrance, delivery area, and the refuse disposal container area shall be obscured from the general view.
- 3. No building shall be any closer than seventy-five (75) feet to any property line or street right-of-way.

r. *Hotels and motels.*

- 1. Minimum floor area of each guest unit shall contain not less than two hundred fifty (250) square feet.
- 2. The minimum lot area shall be twenty-five thousand (25,000) square feet with a minimum width of one hundred (100) feet, provided that there shall be at least five hundred (500) square feet of lot for each lodging unit.
- 3. All parking areas shall have direct access to a collector street.

s. *Multiple-family dwellings.*

- 1. All structures shall be a minimum of twenty-five (25) feet from the closest property lines.
- 2. The minimum horizontal distance between the nearest points of buildings shall be thirty (30) feet.
- 3. No dwelling unit shall have its principal access more than one hundred (100) feet from either an access drive, public street, or required off-street parking area.

t. *Parks and recreation facilities, commercial.*

- 1. Main buildings shall be set back a minimum of one hundred (100) feet from any residential district or use.
- 2. For uses exceeding a seating capacity of two hundred fifty (250) persons, a traffic impact study shall be required to be submitted by the applicant which describes internal circulation and projected impacts on traffic operations capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
- 3. Access driveways shall be located no less than one hundred (100) feet from the nearest part of the intersection of any street or any other driveway.

u. *Parks and recreation facilities, noncommercial.*

- 1. Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of at least ten (10) feet.
- 2. Public restrooms shall be provided.

3. No commercial, for-profit enterprise shall be permitted to operate on the lot, except that vending machines shall be permitted.
 4. All principal buildings or outdoor activity areas shall be set back at least seventy-five (75) feet from any property line.
- v. *Nurseries and greenhouses.*
1. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
 2. All loading activities and parking areas shall be provided on the same premises (off-street).
 3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently screened and contained to prevent any adverse effect upon adjacent properties.
- w. *Offices and showrooms of contractors, decorators or similar trades.* Building material suppliers and offices and showrooms of contractors, decorators or similar trades in connection with whom not more than twenty-five (25) percent of the usable floor area of the building or part of the building occupied by such establishment is used for making, assembling, repairing, remodeling, altering, finishing or refinishing the products or merchandise of the trade shall adhere to the following regulations.
1. All storage of materials shall be within the confines of the building or part of the building occupied by such establishment.
 2. The planning commission may require a six-foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
 3. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
- x. *Off-street parking lots.*
1. Off-street parking lots in residential districts can only be used for required parking for residential uses or for uses located in the central business district.
 2. Parking areas shall be used for parking or storage of private passenger vehicles only.
 3. No business involving the repair or services to vehicles permitted thereon, or sale, or other storage, or display thereof, shall be conducted from or upon such premises.
 4. All such facilities shall be in the same zoning district as the principal use to which it is accessory unless a special land use permit is permitted and granted for parking in an adjoining zoning district.
 5. Except where required by law, no sign shall be erected or placed on the parking area except that not more than one (1) directional sign at each point of ingress and egress may be erected or placed. Such signs may also contain information on charges and duration and shall not exceed twelve (12) square feet per side nor fifteen (15) feet in height.
 6. All facilities shall be constructed in conformance with the requirements of this chapter pertaining to such parking areas.
 7. All facilities shall be effectively screened from adjacent residential properties.
- y. *Personal service establishments.*
1. *In general.* Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of at least ten (10) feet.
 2. *Located wholly within an office building.*
 - (a) Personal services establishments are only allowed as special land uses in the office district when located

wholly within an office building.

- (b) Such establishments shall comply with all applicable parking regulations, in addition to those required for the office uses to which they are accessory.
- (c) No additional signs shall be permitted for the site and/or building for the establishment, except as may be permitted in article XV, signs.
- (d) All entrances to such establishments shall be from the interior of the office buildings to which they are accessory, unless a separate outside entrance is specifically permitted by the city council with the approval of the special land use.

z. Printing or publishing plants.

- 1. The main and accessory buildings shall be set back at least seventy-five (75) feet from all property lines.
- 2. Truck parking and staging areas shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
- 3. Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of at least ten (10) feet.

aa. Private clubs, lodges and meeting halls.

- 1. No building shall be closer than forty (40) feet to any property line or street right-of-way.
- 2. No commercial, for-profit enterprise shall be permitted to operate on the premises, except that vending machines shall be permitted.

bb. Radio and television broadcasting facilities without towers.

- 1. Parking areas shall have a minimum front yard setback of twenty (20) feet and side and rear yard setbacks of at least ten (10) feet.

cc. Residential uses within the commercial business (CB) district.

- 1. The residential use within each building shall be limited to the approved area for such use, unless modified by further site plan approval.
- 2. If located in a building that is also used for permitted non-residential use, the residential dwelling units shall be located above or behind the non-residential use.
- 3. The minimum square footage for multiple residential units in the multiple family (MF) district in Table IV-02 Residential Schedule of Area and Bulk Requirements shall apply to all residential units within the central business district.
- 4. Each residential unit shall be a separate unit for water and sewer purposes.
- 5. Two (2) parking spaces shall be required per residential unit, unless the requirement is waived or modified by the city council.

dd. Shopping centers and malls thirty thousand (30,000) square feet and over.

- 1. The minimum lot area shall be three (3) acres.
- 2. The site shall have a minimum of three hundred (300) feet of frontage on a major street, as defined in Public Act 51.
- 3. No building shall be located closer than one hundred (100) feet to a street right-of-way line.
- 4. Shopping centers or malls shall be served by public sanitary sewer and water supply.
- 5. Motor vehicle entrance and exit shall only be from a collector street.
- 6. Areas for pedestrian movement between buildings shall be designed without the need to cross drives or

parking areas. In cases where there is a need to cross drives or parking areas, a clearly defined pedestrian link shall be provided.

7. No building within a shopping center or mall shall have a separate access to a street.
 8. Where possible, existing trees and other significant vegetation on the site shall be preserved. Greenbelts, buffer strips, and berms may be required.
- ee. *Shopping centers and malls less than thirty thousand (30,000) square feet.*
1. The minimum lot area shall be two (2) acres.
 2. The site shall have a minimum of two hundred (200) feet of frontage on a major street, as defined in Public Act 51.
 3. The shopping centers or mall shall be served by public sanitary sewer and water supply.
 4. Motor vehicle entrance and exit shall only be from a major street, as defined in Public Act 51.
 5. Areas for pedestrian movement between buildings shall be designed without the need to cross drives or parking areas. In cases where there is a need to cross drives or parking areas, a clearly defined pedestrian link shall be provided.
 6. No building within a shopping center or mall shall have a separate access to a street.
 7. Where possible, existing trees and other significant vegetation on the site shall be preserved. Greenbelts, buffer strips, and berms may be required.
- ff. *State licensed residential care group facilities.*
1. The minimum lot area shall be at least one (1) acre.
 2. The proposed site shall have direct access to a major street, as defined in Public Act 51.
 3. No building shall be closer than forty (40) feet to any property line or street right-of-way.
 4. Off-street parking shall be provided for family members and employees of the facility. Client pickup and drop-off areas shall be located in a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.
 5. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
 6. The applicant shall provide evidence of the ability to comply with all applicable state licensing requirements.
- gg. *State licensed group day care centers.*
1. There shall be provided equipped and maintained on the premises a minimum of one hundred fifty (150) square feet of usable outdoor recreation area for each client making up the licensed capacity of the facility.
 2. The outdoor recreation area shall be fenced and screened from any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
 3. Required off-street parking, as well as off-street pickup and drop-off areas, shall be provided.
 4. The applicant shall provide evidence of the ability to comply with all applicable state licensing requirements.
- hh. *Vehicle, boat or farm implement sales, new and used, including incidental servicing and minor repair.*
1. Minimum lot area shall be one (1) acre.
 2. Minimum lot width shall be two hundred (200) feet.
- ii. *Veterinary clinics, hospitals and indoor kennels.*
1. Buildings where animals are kept, dog runs, and/or exercise areas shall not be located nearer than fifty (50) feet to any adjacent occupied dwelling or any adjacent building used by the public.

2. All principal use activities, shall be conducted within a totally enclosed main building, and shall be escape proof by any animals to the maximum extent possible.

(Amend. of 4-15-2012)

Secs. 78-241—78-260. - Reserved.

ARTICLE XI. - SITE PLAN REVIEW

Sec. 78-261. - Intent and purpose.

The purpose of this article is to require site plan review approval for certain buildings, structures, and uses that can be expected to have a significant impact on natural resources, environmental quality, traffic patterns and the character of future development in the vicinity. The requirements contained in this article are intended to reduce hazards to life and property due to fire, flooding, soil erosion, inadequate surface water drainage, inadequate sewage disposal systems, pollution, dust, fumes, noise, vibration, noxious odors, and other hazards, and to facilitate the provision of a system of roads, streets, parking, municipal sewage disposal, storm sewers, municipal water supply, public education, and other public needs. These requirements are further intended to promote orderly development and harmonious design in order to conserve the value of existing development and property.

Sec. 78-262. - Uses subject to site plan review.

A building permit shall not be issued until a full site plan or sketch plan has been reviewed and approved in accordance with the procedures and standards of this chapter and all necessary review, inspection, and permit fees have been fully paid. The types of site plan review for various types of projects are classified into four (4) types in Table XI-01 Table of Eligible Uses and Required Review Process.

- (a) *Full site plan review.* The most involved process for larger and more intense projects, including most new developments and major expansions. All such projects require site plan review and approval by planning commission. Review and approval of a site plan for a special land use is required from city council, following a recommendation by planning commission.
- (b) *Sketch plan review.* Smaller scale projects and expansions or changes in use to existing sites are permitted to provide less detailed information than a full scale site plan review. The level of information is intended to be proportionate to the extent of the change and insure adequate review for compliance with applicable standards. Sketch plans shall undergo a formal review by the planning commission.
- (c) *Administrative review.* Select smaller scale projects and expansions or changes in use to existing sites, are also required to provide a sketch plan, do not require review by the planning commission; but shall undergo a formal review for approval by the development official.
- (d) *Exempt.* Select projects, such as single-family homes in an individual lot, are exempt from site plan review.

Table XI-01

Table of Eligible Uses and Required Review Type

Situation/Use	Required Review

	Full Site Plan	Sketch Plan	Admin. Review	Exempt
New Development				
Construction of a Single- or Two-Family Dwelling			X	
Construction of more than one main building or use on a single lot or parcel, submitted as a Site Condominium	X			
Construction of any Multiple-Family Dwellings	X			
Construction of any Nonresidential Use or Building	X			
Establishment of Special Land Uses in all Zoning Districts	X			
Minor Changes During Construction such as Changes in Landscape Species to a Similar Variety, Realignment of a Driveway or Road Due to an Unanticipated & Documented Constraint During Construction, or to Improve Safety or Protect Natural Features			X	
Minor Changes During Construction Required by Outside Agencies			X	
Expansions				
Expansion of one single-family dwelling unit on one lot in a residential zoning district				X
An Increase in the Floor Area up to 25% of the Existing Floor Area for a Use Requiring Site Plan Approval		X		
An Increase in the Floor Area Greater than that Specified Above	X			
An Increase in Parking of Loading Area of up to 25% or 6,000 sq. ft. of Pavement Area without any Building Changes			X	
An Increase in Parking of Loading Area over 25% or 6,000 sq. ft. of Pavement Area without any Building Changes		X		

Changes to Building Height that do not Add Additional Floor Area			X	
Changes in Use				
Any Change in the Use of Land or a Building to a More Intensive Use, in Terms of Parking Needs, Noise, Traffic Volumes, & Similar Impacts		X		
A Change in Use to a Similar or Less Intense Use Provided the Site shall Not Require any Significant Changes in the Existing Site Facilities such as Parking, Landscaping, Lighting, or Signs			X	
A Change from a Non-Conforming Use, Building or Site, to a More Acceptable Non-Conforming Situation		X		
Other Types of Projects				
Accessory Buildings & Structures in any Zoning District			X	
Home Occupations			X	
Internal Construction or Change in the Floor Plan that Does not Increase Gross Floor Area, Increase the Intensity of Use or Affect Parking Requirements on a Site which Meets all Site Design Standards of this Ordinance				X
State Licensed Residential Family Care Facilities & Family Day Care Homes			X	
Temporary Uses			X	
Terraces, Patios, Porches, & Decks (Covered or Uncovered)			X	
Any use which, in the opinion of the development official, should be reviewed by the planning commission for Site Plan Approval because of the intensity of development proposed & potential effects on properties in the general vicinity	X			

Other projects not specifically listed in this Table			X	
Any significant exterior alterations (other than to Single-Family or Two-Family Dwellings) that, in the opinion of the development official, should be reviewed by planning commission			X	

Sec. 78-263. - Procedure for site and sketch plan review.

Site plans and sketch plans must be submitted in accordance with the following procedures and requirements:

a. **Application.**

1. Complete application.
 - (a) An application for site plan or sketch plan approval shall be submitted to the development official.
 - (b) If the development official determines that the plan requires planning commission review, the application shall be submitted at least thirty (30) days prior to the planning commission meeting at which the application will be considered.
2. An application for site plan or sketch plan approval shall not be considered complete until all of the required materials required to be submitted with a special land use application have been submitted and determined to be administratively complete by the development official.
 - (a) Incomplete applications shall be returned to the applicant with a written explanation of the items necessary to make up a complete application.
3. Requirements for site plan review. The applicant shall submit twenty (20) copies of the following to the city development official.
 - (a) A completed application form, as provided by the city.
 - (b) Written description of the proposed project or use.
 - (c) A complete site plan or sketch plan that includes the information required in Section 78-264, Submittal Requirements.
 - (d) Payment of a fee, in accordance with a fee schedule, as determined by city council resolution.
 - (e) A legal description, including the permanent parcel number, of the subject property.
 - (f) Any additional information the planning commission or development official finds necessary to make the required determinations.
 - (g) The application shall be submitted to the city by the owner of an interest in the land for which site plan approval is sought, or the designated agent of the owner. The representative must be the property owner or a person designated in writing by the property owner as the authorized representative.

Sec. 78-264. - Submittal requirements.

The following data shall be included with and as part of the site plan(s) or sketch plan(s) submitted to the city for review:

Table XI-02

Site Plan and Sketch Plan Submittal Requirements

Plan Data	Required for:	
	Site Plan	Sketch Plan
Application Form		
Name & Address of the Applicant & Property Owner & if applicable, the designated Agent of the Owner	X	X
Address & Common Description of Property & Complete Legal Description	X	X
Dimensions of Land & Total Acreage	X	X
Zoning on the Site & All Adjacent Properties	X	X
Description of Proposed Project or Use Type of Building or Structures & Name of Proposed Development, if Applicable	X	X
Name & Address of Firm or Individual Who Prepared Site Plan	X	X
Proof of Property Ownership	X	X
Site Plan Descriptive & Identification Data		
Site Plans Shall Consist of an Overall Plan for the Entire Development, Drawn to an Engineer's Scale of not Less than 1 in. = 50 ft. for Property Less than 3 Acres, or 1 in. = 100 ft. for Property 3 Acres or More in Size. Sheet Size shall be at Least 24 × 36 in. If a Large Development is Shown in Sections on Multiple Sheets, then One Overall Composite Sheet shall be Included	X	X
Title Block With Sheet Number/Title; Name, Address & Telephone Number of the Applicant & Firm or Individual Who Prepared the Plans; & Date(s) of Submission & any Revisions (Month, Day, Year)	X	X
Scale & North-Point	X	X
Location Map Drawn to a Separate Scale with North-Point, Showing Surrounding Land, Water Features, Zoning & Roads within ½ Mile	X	
Legal & Common Description of Property	X	X

Identification & Seal of Architect, Engineer, Land Surveyor, or Landscape Architect Who Prepared Drawings	X	
Zoning Classification of Petitioner's Parcel & all Abutting Parcels	X	X
Proximity to Section Corner & Major Thoroughfares	X	
Net Acreage (Minus Rights-of-Way & Submerged Land) & Total Acreage	X	X
Site Data		
Existing Lot Lines, Building Lines, Structures, Parking Areas & Other Improvements on the Site & within 100 ft. of the Site	X	X
Topography on the Site & within 100 ft. of the Site at Two-Foot Contour Intervals, Referenced to a U.S.G.S. Benchmark	X	
Proposed Lot Lines, Lot Dimensions, Property Lines, Setback Dimensions, Structures, & other Improvements on the Site & within 100 ft. of the Site	X	X
Location of Existing Drainage Courses, Floodplains, Lakes & Streams, & Wetlands with Elevations	X	X
Location of any Natural Features Protection Areas, as Identified on the Natural Features Protection Area Map, if Applicable	X	X
Location of any Wellhead Protection Areas, as Identified on the Natural Features Protection Area Map, if Applicable	X	X
All Existing & Proposed Easements Including Type	X	X
Location of Exterior Lighting (Site & Building Lighting)	X	
Location of Trash Receptacle(s) & Transformer Pad(s) & Method of Screening	X	X
Extent of any Outdoor Sales or Display Area	X	X
Access & Circulation		
Dimensions Curve Radii & Centerlines of Existing & Proposed Access Points, Roads & Road Rights-of-Way or Access Easements	X	X

Driveways & Intersections within 250 ft. of Site	X	
Cross-Section Details of Proposed Roads, Driveways, Parking Lots, Sidewalks & Non-Motorized Paths Illustrating Materials & Thickness	X	
Dimensions of Acceleration, Deceleration, & Passing Lanes	X	
Dimensions of Parking Spaces, Islands, Circulation Aisles & Loading Zones	X	X
Calculations For Required Number of Parking & Loading Spaces	X	X
Designation of Fire Lanes	X	X
Traffic Regulatory Signs & Pavement Markings	X	
Location of Existing & Proposed Sidewalks/Pathways within the Site or Right-of-Way	X	X
Location, Height, & Outside Dimensions of all Storage Areas & Facilities	X	X
Traffic Impact Study may be Required at the planning commission's Request when the Use Generates Traffic that Exceeds Trip Generation Rates Recognized by the Institute of Traffic Engineers (ITE)	X	X
Landscape Plans		
Location, Sizes, & Types of Existing Trees 6 in. or Greater in Diameter, Measured at 3.5 ft. off the Ground Evergreen Trees 10 ft. or Taller & the General Location of all other Existing Plant Materials, with an Identification of Materials to be Removed & Materials to be Preserved.	X	X
Description of Methods to Preserve Existing Landscaping	X	
The Location of Existing & Proposed Lawns & Landscaped Areas	X	X
Landscape Plan, Including Location & Type of all Proposed Shrubs, Trees, & other Live Plant Material	X	
Planting List for Proposed Landscape Materials with Caliper Size or Height of Material, Method of Installation, Botanical & Common Names, & Quantity	X	
Proposed Dates of Plant Installation	X	

Landscape Maintenance Schedule	X	
Building & Structure Details		
Location, Height, & Outside Dimensions of all Proposed Buildings or Structures	X	X
Building Floor Plans & Total Floor Area	X	
Details on Accessory Structures & any Screening	X	
Size, Height & Method of Shielding for all Site & Building Lighting	X	
Location, Size, Height, & Lighting of all Proposed Site & Wall Signs	X	X
Location, Size, Height & Material of Construction for all Obscuring Wall(s) or Berm(s) with Cross-Sections, where Required	X	X
Building Facade Elevations for all Sides, Drawn at an Appropriate Scale	X	
Description of Exterior Building Materials & Colors (Samples may be Required)	X	
Information Concerning Utilities, Drainage & Related Issues		
Location of Sanitary Sewers & Septic Systems, Existing & Proposed	X	
Location & Size of Existing & Proposed Water Mains, Well Sites, Water Service, Storm Sewers Loads, & Fire Hydrants	X	
Stormwater Drainage & Retention/Detention Calculations	X	X
Indication of Site Grading, Drainage Patterns & other Stormwater Management Measures	X	X
Stormwater Retention & Detention Ponds, including Grading, Side Slopes, Depth, High Water Elevation, Volume & Outfalls	X	X
Location & Size of Underground Storm Sewers & Drains	X	X
Location of Above & Below Ground Gas, Electric & Telephone Lines, Existing & Proposed	X	
Location of Transformers & Utility Boxes	X	

Assessment of Potential Impacts from the Use, Processing, or Movement of Hazardous Materials or Chemicals, if Applicable	X	
Additional Information Required for Multiple-Family Residential Development		
The Number & Location of Each Type of Residential Unit (One Bedroom Units, Two Bedroom Units, etc.)	X	
Density Calculations by Type of Residential Unit (Dwelling Units Per Acre)	X	
Garage &/or Carport Locations & Details, if Proposed	X	
Mailbox Clusters	X	
Location, Dimensions, Floor Plans & Elevations of Common Building(s) (E.G., Recreation, Laundry, etc.), if Applicable	X	
Swimming Pool Fencing Detail, including Height & Type of Fence, if Applicable	X	
Location & Size of Recreation & Open Space Areas	X	
Indication of Type of Recreation Facilities Proposed for Recreation Area	X	

- a. Preliminary and final site plan review.

Step 1 – Site Plan or Sketch Plan Application submitted to Development Official (with all required information). Application must be submitted at least 30 days prior to PC meeting at which it will be considered.

Step 2 (Optional)– Preliminary review of site plan or sketch plan by Planning Commission

Step 3 – Review and approval of final site or sketch plan by Planning Commission

Step 3.A – If the project is subject to Special Land Use Review or is a manufactured home park, Planning Commission makes recommendation to City Council.

Step 4 – City Council reviews and approves site plan.

1. *Preliminary site plan review.*

- (a) If desired by the applicant, a preliminary site plan may be submitted to the city development official for circulation to planning commission for review prior to final site plan review. The purpose of the preliminary site plan review is to allow discussion between the applicant and the commission to inform the applicant of the general acceptability of the proposed plans prior to incurring extensive engineering and other costs which may be necessary for the review of the final site plan.
- (b) The planning commission shall review the preliminary site plan and make such recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this chapter.

2. *Final site plan review.* A final site plan shall be reviewed by the planning commission. Final site plans for special land use requests and manufactured home parks shall be reviewed by the city council, after receipt of a recommendation from the planning commission.

3. *Additional information.* The planning commission or council may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impaction significant natural features and drainage; soil tests; and other pertinent information.

b. **Agency review.** Upon receipt of a completed application for final site plan review, the city development official

shall transmit one (1) copy of the site plan to the planning commission and each of the following officials or agencies for their comments:

1. City fire chief.
2. City police chief.
3. Clinton County Drain Commissioner.
4. Superintendent of DeWitt Public Schools.
5. City public services superintendent.
6. City engineer.
7. City planner.
8. Mid-Michigan District Health Department, Environmental Health Division.
9. Southern Clinton County Municipal Utilities Authority.
10. Other agencies, as determined by planning commission.

The city development official may also decide, at his/her discretion, to circulate preliminary site plans to the above agencies for comments.

- c. **Planning commission consideration.** Following staff review and comment, and compliance with administrative procedures, the site plan shall be placed on the agenda of the planning commission. The planning commission shall review the application for site plan review, together with the reports and recommendations from its planning consultant, engineering consultant, fire chief, police chief and other reviewing agencies, as appropriate. The planning commission shall then make a determination based on the requirements and standards of this ordinance. The planning commission is authorized to table, grant approval, grant approval subject to conditions, or denial as follows:

1. *Table.* Review of the application may be tabled if it is determined to be incomplete, the applicant has not fully responded to deficiencies identified in the technical review, a variance is needed from the zoning board of appeals (ZBA), or revisions are necessary to bring the site plan into compliance with applicable standards and requirements. The planning commission may direct the applicant to prepare additional information, revise the site plan, or direct the city staff to conduct additional analysis. The applicant may be required to prepare revised plans accompanied by a complete list of all changes, signed by the applicant's design professional and submitted to the Development Official for circulation to the planning commission.
2. *Approval.* Upon determination that a site plan is in compliance with the standards and requirements of this ordinance and other applicable ordinances and laws, approval shall be granted by planning commission subject to the applicant providing copies of all required outside agency approvals. City council approval is required in the case of a site plan related to a special land use.
3. *Approval subject to conditions.* Upon determination that a site plan is in compliance except for minor revisions, said revisions shall be identified and the applicant shall correct the site plan prior to applying for a building permit. The applicant shall resubmit the site plan, accompanied by a complete list of all changes, signed by the applicant's design professional, to the city for final approval after the revisions have been completed. The city development official shall review and approve the resubmitted plan if all required revisions have been addressed and copies of any permits required by outside agencies have been provided.
4. *Denial.* Upon determination that a site plan does not comply with standards and requirements set forth in this ordinance site plan approval shall be denied. Any resubmittal shall be considered a new site plan and be required to reinitiate the full site plan review process, including payment of required application fees.

5. *Appeal.* Any person aggrieved by the decision of the planning commission or city council with respect to an act on the final site plan may have that decision reviewed by the ZBA; provided the petition for appeal is filed with the planning commission or city council within fifteen (15) days of the planning commission or city council decision.

d. **Completion of site design.**

1. Following final approval of the site plan and final approval of the engineering plans by the city's engineering consultant, a building permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable city, county, or state permits prior to issuance of a building permit.

Sec. 78-265. - Procedure for administrative plan review.

For uses and projects eligible for administrative review, the following procedures and requirements shall apply:

- a. *Submittal requirements.* Five (5) copies of the sketch plan that contains the information listed in Section 78-264, Submittal Requirements shall be submitted to the city development official. The city development official may waive some of the submittal requirements if the information is not relevant or required based on the proposed project.
- b. *Review by city.* The city development official shall confine its review to the proposed alterations only, rather than review of the entire building or layout. The city development official shall either approve the sketch plan, approve the sketch plan with a condition that certain revisions be made, or deny the sketch plan.
- c. *Planning commission review.* Both the city planning consultant and the applicant shall have the option to request sketch plan review by the planning commission.
- d. *Issuance of building permit.* A building permit shall be issued following review and approval of any construction plans by the city engineering consultant, as appropriate.

Sec. 78-266. - Standards for site plan approval.

- a. The planning commission in making its determination shall review the final site plan and find compliance with the following prior to approval:
 1. The requirements of this chapter and other applicable city ordinances.
 2. Any applicable comments received from the agencies noted in Section 78-263, Procedure for Site Plan Review.
 3. Other applicable state and federal statutes and standards.
- b. Site plan approval shall be granted only if the site plan meets all applicable standards set forth in this section as outlined below:
 1. *Adequacy of information.* The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed use(s) and structure(s).
 2. *Site design characteristics.* All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter. The site shall be designed to conform to all provisions of this chapter.
 3. *Preservation of natural areas.* Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this chapter. The planning commission may require that landscaping, buffers, and/or greenbelts be preserved and/or

provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

4. *Emergency vehicle access.* All buildings or groups of buildings shall be arranged so as to permit emergency vehicle access by some practicable means to all sites.
5. *Vehicular and pedestrian circulation layout.* Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations, within the site and at ingress/egress points. Every structure or dwelling unit shall have access to a private street, public street, walkway or other areas dedicated to common use. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the city.
6. *Stormwater drainage.* The proposed site plan must be designed in compliance with the city stormwater management regulations in article XX.
7. *General purpose floor drains.* General purpose floor drains shall only be allowed if they are approved by the city's department of public services for a connection to a public sewer system, an on site closed holding tank (not a septic system), or regulated through a state groundwater discharge permit.
8. *Hazardous materials.* State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without permits and approvals. Secondary containment for aboveground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substances.

Sec. 78-267. - Traffic impact study.

- a. *Required.* A traffic impact study is required to be submitted to planning commission in the following situations:
 1. A traffic impact study which evaluates current and future traffic operations at site access points shall be required for projects which could generate fifty (50) to ninety-nine (99) directional trips during a peak hour.
 2. A traffic impact study which evaluates current and future traffic operations at site access points and major signalized or non-signalized intersections in proximity to the site shall be required for any proposed development which would be expected to generate over one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent roads, or over seven hundred fifty (750) trips in an average day. The exact study area of a Traffic Impact Study shall be established by the planning commission.
 3. A traffic impact study shall also be required for new phases or changes to a development where a traffic study is more than two (2) years old and roadway conditions have changed significantly (volumes increasing more than two (2) percent annually; or for a change or expansion at an existing site where the increased land use intensity is expected to increase traffic by at least fifty (50) directional trips in a peak hour or result in at least seven hundred fifty (750) vehicle trips per day for the entire project).
- b. *Contents.* The contents of the traffic impact study shall include:
 1. An executive summary of the study's findings.
 2. Illustrations and a narrative that describes the characteristics of the site and adjacent roadway system (right-of-way, functional classification, lane configuration, speed limits, any sight distances limitations, current traffic conflicts; etc.) This description should include surrounding land uses, expected development in the vicinity which

could influence future traffic conditions, special site features, and a description of any committed roadway improvements. The study should define and justify the study area selected for analysis.

3. For a site plan review, manufactured home park, condominium project, a subdivision tentative preliminary plat, or specified special land uses; a description of factors such as the number and types of dwelling units, the gross and usable floor area, the number of employees and shift change factors.
4. Existing traffic conditions including existing peak-hour traffic volumes (and daily volumes if applicable) on road(s) adjacent to the site. Existing counts and levels of service for intersections in the vicinity which are expected to be impacted, as identified by the planning commission or its staff/consultants shall be provided for projects requiring a traffic impact study. Traffic count data shall be collected using accepted practices and shall not be over two (2) years old.
5. The existing right-of-way shall be identified along with any planned or desired expansion of the right-of-way requested by the applicable road agency.
6. Traffic generated by other projects in the vicinity which have been approved or are under construction.
7. For any project with a completion date beyond one (1) year at the time of the traffic impact study, the analysis shall also include a scenario analyzing forecast traffic at date of completion along the adjacent road network using a forecast based on a network traffic assignment model (if available), historic annual percentage increases and/or future development in the area which has been approved.
8. Forecasted trip generation of the proposed use for the a.m. (if applicable) and p.m. peak hour and average day. The forecasts shall be based on the data and procedures outlined in the most recent edition of Trip Generation published by the Institute of Transportation Engineers (ITE). The applicant may use other commonly accepted sources of data or supplement the standard data with data from at least three (3) similar projects in Michigan.
9. A rezoning traffic impact study should contrast the traffic impacts of typical uses permitted in the requested zoning district with uses permitted in the current zoning district. The determination of typical uses shall be made by the planning commission with input from city staff and consultants. The maximum density or intensity of uses in both districts shall also be considered.
10. Any trip reduction for pass by trips, transit, ridesharing, other modes, internal capture rates, etc. shall be based both on ITE findings and documented survey results acceptable to the city and applicable road agency. The city may elect to reduce the trip reduction rates used.
11. For projects intended to be developed in phases, the trip generation by phase shall be described.
12. The projected traffic generated shall be distributed (inbound v. outbound, left turn v. right turn) onto the existing road network to project turning movements at site access points, and nearby intersections where required. Projected turning movements shall be illustrated in the report. A description of the application of standards engineering procedures for determining the distribution should be provided (trip distribution model, market studies counts at existing driveways, etc.).
13. Level of service or "capacity" analysis at the proposed access points using the procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board. For projects requiring a traffic impact study before and after capacity analyses shall also be performed for all road intersections where the expected traffic generated at the site will comprise at least five (5) percent of the existing intersection capacity, unless other intersections are identified by the city. Gap studies for unsignalized intersections shall be provided where applicable.
14. The report shall include a map and description of the location and design of proposed access (driveways or new road intersections) including: Any sight distance limitations, dimensions from adjacent driveways and

intersections within two hundred fifty (250) feet on either side of the main roadway, potential for shared access facilities, data to demonstrate that the number of driveways proposed is the fewest necessary, support that the access points will provide safe and efficient traffic operation and be in accordance with the standards of the applicable road agency. Comments shall also be provided on internal circulation design such as the adequacy of queuing (stacking) at site access points and other features that may affect traffic operations and safety.

15. The study shall outline mitigation measures and demonstrate any changes to the level of service achieved by these measures. Any alternatives or suggested phasing of improvements should be described. The mitigation measures may include items such as roadway widening, need for bypass lanes or deceleration tapers/lanes, changes to signalization, use of access management techniques or a reduction in the proposed intensity of use. Proposed mitigation measures should be discussed with the Clinton County Road Commission and Michigan Department of Transportation, as applicable. The responsibility and timing of roadway improvements shall be described.
- c. *Preparer credentials.* The person responsible for the preparation of the study shall have a degree or specific professional training in the preparation of traffic impact studies. The preparer shall have at least three (3) years of recent experience in the preparation of traffic impact studies, provide evidence of ongoing experience and familiarity with the Highway Capacity Manual and other traffic operation evaluation techniques, be an associate (or higher) member of one (1) or more professional transportation-related organizations, and be either a registered engineer (PE) or a planner with AICP or PCP certification. Any study involving roadway or traffic signal design work shall be prepared by or under the supervision of a registered engineer (PE) with specific training in traffic engineering.
 - d. *Waiver.* The requirement for a traffic impact study or the specific study elements required may be waived or modified by the planning commission based on input from city staff and consultants or a representative of the applicable road agency. Reasons for the waiver or modification shall be documented. Factors to be considered include:
 1. Roadway improvements are scheduled which are expected to mitigate any impacts associated with the proposed project.
 2. The existing level of service along the roadway is not expected to drop below MDOT Level "C" due to the proposed project.
 3. The existing level of service is not expected to be significantly impacted by the proposed project due to specific conditions at this location.
 4. A similar traffic impact study was previously prepared for the site and is still considered applicable.

Sec. 78-268. - Approved plans and amendments.

- a. Upon approval of the final site plan, the planning commission chair, or the chair's designee, shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the city's files; one (1) copy of the final site plan shall be forwarded to the building official for issuance of a building permit; and one (1) copy shall be returned to the applicant.
- b. Each development shall be under meaningful construction, as determined by the city development official, within one (1) year after the date of approval of the final site plan, except as noted in this section.
 1. An applicant may request from the planning commission one (1) six-month extension of the final site plan approval. Any request for extension must be applied for in writing prior to the date of the expiration of the final site plan. Such request may only be granted provided that:
 - (a) The applicant presents reasonable evidence that the development has encountered unforeseen difficulties

- beyond the control of the applicant; and
- (b) The site plan requirements and standards, including those of this chapter and the comprehensive development plan, that are reasonably related to the development have not changed.
2. Should neither of the provisions of 1. above of this section be fulfilled, or a six-month extension has expired without construction having been started and proceeding meaningfully, the final site plan approval shall be null and void.
- c. Amendments. Amendments to an approved final site plan may occur only under the following circumstances:
 1. The holder of a valid final site plan approval shall notify the development official of any proposed amendment to such approved site plan.
 2. Minor changes may be approved by the development official upon certification in writing to the planning commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the planning commission minor changes include, but are not limited to, the following:
 - (a) Reduction of the size of any building and/or sign.
 - (b) Movement of buildings and/or signs by no more than ten (10) feet, provided that such movement does not cause a violation of this chapter.
 - (c) Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
 - (d) Changes in floor plans which do not alter the character of the use or increase the amount of required parking.
 - (e) Changes in building materials to a comparable or higher quality.
 - (f) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (g) Changes required or requested by the city for safety reasons or by outside agencies such as the county, state, or federal departments.
 3. Should the development official determine that the requested modification to the approved final site plan is not minor, a new site plan and applicable fee shall be submitted and reviewed as required by this article.
 - d. Certification of compliance. At final inspection or at other appropriate times the development official shall certify whether all conditions and other requirements of the planning commission or city council in its approval of the final site plan have been fulfilled.

Secs. 78-269—78-280. - Reserved.

ARTICLE XII. - RESERVED

Secs. 78-281—78-350. - Reserved.

ARTICLE XIII. - NON-CONFORMING USES, BUILDINGS OR STRUCTURES, LOTS, AND SITES

Sec. 78-351. - Intent and purpose.

- a. Non-conformities are considered to be incompatible with the current or intended use of land, buildings or structures in the district in which they are located. This article is intended to meet the objectives stated below by establishing

regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of non-conformities, and specify the circumstances and conditions under which non-conformities shall be permitted to continue.

The intent of this article is to bring into compliance, lots, buildings, structures, sites, and uses which legally existed at the date of adoption of this ordinance, but do not meet the current standards of this ordinance. This ordinance also has special provisions to permit certain non-conforming situations considered to be less harmful to continue under certain conditions, but to discourage their expansion, enlargement, or extension. The requirement and standards of this article are intended to accomplish the following:

1. Terminate and remove any use, building, accessory structure or any combination thereof that was established after the effective date of this ordinance and in violation of this ordinance. Such uses, buildings, or accessory structures are classified as violations of this ordinance and shall not receive any of the rights, privileges or protection conferred by this article for non-conforming situations.
2. Discourage the continuation of non-conforming uses that are more intense than the uses permitted within the zoning district and are considered to be incompatible with permitted uses, and encourage their redevelopment into a more conforming use.
3. Permit legal non-conforming buildings, structures or uses to remain until they are discontinued, removed or abandoned.
4. Encourage a gradual upgrading to a more conforming status of site landscaping, parking, paving, signs or other features of a site required by the zoning ordinance developed in compliance with the requirements at the time of their construction, but which do not meet the site requirements of this ordinance.
5. Encourage the combination of contiguous non-conforming lots of record to create lots which conform or more closely conform to current requirements, for better compatibility with other lots in the zoning districts in which they are located, to promote the public health, safety and welfare, and to eliminate problems associated with the overcrowding of land.

Sec. 78-352. - Applicability.

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, upon which actual building construction has been diligently continued and there is a valid building permit. Actual construction is defined as including the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such work shall be considered to be actual construction, provided that the work shall be diligently continued until completion of the building involved.

Sec. 78-353. - Non-conforming uses.

Where, at the effective date of adoption or amendment of this ordinance, a lawful use on open land, a lot(s), building(s) or accessory structure(s) exists that is made non-conforming by this ordinance or its amendments, such use may be continued, as it remains otherwise lawful, subject to the following provisions:

- a. *Expansions.* Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the effective date of this ordinance. Except for one-family dwellings as permitted in g., a non-conforming use shall not be enlarged, expanded or extended to occupy

- a greater area of land, constructed, reconstructed or structurally altered except with approval by the zoning board of appeals (ZBA).
- b. *Accessory uses and structures.* No new accessory use, building or structure shall be established.
 - c. *Relocation.* The non-conforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of this ordinance.
 - d. *Change in use.* If no structural alterations are made, any non-conforming use of a building, or building and land in combination, may be changed to another non-conforming use if the ZBA finds the proposed use is more appropriate to the district than the existing non-conforming use. In permitting the change, the ZBA may require conditions and safeguards in accord with the purpose and intent of this ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
 - e. *Removal.* Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
 - f. *Abandonment or discontinuance.* If a non-conforming use of land ceases for any reason for a period of more than one (1) year and the development official determines that the owner has established intent to abandon the non-conforming use, any subsequent use of such land shall conform to the requirements specified by this ordinance for the zoning district in which it is located. A non-conforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and shall constitute an intent on the part of the property owner to abandon the non-conforming use:
 1. Utilities, such as water, gas and electric to the property, have been disconnected.
 2. The property, buildings, and grounds, have fallen into disrepair.
 3. Signs or other indications of the existence of the non-conforming use have been removed.
 4. Equipment or fixtures which are necessary for the operation of the non-conforming use have been removed.
 5. Other actions, which in the opinion of the development official constitute an intention by the property owner or lessee to abandon the non-conforming use.
 - g. *Special standards for one-family dwellings in a non-residential district.*
 1. A one-family dwelling and its accessory structures, in a zoning district which does not permit that use may be continued, replaced, repaired or remodeled if damaged by flood, fire, or vandalism, if approved by the ZBA. Such approval requires a finding that the resulting building footprint and floor area will be the same size or smaller than that of the building before such change. Replacement of such non-conforming one-family building shall commence no sooner than receiving a valid building permit and no later than six (6) months of the date of damage. Work shall be diligently pursued toward completion. The applicant may be required to provide the city with evidence, visual or otherwise, that demonstrates to the satisfaction of the city that work is being diligently pursued. Failure to complete replacement or to diligently work toward completion shall constitute abandonment and result in the loss of its non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.

Sec. 78-354. - Non-conforming buildings or structures.

Where a lawful building or structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance, that building or structure may be continued provided it remains otherwise lawful, subject to the following provisions. Except as noted below, no building or structure may be enlarged unless a variance is granted by the ZBA.

- a. *Damage by fire or other catastrophe.* Any non-conforming structure or building that is damaged by fire, flood, or other catastrophe to a point where the cost of repairs will be in excess of fifty (50) percent of the structure and/or building's market value (as described in paragraph i. below) may be rebuilt, repaired, or reconstructed, in complete conformity with the provisions of this ordinance.

In the event that the cost of repairing the damage is less than fifty (50) percent of the structure or building's market value (as described in paragraph i. below), the structure or building may be restored to its pre-catastrophe status. Such restoration shall take place only upon approval of the development official and all construction shall be in full compliance with applicable provisions of this ordinance and other applicable City Codes. Any request for such rebuilding, repair, or restoration shall be made to the development official within one hundred eighty (180) days following the incident. Any such rebuilding, repair, or restoration shall be completed within one (1) year from the date of the catastrophe.

Failure to complete replacement or to diligently work toward completion shall result in the loss of legal non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.

- b. *Replacement of a non-conforming one-family dwelling.* A non-conforming building used as a one-family residence, and its accessory structures, may be continued, replaced, repaired or remodeled if damaged by flood, fire, vandalism, accident or other natural disaster if approved by the ZBA. Such approval requires a finding that the resulting building footprint will be the same size or smaller than that of the building before such change or that the building will become more conforming. Replacement of such a non-conforming one-family building shall commence within one (1) year of the date of damage and work shall be diligently pursued toward completion. Failure to complete replacement or to diligently work toward completion shall result in the loss of legal non-conforming status unless good cause for the delay is accepted at a hearing before the ZBA.
- c. *Relocation of a non-conforming building or structure.* Should any non-conforming building or structure be relocated or moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.
- d. *Safety-related repairs, improvements, and modernization.* Repairs, improvements, or modernization of non-conforming buildings or structures deemed necessary by the development official to maintain a non-conforming building in a structurally safe and sound condition are permitted provided such repairs or improvements do not exceed the market value (as described in paragraph i. below) of the building or structure during any period of twelve (12) consecutive months. This cost/value calculation shall not include any costs associated with modernization of electrical, plumbing, heating or cooling systems to meet Building Code requirements. Any such repairs, improvements, and modernization shall not result in an enlargement of the non-conforming structure. However, if a non-conforming building or a structure containing a non-conforming use becomes physically unsafe, dangerous, and/or unlawful due to lack of maintenance and repairs and is formally declared as such by the development official, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- e. *Non-safety improvements and modernization.* Repairs, improvements, or modernization of non-conforming buildings or structures which are not deemed necessary by the building department to keep a non-conforming building structurally safe and sound shall be permitted provided such repairs or improvements do not exceed fifty (50) percent of the market value of the structure (as described in paragraph i. below) during any period of twelve (12) consecutive months. Any such repairs, improvements or modernization shall not result in an enlargement of the non-conforming structure or building.
- f. *Alterations that decrease non-conformity.* Any non-conforming structure or building or structure or building

containing a non-conforming use, may be altered if such alteration serves to clearly decrease the non-conforming nature of the structure, building, and/or use. The development official shall determine if a proposed alteration decreases the degree of non-conformity.

- g. *Permitted expansions to one-family dwellings.* An expansion (footprint or floor area) of a non-conforming one-family building or structure shall be permitted when both of the following conditions exist:
 1. Only one (1) wall of the existing building or structure does not comply with the applicable setback requirement.
 2. The expansion is on a conforming wall of the existing building or structure and will comply with applicable setback and height requirements.
- h. *Elimination of non-conformity.* In the event a non-conforming situation is removed, the corresponding section of the building or structure shall thereafter conform.
- i. *Market value.* For the purpose of this article, market value shall be determined by an acceptable independent appraisal provided by the applicant. The city assessor and development official shall review the appraisal. The value of the repairs or improvements shall be based on a written estimate from a licensed contractor provided by the applicant. This estimate shall be reviewed by the development official.

Sec. 78-355. - Non-conforming lots.

The following regulations shall apply to any non-conforming lot of record or non-conforming lot described in a deed or land contract executed and delivered prior to the effective date of the zoning ordinance or amendment thereto:

- a. *Variance from area and bulk requirements.* In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory building(s) may be erected on a lot that does not meet the requirements for lot width, lot area, or both without obtaining a variance from the ZBA provided that all other applicable requirements are met. In all other circumstances, use of a non-conforming lot requires a variance from the lot width and/or lot area requirements as applicable. For all other purposes, if a lot already has less than the minimum required lot area or lot width it shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this ordinance
- b. *Contiguous non-conforming lots in common ownership.* To develop a non-conforming lot(s) under the provisions of paragraphs a. and b. above, the applicant is required to submit evidence that ownership of the lot is not under contiguous single ownership with other lots that could be combined into a conforming or more conforming lot. The following regulations shall apply to non-conforming contiguous lots under the same ownership:
 1. If two (2) or more lots or combination of lots with contiguous frontage are or have been under single ownership are of record at the time of adoption or amendment of this ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lands shall be considered as a singular, individual parcel for the purposes of this ordinance. Any altering of lot lines or combination of lots shall result in lots that more closely conform to the requirements of this ordinance.
 2. No portion of the non-conforming parcel shall be used, occupied, or sold in a manner that diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of a parcel be made that creates a new lot having a width or area less than the requirements stated in this ordinance.
 3. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing dwelling unit.
- c. *Combination of non-conforming lots.* The following regulations shall apply to the combination of non-conforming

lots:

1. Any combination, in whole or in part, of non-conforming lots of record shall result in lots that more closely conform to the requirements of this ordinance to the maximum extent feasible.
2. Once any combination that creates a conforming lot occurs, the resulting lot shall not retain non-conforming lot of record status and will hereafter be required to comply with the lot requirements of this ordinance.

Note: This list [below] is for explanation purposes only.

- Two (2) or more owned lots with inadequate frontage or area are considered one (1) lot and, generally, are not to be split/altered
- Use or sale of a non-conforming lot must not create further non-conforming situation
- Non-conforming lots may be combined if it results in more conforming lot(s)
- If lot combination creates conforming lot, new lot must conform to all lot requirements of Ordinance

Sec. 78-356. - Non-conforming sites.

The intent of this section is to permit improvements and minor modifications to an otherwise conforming use and building which does not meet all of the various site improvement related regulations of this ordinance. The purpose is to allow gradual compliance with the site related requirements, for the entire site, for sites which predate the various ordinance standards for landscaping, paving, and other non-safety site related items.

Improvements or expansions may be permitted by the planning commission during special land use or site plan review without a complete upgrade of all site elements under the following conditions. The city may require a written performance guarantee with sufficient security to ensure that all improvements permitted under this section will be made in accordance with the approved plan.

- a. The applicant is proposing reasonable site improvements on the overall site in relation to the scale and construction cost of the building improvements or expansion.
- b. The applicant has addressed safety related site issues on the overall site.
- c. The improvements or minor expansion will not increase noncompliance with site requirements.
- d. The applicant has upgraded the overall site landscaping and lighting consistent with article XVI, landscaping, article XVII, lighting, article XVIII, building design requirements and article XX, stormwater management.
- e. Signs must comply with the requirements of article XV, signs.
- f. A site plan shall be submitted in accordance with article XI, site plan review.

Sec. 78-357. - Change of tenancy, management or ownership.

In the event there is a change in tenancy, ownership, or management, a non-conforming use, structure or building shall be allowed to continue provided there is no change in the nature or character of such non-conformity and the use, structure, or building is otherwise in compliance with this ordinance.

Secs. 78-358—78-370. - Reserved.

ARTICLE XIV. - OFF-STREET PARKING AND LOADING

Sec. 78-371. - Intent and purpose.

The intent of this article is that off-street parking and loading spaces shall be provided and adequately maintained by each property owner in every district for the parking of motor vehicles for the use of occupants, employees, vendors, and patrons of each building and premise constructed, altered, or enlarged under the provisions of this chapter.

Sec. 78-372. - Applicability.

- a. *General applicability.* For all buildings and uses established after the effective date of this article, off-street parking shall be provided as required in this section prior to issuance of a development permit.
- b. *Change in use or intensity.* Whenever use of a building, structure, or lot is changed or expanded, parking facilities shall be provided as required by this article for the new use. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.
- c. *Existing parking facilities.* Off-street parking facilities in existence on the effective date of this ordinance, in connection with the operation of any existing building or use, shall not be reduced below, or if already less than, shall not be further reduced below the requirements for the use being served as set forth in this article. Any area designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere in accordance with the provisions of this article.

Sec. 78-373. - Parking and loading plan review.

- a. Whenever five (5) or more vehicle parking spaces are required for a given use of land, plans and specifications for the construction or alteration of an off-street parking area shall be submitted for approval of the city council, after receipt of a recommendation from the planning commission, before a development permit is issued.
- b. Such plans and specifications shall indicate the location, precise use of buildings, size, site, design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, landscaping, and any other detailed features essential to the complete design and construction of the parking area.
- c. Whenever fifteen (15) or more vehicle parking spaces are required for a given use of land, plans and specifications for the construction or alteration of off-street parking areas shall be submitted by a registered professional engineer.

Sec. 78-374. - Location.

- a. *Proximity to building or use being served.* All off-street parking and loading areas shall be located on the same lot, or other lot in the same zoning district located not more than three hundred (300) linear feet from the building intended to be served. On-street public parking may be considered available to meet all or any portion of the needs of a nonresidential use, provided the planning commission find parking spaces are reasonably available within the same zoning district at the time of day needed and provided that off-street parking is shown to be not feasible.
- b. *Setbacks.* Off-street parking and loading areas shall be setback as follows.
 1. *From street rights-of-way.* Off-street parking and loading areas, including drives and maneuvering aisles but excluding driveways, must be set back a minimum of twenty (20) feet from any adjacent street right-of-way line in all zoning districts except the CB district.
 2. *From non-residential districts.* Off-street parking and loading areas, including drives and maneuvering aisles but excluding driveways, shall have a minimum setback of ten (10) feet from any nonresidential property line that is not a street right-of-way line.
 3. *From residential districts.* Off-street parking and loading areas, including drives and maneuvering aisles but

excluding driveways, shall have a minimum rear and side yard setback of twenty (20) feet from any residential zoning district.

- c. *Use of right-of-way.* The right-of-way of any city street shall not be used for off-street parking spaces that are required by this article without the written permission of the county road commission for county roads, or the city council for city streets.

Sec. 78-375. - Schedule of parking requirements.

- a. Table XIV-01 Parking Space Numerical Requirements contains the parking requirements for individual uses and activities within the city:

**Table XIV-01
Parking Space Numerical Requirements**

Use	Number of Parking Spaces Required
Residential/Institutional/Recreational	
Single-Family, Duplex, Multiple-Family Residential Dwellings	2 for each dwelling unit
Any use in the MF-N District	1 per detached dwelling unit, 1 per employee during peak shift (if applicable), and 1 per 2 beds.
Manufactured Home Parks	In accordance with the provisions of article V Manufactured Home Park District
Lodging House & Boardinghouse, Fraternity, or Similar Use, Including Bed & Breakfasts	1 for each bedroom
Housing for the Elderly	1 for every 2 dwelling units, plus 1 space for each 5 dwelling units. However, should units revert to general occupancy, then 2, spaces per unit shall be provided, 1 of which shall be within a covered parking structure
Community Building, Clubhouse, Meeting Facility, or any Similar Type of Use	1 space for each 100 square feet of gross building area or 1 space for each 3 persons permitted to occupy the building by law whichever is greater
Churches, Temples, & Other Places of Worship or Public Assembly	1 for each 4 seats or 6 lineal feet of pews in the main room of activity
Hospitals	2 for each patient bed

Nursing Home	1 for each 2 beds
Commercial Day Care Centers	2 spaces, plus 1 for every 8 children licensed capacity
Elementary & Junior High Schools	5 spaces plus 1 space for each classroom in addition to the requirements of the auditorium
Senior High Schools	5 spaces plus 1 space for each classroom plus 1 space for each 10 students or space required for the auditorium or stadium, whichever is greater
Theaters, Auditoriums, Stadium, Sports Arenas or Similar Places of Assembly	1 for each 4 seats
Civic Clubs, Fraternal Orders, Union Halls, or Any Similar Type of Use	1 space for each 100 square feet of gross floor area or 1 space for each 3 persons permitted to occupy the building by law, whichever is greater
Swimming Clubs or Beaches, Tennis Clubs or Similar Type of Use	1 space for each three persons of maximum anticipated capacity
Golf Courses, Except Miniature or Par Three Golf Courses	5 spaces plus 6 spaces for each 1 golf hole
Miniature or Par Three Golf Courses	5 spaces plus 3 for each hole
Commercial	
Drive In Car Washes, Automatic	15 standing spaces for each washing bay
Drive In Car Washes, Self-Serve	3 standing spaces for each washing bay
Automobile Service Stations	2 for each service bay and 1 for each washing bay
Bowling Alleys	5 for each alley, in addition to any requirement for other uses such as bar, restaurant or billiard room
Funeral Homes & Mortuary Establishments	1 for each 30 square feet of floor space
Personal Service Establishments	1 space for each 50 square feet UFA*

Restaurants - Without Drive-Through Facilities	1 space for each 100 square feet UFA* or 1 space for each 2 persons allowed within the maximum capacity established by any applicable codes or ordinances, whichever is greater
Restaurants With Drive-Through Facilities	1 space for each 100 square feet of UFA* or one space for each 1½ persons, allowed within the maximum capacity established by any applicable codes or ordinances, whichever is greater and 10 stacking spaces plus 3 provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders
Grocery & Video Rental Stores	1 space for each 200 square feet UFA*
Retail Stores Not Otherwise Specified	1 space for each 250 square feet GFA*
Motel, Hotels, or Other Commercial Lodging Establishments	1 for each occupancy unit plus extra spaces for dining rooms, ballrooms, or meeting rooms as required by this article. Should units revert to multiple type use, then 2 spaces per unit shall be provided
Office	
Business or Professional Offices & Banks	1 for every 250 square feet of floor area plus 3 stacking spaces per aisle for drive through windows
Medical Offices & Clinics	1 for every 200 square feet of floor area.
Industrial	
Industrial or Research Establishments	1 space for each 1,000 square feet plus those spaces required for offices located on the premises
Warehousing or Wholesale Establishments	1 for every 1,700 square feet of floor area

*Footnotes: UFA is usable floor area, and GFA is gross floor area (see 'Definitions' for further details)

- b. *Standards for parking space requirements.* The following standards shall be used in determining the required number of parking spaces:

1. *Uses not cited.* In the case of a use not specifically mentioned, the requirements of off-street parking for a use which mentioned and which is most similar to the use not listed, shall apply.
2. *Barrier-free parking requirements.* Off-street parking areas shall include spaces for persons with disabilities in accordance with the State of Michigan Barrier-Free Rules, Michigan Public Act No. 1 of 1966, as amended and shall be included in the count of required spaces. For uses where there may be a higher number of persons with disabilities, such as medical uses or senior housing, the planning commission may require a larger proportion of the parking spaces be barrier free.
3. *Employee parking.* Requirements for parking stated in terms of employees shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
4. *Floor area.* Floor area, unless otherwise noted, shall include the entire enclosed floor area of all floors of a building as measured from the exterior surface of exterior walls.

Gross floor area (GFA). The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets/storage rooms, thickness of walls, columns, or other features.

Usable floor area (UFA). 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.

- (a) Such floor area which is used or intended to be used for hallways, stairways, elevator shafts, utility or sanitary facilities or the storage or processing of merchandise shall be excluded from this computation of usable floor area.
 - (b) Measurement of usable floor area shall be the sum of the horizontal areas of each story of a structure measured from the internal faces of the exterior walls.
5. *Fractional spaces.* Where units or measurement determining the number of required parking spaces result in a fraction equal to or greater than one-half ($\frac{1}{2}$) an additional space shall be required.
6. *Limits on excessive parking.* In order to minimize excessive areas of pavement which reduces aesthetic standards and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by more than twenty (20) percent shall only be allowed with approval by the planning commission. In granting such additional space, the planning commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.
7. *Joint use of parking areas.* Off-street parking space for separate buildings or uses may be provided jointly subject to the following:
 - (a) The use of a single parking area by two (2) or more uses shall be encouraged whenever such use is practical and when all requirements for location, design, and construction are met.
 - (b) In computing capacities of any joint use of parking areas, the total parking space requirement is the sum of the individual requirements that will occur at the same time each day. When parking space requirements for individual uses occur at distinctly different times during the day, the total required parking spaces may be reduced provided that no parking spaces shall be counted which are more than three hundred (300) feet from the buildings using joint parking areas.
 - (c) A copy of an agreement between the joint users of a parking area shall be recorded with the county register of deeds. Such agreement shall guarantee the long term use and maintenance of the parking facility by each party.
8. *Deferred parking.* A portion of the required number of parking spaces for nonresidential uses may be deferred if the following conditions are met:

- (a) Deferred parking areas shall be shown on a site plan and shall be of sufficient area to permit the construction of the number of parking spaces required by this article. Such areas shall not be used for any other purpose required by this article, such as landscaped buffers, etc., and shall be kept open.
- (b) Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the development official based on parking needs and shall require the submission and approval of an amended site plan, as required by article XI, site plan review.
- (c) The owner agrees, in writing, to construct additional parking, including up to one hundred (100) percent of all deferred spaces, if the development official determines there is a need for the additional spaces within the one (1) year deferment period. The development official is responsible for determining the number of the deferred spaces to be constructed.

(Ord. of 8-27-2018(1), § 5)

Sec. 78-376. - Site development requirements.

All off-street parking areas shall be designed, constructed and maintained in accordance with this section.

- a. *Surfacing.* Unless otherwise provided for in this section, all off-street parking areas, access lanes, driveways and other vehicle maneuvering areas shall be hard-surfaced with bituminous asphalt or concrete surface. Alternatively, porous or other innovative surfaces may be considered where such surfaces will provide benefits, including improved stormwater drainage and aesthetic appearance.
- b. *Dimensions.* Each parking space shall be clearly identifiable. Parking spaces and maneuvering lanes shall be sufficient in width to allow ease in turning movements in and out of parking spaces. The minimum required dimensions of parking spaces and maneuvering lanes shall be as indicated in Table XIV-02 Off-Street Parking Standards.

**Table XIV-02
Off-Street Parking Standards**

Parking Angle	Parking Space Measurements		Aisle Width	
	Stall Width (ft.)	Stall Depth (ft.)	Two-Way (ft.)	One-Way (ft.)
0°(parallel)	9	25	20	12
30—53°	9	20	20	12
54—74°	9	20	22	13
75—90°	<u>9.5</u>	20	24	15

- c. *Ingress and egress.* Ingress and egress to parking areas shall be provided by means of clearly limited and defined drives as provided for below:

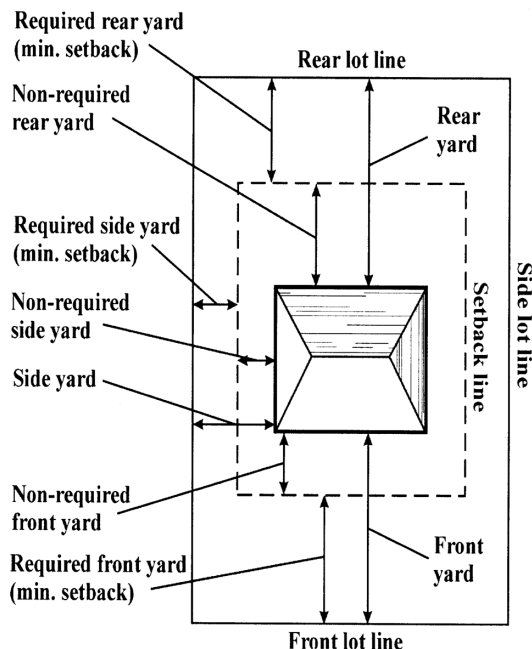
1. All spaces shall be provided with adequate access by means of clearly defined maneuvering lanes or driveways.
 2. Spaces located to cause backing directly onto a road shall be prohibited.
- d. *Drainage.* Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings. Drainage catch basins shall not be located within parking spaces, with the exception of curb boxes. Drainage of parking areas must conform to the city's stormwater management regulations.
- e. *Grading.* All driveways, parking lots, and loading-unloading areas shall not be less than one (1) percent and not exceed a grade differentiation of five (5) percent.
- f. *Curbing.* Off-street parking shall be provided with concrete curbs, where necessary to protect landscaped areas, sidewalks, buildings, or adjacent property from vehicles that might otherwise extend beyond the edge of the parking lot. Sidewalks abutting parking spaces shall be seven (7) feet wide. Plantings shall be set back sufficient distance from curbs to allow for bumper overhang. Curb cuts may be approved in order for parking lot stormwater to be directed to landscape areas.
- g. *Lighting.* All parking areas, driveways, and walkways shall be illuminated to ensure the security of property and the safety of persons using such areas, in accordance with the requirements set forth in article XVII, lighting.
- h. *Screening.* All off-street parking areas, except those serving single-family residences, shall be screened from adjoining residential property. Such screening shall consist of a continuous obscuring wall or landscaped screen in accordance with the requirements set forth in article XVI, landscaping, subject to approval by the planning commission.
- i. *Large vehicles.* Off-street parking facilities for trucks, buses, and recreational vehicles at restaurants, motels, hotels, service stations, commercial garages, and similar establishments shall be sufficient in size to adequately serve large vehicles and trucks without interfering with other vehicles shall not be less than twelve (12) feet in width and forty (40) feet in length. Access drives for such vehicles shall be designed with adequate turning radius and with special provisions for slow entry onto public streets and highways.
- j. *Temporary parking lots in the central business district.*
1. For established business uses in the central business district, the planning commission may authorize the use of crushed limestone or other material as an alternative surface material, provided all other dimensional standards must be met. Consideration for temporary parking lots shall only be given in locations where the police chief has determined that a parking shortage exists. In approving the use of crushed limestone as a surface material, the commission shall find that the crushed limestone will not result in unsafe or hazardous conditions, will be consistent with the character of the site and neighboring area and will not result in the need for excessive maintenance.
 2. The crushed limestone surface shall be placed and maintained at a minimum thickness of four (4) inches.
 3. All areas designated for barrier free parking, driveways and/or sidewalks shall be surfaced with concrete, asphalt or brick pavers. Alternatively, porous or other innovative surfaces may be considered where such surfaces will provide benefits, including improved stormwater drainage and aesthetic appearance.
 4. The approval shall be valid for a period of one (1) year. The applicant may request a one-time extension for up to twelve (12) months. After one (1) year, or at the end of the twelve (12) month extension, the parking area shall be discontinued and reestablished with grass or converted to concrete, asphalt or brick pavers.
 5. The city shall require a bond from the property owner to ensure the parking lot will be removed or converted to a grassy, lawn area at the end of the approval period or discontinuance of the principal structure/use,

whichever occurs first. The required amount of the bond shall be confirmed by the city engineer.

6. The parking area must be maintained, re-graded and top-dressed in frequencies determined necessary by the city.
 - k. *Maintenance.* All parking areas shall be maintained free of dust, trash, and debris by the property owner. Surfacing, curbing, lighting fixtures, signs, and related facilities shall be maintained in good condition.
 - l. *Snow plowing.* All parking areas shall be maintained in a safe condition by the property owner free of snow and ice. The parking lot design shall provide a location for snow storage that does not encroach into required parking spaces.

Sec. 78-377. - Loading and unloading space requirements.

- a. *Uses requiring loading spaces.* In order to prevent undue interference with the public use of streets, every manufacturing, storage, warehouse, retail store, hospital, laundry, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide loading and unloading space on the premises for the number of vehicles that will be on the premises at a particular time on an average day of full use.
- b. *Location.* Required loading space shall be located in the rear yard of the same zoning lot as the use being served so that it is screened from view from adjoining roads. Where shared access is provided for more than one (1) site, the loading and unloading area may be permitted in the non-required side yard. Loading space or access thereto shall not be located where loading/unloading operations will interfere with traffic on public roads or off-street parking. All maneuvering of trucks and other vehicles shall take place on the site and not within a public right-of-way.



Loading Space Requirements

- c. *Size.* Unless otherwise specified, each required loading space shall be a minimum of ten (10) feet in width and fifty (50) feet in length, with a vertical clearance of fourteen (14) feet. The planning commission may modify size requirements for certain uses if smaller delivery vehicles or larger semi-trucks are expected.
- d. *Required loading spaces.* The amount of required loading space shall be determined in accordance with Table XIV-03 Loading Space Requirements. The planning commission may modify these requirements upon making the determination that another requirement would be more appropriate because of the number or type of deliveries experienced by a particular business or use.

**Table XIV-03
Loading Space Requirements**

	Number of Loading & Unloading Spaces Required
Commercial Uses	
Commercial Uses such as Retail Stores, Personal Services, Amusement, Automotive Service	0 for first 2,000 sq. ft. 1 space for every 20,000 sq. ft. or fraction thereof
Funeral Homes & Mortuaries	1 for first 5,000 sq. ft. 1 space for every 10,000 sq. ft. or fraction thereof
Hospitals	1 for first 10,000 sq. ft. 1 space for next 100,000 sq. ft. or fraction thereof 1 space for each additional 200,000 sq. ft. or fraction thereof
Offices	1 for first 2,000 sq. ft. 1 space for next 50,000 sq. ft. or fraction thereof 1 space for each additional 100,000 sq. ft. or fraction thereof
Industrial Uses	
Wholesale & Storage, Including Building & Contractor's Yards	1 for first 20,000 sq. ft. 1 space for every 20,000 sq. ft. or fraction thereof
Manufacturing Uses	1 for each building 5,000 sq. ft. or over
Other Uses	
For Similar Use Not Listed	1 additional space for every 40,000 sq. ft. or fraction thereof

- e. *Surfacing and drainage.* Loading spaces shall be hard-surfaced with concrete, asphalt, or a plant-mixed bituminous material. Alternatively, porous or other innovative surfaces may be considered where such surfaces will provide benefits, including improved stormwater drainage and aesthetic appearance. Surface requirements may be modified by the planning commission upon making the determination that the surfacing would not be feasible or practical because of inadequate drainage in the area.

Loading areas shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan. Grading, surfacing, and drainage plans shall be subject to review and approval by the city engineer. Drainage of parking

areas must conform to the city's stormwater management regulations.

- f. *Screening.* Where any off-street loading space adjoins or abuts a lot or premises used for residential or educational purposes, or abuts the residential zoning district, a masonry wall or solid fence shall be provided in accordance with the requirements set out in article XVI, landscaping, between the off-street loading and unloading space and such use or district.
- g. *Storage and repair prohibited.* The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles or vehicle parts, or repair of vehicles is prohibited in required loading space.
- h. *Use of loading space.* Required loading space shall not be counted or used for required parking.

Sec. 78-378. - Uses of parking areas.

- a. *Prohibited uses.* Parking spaces shall be used exclusively by employees and patrons associated with a building, structure or land use. The use of required parking for refuse storage stations/dumpsters, storage or display of merchandise, sale of motor vehicles, storage of inoperable vehicles or vehicle parts, or for vehicle or machinery repair or maintenance is expressly prohibited without permission being granted by the city council. No portable structures, buildings, or equipment shall be permitted within required parking areas, except as may otherwise be permitted by this article. The use of semi-trailers for storage purposes on the premises for five (5) or more consecutive days is prohibited.
- b. *Duration.* Except when land is used as permitted storage space in direct connection with a legitimate business, there shall be a twenty-four (24) hour time limit for parking in non-residential off-street parking areas. It shall be unlawful to permit the storage of wrecked, inoperable or junked vehicles in any parking area in any district for any period of time.
- c. *Recreational vehicle parking and storage.* The storage or parking in parking lots of travel trailers, motor homes, mobile homes, camper trailers, or parking other trailers or recreational vehicles or any combination of any such vehicles in parking lots for a period in excess of fourteen (14) days in any three hundred sixty-five (365) consecutive day period is hereby prohibited. In addition:
 1. Recreational vehicles greater than one hundred four (104) inches in width or thirty-seven (37) feet in length shall not be parked or stored on any lot or parcel or on the road in any residential district.
 2. Recreational vehicles one hundred four (104) inches in width or thirty-seven (37) feet in length or less shall be parked and stored in the side or rear yards.
 3. For the purposes of loading and unloading, recreational vehicles may be parked anywhere in a driveway or parking area on a residential premises for a period not to exceed three (3) days.
 4. Recreational vehicles shall not be parked or stored on any public right-of-way or public easement.
 5. Recreational vehicles may not be stored or parked in residential districts for the purpose of making major repairs, refurbishing, or reconstructing the recreational vehicle or equipment.
 6. Recreational vehicles must have a current or prior year license plate and registered to an occupant of the dwelling unit on the parcel on which it is stored.

Sec. 78-379. - Repair of vehicles.

The parking and carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:

- a. All vehicles parked or being worked on outside shall be licensed, operable and on an improved driveway surface.

- b. Procedures exceeding forty-eight (48) hours in duration or which require the vehicle to be inoperable in excess of forty-eight (48) hours shall be conducted within an enclosed building.
- c. Inoperable vehicles and vehicle parts shall be stored inside an enclosed building.

Sec. 78-380. - Parking of commercial vehicles.

- a. The owner, tenant, or lessee of any lot, parcel, or tract of land in a residential district or on a lot used for residential purposes shall not permit or allow the storage or parking, at any time thereon of trucks, semi-trucks and tractor trailers, manufactured homes, tractors, bulldozers, earth carriers, cranes, and/or any other heavy equipment or machinery.
- b. It is provided, however, that the owner, tenant, or lessee of a farm may openly store the machinery and equipment used on the farm and for farming purposes only; and it is further provided that equipment necessary to be parked on a lot or parcel during the construction work thereon shall be excepted from this restriction. This restriction shall not apply to pickup or panel trucks.
- c. Parking of commercial vehicles over two (2) tons shall be prohibited in all residential districts; except this restriction shall not apply to essential public service vehicles.

Secs. 78-381—78-400. - Reserved.

ARTICLE XV. - SIGNS

Sec. 78-401. - Purpose and intent.

The intent of this article is to regulate signs, to minimize outdoor advertising, and to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual clutter, motorist distraction, and loss of visibility; promote public convenience; preserve property values; and enhance the aesthetic appearance and quality of life within the city. The requirements contained herein are intended to be content neutral. The following objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination, and other aspects of signs in the city in order to:

- a. Protect the public right to receive messages, including religious, political, economic, social, philosophical and other types of information protected by the First Amendment of the U.S. Constitution.
- b. Maintain and improve the image of the city by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.
- c. Recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion reduces desired uniform traffic flow, and creates potential for accidents.
- d. Recognize that the principal intent of commercial signs, to meet the purpose of these requirements and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names or off-premise activities, as these can be advertised more appropriately by other methods.
- e. Eliminate potential conflicts between business signs and traffic control signs, which could create confusion and hazardous consequences.
- f. Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting

the number and placement of signs.

- g. Prevent placement of signs which will conceal or obscure signs of adjacent uses.
- h. Prevent off-premise signs from conflicting with other land uses.
- i. Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.
- j. Prohibit portable commercial signs in recognition of their significant negative impact on traffic safety and aesthetics.

Sec. 78-402. - Definitions.

For the purpose of the following regulations, the following definitions shall apply:

- a. *Abandoned sign*: See obsolete sign.
- b. *Awning or canopy sign*: A sign affixed flat against the surface of an awning. An awning or canopy is a retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.
- c. *Banner sign*: A sign made of fabric, plastic, or other non-rigid material without an enclosing structural framework.
- d. *Billboard*: A sign which identifies a use or advertises products and services not available on the site or parcel on which the sign is located.
- e. *Changeable message signs*: A sign on which the message is changed mechanically, electronically or manually, including time/temperature signs.
- f. *Corner parcel*: A lot at the intersection of two (2) streets.
- g. *Day*: For the purpose of these regulations, a calendar day rather than a business day.
- h. *Directional sign*: A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
- i. *Freestanding sign*: A permanently affixed sign which is erected upon or supported by the ground on one (1) or more poles, uprights or braces, including pole or pylon signs.
- j. *Ground or monument sign*: A three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.



Freestanding Sign

- k. *Marquee sign*: A sign affixed flat against the surface of a theater marquee. A marquee is a permanent structure constructed of rigid materials that project from the exterior wall of a building.

- l. *Motor vehicle sign*: A sign measuring more than two (2) square feet in size that is mounted, placed, written, or painted on a vehicle or trailer, whether motor-driven or not.
- m. *Obsolete sign*: A sign that advertises a product that is no longer made or an event that has already occurred, or that advertises a business that has closed.
- n. *Off-premise sign*: A sign which identifies a use or advertises products and services not available on the site or parcel on which the sign is located (e.g. billboards, garage sale signs, residential open house signs, signs providing directions to a business).
- o. *People sign*: Signs held by people to direct visitors or advertise for a business.
- p. *Pole or pylon sign*: See freestanding sign.
- q. *Portable sign*: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building, including signs with wheels, A-frame signs, signs mounted on vehicles for advertising purposes, hot-air and gas filled balloons, pennants, streamers, ribbons, pinwheels, non-governmental flags and searchlights.
- r. *Poster panel signs*: A sign that is located outside of a business on a daily basis for the purpose of providing the public with information about the business (e.g. products and services offered, daily specials etc.). Poster panel signs include sandwich signs and "A" frame signs.
- s. *Projecting sign*: A sign, other than a wall sign, that is affixed to any building or wall and whose leading edge extends more than twelve (12) inches beyond such building or wall.
- t. *Reader board, message board or changeable message sign*: The portion of a sign on which copy is changed manually or electronically.
- u. *Roof line*: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections. The roofline is the highest point of the roof surface if a flat roof; to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.



Roof Line

- v. *Roof sign*: A sign erected above the roof line of a building.
- w. *Sign*: Any words, numerals, figures, devices, designs, pictures or trademarks erected on or otherwise affixed to a building, wall board, plate or any other structure, or on a vehicle or trailer, for the purpose of advertising or identifying an establishment, product, service, or activity.
- x. *Subdivision sign*: A permanent on-premises sign identifying a vehicular entrance to a residential subdivision or residential complex.



Subdivision Sign

- y. *Temporary sign*: A sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or a without structural frame, that is not permanently attached to the ground or a structure or any other sign intended for a limited period of display but not including decorative display for holidays or public demonstration.
- z. *Umbrella sign*: A sign printed or otherwise attached to an umbrella, including umbrellas used in outdoor seating areas.
- aa. *Wall sign*: A sign painted or attached directly to and parallel to the exterior wall of a building.
- bb. *Window sign*: A sign installed inside a window and intended to be viewed from the outside.

(Ord. No. 2018-05, § 1, 7-9-2018)

Sec. 78-403. - Exempt signs.

The following signs are permitted in all districts on premises with permission of the landowner without a written sign permit, and provided they are not located in the public right-of-way or in conflict with the provisions of Section 78-36, Intersection Visibility.

- a. Banners provided they are erected no more than fifteen (15) days.
- b. Directional signs, not exceeding six (6) square feet in display area on each side.
- c. Enclosed signs. Any sign that is located completely within a building and is not visible from the outside.
- d. Flags, provided there are not more than three (3) flags per lot and the maximum size of each flag is fifty (50) square feet.
- e. Non-conforming signs existing on the effective date of the adoption of the ordinance. Removal of the sign shall constitute an elimination of the non-conforming status.
- f. Permanent signs on vending machines, gas pumps, and ice containers indicating the contents, provided that the sign on each device does not exceed three (3) square feet in area a limit of one (1) sign per vending machine, gas pump or ice container.
- g. Signs by a public body to protect the public, provided that such signs do not exceed two (2) square feet in area.
- h. Regulatory, directional and street signs erected by a public agency in compliance with Michigan Manual of Uniform Traffic Control Devices Manual, and the Uniform Federal Accessibility Standards and Michigan Barrier Free Manual.
- i. Traffic control signs including directional, warning, or informational signs when authorized by a public agency having appropriate jurisdiction which conforms to the requirements of the Michigan Manual of Uniform Traffic Control Devices.

(Ord. No. 2018-05, § 1, 7-9-2018)

Sec. 78-404. - Prohibited signs.

Any sign not expressly permitted is prohibited in all districts, including but not limited to the following:

- a. Spinners, pennants, or streamers, other than those of a governmental or educational institution, or not used for the purpose of commercial advertisement or attraction, hung overhead to draw attention to a business or its merchandise on display.
- b. Billboards, either as on or off-premise signs.
- c. Except for signs erected by governmental and educational institutions, no sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light or intermittent lights resembling the flashing lights customarily used in traffic signals, or police, fire, ambulance, or rescue vehicles, or lights so bright as to be blinding or distracting to a vehicle
- d. Changeable message signs.
- e. Signs located in the right-of-way of public streets or highways, attached to a utility pole, fence or affixed to a tree except as may otherwise be permitted by this article.
- f. Obsolete signs.
- g. People signs.
- h. Pole or pylon signs.
- i. Portable signs, except where expressly allowed in this article.
- j. Any type of signage shall not be permitted on a public or private radio, television, cellular phone, or water towers with the exception of the name of the municipality.
- k. Signs on road furniture, such as benches, pedestrian lights, and decorative trash receptacles, not including commemorative plaques or engravings not larger than one-half (0.5) square foot.
- l. A sign that would interfere with, mislead, or confuse a vehicle driver, including signs that simulate or could in any way be confused with the lighting of emergency vehicles or traffic signals.
- m. Any sign which obstructs the ingress or egress from a required door, window, or other required exit.
- n. Signs that obstruct any approved traffic control device, road sign, or signal from view; interfere with site distance necessary for traffic safety; or distract from visibility of existing traffic signs or devices.
- o. Any sign not attached to a building and erected within ten (10) feet of a fire hydrant.
- p. No commercial vehicle may be parked on a business premises or an industrial lot for a time period exceeding forty-eight (48) hours
- q. Motor vehicle signs. It shall be unlawful to park, place or store a vehicle or trailer on which there is a motor vehicle sign on private or public property.
 - (a) *Presumption.* There shall be a presumption that this subsection has been violated if the motor vehicle sign is visible from a street and one (1) or more of the following circumstances exist:
 1. The motor vehicle sign is attached to a vehicle or trailer that is unregistered or not operable;
 2. The motor vehicle sign is larger in any dimension than or extends beyond any surface of the vehicle or trailer to which it is attached.
 3. The motor vehicle sign is attached to a vehicle or trailer that is parked or stored in a public right-of-way or an area not designed, designated, or commonly used for parking.

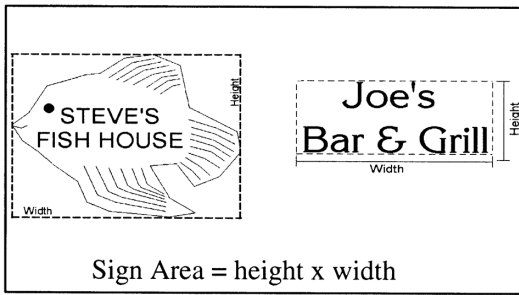
4. The motor vehicle sign is attached to a vehicle or trailer that is regularly parked or stored in a "front yard" or such terms are defined in the DeWitt Zoning Ordinance, that abuts a street, when there are other areas of land designed, designated, or available for the parking or storage of the vehicle or trailer that are not visible from the street; or
 5. The motor vehicle sign is attached to a vehicle or trailer that is regularly parked or stored within fifty (50) feet of a street, when there are other areas of the property designed, designated, or available for the parking or storage of the vehicle or trailer that are more distant from the street or not visible from the street.
- (b) *Rebuttal of presumption.* The presumption set forth in (a), above, may be rebutted by evidence showing all of the following:
1. The vehicle is temporarily parked in a particular location in the course of conducting personal activities or business activities that involve the loading or unloading of goods for customers, providing services to off-site customers, conducting off-site business, or engaging in work breaks;
 2. The activities in 1., above, are being actively undertaken during the period of such parking;
 3. The activities in 1., above, require the presence of the vehicle for purposes of transporting equipment, people, supplies and/or goods necessary for carrying out such activities; and
 4. The activities in 1., above, are not, other than incidentally, related to advertising, identifying, displaying, directing, or attracting attention to an object, person, institution, organization, business, product, service, event or location.
- r. Any sign or sign structure which:
- (a) Is structurally unsafe;
 - (b) Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
 - (c) Constitutes a hazard to safety or health by reason of blocking views;
 - (d) Is capable of causing electric shock to a person who comes in contact with it;
 - (e) Is unlawfully installed, erected, or maintained;
 - (f) Is located in public street or utility right-of-way, except where expressly permitted herein; or
 - (g) Is not kept in good repair, such that it has broken parts, missing letters, non-operational lights, or has deteriorated, such that its structural support or frame or sign panels are visibly bent, broken, dented, or torn as to constitute an unsightly, hazardous or harmful condition
 - (h) Does not meet applicable requirements of any adopted city building code.
- s. Any sign installed, erected or maintained on city property, unless approved and installed or erected by the city.

(Amend. of 1-14-2014; Ord. No. 2018-05, § 1, 7-9-2018)

Sec. 78-405. - General requirements for permitted signs—All districts.

- a. *Sign location.* Unless otherwise provided in these regulations, no sign, except those established by the City of DeWitt, Clinton County, state or federal governments shall be located in, project or overhang into any public right-of-way or dedicated easement.
- b. *Measuring sign area.*
 1. Sign area shall be measured as the square footage of the sign face and any frame or other material or color

forming an integral part of the display or used to differentiate it from the background against which it is placed.

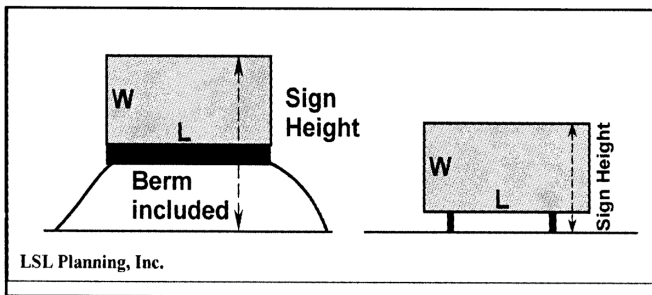


Measuring sign area

2. When a sign consists solely of lettering or other sign elements printed, painted or mounted on a window or a wall of a building without any distinguishing border, panel or background, the calculation for sign area shall be measured by enclosing the most protruding edges of the sign elements within a parallelogram or rectangle.
3. The area of a double-faced sign shall be computed using only one (1) face of the sign provided that: 1) the outline and dimensions of both faces are identical, and 2) the faces are back to back so that only one (1) face is visible at any given time.

c. Measuring sign height.

1. The permitted height of all signs supported by the ground shall be measured from the level of the ground, adjacent to the sign to the highest point of the sign.
2. The permitted height shall not be measured from an area of ground that has been built-up or constructed in a manner that has the effect of allowing a higher sign height than permitted by these regulations (e.g. the height of signs erected on a berm shall be measured from the finished grade adjacent to the berm in the manner noted in the illustration).



Measuring sign height

d. Design and construction.

1. Signs shall be designed to be compatible with the building and landscaping used on the property to promote an overall unified and aesthetic effect in accordance with the standards set forth herein.
2. Monument signs must be landscaped with a combination of low shrubbery and perennial/annual plantings.



Landscaped Monument Sign

Landscaped Monument Sign

3. The maximum distance between parallel sign faces on a double-faced sign shall be twenty (20) inches.
4. Every sign shall be constructed and maintained in a manner consistent with the building code provisions and maintained in good structural condition at all times. All signs shall be kept in an attractive appearance and shall be neatly painted, stained, sealed or preserved including all metal parts and supports.
5. All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they meet the applicable State of Michigan Building Code.
6. All portable signs shall be constructed and maintained by the owner in such a manner and of such materials so that they withstand typical environmental conditions.

e. *Illumination.*

1. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign (i.e. front lighted signs) or internal to it (i.e. back lighted signs).
 - a) Front lighted signs: 'Front lighted signs' are signs that are illuminated by an external light source. An example of a front lighted sign is a wall sign that is illuminated by gooseneck lights that are located in front of the sign, as illustrated in the graphic in this subsection.



Front Lighted Sign – ('Gooseneck lights')

Front Lighted Sign—"Gooseneck lights"

- b) Back lighted signs: 'Back lighted signs' are signs that are illuminated by an internal light source. An example of a back lighted sign is a monument sign that is illuminated by several fluorescent or neon bulbs that are located within the sign cabinet.
2. Lights shall be shaded so as not to project onto adjoining properties or thoroughfares.
 3. Use of glaring undiffused lights or bulbs shall be prohibited.
 4. Underground wiring shall be required for all illuminated signs not attached to a building.
 5. Use of exposed neon lighting within a sign is prohibited except for an "open" sign no larger than four (4) square feet.

f. *Location.*1. *Setbacks.*

- (a) All signs, unless otherwise provided for, shall be set back a minimum of ten (10) feet from any public road right-of-way line. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.
- (b) Side yard setbacks for signs shall be the same as that required for the main structure or building, and provided that all non-residential district signs shall be set back at least one hundred (100) feet from any residential district.

2. *Measurement.* The following guidelines shall be used to determine compliance with setback and distance measurements:

- (a) Two (2) signs. The distance between two (2) signs shall be measured along a straight horizontal line that represents the shortest distance between the two (2) signs.
- (b) Sign and property line. The distance between a sign and a property line shall be measured along a straight horizontal line that represents the shortest distance between the sign and the property line.
- (c) Sign and other. The distance between a sign and a parking lot or building shall be measured along a straight horizontal line that represents the shortest distance between the sign and the outer edge of the parking lot or building.

g. *Construction requirements.* The following construction requirements apply to all permanent signs.

- 1. *Fastenings.* All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use. All bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. No sign may be placed upon a tree or utility pole, except signs of a unit of government or utility.
- 2. *Support location.* No pole, cable or support of any nature shall be placed on any publicly owned property road right-of-way, or proposed road right-of-way.
- 3. *Sign safety.*
 - (a) All signs shall be erected so that any part including cables, guys, etc. shall have a minimum clearance of four (4) feet from any electrical conductor, electric light pole, road lamp, traffic light, or other public utility pole or standard.
 - (b) All signs shall be designed to comply with minimum wind pressure and other requirements set forth in the adopted Building Code. Signs with electrical connections shall comply with Electrical Code requirements, including the application, inspection, and approval of an electrical permit.
- 4. *Sanitation.* Property surrounding any ground sign shall be kept clean, sanitary and free from obnoxious and offensive substances, free from weeds, rubbish, and flammable material.
- 5. *Safety triangle.* No sign shall be located within, project into, or overhang the triangular area formed at the intersection of any two (2) road right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

Sec. 78-406. - Specific sign requirements—All districts (other than CB) and residential properties in CB district.

The following requirements apply to signs in all districts, other than the CB, central business commercial district, and to signs on property used for residential purposes within the CB district.

- a. *Subdivision entrance signs.* The following are additional regulations applicable to ground signs and decorative walls for residential subdivisions.

1. Subject to the provisions of this article, a sign identifying entrances to a residential subdivision within the city m permitted and shall harmonize with aesthetic considerations of the subdivision. These signs shall not by reason location, construction, or manner of display, endanger persons or property, cause a traffic hazard, or be incompe adjoining property use.
2. The location of subdivision identification signs may be within the public street right-of-way, but not in the traveled portion thereof for vehicular traffic. Written approvals of proposed sign placement and location shall first be obtained from appropriate city department heads, including the chief of police, the fire chief and the head of the department of public services.
3. The sign shall contain the name of the subdivision only.
4. All such signs shall be maintained in good condition and be visually attractive. The immediate area surrounding the sign shall be landscaped.
5. Maintenance of all signs shall be at the expense of the owner or owners of the signs, which may be the subdivision property owners association, proprietor of the plat or other responsible person or entity.
6. The owner(s) of such signs shall obtain liability insurance coverage for injury to persons and damage to property, arising out of their ownership, use or maintenance, in limits suitable to the city. Such insurance shall be primary to all other insurance coverage, shall include the city as a named insured, and shall be maintained at all times while the sign is located within the public street right-of-way. Proof of insurance shall be furnished to the city.
7. As a condition of approval of the placement of subdivision signs in the public street right-of-way the owner(s) of the sign shall enter into an agreement with the city in which the owner(s) covenants to hold the city harmless from any injury to persons and/or property damage arising out of the ownership, use and maintenance of the signs, and to indemnify the city for any injury and/or damage it may sustain by reason of such ownership, use or maintenance, including costs and attorney's fees.
8. Removal and replacement of such signs shall be by application to the development official. Approval shall be granted by the development official unless safety conditions, sign modifications, utility placement or relocation, street widening or relocation, need of other municipal improvements, or other such changing conditions occur which may for reasons of public health, safety, and welfare make replacement impractical. The city may require removal of such signs in the public right-of-way, at the owner's expense in any such cases where the public health, safety, or welfare as adversely affected by the continued existence of the sign in its location.

**Table XV-01
Specific Sign Requirements**

Type of Sign	Districts Permitted	Max. Height (in feet)	Max. Size (in square feet)	Max. Number	Permit Required	Additional Requirements
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Directional Signs	O, LC, PQ, R-1, R-2, R-3, MF & MHP	4 ft.	6 sq. ft.	—	no	A directional sign may contain a logo of an on-premises establishment, but no advertising copy Directional signs shall be limited to traffic control functions
Ground Signs for manufactured home parks, multiple-family complex, schools, or other nonresidential uses	O, LC, PQ, R-1, R-2, R-3, MF & MHP	8 ft.	32 sq. ft.	1 per major entrance	yes	The sign to be located at minimum setback required for main buildings & a minimum of 15 ft. from any side or rear property line
Subdivision Entrance Signs and Decorative Walls (see also footnote a.)	PQ, R-1, R-2, R-3, MF & MHP	8 ft.	75 sq. ft. (sign size only)	1 per street entrance	yes	The sign may be located within a public street right-of-way, outside the traveled portion of the roadway, but may be on private property with the permission of the owner of the property. In this instance, the sign may be set back no more than 10 ft. from the public right-of-way. The sign shall contain the name of the subdivision only.
Ground Signs	O & LC	8 ft.	50 sq. ft.	1 per street frontage	yes	The sign is to be a minimum of 15 ft. from side or rear lot line

Home Occupations	PQ, R-1, R-2, R-3, MF & MHP	—	2 sq. ft.	1	yes	The sign is to be on wall of house facing the street & is to be non-illuminated
Portable Signs	LC	6 ft.	32 sq. ft.	1 per lot or parcel	yes	Limited to total display period of 90 days, in any 365 day period To be setback minimum of ½ required setback for main building from any lot line
Temporary Signs— Residential	R-1, R-2, R-3, MF, & MHP	6 ft.	6 sq. ft.		No	The sign is to be setback a minimum of 1 ft. from the front or rear lot line; the sign is permitted up to ninety (90) days
Temporary Signs— Commercial	O, LC, PQ	10 ft.	32 sq. ft.		No	The sign is to be setback a minimum of 10 ft. from the front or rear lot line; the sign is permitted up to ninety (90) days
Wall Signs for Non-Residential Uses	PQ, R-1, R-2, R-3, MF & MHP	—	The lesser of 5% of wall to which sign is affixed or 75 sq. ft.	1 per street frontage	yes	The sign is to be a wall of building facing the street Sign shall not extend more than 12 in. beyond the surface of the portion of the building wall area upon which it is painted, erected, or fastened

Wall Signs	O & LC	—	The lesser of 10% of wall to which sign is affixed or 50 sq. ft.	1 per street frontage	yes	Sign shall not extend more than 12 in. beyond the surface of the portion of the building wall area upon which it is painted, erected, or fastened
Window Signs	O, LC, PQ, R-1, R-2, R-3, MF & MHP	—	20% of window	1 per window	yes	The area of permanent window signs shall be counted in determining compliance with requirements for total area of wall signs Window signs that are faded, yellowed, ripped, or otherwise damaged shall be removed immediately

;hn0; (Ord. No. 2018-05, § 1, 7-9-2018)

Sec. 78-407. - Downtown sign regulations.

- a. The regulations in Section 78-407 are intended to regulate the placement, size, construction and manner of display of signs and outdoor advertising in downtown DeWitt in order to protect public safety, health and welfare; minimize abundance and size of signs to reduce visual pollution, motorist distraction, and loss of sight distance; protect the constitutional right of free speech while imposing reasonable regulation; promote public convenience; preserve property values; promote aesthetics as a means of protecting the community's welfare and enhancing the aesthetic appearance and quality of life within the city.

The following regulations shall apply to all signs on property used for non-residential purposes within the area of downtown DeWitt that is zoned CB, central business district. Signs on property used for residential purposes within the area of downtown DeWitt and signs on property in other areas of the City of DeWitt are not subject to the following regulations.

- b. *Specific sign regulations.*

1. *Wall signs.*

- a) One (1) wall sign shall be permitted per street frontage on each parcel. One (1) wall sign shall also be permitted on sides of buildings facing a parking lot. In the case of a multi-tenant building or shopping center, one (1) wall sign shall be permitted for each tenant having an individual means of public access. Tenants

occupying a corner space in a multi-tenant structure shall be permitted to have one (1) sign on each side of the building. Where several tenants share a common entrance in a multi-tenant structure, only one (1) wall sign shall be permitted, with the total permitted sign area being allocated among the tenants.

- b) Wall signs shall extend no greater than eight (8) inches from the exterior face of the wall to which it is attached.
- c) Wall signs shall not have an area that exceeds one hundred (100) square feet or ten (10) percent of the area of the wall to which it is attached, whichever is less. A wall sign facing a parking area shall not have an area that exceeds fifty (50) square feet or five (5) percent of the area of the wall to which it is attached, whichever is less



Wall Sign

- d) The height of wall signs shall not exceed the maximum building height specified for the district it is located.
- e) Wall signs shall not extend above the wall of the building.

2. *Awnings and canopies.*

- a) Awnings or canopies may project a maximum of six (6) feet into the public right-of-way. In no case shall the awning or canopy be less than three (3) feet from any street curb line.
- b) Awnings or canopies must be a minimum of eight (8) feet above the ground level or sidewalk, whichever is greater.
- c) Lettering or logos shall not cover more than one-third (1/3) of the awning or canopy.
- d) Any lettering or logos on the awning or canopy shall be included within the calculation of total permitted wall sign area.



Awning Sign

- e) Awnings and canopies shall not be illuminated or backlit. However, building mounted lighting may illuminate the area above or below the awning or canopy.
3. *Directional signs.* Directional signs used to direct vehicular or pedestrian traffic to driveways, parking areas, loading areas, or to certain buildings or locations on the site, shall not exceed four (4) square feet in area, and four (4) feet in height. Directional signs may be located in the front setback area, provided they are setback at least fifteen (15) feet from the existing or planned right-of-way line and do not include a logo.
- Directional signs are only permitted in those locations where the city's development official concurs they are needed.
4. *Poster panel signs (i.e. sandwich signs, A-frame signs).* Poster panel signs, including sandwich signs and "A" frame signs, shall be permitted subject to the following:
- a) The area of the sign shall not exceed seven (7) square feet per side.
 - b) One (1) such sign shall be permitted per customer entrance.
 - c) The sign shall be no greater than three and one-half (3½) feet in height.
 - d) The sign shall not be illuminated in any manner.
 - e) The sign shall be located a minimum of two (2) feet from the edge of the curb and must be located so that at least a five (5) foot wide sidewalk is maintained between the sign and the building wall for pedestrian traffic flow and safety.
 - f) The sign is permitted only during operating business hours and must be stored inside when the business is not open.
 - g) The sign shall be kept neatly painted, stained, sealed or preserved including all metal parts and supports.
 - h) The sign shall be erected, constructed, reconstructed, altered or moved in such a manner and of such materials so they meet applicable State of Michigan Building Standards.
 - i) All portable signs shall be constructed and maintained by the owner in such a manner and of such materials so that they withstand typical environmental conditions.
 - j) The sign must be constructed of weather-proof, durable material and kept in good repair and appearance.
5. *Temporary signs.* Temporary signs shall be in accordance with the requirements set forth in Table 2.
6. *Projecting signs.* Projecting signs are permitted subject to the following:
- a) Signs must be a minimum of eight (8) feet above the ground level or sidewalk, whichever is greater.
 - b) The maximum sign area is sixteen (16) square feet, with a maximum sign area of eight (8) square feet on each side of the sign.
 - c) One (1) projecting sign is permitted per property, except in the case of a corner lot which is permitted two (2) signs.
 - d) Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign. Use of glaring undiffused lights or bulbs shall be prohibited.
 - e) Projecting signs may project a maximum of six (6) feet into the public right-of-way. In no case shall the projecting sign be less than three (3) feet from any street curb line.

SCHEDULE OF SIGN REGULATIONS—CB District

Table 1 Permanent Signs

The following table summarizes regulations for permanent non-residential signs in downtown DeWitt, on property zoned central business district.

Type of Sign	Maximum Area	Maximum Height	Illumination	# Permitted
Wall Sign	10 percent of the wall, up to maximum of 100 sq. ft. 5 percent of the wall, up to maximum of 50 sq. ft. if facing a parking area	must not exceed building height	Permitted	i) 1 per parcel; ii) 1 per business for each tenant in multi-tenant building having an individual means of access; iii) 1 per each side of building facing a street or parking area
Awnings and Canopies	i) Lettering may cover maximum of 1/3 of canopy or awning;	Bottom of awning or canopy must be at least 8 feet above ground level or sidewalk	Not permitted	1 per parcel Area of awning sign counts towards permitted wall sign area
Directional Signs	4 sq. ft. per sign	4 ft.	Not permitted	determined by City
Poster Panel Signs (Sandwich signs, A-frames)	7 sq. ft. per side; 14 sq. ft. total	3.5 ft.	Not permitted	1 per customer entrance
Ground/Monument Signs	25 sq. ft. per side; 50 sq. ft. total	8 ft.	Permitted	1 per lot or 2 if a corner lot
Window Signs	Not more than 25% of surface of window	No maximum	Not permitted	1 per window Area of window sign counts towards permitted wall sign area

Projecting Signs	8 sq. ft. per side; 16 sq. ft. total	8 feet above ground level or sidewalk	Permitted	1 per business, provided not within 20' of another projecting sign
Rear Entry Signs	6 sq. ft.	8 feet above ground level or sidewalk	Permitted	1 per business
Marquee Signs	10 percent of the wall, up to maximum of 100 sq. ft.	i) must not exceed building height ii) at least 8 feet above ground level or sidewalk	Permitted	1 per parcel
Umbrella Signs	Lettering and/or logo may cover maximum of 1/3 of umbrella	No maximum	Not Permitted	No maximum

Table 2
Temporary Signs—CB District

The following table includes regulations for temporary non-residential signs in downtown DeWitt, on property zoned central business commercial district. These signs require a permit.

	Type of Sign Permitted	Maximum Size	Maximum Height	Maximum Number	Required Setback	Permitted Duration
Temporary Sign	Ground or Wall	16 sq. ft.	10 ft.	i) One (1) on an interior lot ii) Two (2) on a corner lot		Permitted up to sixty (60) days

;hn0; (Ord. No. 2018-05, § 1, 7-9-2018)

Sec. 78-408. - Sign permit application—All districts.

a. *Requirements.*

1. *Permits required.* Except for temporary signs and those exceptions otherwise noted, permits are required for all signs.
 2. *Exceptions to permit.* No permit shall be required for ordinary servicing or repainting of an existing sign message, cleaning of a sign, or changing of the message on the sign where the sign is designed for such changes (such as lettering on a marquee).
- b. *Procedure.*
1. *Application form.* Application for a permit for a sign shall be filed with the city and shall provide the following information:
 - a. Name, address, and telephone number of the applicant.
 - b. Location of the building, structure, or lot on which the sign is to be attached or erected.
 - c. Position of the sign in relation to buildings, structures, and property lines within one hundred (100) feet of the proposed sign.
 - d. Plans showing the dimensions, materials, method of construction, and attachment to the building or in the ground.
 - e. Copies of stress sheets and calculations, if deemed necessary, showing the structure as designed for dead load and wind pressure.
 - f. Name and address of the person, firm, or corporation owning, erecting, and maintaining the sign.
 - g. Information concerning required electrical connections.
 - h. Details of proposed illumination.
 - i. A bond, as may be required by this article.
 - j. Written consent of the owner or lessee of the premises upon which the sign is to be erected.
 - k. Other information required to make the determination that the sign is in compliance with all applicable laws and regulations.
 2. *Application review.*
 - a. *Planning commission review.* All locations for placement of a sign submitted in conjunction with the proposed construction of a new building or addition to an existing building or as part of a site plan review required by this ordinance shall be reviewed by the planning commission as a part of the required site plan review. The location, size and height of all existing and proposed signs must be shown on the site plan.
 - b. *Administrative review.* The development official shall review the sign permit application for any sign proposed on a site or existing building where no other new construction is proposed.
 - c. *Issuance of a permit.* Following review and approval of a sign application by the city development official, the development official shall have the authority to issue a sign permit upon payment by the applicant of the required fees.
 - d. *Denial of a permit.* The development official shall deny the application for any sign that does not comply with the requirements of this ordinance or is found to be inconsistent with any of the requirements herein. If denied, the applicant may apply for a variance from the ZBA.
 - e. A permit is null and void if the sign is not installed within six (6) months.

Sec. 78-409. - Sign inspection and maintenance.

- a. *Sign inspection.*
 1. *Responsibility for compliance.* The owner of any property on which a sign is located is declared to be responsible

for the permit, erection, inspection, safety, condition, and removal of a sign and the area in the vicinity thereof.

2. *Inspection of new signs.* All signs for which a permit has been issued shall be inspected by the Building Inspector upon installation. Approval shall be granted only if the sign has been constructed in compliance with the approved plans and applicable requirements of city ordinances and codes.
 3. *Inspection before enclosure.* In cases where fastenings or anchorages are to be eventually bricked in or otherwise enclosed, the sign erector shall advise the building inspector when such fastenings are to be installed so that inspection may be completed before enclosure.
 4. *Inspection of existing signs.* The development official or building inspector may at such times as deemed necessary, inspect any sign allowed under this section. If upon inspection a sign is found to be unsafe or in a condition that does not comply with all the provisions of this section, the development official shall give notice of such condition to the owner for such sign who shall cause to be made the necessary repairs or alterations, or remove the sign.
- b. *Sign maintenance.*
1. *Maintenance of signs.* All signs shall:
 - (a) Be kept in compliance with the plans and specifications filed and approved for issuance of the construction permit.
 - (b) Be kept and maintained in a safe condition, consistent with adopted building and mechanical codes.
 - (c) Conform to all the provisions of this article at all times.
 2. *Correction of defects.* If the development official finds that any sign is unsafe, insecure, improperly constructed, or poorly maintained, the sign erector, owner of the sign, or owner of the land shall make the sign safe and secure by completing any necessary reconstruction or repairs, or entirely remove the sign in accordance with the timetable established by the development official. Existing signs determined to be unsafe and an immediate hazard to health or safety shall be removed or repaired within twelve (12) hours of notification.
 3. *Removal of obsolete signs.* Any sign that no longer identifies a business that is in operation; or identifies an activity or event that has already occurred shall be considered abandoned and shall be removed by the owner of the property within seven (7) calendar days of the cessation of operation. The owner of the property shall be responsible for removal of all signs and sign faces used in conjunction with a business upon vacation of a commercial or industrial establishment. Where a sign structure and frame can typically be reused by a new occupant in a leased or rented building, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied. During the interim period, a panel, satisfactory to the development official, shall be placed over any openings in the sign structure.

Sec. 78-410. - Legal non-conforming signs.

- a. Any sign existing at the time of adoption of these regulations which does not comply with all provisions shall be considered a legal non-conforming sign and may be permitted to continue if the sign is properly maintained and not detrimental to the health, safety and welfare of the community.
- b. Nothing shall prevent the strengthening or restoring to a safe condition of any portion of a sign declared unsafe by the building inspector. Such signs may be improved only to the extent that such improvement does not exceed fifty (50) percent of the current market value of the existing sign structure.
- c. Subject to exceptions below, any legal non-conforming signs may be continued in operation and maintained after the effective date of these regulations provided that the signs shall not be:
 1. Structurally altered so as to extend their useful life;

2. Expanded;
 3. Relocated;
 4. Re-established after damage of more than fifty (50) percent of the value at the time of such damage or destruction;
 5. Modified in any way that would increase the degree of non-conformity of such sign.
- d. Abandonment of a non-conforming sign shall terminate immediately the right to maintain such a sign.
 - e. All portable signs, except those specifically permitted by these regulations that exist on the effective date of these regulations shall be removed immediately upon the enactment of these regulations.
 - f. Any illegal non-conforming signs that exist on the effective date of these regulations shall be removed immediately upon the enactment of these regulations and may only be replaced by signs that conform to these regulations.
 - g. Compliance with Building Code. All signs shall comply with the pertinent requirements of the city's adopted Building Code, as amended from time to time, except as modified by these regulations.

Sec. 78-411. - Criteria for variance from sign regulations.

The ZBA may hear requests for variances from these regulations. The ZBA may require the applicant to present photographs of similar signs, color renderings or to erect a temporary mock-up of the sign on the site prior to rendering a recommendation or decision on a variance request. A variance may be granted by the ZBA only in cases involving practical difficulties or unique conditions regarding the sign and/or its location. Requests for variance shall be reviewed for compliance with the following:

- a. Variances may be granted for any one (1) of the following conditions:
 1. The applicant has demonstrated a variance is needed due to a practical difficulty on the site, such as varied topography, horizontal or vertical road curvature, or presence of existing structures or desired trees that limits visibility of a sign on the premises compared to similar sites with conforming signs in the same zoning district; or
 2. A variance is warranted due to the relatively large size of the site, frontage or building in comparison to other establishments in the same zoning district; or
 3. A variance would significantly improve the conformity of an existing sign.
- b. To grant a variance for one (1) of the conditions specified above, all of the following standards must also be met:
 1. The need for the variance is not self-created.
 2. The inability to conform with the regulations is due to a practical difficulty or unique condition that includes more than mere inconvenience or mere inability to attain a supposed higher financial return; and
 - i) That the alleged practical difficulties or unique condition, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the city; and
 - ii) That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by the regulations, the individual practical difficulties that will be suffered by a failure to grant a variance, and the rights of others whose property would be affected by the allowance of the variance; and will not be contrary to the public purpose and general intent of these regulations; and
 - iii) The variance granted is the minimum necessary to allow the applicant to enjoy the same rights as other establishments in the same zoning district, have a reasonable outlet for free speech and meet the intent of the downtown sign regulations; and
 - iv) The variance will not adversely affect the health, safety and welfare of the public.

Sec. 78-412. - Fees/costs.

- a. *Fees.* Any application for a sign permit or other request for other action pursuant to the regulations set forth in this article shall be subject to and accompanied by a fee as established by resolution of the city council. Such fees shall be collected in advance of any application review, inspection, or issuance of any permit or approval. Upon notification of deficient payment of fees, the development official shall cause any permits to be suspended and reject applications for new permits directly associated with the request.
- b. *City costs.* All costs incurred by the city in removing signs not in accord with this article shall become a lien on the property on which said sign is erected and may be collected at law from those responsible for said sign or equity by foreclosure and sale of the land upon which the sign was erected or may be assessed to the property and collected as a property tax.

Secs. 78-413—78-430. - Reserved.

ARTICLE XVI. - LANDSCAPING REQUIREMENTS

Sec. 78-431. - Purpose and intent.

- a. The intent of this section is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscape improvements. Landscaping is viewed as a critical element that contributes to the aesthetics, development quality, stability of property values, and the character of the city. The standards of this section are intended to help achieve the following functional and environmental objectives.
 1. Improve the appearance of off-street parking area, vehicular use areas, and property.
 2. Screen headlights to reduce headlight glare.
 3. Define and articulate outdoor spaces and architectural elements.
 4. Assist in directing safe and efficient movement of vehicular and pedestrian circulation.
 5. Reduce the physical impact between adjacent land uses.
 6. Provide landscape treatment that are consistent with adjacent sites and parcels within the surrounding area.
 7. Provide incentives to preserve quality existing plant material.
 8. Provide reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein.
 9. Provide natural green space to allow infiltration of stormwater, minimize soil erosion and filter sediments from runoff and prevent flooding.
 10. Remove air pollutants, and control glare and reflection.
 11. Create a more desirable microclimate.
- b. The standards contained in this section are considered the minimum necessary to achieve the objectives identified above. In several instances these standards are intentionally flexible to encourage flexibility and creative design. Additional landscaping beyond the minimum specified is encouraged to further improve the function, appearance and value of the property.

Sec. 78-432. - Applicability.

- a. The requirements of this section shall apply to all projects subject to administrative review, sketch plan review, site

plan review, or condominium review. No site plan, condominium, or land use permit shall be approved unless landscaping consistent with the requirements of this section is provided.

- b. The landscaping requirements shall be met prior to the issuance of a certificate of occupancy and shall be continuously maintained in a sound, healthy, and vigorous growing condition.
- c. The requirements herein shall be independent of each other and shall not be double counted to fulfill the requirements of different required landscape elements.
- d. In any case where an existing building and/or parking area is being increased by twenty-five (25) percent or more over the original site plan, the site shall be brought into full compliance with the landscape standards herein.
- e. Where an increase in an existing building and/or parking area is less than twenty-five (25) percent, the extent of new landscaping shall meet the landscaping requirements to the greatest extent practical.

Sec. 78-433. - General landscape development requirements.

- a. *Landscape plan.* The following minimum information shall be provided on a landscape plan containing the information required in Table XI-02 Site Plan and Sketch Plan Submittal Requirements.
- b. *Plant material.*
 1. All plant materials shall be hardy to the county, free of disease and insects and conform to the standards of the American Association of Nurserymen.
 2. All landscaping shall be maintained in a healthy, neat and orderly state, free from refuse and debris. Any dead or diseased plants shall be replaced.
 3. The overall landscape plan shall not contain more than thirty-three (33) percent of any one (1) plant species.
 4. A minimum of fifty (50) percent of the required plantings shall be native species. A greater percentage may be required by planning commission where deemed necessary.
- c. *Minimum plant sizes and spacing.* The minimum plant sizes and spacing shall be provided at time of installation in accordance with Table XVI-01 Minimum Plant Sizes and Spacing.

**Table XVI-01
Minimum Plant Sizes and Spacing**

Type of Plant Material	Minimum Plant Sizes	Spacing Requirements
Deciduous Canopy Tree	2½ in. diameter	35 ft. on-center
Deciduous Ornamental Tree	2 in. diameter 6 ft. height (clump form)	15 ft. on-center
Evergreen Tree	6 ft. height	15 ft. on-center
Deciduous Shrub	2 ft. height	4—6 ft. on-center
Upright Evergreen Shrub	2 ft. height	3—4 ft. on-center
Spreading Evergreen Shrub	18—24 in. spread	6 ft. on-center

1. Diameters are measured at six (6) inches above the rootball, for diameters of four (4) inches or less, and measured at twelve (12) inches above the rootball for diameters of greater than four (4) inches.
 2. Tree and shrub heights are measured from the rootball to the highest point where branches of the bush or tree begin.
 3. Wherever screening is required, screening shall consist of closely spaced evergreen plantings which can be reasonably expected to form a complete visual barrier. Deciduous plant material may be used for variety to supplement evergreen plantings.
- d. *Ornamental trees.* Ornamental trees may be used to fulfill the tree requirement, provided two (2) ornamental trees shall be the equivalent of one (1) required tree.
- e. *Prohibited trees.* Trees identified in Chapter 70 of the City Code shall not be allowed.
- f. *Planting beds.* Bark used as mulch shall be maintained at a minimum of two (2) inches deep. Planting beds shall be edged with appropriate materials in all zoning districts.
- g. *Right-of-way landscaping.*
1. Public rights-of-way located adjacent to required landscaped areas shall be considered part of the required landscaped areas. Such areas shall be planted with grass or other suitable living plant material and maintained by the owner or occupant of the property.
 2. No landscaping, other than lawn, shall be provided or extend into a public right-of-way without specific written approval from the development official, or as may be approved by the planning commission or city council as part of other approvals.
- h. *Community amenities.* Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located adjacent to the primary entrance to the building(s) are highly encouraged.
- i. *Proximity to utilities.* Plant material shall not be located in a manner that will interfere with or cause damage to underground or overhead utility lines, public roads or other public facilities.
- j. *Phasing.* If a project is constructed in phases, the landscape screen may also be constructed in phases. The development official shall determine the extent of landscaping required for each phase based on:
1. Adjacent land uses.
 2. Distance between land uses.
 3. Operational characteristics, both on- and off-site.
 4. Building heights.
 5. Physical characteristics of the site such as topography, existing vegetation, etc.
- k. *Delay.* If weather conditions or other factors determined by the development official are sufficient to warrant a delay in installing landscaping, a refundable performance bond or satisfactory guarantee of a sufficient amount to ensure the installation of all required landscaping shall be required in compliance with the requirements of this section to ensure that landscaping is installed within a reasonable period of time.

Sec. 78-434. - Minimum requirements for berms.

Where required or provided, berms shall conform to the following requirements:

- a. Berms shall maintain side slopes that do not exceed a 3:1 slope.

- b. Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy condition.
- c. If a berm is constructed with a retaining wall or terracing, the earthen slope shall face the exterior of the site.

Sec. 78-435. - Minimum requirements for obscuring screen walls and fences.

- a. All obscuring screen walls and fences shall be constructed with new, durable, weather resistant and easily maintained materials.
- b. Chain link and barbed wire fences are not permitted for screening purposes.
- c. The obscuring screen wall or fence may be constructed with openings that do not exceed twenty (20) percent of the wall or fence surface. The openings shall not reduce the intended obscuring effect of the wall or fence.
- d. Walls and fences shall be continuous except for approved pedestrian or vehicular connections.
- e. As a substitute for a required wall, the planning commission may, in its review of the site plan, approve the use of other existing or proposed natural or man-made landscape features (such as evergreens spaced ten (10) feet on center) that would produce substantially the same results in terms of screening, durability, and permanence.

Sec. 78-436. - Buffer zones.

- a. A buffer shall be required on any parcel proposed for development which borders a different zone district, as indicated in Table XVI-02 Zoning District Buffer Zone Requirements. Where the adjacent zoning district is more intensive, e.g., LC bordering R-2, the required buffer shall be installed only on the property in the more intensive district.
- b. The specified buffer shall be required on the subject parcel even if the adjacent parcels is unimproved land.
- c. When any developed parcel existing as of the date of the ordinance from which this chapter is derived, or amendment thereto, is changed to a less restrictive zone district, for example, O to LC, any required buffer shall be installed in compliance with this section within six (6) months of the effective date of the rezoning. This provision shall not apply to a rezoning initiated by the city.
- d. If two (2) zoning districts requiring a buffer zone are separated by a street, the design of the required buffer zone shall be reduced by one (1) level; for example, a required major buffer shall be reduced to a moderate buffer. Notwithstanding the foregoing, the minimum buffer installed shall be a minor buffer, unless a buffer would otherwise not be required by Table XVI-02 Zoning District Buffer Zone Requirements.
- e. Table XVI-02 Zoning District Buffer Zone Requirements defines the required buffers between adjacent zone districts:

**Table XVI-02
Zoning District Buffer Zone Requirements**

Buffer Zone	Adjacent District				
	R-1	R-2/R-3	MF/MHP	O/PQ/CB	LC
R-1	None Required		Moderate	Moderate	Major
R-2	None Required		Minor	Moderate	Major
R-3	None Required		Minor	Moderate	Major

MF/MHP	Moderate	Minor	None Required	Moderate	Major
O/PQ	Moderate			None Required	Minor
CB	Moderate			None Required	Minor
LC	Major			Minor	None Required
MF-N	Moderate (20 ft.)	Minor (10 ft.)	None	Moderate (20 ft.)	Major (30 ft.)

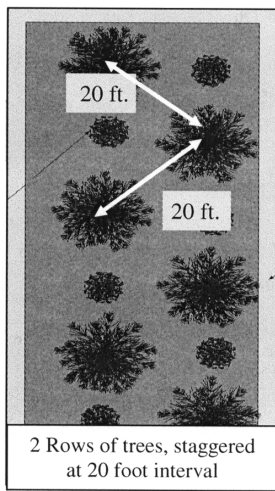
f. Buffer zone development standards.

1. *Table XVI-03 buffer requirements.* Required buffer zones shall comply with and be maintained to the following standards:

**Table XVI-03
Buffer Requirements**

Buffer Requirements	Major	Moderate	Minor
Minimum Width	30 feet	20 feet	10 feet
Equivalent of 2 rows of approved canopy trees staggered at a maximum of:	20 foot interval		30 foot interval
6 foot high continuous obscuring screen	Required		

2. The required six-foot high continuous obscuring screen may be comprised of plant material, berming, screen walls or fences, or any combination of these elements in addition to the required plant materials.



2 Rows of trees, staggered at 20 foot interval

3. If berming is used for all or part of the obscuring screen, all required plant materials shall be placed on the top and both sides of the slope. Where a berm is necessary, the minimum buffer width shall be increased to accommodate side slopes with a maximum slope of 3:1.
4. If a screen wall or fence is used for all or part of the obscuring screen, the equivalent of four (4) shrubs is required per twenty (20) linear feet on each side of the wall or fence, unless the wall or fence is constructed on the property line, in which case all required plantings may be placed on the interior of the lot.
5. The balance of the required buffer shall be covered with grass or approved ground cover in accordance with this section.
6. Any plant material, berm, obscuring screen or other landscape feature shall be installed in such a manner so as not to alter drainage patterns on the site or on adjacent properties; obstruct vision for reasons of safety, ingress or egress; or cause damage to utility lines (above and below ground) and public roadways.
7. Should the planning commission, or development official when planning commission action is not required, determine, upon inspection, that adequate landscaping screening on a site already exists or that a landscaping screen is not required, the planning commission or development official may waive or reduce the requirements of this section. Criteria which shall be used when considering a waiver or reduction shall include, but shall not be limited to:
 - (a) Topography variations.
 - (b) Existing natural vegetation.
 - (c) Existing and proposed building placement and height.
 - (d) Sight distances.
 - (e) Adjacent land uses.
 - (f) Existing floodplain, wetland, and areas of poor soils.

(Ord. of 8-27-2018(1), § 6)

Sec. 78-437. - Greenbelts.

Except in the CB district, a greenbelt shall be required along collector streets in accordance with the following:

- a. The width of the greenbelt shall be thirty-five (35) feet in residential districts, including the road right-of-way, and equivalent to the minimum required parking lot setback in non-residential districts.

- b. Greenbelts shall include only living materials and planting beds, except for approved sidewalks, bike paths, signs, driveways, other amenities, and essential services.
- c. Where a sidewalk or pathway is located within the greenbelt, plant material shall be provided on each side of the sidewalk or pathway to provide visual and physical separation between the vehicular and pedestrian circulation.
- d. The greenbelt shall contain a minimum of one (1) canopy tree and six (6) shrubs per thirty (30) linear feet, or fraction thereof, of street frontage including any openings for driveways, pathways or easements. The planning commission may approve the substitution of evergreen trees for up to fifty (50) percent of the required canopy trees when appropriate in consideration of the land use and existing character of adjacent uses.
- e. Greenbelt plantings shall be arranged to simulate a natural setting such as massing or staggered rows, except where the planning commission finds a more formal arrangement would be consistent with the established character of the area.
- f. Greenbelts shall be designed to ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, clearance from overhead utility lines, adequate separation from underground utilities and accessibility to fire hydrants. Where such conditions prohibit full compliance, the planning commission may adjust the location of the required materials so as long as the design intent is met.

(Ord. of 8-27-2018(1), § 7)

Sec. 78-438. - Parking lot landscaping.

Parking lot landscaping shall be provided in accordance with the following standards:

- a. Interior landscaping shall be provided for any parking area containing twelve (12) or more parking spaces at a rate of one (1) canopy tree per twelve (12) parking spaces.
- b. All of the required parking lot trees shall be placed within the parking lot envelope as described by the area including the parking lot surface and extending outward ten (10) feet from the edge of the parking lot. A minimum of one-third (1/3) of the trees shall be placed within the parking lot surface.
- c. Where any parking area directly abuts or faces a public street, a screen shall be required between the parking area and the road right-of-way. Such screen shall consist of, at a minimum, one (1) of the following:
 - 1. A strip of land at least five (5) feet in width and a solid screen comprised of a hedge or decorative wall, or any combination thereof, which measures at least four (4) feet in height; or
 - 2. A strip of land at least ten (10) feet in width containing landscaping equivalent to a minor buffer, as described in Table XVI-03 Buffer Requirements except that the obscuring screen need not be provided.
- d. All landscaped areas, including parking lot islands and perimeter areas; shall be protected by a concrete edge.
- e. Parking lot islands shall be at least one hundred (100) square feet in area. Islands within parking lots having less than one hundred (100) spaces may be a minimum of nine (9) feet in width, parking areas with more than one hundred (100) spaces shall have islands at least eighteen (18) feet in width. The depth of the island shall be two (2) feet shorter than an adjacent parking space.
- f. Landscaping shall be dispersed evenly throughout the parking lot and may be used to break up large expanses of pavement and assist with vehicular and pedestrian flow.
- g. Landscaping shall be planned and installed such that, when mature, it does not obscure traffic signs, fire hydrants, or lighting, and does not negatively alter drainage patterns on the site or on adjacent properties; does not obstruct vision for reasons of safety, ingress or egress; or cause damage to utility lines (above and below ground) and public roadways.

Sec. 78-439. - Stormwater detention/retention pond landscaping.

Detention and retention pond landscaping shall be provided in accordance with the following standards:

- a. Detention/retention areas shall be permitted within buffer zones provided they do not hamper the screening intent of the buffer or jeopardize the survival of the plant materials.
- b. One (1) canopy or evergreen tree and ten (10) shrubs are required per fifty (50) feet of pond perimeter, as measured along the top of the bank elevation. The required landscaping shall be planted in a random pattern, and not limited to the top of the pond bank.
- c. The edge of the pond shall consist of sculptured landforms to filter and soften views of the pond.
- d. Plantings shall replicate a natural environment. Trees and shrubs shall be clustered around the basin and contain a variety of plant material.
- e. The banks of the pond shall be of a gradual slope such that the perimeter of the pond shall not need to be fenced.
- f. Trees must be planted above the freeboard line of the pond. Shrubs planted below the freeboard line of the pond must be tolerant of wet or moist soil conditions. The location of plant material shall consider the need to provide access for and minimize disruption of plant material during routine pond maintenance.

Sec. 78-440. - Residential landscaping.

Landscaping for single-family and multiple-family residential developments shall be provided in accordance with the following requirements:

- a. Any site on which a use permitted by this chapter is established shall install a lawn or other appropriate plant material for all land areas not covered by impervious surfaces within six (6) months following the issuance of a certificate of occupancy.

A written performance guarantee or bond may be required by the city in the form of financial security to ensure that landscaping is installed within the six-month period.
- b. Street trees shall be provided at a rate of one (1) tree per forty (40) linear feet of frontage, along all interior roads. The planning commission may determine that existing trees preserved within ten (10) feet of the road edge may fulfill the street tree requirement for that portion of the road. Trees should generally be planted between the sidewalk and road curb, with consideration of intersection sight distance.

Sec. 78-441. - Cul-de-sac landscaping.

Where cul-de-sacs are allowed by the planning commission, landscaping must be provided in accordance with the following requirements:

- a. A minimum of one (1) canopy tree for every one thousand (1,000) square feet of ground area, shall be planted within each cul-de-sac or island.
- b. The lowest branch of any canopy tree within the island shall be a minimum eight (8) feet above the grade of the island and fifteen (15) feet above the grade of the roadway.
- c. The planning commission may allow part or the entire island to be at or below the grade of the road in cases where the island's grade and/or vegetation is beneficial to stormwater management. In such cases, the perimeter of the island is to be curbed with openings that allow stormwater to enter the island. The design, elevation and

grade of the island and the species in the island are to be part of a development's comprehensive stormwater management plan and landscape plan.

- d. Cul-de-sac islands shall be landscaped with plant species tolerant of roadside conditions. The landscape plan shall take into consideration sight distance, size of planting area, location of pathways, maintenance of adequate overhead clearance, accessibility to fire hydrants, visibility of approved signs, and compatibility with the visual character of the surrounding area.

Sec. 78-442. - Modification of landscape requirements.

The planning commission may modify the landscape requirements contained in this section based upon a determination that the landscaping required will not be necessary or effective in meeting the intent of this section. In making such a determination, the following shall be considered:

- a. Topographic features or other unique features of the site create conditions such that strict application of the landscape regulations would result in a less effective screen than an alternative landscape design.
- b. Parking, vehicular circulation, or existing or planned land use are such that required landscaping would not enhance the site or result in the desired screening effect.
- c. The public benefit intended by the landscape requirements could be better achieved with a plan that varies from the strict requirements of the ordinance.
- d. The intent to comply with the requirements has been demonstrated by the applicant with alternatives considered by the applicant prior to the planning commission consideration of modification to requirements.

Sec. 78-443. - Tree preservation.

- a. *Replacement of removed trees.* A tree survey shall be submitted with any site plan for new development. The survey shall identify the location and species of existing trees greater than six (6) inches in diameter on the proposed site. Existing trees, other than those identified in the city's prohibited list, that are greater than six (6) diameter inches that are planned to be removed shall be replaced on the site in accordance with the following standards:
 1. Removed trees between six (6) and eighteen (18) diameter inches shall be replaced such that the replacement trees are the equivalent of fifty (50) percent of the total diameter breast height (dbh).
 2. Removed trees greater than eighteen (18) diameter inches shall be replaced such that the replacement trees are the equivalent of seventy-five (75) percent of the total dbh.
 3. Removed trees greater than thirty (30) diameter inches shall be replaced such that the replacement trees are the equivalent of one hundred (100) percent of the total dbh.
 4. Trees that are dead or diseased, with no visible growth, as determined by the development official, are exempt from replacement requirements.
 5. A summary table of existing trees shall be provided, indicating those trees that will be removed.
- b. *Incentives to preserve existing trees.* The standards listed below are intended to encourage the preservation of quality and mature trees by providing credits toward required landscape components.
 1. Trees intended to be preserved shall be indicated on the site plan.
 2. Credit shall not be awarded for the protection of prohibited trees.
 3. Each tree preserved that is between 2.5" to 5.9" diameter in size shall be calculated as a credit for one (1) required tree, each tree greater than six (6) inches shall be calculated as two (2) credits for required trees.
 4. The landscape plan shall include a matrix that lists required trees and credits for preserved trees.

5. During construction, tree protection fencing shall be placed ten (10) feet beyond the drip-line of the tree. The ground within the fence line shall be maintained with vegetative landscape material or pervious surface cover. The planning commission may allow pedestrian pathways, driveways or parking within the dripline upon determination that the space from the trunk of the tree is suitable to reasonably ensure protection of the tree and the public. Storage of soils or other materials within the dripline is prohibited.
6. If trees are lost within three (3) years after completion of the construction, the property owner shall replace with new trees equal to the number of tree credits granted.
7. Tree credits may account for up to fifty (50) percent of the required trees and be applied anywhere on the site except for required street trees.

Secs. 78-444—78-460. - Reserved.

ARTICLE XVII. - LIGHTING REQUIREMENTS

Sec. 78-461. - Purpose and intent.

The purpose of these standards is to protect the health, safety and welfare of the public by recognizing that buildings and sites need to be illuminated for safety, security and visibility for pedestrians and motorists. To do so, the standards provide for various forms of lighting that will minimize light pollution; maintain safe nighttime driver performance on public roadways; preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to "sky glow"; and light trespass from light sources onto adjacent properties; and conservation of electrical energy.

Sec. 78-462. - Applicability.

The lighting standards shall apply to any light source that may be visible from any property line, or beyond, for the site from which the light is emanating. Whenever a person is required to obtain a building permit, electrical permit for outdoor lighting or signage, a special land use approval, subdivision approval, condominium approval, or site plan approval from the city, the applicant shall submit sufficient information to enable the development official and/or planning commission to determine whether the proposed lighting will comply with these standards.

Sec. 78-463. - Submittal requirements.

The following information must be included in any application submitted for approval pursuant to this section:

- a. Location of all freestanding, building-mounted and canopy light fixtures on the site plan and building elevations.
- b. Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles).
- c. Specifications and details for the type of fixture being proposed including the total lumen output, type of lamp and method of shielding.
- d. Use of the fixtures proposed.
- e. Any other information deemed necessary by the development official to determine compliance with provisions of this section.

Sec. 78-464. - Lighting standards.

Unless exempted under Section 78-464, Lighting, all lighting must comply with the following standards:

a. *Freestanding pole lighting requirements.*

1. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare.
2. The intensity of light within a site shall not exceed ten (10) foot-candles within any site or one (1) foot-candle at any property line, except where it abuts a residential district or use whereby a maximum of 0.5 foot-candles is permitted. The only exception is with gas station canopy lighting, where a maximum of twenty (20) foot-candles is permitted within the site but the above standards shall apply to intensity at the property line.
3. Metal halide fixtures shall be used in an effort to maintain a unified lighting standard throughout the city and prevent "sky glow."
4. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures are necessary to preserve the intended character of the site.
5. Lighting fixtures shall not exceed a height of twenty (20) feet measured from the ground level to the centerline of the light source. These light fixture height standards shall not apply to public lighting in a road right-of-way.
6. The planning commission may modify these height standards in commercial and industrial districts, based on consideration of the following: the position and height of buildings, other structures, and trees on the site; the potential off-site impact of the lighting; the character of the proposed use; and, the character of surrounding land use.
7. In no case shall the lighting exceed the maximum building height in the district in which it is located.

b. *Building mounted lighting requirements.*

1. Building-mounted lighting shall be fully shielded and directed downward to prevent off-site glare. The intensity of light shall not exceed ten (10) foot-candles within any site or one (1) foot-candle at any property line, except where it abuts a residential district or use whereby a maximum of 0.5 foot-candles is permitted at the property line.
2. Metal halide fixtures shall be used in an effort to prevent "sky glow."
3. Luminous tube and exposed bulb fluorescent lighting is prohibited as an architectural detail on all buildings, e.g. along the roof line and eaves, around windows, etc. The planning commission may approve internally illuminated architectural bands when it can be shown that the treatment will enhance the appearance of the building or is necessary for security purposes.
4. The internal illumination of building mounted canopies is prohibited.
5. The planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.

c. *Other lighting requirements.*

1. Indirect illumination of signs, canopies and buildings is permitted provided a maximum one hundred twenty-five (125) watt bulb is utilized and there is no glare.
2. The use of laser light source, search lights or any similar high intensity light for outdoor advertisement or entertainment is prohibited.
3. Lighting shall not be of a flashing, moving or intermittent type.
4. Any light fixtures visible through a window must be shielded to prevent glare at the property line.
5. Luminous tube and exposed bulb fluorescent lighting (visible from the property line) is prohibited unless it is

part of a sign that meets the requirements of the article XV, signs.

Sec. 78-465. - Exceptions.

The following are exempt from the lighting requirements of this section, except to the extent that the development official determines that reasonable modifications are necessary to minimize undesirable impacts consistent with the purpose and intent of this section, or to protect the health, safety, and welfare of the public:

- a. Sports fields.
- b. Private swimming pools.
- c. Temporary holiday decorations.
- d. Window displays without glare.
- e. Shielded pedestrian walkway lighting.
- f. Soffit lighting.
- g. Residential lighting with no off-site glare.
- h. Street lights.
- i. Lighting of government flags.

Secs. 78-466—78-480. - Reserved.

ARTICLE XVIII. - SITE DESIGN REQUIREMENTS

Sec. 78-481. - Purpose and intent.

- a. The intent of these regulations is to provide specific design guidelines that achieve the following:
 1. Encourage development and redevelopment that protects and enhances the character of DeWitt and creates a character that reinforces a sense of community identity.
 2. Encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of the business districts, maintain the desired character of the city, prevent the creation of blight, and protect property values.
 3. Implement recommendations of the comprehensive development plan.

Sec. 78-482. - Site design requirements.

- a. *Building location and orientation.* New buildings shall have at least one (1) principal building entrance oriented toward the front lot line.
- b. *Natural features.* Buildings shall be sited to protect existing natural areas such as steep natural grades, trees, significant groupings of healthy vegetation (shrubs and trees) and rock outcroppings. These areas are encouraged to be incorporated into the overall site plan and may be calculated as part of the landscaping requirement if healthy and not damaged during construction.

Sec. 78-483. - Non-residential building design requirements.

- a. *Intent.* The intent of these regulations is to provide specific design guidelines to encourage development and redevelopment that protects and enhances the established architectural character of DeWitt, reinforces a sense of

community identity, achieves the physical qualities necessary to maintain and enhance the economic vitality of the business districts, prevents the creation of blight, and protects property values.

1. *Applicability.* All uses subject to site plan approval, as listed in Table XI-01 Table of Eligible Uses and Required Review Process shall comply with the building design standards in this section.
- b. *Exterior building design.*
 1. *Architecture and composition.* Building exterior walls shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls to enhance the appearance of the building and the intended character of the surrounding vicinity.
 - (a) Walls which can be viewed from public streets shall be designed using architectural features and landscaping, abutting the building, for at least thirty (30) percent of the wall length.
 - (b) Other walls shall incorporate architectural features and landscaping for at least twenty (20) percent of the wall length.
 - (c) Window area shall cover twenty (20) percent or more of the exterior wall area facing the principal street from which access is gained.
 2. *Architectural features.*
 - (a) Buildings shall possess architectural variety, but enhance the overall cohesive community character. All buildings shall provide architectural features, details, and ornaments such as recesses, projections, wall insets, arcades, window display areas, awnings, balconies, window projections, landscape structures or other features that complement the design intent of the structure and are acceptable to the planning commission.
 - (b) In addition, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements of this article must also be satisfied.
 - (c) Overhead doors shall not face a public street or residential district. The planning commission may modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be moderated through use of building materials, architectural features and landscaping beyond that required in article XVI, landscaping.
 - (d) Additions to existing buildings must complement the current building design with regard to height, proportions, scale, materials, and rhythm of openings.
 3. *Building materials.*
 - (a) Durable building materials which provide an attractive, quality appearance must be utilized.
 - (b) The predominant building materials should be quality materials that are characteristic of Michigan such as brick, decorative tilt-up panels, wood, native stone and tinted/textured concrete masonry units and/or glass products.
 - (c) Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or prefabricated steel panels should only be used as accents and not dominate the building exterior of the structure.
 4. *Roof design.*
 - (a) Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building.
 - (b) Variations within one (1) architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged, with a minimum overhang of twelve (12) inches.

- (c) Architectural methods shall be used to conceal flat roof tops and mechanical and electrical equipment.
 - (d) Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged.
 - (e) Metal roofs may be allowed if compatible with the overall architectural design of the building.
5. *Customer entrances.* Clearly defined, highly visible customer entrances may be included in the design. Features such as canopies, porticos, arcades, arches, wing walls, and integral planters are highly encouraged to identify such entrances.
6. *Building and sign colors.*
- (a) Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors such as black, neon, metallic or fluorescent for the facade and/or roof of the building are prohibited except as approved by the planning commission for building trim.
 - (b) The use of trademark colors not meeting this requirement may be approved by the planning commission.
 - (c) Mechanical and service features such as gutters, ductwork, service doors, etc. that cannot be screened must be of a color that blends in with the color of the building.

Sec. 78-484. - Site access requirements.

- a. *Access.* The following shall apply to any new development proposed for non-residential and multiple-family uses:
1. A maximum of one (1) driveway per street shall be permitted per principal use, or collective principal use, as defined in Section 78-659, Main Building or Principal Use.
 2. A second driveway may be permitted provided that such drive is constructed and permitted to share access with an adjoining principal use or existing lot within the same zoning district, or such drive is part of a one-way driveway system that permits a single point of ingress and a single point of egress.
 3. The planning commission may permit additional driveways, if justified by a traffic study prepared by a professional traffic engineer provided by the applicant or owner indicating the need for such additional driveways.
 4. Unless otherwise permitted by the planning commission, parking lots and driveways providing access to corner lots shall be required to gain sole access from the lesser traveled of the two (2) intersecting streets.
 - (a) For the purposes of this subparagraph, lesser traveled shall mean the street having the lowest peak hour (morning or afternoon) traffic volume, as measured within a two-year period prior to the date of the application.
 - (b) The lesser traveled street may be determined by the development official where traffic count information is not available or was counted more than two (2) years prior to the date of the application submission.
 5. The location of new driveways shall be determined by the planning commission which shall take the following factors into consideration:
 - (a) The ability to share driveways with adjacent properties and the general compatibility of those adjacent land uses.
 - (b) The proximity of the proposed driveways to existing driveways on adjacent properties and properties on the opposite side of the street.
 - (c) Any provisions made for front or rear service drives that may eliminate the potential for future driveways on nearby properties.
 - (d) The relationship of the proposed driveway location to the internal circulation of the development site.
 - (e) The proximity of the proposed driveway to street intersections. Driveways shall be located as far as

practicable from any public or private street intersection.

b. *Pedestrian walkways.*

1. Walkways from the sidewalk to building entrances.

(a) A continuous pedestrian walkway shall be provided from any adjacent street sidewalks for pedestrians to access building entrances.

(b) Walkways shall be connected to adjacent sites wherever practicable.

2. Walkways from parking areas to building entrances.

(a) Internal pedestrian walkways shall be developed for persons who need access to the building(s) from internal parking areas. The walkways shall be located within the parking areas and shall be designed to provide access from these areas to the entrances of the building(s).

(b) The walkways shall be designed to separate people from moving vehicles.

(c) These walkways shall have a minimum width of five (5) feet with no car overhang or other obstruction.

(d) The walkways must be designed in accordance with the Michigan Barrier Free Design Standards.

(e) The walkways shall be distinguished from the parking and driving areas by use of any of the following materials: Special pavers, bricks, raised elevation or scored concrete. Other materials may be used if they are appropriate to the overall design of the site and building and acceptable to the review authority.

Sec. 78-485. - Waste receptacle and enclosure requirements.

Receptacles, including waste receptacles, waste compactors, and recycling bins shall be designed, constructed, and maintained according to the requirements of this section.

- a. Waste receptacles, including dumpsters or compactors, shall be required for all nonresidential uses unless interior facilities are provided. The requirement to provide a waste receptacle may be waived by the planning commission if the applicant provides documentation that the development will not necessitate a waste receptacle.
- b. All outdoor waste receptacles shall be enclosed on three (3) sides and screened. The enclosure shall be constructed of brick or decorative concrete material, consistent with the building materials of the principal building.
- c. The enclosure shall also include a gate, made of wood or other high quality material, as determined by the planning commission, on the fourth side. If the waste receptacle is a dumpster it must have an enclosing lid or cover.
- d. The enclosure shall have a minimum height of six (6) feet or one (1) foot above the height of the waste receptacle, whichever is greater. The enclosure must be spaced at least three (3) feet from the waste receptacle.
- e. Waste receptacles and enclosures shall be located in the rear yard, not closer than three (3) feet from the rear lot line, or non-required side yard, unless otherwise approved by the planning commission and shall be as far as practical, but in no case be less than twenty (20) feet, from any residential district. If practical, the back side of the waste receptacle enclosure should be placed against the building. In this circumstance the wall may act as one (1) side of the enclosure.
- f. Waste receptacles shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces or interfering with the normal movement of vehicles on or off the site.
- g. The waste receptacle base shall be at least nine (9) feet by six (6) feet in area, constructed of six (6) inches of reinforced concrete pavement. The base shall extend six (6) feet beyond the waste receptacle pad or gate to

support the refuse vehicle.

Sec. 78-486. - Mechanical or electrical equipment requirements.

- a. Ground mounted mechanical or electrical equipment, such as blowers, ventilating fans, and air conditioning units are permitted only in non-required side yards or in any non-required rear yard, as determined by the development official.
- b. Mechanical or electrical equipment shall be placed no closer than three (3) feet to any lot line in the central business district.
- c. Any ground, building, or roof mounted mechanical or electrical equipment or utilities, including water and gas meters, utility boxes, transformers, elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment (HVAC), and other similar equipment, shall comply with the following standards:
 1. All such equipment shall be screened by a solid wall, fence, landscaping, and/or architectural features that are compatible in appearance with the principal building.
 2. Roof mounted equipment shall not exceed a height of ten (10) feet above the surrounding roof surface. All roof mounted mechanical units must be screened so they are not visible from ground level, even if not specifically addressed as part of site plan review.

Secs. 78-487—78-500. - Reserved.

ARTICLE XIX. - WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

Sec. 78-501. - Intent and purpose.

The purpose of this article is to establish general guidelines for the siting of commercial wireless communications towers and antennas. The goals of this article are to:

- a. Protect residential areas and land uses from potential adverse impacts of towers and antennas.
- b. Encourage the location of towers in nonresidential areas.
- c. Minimize the total number of towers throughout the community.
- d. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
- e. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
- f. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
- g. Enhance the ability of the providers of telecommunications services to offer such services quickly, effectively and efficiently.
- h. Consider the public health and safety of communication towers.
- i. Avoid potential damage to adjacent properties from tower failure.

In furtherance of these goals, the city shall give due consideration to the city comprehensive development plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Sec. 78-502. - Applicability.

- a. *New towers and antennas.* All new towers or antennas in the city shall be subject to these regulations, unless excepted as provided in this section.
- b. *Amateur radio station operators/receive only antennas.* This article shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is:
 1. Owned and operated by a federally-licensed amateur radio station operator, or
 2. Is used exclusively for receive only antennas.
- c. *Pre-existing towers or antennas.* Pre-existing towers and preexisting antennas shall not be required to meet the requirements of this article, other than the requirements of *Sections 78-503e. and f., General Requirements, Lighting and State or Federal Requirements* .
- d. *AM array.* For purposes of implementing this article, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
- e. New antennas on buildings located in the central business district are subject to the requirements of Section 78-509e., Building or Other Equipment Storage Antennas in the CBD.

Sec. 78-503. - General requirements.

- a. *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- b. *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control even though the antennas or towers may be located on leased parcels within such lot.
- c. *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the development official an inventory of all existing towers, antennas, or sites approved for towers or antennas that are either within the jurisdiction of the city or within one (1) mile of the boundaries thereof, including specific information about the location, height, and design of each tower. The development official may share such information with other applicants applying for administrative approvals or special land use permits under this chapter or other organizations seeking to locate antennas within the jurisdiction of the city; however the development official is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- d. *Aesthetics.* Towers and antennas shall meet the following requirements:
 1. Towers shall either maintain a galvanized steel finish, or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure, so as to make the antenna and related equipment as visually unobtrusive as possible.
- e. *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- f. *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- g. *Building codes; Safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within such thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- h. *Measurement.* For purposes of measurement, tower setbacks and separation shall be calculated and applied to facilities located in the city irrespective of municipal and county jurisdictional boundaries.
- i. *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this article and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- j. *Franchises, leases and easements.* Owners and/or operators of towers or antennas shall certify that all franchises required by law, leases of property and easements for the construction and/or operation of wireless communication systems in the city have been obtained and shall file a copy of all such documents with the development official.
- k. *Signs.* No commercial signs, logos, or messages shall be allowed on an antenna or tower.
- l. *Associated buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of [Section 78-509](#), Buildings and Other Equipment Storage.
- m. *Surety and indemnity bonds, liability insurance.* Each applicant for a tower or antenna permit shall furnish the city with a surety bond ensuring the cost of removal of the tower or antenna, any support building, foundations, fencing and any other structures at the site when the facility is abandoned. The bond shall indemnify the city for all expenses incurred by it for its cost of any such removal in the event the owner does not do so. An applicant shall also furnish the city with a certificate of liability insurance for such coverages and in such amounts approved by the city, with the city as a named insured, with a thirty-day notice of proposed cancellation to be given the city by the insurer.
- n. *Site plan approval.* Site plan approval is required for all antennas and towers within the city.
- o. *Engineering information.* Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- p. *Additional information.* The following information shall be supplied in addition to the information required by article X, special land use and article XI, site plan review of this chapter.
 1. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), comprehensive

development plan classification of the site and all properties within the applicable separation distances set forth in q. adjacent streets, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the development official to be necessary to assess compliance with this article.

2. Legal description of the parent tract and leased parcel, if applicable.
 3. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
 4. The separation distance from other towers described in the inventory of existing sites submitted pursuant to c. of this section, shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 5. A landscape plan showing specific landscape materials.
 6. Method of fencing, finished color and, if applicable, the method of camouflage and illumination.
 7. A description of compliance with this article and all applicable federal, state or local laws.
 8. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
 9. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the city.
 10. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- q. *Setbacks.* The following setback requirements shall apply to all towers for which a special land use permit is required; however, the planning commission may, in order to encourage co-location waive any applicable zoning district setback requirements or separation distances between towers applicable to such towers by up to fifty (50) percent; provided:
1. Towers must be set back a distance equal to at least two hundred (200) feet from the adjoining property lines or one hundred fifty (150) percent of the tower height from a residential district and one hundred (100) percent from a non-residential district, whichever is greater. This setback may be reduced to one-half (½) the tower height from a non-residential property line where a professional engineer licensed by the State of Michigan has certified that the structure is designed as a self collapsing devise and the area in which the proposed structure will fall in the event of damage (i.e. "fall zone") can be accommodated within the setback area.
 2. Accessory buildings must satisfy the minimum zoning district setback requirements.
- r. *Separation.* The following separation requirements shall apply to all towers and antenna for which a special land use permit is required; however, the planning commission may reduce the standard separation requirements if the goals of this article would be better served thereby.
1. *From off-site uses/designated areas.*
 - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table XIX-01 Tower Separation from Off-Site Uses/Designated Areas, except as otherwise provided in Table XIX-01 Tower Separation from Off-Site Uses/Designated Areas.
 - (b) Separation requirements for towers shall comply with the minimum standards established in Table XIX-01 Tower Separation from Off-Site Uses/Designated Areas.

Table XIX-01

Tower Separation from Off-Site Uses/Designated Areas

Off-site Use/Designated Area	Separation Distance
Single-family, duplex, and multiple-family residential units	200 feet or 300% of the tower height whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which has not expired	200 feet or 300% of the tower height (Separation measured from base of tower to closest building, setback line), whichever is greater.
Vacant unplatted residentially zoned lands (includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residentially zoned land greater than duplex).	200 feet or 300% of the tower height, whichever is greater
Nonresidentially zoned lands or nonresidential uses	Only setbacks apply

2. *Distances between towers.*

- (a) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers within the territorial boundaries of the city or elsewhere.
- (b) The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.
- (c) The separation distances, listed in linear feet (LFT), are shown in Table XIX-02 Tower Separation between Towers.

Table XIX-02

Tower Separation between Towers

	Existing Tower is 75 Feet in Height or Greater	Existing Tower is Less Than 75 Feet in Height
Proposed tower is to be 75 feet in height or greater	5,000 LFT	2,500 LFT
Proposed tower is to be less than 75 feet in height	2,500 LFT	

- s. *Security fencing.* Towers shall be enclosed by a vinyl coated cyclone type security fencing not less than six (6) feet in shall also be equipped with an appropriate anticlimbing device; however, the planning commission may waive such requirements, as it deems appropriate.
- t. *Landscaping.* The following requirements shall govern the landscaping surrounding towers and antenna equipment structures.
1. Tower facilities and equipment structures shall be landscaped with a buffer of dense evergreen plant materials that effectively screens the view of the tower compound and/or antenna structure from property used for residences and the street.
 2. The standard buffer shall consist of a landscaped strip of dense evergreen plantings along the outside perimeter of the compound and of sufficient height to effectively screen the fencing and structures.
 3. In locations where the visual impact of the tower and structures is not readily visible from the street or adjoining residential uses, the landscaping requirement may be reduced by the planning commission.
 4. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property may be sufficient buffer.

Sec. 78-504. - Special land use regulations.

The following are subject to the special land use requirements:

- a. New towers are only permitted in the public/quasi-public (PQ) district, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the planning commission concludes the tower is in conformity with the goals set forth in Section 78-501, Intent and Purpose and the requirements of Section 78-503, General Requirements, the tower meets the setback and separation requirements of this article; and the tower meets the following height and usage criteria:
 1. For a single user, up to ninety (90) feet in height;
 2. For two (2) users, up to one hundred twenty (120) feet in height; and
 3. For three (3) or more users, up to one hundred fifty (150) feet in height.
- b. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

Sec. 78-505. - Special land use review considerations.

In addition to standards for consideration of a special land use application pursuant to article X, special land uses, of this chapter, the planning commission shall consider the following in determining whether to issue a special land use permit. The planning commission shall consider the following when determining whether to approve the special land use application:

- a. Height of the proposed tower.
- b. Proximity of the tower to residential structures and residential district boundaries.
- c. Nature of uses on adjacent and nearby properties.
- d. Surrounding topography.
- e. Surrounding tree coverage and foliage.
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

- g. Proposed ingress and egress.
- h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 78-508, Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.
- i. Any other information deemed necessary by the planning commission to evaluate the application.

Sec. 78-506. - Antennas on existing structures.

Any antenna which is not attached to a tower may be approved by the planning commission as an accessory use to any use permit in the public/quasi-public district; provided:

- a. The antenna does not extend more than thirty (30) feet above the highest point of the structure.
- b. The antenna complies with all applicable FCC and FAA regulations.
- c. The antenna complies with all applicable building codes.

Sec. 78-507. - Antennas on existing towers (co-location).

An antenna which is attached to an existing tower may be approved by the development official and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:

- a. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower.
- b. Height.
 - 1. An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height to accommodate the co-location of an additional antenna.
 - 2. The height change may only occur one (1) time per communication tower.
 - 3. The additional height shall not require an additional distance separation as set forth in this article. The tower's pre-modification height shall be used to calculate such distance separations.
- c. Onsite location.
 - 1. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site when approved by the development official.
 - 2. After the tower is rebuilt to accommodate co-location, only one (1) tower may remain on the site.
 - 3. A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers required by this article. The relocation of a tower shall in no way be deemed to cause a violation of Section 78-503q., General Requirements—Setbacks.
 - 4. The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section 78-503q., General Requirements—Setbacks, shall only be permitted when approved by the planning commission.

Sec. 78-508. - Availability of suitable existing towers, other structures, or alternative technology.

- a. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no existing tower, structure or alternative technology that does not require the use of towers or

structures can accommodate the applicant's proposed transmitting and receiving device.

- b. An applicant shall submit information requested by the planning commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed device may consist of any of the following:
 1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 4. The applicant proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new-tower development are presumed to be unreasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

Sec. 78-509. - Buildings or other equipment storage.

- a. *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with antennas shall comply with the following:
 1. The cabinet or structure shall not contain more than three hundred sixty (360) square feet of gross floor area or be more than nine (9) feet in height.
 2. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over three hundred sixty (360) square feet of gross floor area or nine (9) feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 3. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- b. *Antennas mounted on utility poles or light poles.*
 1. The equipment cabinet or structure used in association with antennas shall be no greater than nine (9) feet in height or three hundred sixty (360) square feet in gross floor area.
 2. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches.
 3. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches.
- c. *Antennas located on towers.*

1. The related unmanned equipment structure shall not contain more than three hundred sixty (360) square feet of gr area or be more than nine (9) feet in height, and shall be located in accordance with the minimum yard requiremen zoning district in which located.
 2. Wherever practicable existing cabinets or structures that may service additional antennae shall be used.
- d. *Modification of building size requirements.* The requirements of a.—c. of this section may be modified by the planning commission to satisfy the intent and purpose of this article.
- e. *Antennas in the CBD.* Antennas on buildings located in the central business district are permitted; provided:
1. The antenna is mounted atop the building and does not extend more than twenty (20) feet above the highest point of the building.
 2. The antenna complies with all applicable FCC and FAA regulations.
 3. The antenna complies with all applicable building codes.
 4. No more than three (3) antennas may be mounted on any building.
 5. Antennas may not be mounted on a building located in the central business district that is used exclusively for residential purposes.

Sec. 78-510. - Removal of abandoned antennas and towers.

- a. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned.
- b. The owner of the antenna or tower shall notify the city when operation has ceased, and shall remove the same within ninety (90) days after that date.
- c. The city shall notify the owner in writing of the removal requirement, which shall include removal of support buildings, foundations and other related structures from the premises.
- d. Failure to remove all such facilities within the removal period shall entitle the city to remove them at the owner's expense and to make claim against the surety bond furnished for that purpose.
- e. If there are two (2) or more users of a single tower, then abandonment shall not be presumed until all owners cease using the tower.

Sec. 78-511. - Non-conforming uses.

- a. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a non-conforming use or structure.
- b. Notwithstanding Section 78-510, Removal of Abandoned Antennas and Towers, towers or antennas that are damaged or destroyed may be rebuilt at the approximate same location without having to first obtain planning commission approval or a special land use permit.
- c. The type, height, and location of the tower on-site shall be of the same type and intensity as the approved original facility. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within ninety (90) days from the date the facility is damaged or destroyed.
- d. If no permit is obtained or if the permit expires, and the facility has not been rebuilt, the tower or antenna shall be deemed abandoned as specified in Section 78-510, Removal of Abandoned Antennas and Towers.

Secs. 78-512—78-530. - Reserved.

ARTICLE XX. - STORMWATER MANAGEMENT

Sec. 78-531. - Intent and purpose.

The purpose of this article is to protect the public health, safety and welfare of city residents and to protect property values, quality of life, and natural systems relating to stormwater runoff control and management. The city finds it is a matter of public concern and benefit to protect water bodies and properties within the city and to reduce the future need for public expenditures relating to flooding, water quality, and stormwater system maintenance. Both the quality and quantity of stormwater runoff are a matter of public concern. Stormwater regulation and management is a matter of public health, safety, and welfare because:

- a. Water bodies, roadways, structures, and other property within, and downstream of the city are at times subjected to flooding.
- b. Flooding is a danger to the lives and property of the public and is also a danger to the natural resources of the city and the region.
- c. Changes in land use alter the hydrologic response of watersheds, resulting in increased stormwater runoff rates and volumes, which further result in increased flooding, increased stream channel erosion and increased sediment transport and deposition.
- d. Stormwater runoff produced by changes in land use contributes to increased quantities of water-borne pollutants.
- e. Increases of stormwater runoff, soil erosion, and non-point source pollution have occurred as a result of changes in land use, and cause deterioration of the water resources within and downstream of the city.
- f. Increased stormwater runoff rates and volumes, and the sediments and pollutants associated with stormwater runoff from future earth change projects within the city will, absent reasonable regulation and control, adversely affect the city water bodies and water resources, the resources contained therein and those of downstream municipalities.
- g. Stormwater runoff, soil erosion, and non-point source pollution can be controlled and minimized by the regulation of stormwater runoff from earth changes and by the use of best management practices (BMPs) and other innovative means.
- h. Adopting and implementing the standards, criteria and procedures contained in this article will address many of the deleterious effects of stormwater runoff, both from a water quality and a water quantity perspective.
- i. Adopting these standards is necessary for the preservation of the public health, safety, and welfare and mitigation of adverse impacts from stormwater runoff.

Based on the findings listed above, the city has established the following objectives to guide administration, decision-making, and enforcement of this article. It is therefore the purpose of this article to establish minimum stormwater management requirements and controls to accomplish, among others, the following objectives:

- a. To reduce flood damage.
- b. To prevent increased stormwater runoff rates and volumes due to changes in land use.
- c. To prevent the physical deterioration of existing watercourses, culverts and bridges, and other structures.
- d. To encourage water recharge into the ground where geologically favorable conditions exist.
- e. To prevent an increase in non-point source pollution.
- f. To maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes.

- g. To minimize the impact of changes in land use upon stream bank and streambed stability.
- h. To reduce erosion from earth change or construction projects.
- i. To preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and runoff pollution.
- j. To reduce stormwater runoff rates and volumes, soil erosion, and non-point source pollution, wherever practicable, from lands proposed for redevelopment that were not previously developed with stormwater management controls meeting the purposes and standards of this article.
- k. To reduce the adverse impact of changing land use on neighboring properties and water bodies and, to that end, this article establishes minimum standards to protect water bodies from degradation resulting from changing land use.
- l. To guarantee long-term maintenance of stormwater facilities.

Sec. 78-532. - Standards.

- a. The city council, by resolution, adopted stormwater management standards for the City of DeWitt which establish minimum design standards for calculating runoff, stormwater discharge release rates, and requirements for dischargers to implement on-site detention, retention, infiltration, or other methods necessary to control the rate and volume of surface water runoff discharged into the stormwater drainage system. Attachment B (Stormwater Management Standards) of a resolution adopted January 12, 2003, is not set out herein and is available for inspection in the offices of the city. These standards do include the volume control and rate control as included in this section.
 - 1. *General standards for onsite and offsite stormwater management.*
 - a) Stormwater facilities shall be designed to prevent flood hazards and water pollution related to stormwater runoff, soil erosion and channel erosion from the proposed earth change.
 - b) Existing stormwater from upstream and offsite locations shall be conveyed around or through the site, or stored onsite.
 - c) Every stormwater facility shall control the release of stormwater in accordance with the design standards adopted by city council resolution.
 - d) Unless otherwise approved, stormwater runoff shall be conveyed through swales and vegetated buffer strips so as to decrease runoff velocity, allow for natural infiltration and passive storage, allow suspended sediment particles to settle, and to remove pollutants.
 - e) Alterations to natural drainage patterns shall not increase runoff, create flooding or water pollution for adjacent or downstream property owners.
 - f) Cutting, filling, and grading shall be minimized and the natural topography of the site shall be preserved to the maximum extent practicable, except where specific findings demonstrate that major alterations will still meet the purposes and requirements of this article.
 - g) Grading of lands at locations that are adjacent to or near lands, streets, alleys, sidewalks, or other public or private property shall be done in a manner to protect the property from settling, cracking or sustaining other damage.
 - h) All development and other earth changes shall be designed, constructed, and completed so that the exposed area of any disturbed land is limited to the shortest possible period of time.
 - i) Damage to public utilities or services and damage to or impairment of any water body on or near the location

of any water body shall be prevented.

- j) Natural wetlands shall be maintained to the maximum extent practicable.
 - k) The rate of water volume discharged due to earth changes and/or development of the site shall not create adverse impacts to property owners and watercourses. These adverse impacts may include, but are not limited to flooding, excessive soil saturation, crop damage, erosion, and/or degradation in water quality or habitat.
 - l) There shall be no increase in volume of stormwater discharged from the site.
2. *Stormwater facilities.* The types of stormwater facilities are listed in order of preference, with the most desirable listed first.
- a) Infiltration facilities.
 - 1) This article encourages the use of infiltration systems as a part of stormwater management plan design. Stormwater storage and/or infiltration facilities, which protect water quality and minimize flooding, shall be designed to meet the standards of this article. Storage facilities may include, but are not limited to, detention basins, retention basins, infiltration trenches, swales with check dams, bioretention structures and other facilities and/or BMPs proposed by the applicant. It shall be the responsibility of the applicant to demonstrate that all proposed facilities meet the intent, goals, and standards of this article.
 - 2) As the rate of percolation/infiltration of water into the soil column varies depending, on the soil type, the type of infiltration system used may be site specific. Stormwater management plan designers shall consider soil permeability when designing stormwater infiltration components of a management system. The site developer shall minimize compaction of soil, which decreases infiltration and groundwater recharge and contributes to increased stormwater runoff.
 - b) Stormwater storage facilities. The types of basins are listed in order of preference, with the most desirable listed first:
 - 1) Wet basins or detention basins with a fixed minimum water elevation between runoff events: Wet basins, which serve to trap soil particles onsite, are preferable to dry basins.
 - 2) Detention basins, which detain the first flush of an event and attenuate its release over an extended period.
 - 3) Extended detention basins, which hold stormwater from a less frequent storm event over an extended period before completely draining to become a dry basin. Dry basins without extended detention shall not be permitted.
 - c) All detention and/or retention basins shall be designed to meet the standards of this article.
 - 1) Detention and/or retention basins shall be designed to hold runoff from a 100-year frequency storm event. Basins shall be permanently stabilized to minimize erosion.
 - 2) Detention and/or retention basins shall have an overflow system. If the overflow system cannot discharge to a creek, lake, or wetland without causing flooding on adjacent or downstream properties, then the basin shall be designed to hold stormwater runoff from back-to-back 100-year storm events.
 - 3) Detention and/or retention basins and associated berms and landscaping shall be designed to protect public safety and to be visually attractive.
 - 4) Detention and/or retention basins shall be provided in platted outlots, common areas or open space areas.
 - d) *Design standards.* The city council shall adopt by resolution minimum design standards for calculating runoff,

stormwater discharge release rates, and requirements for dischargers to implement onsite detention, retention, infiltration, or other methods necessary to control the rate and volume of surface water runoff discharged into the stormwater drainage system.

e) *Soil erosion and sedimentation control.*

- 1) All persons who cause, in whole or in part, any earth change to occur shall provide soil erosion and sedimentation control to adequately prevent soils from being eroded and discharged or deposited onto adjacent properties or into a stormwater drainage system, a public street or right-of-way, wetland, creek, stream, water body, or floodplain.
- 2) All earth changes shall be in accordance with all applicable federal and state laws, and local ordinances and applicable rules, regulations, and standards. The strictest of such requirements shall apply. The applicant shall obtain and comply with the terms of a soil erosion and sedimentation control permit if required by law.
- 3) No grading, site preparation, or removal of vegetative cover shall take place prior to stormwater management plan approval and the installation of erosion control facilities.

f) *Landscaping/revegetation.* An applicant shall address the following guiding principles and standards:

- 1) Native, natural existing vegetation shall be retained to the maximum extent practicable, recognizing earth changes will occur and it is not possible to retain much of what exists and still accomplish the basic project purpose.
- 2) Native species shall be used for revegetation and landscaping to the maximum extent practicable.
- 3) The flood tolerance of proposed species shall be considered, particularly in stormwater management areas and components.
- 4) Water requirements of species proposed in areas other than stormwater management facilities shall be considered, with the goal of reducing their water demand and nutrient requirements to the maximum extent practicable.
- 5) The stormwater management components shall be chemical-free zones within the development, with the exception of accepted management techniques for the establishment and maintenance of components requiring the same.
- 6) Bio-retention areas, grass swales, steep slopes, and other areas prone to erosion shall be vegetated with species, which maximize the infiltration, uptake and evapotranspiration of water.

3. *Volume control.* The increase in stormwater runoff volume resulting from development from the 10-year, twenty-four-hour storm shall be controlled in an approved manner such that it does not leave the site boundaries by surface water discharge. Any one (1) or combination of the following methods may be used to meet this requirement.

- a) Infiltration (e.g. basin or trench).
- b) Retention (e.g. non-regulated wetland or permanent pool).
- c) Evapotranspiration.
- d) Bioretention.
- e) Other proposed BMPs or means, subject to city approval.

The applicant is required to provide evidence that soil and other site conditions are suitable for the proposed method. All stormwater facilities intended to meet this requirement shall be located within city right-of-way, parcel outlots, or other common areas accessible to the city by easement or other methods.

4. *Rate control.* The stormwater runoff not otherwise controlled in accordance with the volume control requirements in section a. above shall be released off-site at a controlled rate. Runoff from storm events up to, and including, the 100 twenty-four-hour storm shall be released at or below the rate of 0.15 cubic feet per second (cfs) per acre of site area; (1) or combination of the following methods may be used to meet this requirement.
 1. Detention (e.g. basin or pond).
 2. Subsurface storage (e.g. restricted storm drainage pipe system).
 3. Other proposed BMPs or means, subject to city approval.

Sec. 78-533. - Process for approval.

a. *Applicability—Systems subject to review.*

1. A stormwater management plan approved in accordance with this article shall be required for any earth change, any use subject to site plan approval under Section 78-262, Uses Subject to Site Plan Review, and any subdivision subject to approval under chapter 38 of the Code, with the exceptions listed in 2. below.
2. Exceptions. A stormwater management plan shall not be required for:
 - a) Agricultural activity that is consistent with an approved soil conservation plan.
 - b) Additions or modifications to any single-family or duplex structure.
 - c) Landscaping or gardening involving less than five thousand (5,000) square feet of land.
 - d) Construction of a dwelling on a legal lot within a development that itself previously received approval under this article, provided that less than five thousand (5,000) square feet of land is cleared or graded for such construction.

b. *General plan requirements.*

1. Through maps, illustrations, reports, and calculations, the stormwater management plan shall display the required information in a clear and logical sequence.
2. The stormwater management plan shall be sufficiently detailed to specify the type, location, and size of soil erosion control measures and stormwater facilities, including calculations.
3. Scale for mapping. The stormwater management plan shall be drawn to a scale of at least one (1) inch equal to forty (40) feet (1 inch = 40 feet) for property less than three (3) acres and one (1) inch equal to one hundred (100) feet (1 inch = 100 feet) for property three (3) acres or more in size.

c. *Plan submittal requirements.* The following plan requirements are in addition to other requirements specified in, Section 78-532, Standards, of this article and other applicable chapters of the Code. The applicant shall provide a stormwater management plan to the city for review and approval. Upon request by the applicant, or at its own initiative, the planning commission may determine that one (1) or more requirements may not be applicable and may be waived. Applicant shall submit twenty (20) copies of the stormwater management plan, which shall identify and contain all of the following information:

1. *Contact information.* The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected. Include information on the zoning classification of the applicant's parcel and all adjacent parcels.
2. *Location map.* A map depicting the location of the development site and all water bodies that will ultimately receive stormwater runoff.
3. *Topographic base map.* The existing and proposed topography of the development site, including the alignment and boundary of the natural drainage courses, with contours having a maximum interval of not greater than two

- (2) feet. The map shall also show existing surface water drainage (permanent and intermittent) and flow direction, including streams, ponds, culverts, ditches, and wetlands, location of 100-year floodplain if applicable to the site, current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
4. *Soils information.* A map of the site proposed for development with the site boundary superimposed on the Clinton County Soil Map Survey and the hydrologic soil groups noted for each soil classification included within the site.
 5. *Watershed.* A map showing the pre- and post-development drainage patterns each point of discharge from the development and/or earth change, and the drainage relationship with existing council-approved watershed patterns.
 6. *Calculations.* Stormwater calculations shall be provided in accordance with the design standards referenced in this article.
 7. *Site plan drawing.* A drawing showing all proposed stormwater facilities with existing and final grades. This map shall also show existing and proposed lot lines, property lines, and structures, parking areas, etc. on the parcel and within one hundred (100) feet of the site.
 8. *Outlet and culvert information.*
 - a) The sizes and locations of upstream and downstream culverts serving the major drainage routes flowing into and out of the development site, with arrows indicating the direction of flow to the ultimate receiving water body.
 - b) Any significant offsite and onsite drainage outlet restrictions other than culverts should be noted on the drainage map.
 - c) Storm sewer calculations indicating the number of acres, calculated to the nearest tenth of an acre, contributing to each specific inlet/outlet and maximum flow in cubic feet per second shall be stated on the plan.
 - d) The applicant shall demonstrate that suitable conveyance exists downstream of the development site to receive the stormwater, including easements, if necessary, for such conveyance. If easements do not exist, and cannot be acquired, the applicant shall demonstrate the means of volume controls.
 - e) Any areas of offsite sheet flow shall be identified.
 9. *Phased development plans.* Should the applicant plan to subdivide or develop a given area but wishes to begin with only a portion of the total area, the original preliminary site plan or preliminary subdivision plat shall include the proposed general layout for the entire area. The first phase of the site plan or subdivision plat will be clearly superimposed upon the overall stormwater management plan in order to illustrate clearly the method of development and/or earth change that the applicant intends to follow. The stormwater management plan shall be submitted for the entire development, with calculations and devices designed for build-out sufficient to demonstrate to the planning commission the feasibility of future phases complying with the standards of this article. The applicant shall also demonstrate that stormwater management facilities to be constructed as part of the initial phases of development can function independently of any facilities to be constructed as part of future phases of the development.
 10. *Construction plan.* An implementation and sequencing plan for construction and inspection of all stormwater facilities, including a schedule of the estimated dates of completing construction of the stormwater facilities shown on the plan and an identification of the proposed inspection procedures to ensure that the stormwater facilities are constructed in accordance with the approved stormwater management plan.

11. *Sedimentation and erosion control plan.* A soil erosion and sedimentation control plan for all construction activities implementing any onsite stormwater management practices. This plan shall provide for the effective control of onsite stormwater runoff, sediment track-out onto roadways and protection of temporary control structures. The plan contain information on how the applicant proposes to avoid the compaction of soils in any areas of the site that are for infiltration facilities during project constructions. Areas proposed for infiltration shall not be used as temporary basins during construction. In the case where a temporary sedimentation and erosion control device is to be converted to a permanent stormwater management facility, the applicant shall document how this conversion shall be accomplished so that the approved design function and/or capacity of the stormwater facility is attained.
12. *Construction specifications.* All construction specifications for the stormwater facilities and a single sheet showing all proposed stormwater facilities, including vegetative BMP's, with drainage easements overlaid onto the overall road and utility plan and drawn to the same scale.
13. *Additional drawings.* Drawings, profiles, and specifications for the construction of the stormwater facilities, including vegetation, reasonably necessary to ensure that stormwater runoff will be infiltrated, drained, stored, or otherwise controlled in accordance with this article. All drawings will include the original date (month, day, and year) of preparation, and any subsequent dates of revisions, a title block, scale, and north point.
14. *Maintenance plan.* A document in form and substance acceptable to the city for ensuring and listing the routine, emergency and long-term post-development maintenance requirements of any privately owned stormwater facilities, including but not limited to infiltration basins, vegetated swales, rain gardens, extensive areas of existing vegetation to be retained etc. This maintenance plan is for post-construction maintenance. This shall include identifying the individuals or entities responsible for each maintenance activity, and at what frequency the maintenance activity shall be performed in order to maintain the approved design function and/or capacity of the associated stormwater facility. The maintenance plan shall include a mandatory association or other enforceable commitment to provide routine, emergency, and long-term maintenance of the facilities and, in the event that the facilities are not maintained in accordance with the approved stormwater management plan, the maintenance plan shall authorize the city to maintain any onsite stormwater facility as reasonably necessary, at the owner's expense. The maintenance plan must include provisions requiring no alteration, clearing, dumping of waste or other unapproved activities in the stormwater facilities.
15. *Firm contact information.* Name and signature of planner, architect, engineer, surveyor, wetland specialist, landscape architect, and/or other technical experts who have assisted in the preparation of the stormwater management plan, designed the stormwater facilities, and will inspect the final construction of the stormwater facilities. The submitted plan shall be stamped and signed by the licensed design engineer or registered landscape architect.
16. *Vegetation plan.* A drawing, which details the existing vegetation to be retained and how it will be protected during construction and a drawing which identifies vegetation that is proposed to be planted as part of the stormwater management plan. The applicant shall provide documentation which supports the evapotranspiration benefits of all existing and proposed vegetation to be protected or planted for the purposes of managing stormwater on the site.

The existing vegetation to be retained and the vegetation to be introduced as part of the stormwater management plan shall provide aesthetic and functional benefits. Selected plants shall enhance water quality and provide additional and appropriate uptake of water, where feasible. Additional information is provided in Section 78-532(a)2.(f), Landscaping/Revegetation.
17. *Other environmental permits.* All other applicable environmental permits shall be acquired for the site prior to construction.

18. *Additional information.* Any other information necessary for the city to verify that the stormwater management plan complies with the city's design and performance standards for drains and stormwater facilities.
 19. *Site features.* The location and description of onsite and adjacent offsite features that may be relevant in determining the overall requirements for stormwater management. These features may include, but are not limited to, the following:
 - (a) Adjoining roads, subdivisions, and other developments and/or earth change activities.
 - (b) Schools, parks, and cemeteries.
 - (c) Drains, sewers, water mains, catch basins, septic fields and wells.
 - (d) Overhead power lines, underground transmission lines, gas mains, pipelines or other utilities.
 - (e) Existing and proposed easements.
 - (f) Natural and artificial watercourses, wetlands and wetland boundaries, floodplains, lakes, bays and lagoons.
 - (g) Designated natural areas.
 - (h) Any proposed environmental mitigation features.
 20. *Soil borings.* Soil borings; completed by a licensed professional engineer or certified geologist, shall be required at various locations including the sites of proposed retention/detention/infiltration facilities. The location(s) intended for the retention/detention/infiltration facilities shall have studies performed that reveal the permeability of the soil where the facilities are to be constructed. The studies shall also reveal the methods used to identify the permeability of the soil.

The permeability design values for the proposed retention/detention/infiltration facilities shall be verified before construction takes place so that any necessary design changes can be made.

The applicant shall conduct additional soil borings and permeability tests in the proposed infiltration facilities once they are excavated to their proposed grades. The location and number of borings are to be proposed by the applicant and approved by the city engineer prior to conducting the borings, and the city engineer should be notified of the date and time so that they can be present, if deemed appropriate.
 21. *Previously developed sites.* For earth changes development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater management plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of the article, or to match existing discharge rates, whichever is less.
- d. *Procedures for review.* A stormwater management plan shall be submitted and reviewed in accordance with the following requirements:
1. *Pre-application meeting.* Unless otherwise deemed unnecessary by the city development official, a pre-application meeting shall be held between the applicant and representatives of the city, including the city engineer consultant, to discuss the applicant's preliminary development and stormwater management plans. The meeting will allow the applicant to gain input on the requirements for approval of a stormwater management plan.
 2. *Submittal of complete proposed plans.* Twenty (20) copies of the proposed stormwater management plan for each development and earth change project as required under *Section 78-533a., Applicability—Systems Subject to Review* shall be submitted to the development official at the same time a site plan or preliminary subdivision plat is submitted. The development official shall determine that the application is administratively complete.

The complete stormwater management plan shall be received at least thirty (30) days prior to a planning commission meeting in order to be reviewed at that meeting.

3. *Escrow deposit.* The applicant shall deposit with the city clerk, as an escrow deposit based on the estimated cost of reviewing and approving the proposed stormwater management plan submitted by the applicant and reviewed per Table XX-01 Schedule of Escrow Required for Plan Review.

Fees and escrow account payments shall be sufficient to cover administrative and technical review costs anticipated to be incurred by the city.

All expenses and costs incurred by the city directly associated with processing, reviewing and approving or denying a stormwater management plan application shall be paid to the city from the funds in an escrow account established by the applicant and held by the city.

The city may draw funds from an applicant's escrow account to reimburse the city for out-of-pocket expenses incurred by the city relating to the application. Such reimbursable expenses include, but are not limited to, expenses related to the following:

- (a) Services of the city attorney directly related to the application.
- (b) Services of the city engineer directly related to the application.
- (c) Services of other independent contractors or consultants working for the city which are directly related to the application.
- (d) Any additional public hearings, required mailings and legal notice requirements necessitated by the application.

**Table XX-01
Schedule of Escrow Required for Plan Review**

Cost of Constructing Facilities	% of Cost for Escrow
\$0.00—\$100,000.00	4
\$100,001.00—\$250,000.00	3
\$250,001.00—\$500,000.00	2
\$500,001.00 and above	1

If the city determines that a greater amount is appropriate it shall provide the applicant in writing the basis for this determination. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final city approval and acceptance of the earth change has occurred will be refunded to the applicant with no interest to be paid on those funds.

4. *Agency review.* Upon receipt of a completed application for approval of a stormwater management plan, the city clerk shall transmit one (1) copy of the plan to the planning commission and each of the following officials or agencies for their comments:

- (a) Fire chief.
- (b) Police chief.
- (c) Clinton County Drain Commissioner.
- (d) City public services department.
- (e) City engineer.
- (f) Other agencies deemed necessary by the city development official.

Review agencies shall have twenty-five (25) days from the date of transmittal to respond to the planning commission in writing. Should a review agency or official fail to respond in the required time or before the scheduled date for planning commission action on the application, it shall be presumed that the review official or agency has no comment regarding the application.

5. *Planning commission review.* The authority to grant final approval for a stormwater management plan shall be vested with the planning commission for all types of projects except for special land use permits, condominiums and platted subdivisions. In the case of a special land use permit, condominiums or a platted subdivision, final authority for approval of the plan shall be vested with the city council. Action of the city council shall occur after the planning commission has provided a recommendation on the plan.

- a) The planning commission shall consider the comments made by the agencies listed in this article in making its determination.
- b) The planning commission may add conditions for approval of the plan.
- c) If the planning commission determines that all required additional information has not been received, the applicant may request that the matter be tabled, and the planning commission may, at its discretion, with or without such a request, table the matter to allow for the submittal of the required information.
- d) Resubmittal. If it is necessary for an applicant to submit a revised stormwater management plan, the applicant shall submit a complete revised plan to the city clerk. The revised stormwater management plan shall include a title block which indicates the date of the revised plan. The plan shall be accompanied by a letter from the applicant, or its consultant, identifying the deficiencies originally determined by the planning commission and outlining how these deficiencies have been addressed in the revised plan. The revised plan shall be submitted at least thirty (30) days prior to the planning commission meeting at which it will be considered.

Upon receipt of a revised stormwater management plan, the city clerk shall transmit one (1) copy of the plan to the planning commission and to any of the following officials or agencies that identified concerns with the original submittal their comments:

- i) Clinton County Drain Commissioner.
- ii) City public services department.
- iii) City engineer.
- iv) Other agencies deemed necessary by the city development official.

Review agencies listed in this section shall have fifteen (15) days from the date of transmittal of the revised stormwater management plan to respond to the planning commission in writing. Should a review agency or official fail to respond in the required time or before the scheduled date for planning commission action on the revised application, it shall be presumed that the review official or agency has no comment regarding the application.

- e) Performance guarantees. The city shall not approve a stormwater management plan until the applicant submits a form and amount satisfactory to the city, an irrevocable letter of credit or other similar financial guarantee for the satisfactory construction of all stormwater facilities in accordance with the approved stormwater management plan. Performance bonds are not acceptable. The amount of the financial guarantee shall be equal to the estimated cost of constructing the improvements, approved by the city.
6. *Conditions of approval.* The planning commission or, in the case of a platted subdivision or special land use, the city council shall grant approval of a stormwater management plan, which may impose terms and conditions in accordance with *Section 78-533d.5.(e), Fees and Performance Guarantees*, and which shall be granted only upon compliance with each of the requirements stated below:
- a) The applicant has submitted a stormwater management plan complying with this article.
 - b) The applicant has paid or deposited the management plan review fee pursuant to *Section 78-533, Fees and Performance Guarantees*.
 - c) The applicant has paid or posted the applicable financial guarantee pursuant to *Section 78-533, Fees and Performance Guarantees*.
 - d) The applicant provides all easements necessary to implement the approved stormwater management plan and to otherwise comply with this article including, but not limited to, *Section 78-534e.5., Easements*, in form and substance acceptable to the city, and to be recorded with the Clinton County Register of Deeds.
 - e) The stormwater management plan conforms with all applicable design and performance standards for drains and stormwater management systems, as set forth in *Section 78-532, Standards*.
 - f) All stormwater facilities are designed in accordance with current BMPs.
 - g) The applicant provides the required maintenance plan which provides for adequate routine, emergency, and long-term maintenance of all stormwater facilities and is in compliance with the approved stormwater management plan and this article including, but not limited to, *Section 78-534e., Maintenance*. The maintenance plan shall be in form and substance acceptable to the city and shall be recorded with the Clinton County Register of Deeds.
 - h) The applicant shall comply with the observation schedule submitted by the city engineer.
7. *Approved plans.*
- a) Approval of final development plans, site plans, and final preliminary subdivision plats shall not be granted prior to approval of the stormwater management plan.
 - b) Upon approval of the stormwater management plan, the planning commission chair, or the chair's designee, shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the city's files; one (1) copy shall be forwarded to the city engineer; and, one (1) copy shall be returned to the applicant.
 - c) Planning commission approval shall expire two (2) years from the date of such approval unless construction has commenced and proceeds satisfactorily.
 - d) An applicant may request from the planning commission unlimited one (1) year extensions of the plan approval, provided such request is applied for in writing prior to the date of expiration of plan approval. The planning commission shall grant the request if plan requirements and standards, including those of this article that are reasonably related to the earth change, have not changed.
8. *Amendments.* Amendments to an approved stormwater management plan may occur as follows:
- a) The holder of an approved plan shall notify the development official of any proposed amendment to such approved plan.

- b) Minor changes may be approved by the development official upon certification in writing to the planning commission proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the commission. The development official shall consider the following to be a minor change:
 - 1. Any change that does not decrease the effectiveness of approved stormwater facilities.
 - 2. Any change that does not cause an increase in runoff rate and/or volume.
 - 3. Any change deemed to be minor as determined by the planning commission from time to time.
 - c) Should the development official determine that the requested modification to the approved plan is not minor, then the applicant shall submit a new plan for review as required by this article, and any required fees.
9. *Variations.* The zoning board of appeals (ZBA) shall have the authority to interpret this article and may grant variances to these requirements provided the variances are consistent with the general purpose and intent of the requirements. The procedural requirements for appeals under article XXII, zoning board of appeals (ZBA) shall be applicable to appeals under this article. In addition to the procedures of XXII, zoning board of appeals (ZBA), when variances are requested from the stormwater management system article, the applicant shall show that stormwater management systems have been provided to the maximum extent feasible with the requirements of this article.

Sec. 78-534. - Construction and maintenance.

- a. The applicant shall be responsible for maintenance and inspection of stormwater BMP's and management components on a regular basis during construction.
- b. Authorized representatives of the city may enter the project site to conduct onsite inspections at any time during construction.
- c. Construction observation fees shall be based on the cost estimate for the proposed project and per Table XX-02 Schedule of Escrow Required for Observation:

**Table XX-02
Schedule of Escrow Required for Observation**

Cost of Constructing Facilities	% of Cost for Observation
\$0.00—\$250,000.00	2
\$250,001.00 and above	3

If the city determines that a greater amount is appropriate it shall provide the applicant in writing the basis for this determination. Any excess funds remaining in the escrow account after the application has been fully processed, reviewed, and the final city approval and acceptance of the earth change has occurred will be refunded to the applicant with no interest to be paid on those funds.

- d. *Inspection/reporting.*
 - 1. The applicant shall notify the city in advance before the commencement of construction. A licensed professional engineer or his or her designee who has been approved by the city shall conduct regular observations of the

stormwater facilities construction. All observations shall be documented with brief, written reports prepared, and submitted to the city, the frequency of which shall be determined at the time the plan is approved. The report shall contain the following information:

- i) The date and location of the site visit.
 - ii) Recent precipitation events.
 - iii) Copies from the NPDES construction site logbook, if applicable.
 - iv) Certification that construction is in general compliance with the approved stormwater management plan.
 - v) Variations from the approved construction specifications.
 - vi) Any violations that exist with a timetable for completing corrective actions or a brief description of corrective actions completed.
2. If any violations are found, the property owner shall be notified by the city in writing of the nature of the violation and the corrective actions necessary. No additional work shall proceed until all violations are corrected by the applicant and approved by the city.
 3. Should a city observation reveal noncompliance with the approved stormwater management plan, a violation and stop work order may be issued in accordance with Section 78-535, Enforcement.
- e. *Maintenance*.
1. *Responsibility*.
 - (a) Maintenance of stormwater facilities shall be the responsibility of the person, persons or entity holding title to the property. These persons or entity are responsible for the continual operation, maintenance, and repair of stormwater facilities and BMPs in accordance with the provisions of this article.
 - (b) For privately maintained stormwater facilities, the maintenance requirements specified in this article shall be enforced by the city against the owner(s) of the property served by the stormwater facilities.
 2. *Maintenance plan*. A maintenance plan, as specified in *Section 78-533c., Plan Submittal Requirements*, shall include specific maintenance activities for each stormwater facility and any other elements of the approved stormwater management plan. The maintenance plan shall be submitted simultaneously for municipal review with all other required elements of the stormwater management plan.
 3. *Record keeping*.
 - (a) Parties responsible for the operation and maintenance of stormwater facilities shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five (5) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.
 - (b) All stormwater facilities shall be maintained according to the measures outlined in the approved stormwater management plan.
 - (c) The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Options include:
 - (1) Property owner's association provided that provisions for financing necessary maintenance are included in deed restrictions or other contractual agreements.
 - (2) Means of permanent maintenance through agreement with the office of the Clinton County Drain Commissioner or other appropriate governmental agency.
 4. *Access*. When any new stormwater facilities are installed on private property, or when any new connection is made between private property and a public drainage control system, the property owner shall grant to the city

through an easement the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This access includes the right to enter a property when the city has reason to believe that a violation of this article is occurring or has occurred, and to enter when necessary for the abatement of a public nuisance or correction of a violation of this article.

5. *Easements.*

- a) The owner shall provide all easements necessary to implement the approved stormwater management plan and maintenance plan and to otherwise comply with this article in form and substance required by the city and/or any other governmental agency assuming authority, and shall record such easements as directed by the city.
- b) The easements shall assure access for proper inspection and maintenance of stormwater facilities in perpetuity and shall provide adequate emergency overland flow-ways.
- c) The maintenance plan shall, among other matters, assure access for proper inspection and maintenance of stormwater facilities and adequate emergency overland flow-ways.
- d) Easement widths will be determined by the city and be situated in such a way as to allow maximum maintenance access. In general, easement widths shall conform to the following:
 - i) *Open channels and watercourses.* A minimum of fifty (50) feet total width. Additional width may be required in some cases, including but not limited to: Watercourses with floodplains delineated by FEMA; sandy soils, steep slopes, at access points from road crossings.
 - ii) *Open swales (cross lot drainage).* A minimum of thirty (30) feet total width.
 - iii) *Enclosed storm drains.* A minimum width of twenty (20) feet will be required, situated in such a way as to allow maximum maintenance access. Additional width will be required in some cases. These may include but are not limited to, pipe depths exceeding four (4) feet from the top of pipe, sandy soils, and steep slopes.

6. *As-built plans.* The applicant shall provide as built plans, prepared and certified by a professional engineer to the city engineer.

7. Upon the city engineer accepting the certified as-built plans and determining that the stormwater facilities appear to have been completed in general accordance with the approved stormwater management plan, the city may release the irrevocable letter of credit, subject to final city acceptance and approval. The city shall retain not less than ten (10) percent of the original face value of the irrevocable letter of credit for a period of one (1) year and one (1) day after the city engineer's designation noted above. The purpose of this retainage is to guarantee that the stormwater facilities perform as designed.

8. This article shall not be construed or interpreted as relieving an applicant of its obligation to pay all costs associated with onsite private stormwater facilities as well as those costs arising from the need to make other drainage improvements in order to reduce an earth change's impact to property owners and watercourses.

Sec. 78-535. - Enforcement.

a. *Violations.* A person who violates any provision of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in Section 42-38 of the Code. Repeat offenses under this article shall be subject to increased fines as set forth in Section 42-38 of the Code.

b. *Stop work order.*

1. *Stop work order.* Where there is work in progress that causes a violation of any provision of this article, the city is authorized to issue a stop work order to prevent further or continuing violations. All persons to whom the stop

work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply with the order. The city may also undertake or cause to be undertaken any necessary measures to prevent violations of this article or to avoid or reduce the effects of noncompliance. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work and such cost shall be a lien upon the property until paid.

2. *Emergency measures.* When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, or to prevent loss of life, injury or damage to property, the city is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this article, and shall promptly reimburse the city for all of such costs. Such costs shall be a lien upon the property until paid.
- c. *Restoration.* Any violator of this article may be required to restore land to its undisturbed condition and/or repair and stabilize damaged areas. In the event that restoration or repairs are not undertaken within a reasonable time after notice, the city may take necessary corrective action the cost of which shall become a lien upon the property until paid.

Sec. 78-536. - Watershed map.

The city council, by resolution, adopted a watershed map (Attachment A—Watershed Map) on January 13, 2003, which is available for inspection at DeWitt City Hall.

Secs. 78-537—78-550. - Reserved.

ARTICLE XXI. - FLOOD HAZARD AREA REGULATIONS

Sec. 78-551. - Intent and purpose.

It is the purpose of this article to significantly reduce hazards to persons and damage to property as a result of flood conditions in the city, and to comply with the provisions and requirements of the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the United States Department of Housing and Urban Development, Federal Insurance Administration, as published in the Federal Register, Volume 41, No. 207, Tuesday, October 26, 1976. Further, the objectives of this article include:

- a. The protection of human life, health and property from dangerous and damaging effects of flood conditions.
- b. The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas.
- c. The prevention of private and public economic loss and social disruption as a result of flood conditions.
- d. The maintenance of stable development patterns not subject to the blighting influence of flood damage.
- e. To ensure that the public has access to information indicating the location of land areas subject to periodic flooding.
- f. To preserve the ability of floodplains to carry and discharge a base flood.

Sec. 78-552. - Delineation of the overlay zone.

- a. The flood hazard area zone shall overlay existing zoning districts delineated on the official city zoning map. The boundary of the flood hazard area zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the report entitled, "The Flood Insurance Study, City of DeWitt", dated December 19, 1979, with accompanying flood insurance rate maps and flood boundary and floodway maps, as may be amended from time to time.
- b. The study and maps are declared to be recognized as an official standard code, copies of which are available to the public at the city offices at a reasonable charge. Within the flood hazard area zone a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the flood boundary and floodway map.
- c. The study and accompanying maps are adopted by reference, appended, and declared to be a part of this article. The term "flood hazard areas," as used in this article, shall mean the flood hazard area zone; and the term "floodway" shall mean the designated regulatory floodway.
- d. Where there are disputes as to the location of a flood hazard area zone boundary, the zoning board of appeals shall resolve the dispute in accordance with Section 78-562, Floodplain Mapping Disputes.
- e. In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this article shall be necessary for all development occurring within the flood hazard area zone.
- f. Conflicts between the requirements of this article and other requirements of this chapter or any other ordinance shall be resolved in favor of this article, except where the conflicting requirement is more stringent and would further the objectives of this article. In such cases the more stringent requirement shall be applied.

Sec. 78-553. - Development permit.

Development, including the erection of structures and placement of manufactured homes, within a flood hazard area zone shall not occur except upon issuance of a development permit in accordance with requirements of this chapter and the following standards:

- a. The requirements of this article shall be met.
- b. The requirements of the underlying zoning districts and applicable general provisions of this chapter shall be met.
- c. All necessary development permits shall have been issued by appropriate local, state and federal authorities, including a floodplain permit, approval, or letter of no authority from the state department of natural resources. Where a development permit cannot be issued prior to the issuance of a building permit, a letter from the issuing agent indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

Sec. 78-554. - Application information.

In addition to the information required with an application for a building permit, special land use, or any other type of development permission required under this chapter, the following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard area zone:

- a. The elevation in relation to mean sea level of the floor, including basement, of all structures.
- b. Where floodproofing will be employed, the elevation in relation to mean sea level to which a structure will be floodproofed.
- c. Where floodproofing will be employed, a certificate from a registered professional engineer or architect that the floodproofing criteria of this article will be met.

- d. Where it can be determined that development is proposed within zones A1—A30 on the FIRM or the regulatory floor certification as required by this article.
- e. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- f. Proof of development permission from appropriate local, state, and federal agencies as required by this article, including a floodplain permit approval, or letter of no authority from the Michigan Department of Environmental Quality (MDEQ).
- g. Base flood elevation data where the proposed development is subject to Public Act No. 288 of 1967 (MCL 560.101 et seq.), or greater than five (5) acres in size.
- h. Additional information which may be reasonably necessary to determine compliance with the provisions of this article.

Sec. 78-555. - General standards for flood hazard reduction.

All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and manufactured homes, shall:

- a. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure.
- b. Be constructed with materials and utility equipment resistant to flood damage.
- c. Be constructed by methods and practices that minimize flood damage under provisions of the adopted Building Code ordinance.
- d. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- e. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
- f. Adequate drainage shall be provided to reduce exposure to flood hazards.
- g. The city engineer or his representative shall review development proposals to determine compliance with the standards in this article, and shall transmit his determination to the development official.
- h. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this article.
- i. The flood-carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood-carrying capacity shall be maintained.
- j. Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

Sec. 78-556. - Specific base flood elevation standards.

On the basis of the most recent available base flood elevation data of the following standards shall apply in the flood hazard area zone:

- a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood level.
- b. New construction and substantial improvements of nonresidential structures.

1. Such structures shall have either the lowest floor, including basement, elevated to or above the base flood level constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure with walls substantially impermeable to the passage of water and with structural components having the capability to resist hydrostatic and hydrodynamic loads and effects of buoyancy.
2. A registered professional engineer or architect shall certify that the standards of this subparagraph are satisfied and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location submitted as provided in this article and shall indicate the elevation to which the structure is floodproofed.

Sec. 78-557. - Manufactured home standards.

All manufactured homes in the floodway shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accordance with the following specifications:

- a. Over-the-top ties shall be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, except that on manufactured homes less than fifty (50) feet in length, one (1) tie per side shall be required.
- b. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, except that on manufactured homes less than fifty (50) feet in length, four (4) ties per side shall be required.
- c. All components of the anchoring system shall be capable of carrying of force of four thousand eight hundred (4,800) pounds.
- d. All additions to a manufactured home shall be similarly anchored.
- e. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the city civil defense director for manufactured home parks and manufactured home subdivisions.
- f. Manufactured homes within zones A1—A30 on the flood insurance rate map shall be located in accordance with the following standards:
 1. All manufactured homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level.
 2. Adequate surface drainage away from all structures and access for a manufactured home hauler shall be provided.
 3. In the instance of elevation on pilings, lots shall be large enough to permit steps. Piling foundations shall be placed in stable soil no more than ten (10) feet apart, and reinforcement shall be provided for piers more than six (6) feet above ground level.
- g. In manufactured home parks and manufactured home subdivisions which exist at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities and pads equaling or exceeding fifty (50) percent of the value of the streets, utilities and pads before repair, the standards in f. above shall be met.

Sec. 78-558. - Standards for areas of shallow flooding.

The following standards shall apply in areas of shallow flooding denoted as AO zones on the flood insurance rate map:

- a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the flood insurance rate map (FIRM).

- b. All new construction and substantial improvements of nonresidential structures shall either:
 - 1. Have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the FIRM; or
 - 2. Be floodproofed, together with attendant utility and sanitary facilities, to the level specified in accordance with the standards of this article.

Sec. 78-559. - Floodway protection standards.

- a. New construction, substantial improvements and all other development, including fill, shall be prohibited within zones numbered A1—A30 on the FIRM, except where it is demonstrated to the development officer that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not harmfully increase the water surface elevation of a base flood.
- b. In determining whether a harmful increase will occur, compliance with applicable law shall be required, provided that the allowable increase shall not exceed one (1) foot. The provisions of this section shall not apply within the regulatory floodway. The provisions of c.2. below shall be applied to land situated within the regulatory floodway.
- c. All development occurring within the regulatory floodway shall comply with the following standards:
 - 1. Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the department of natural resources that the development proposed will not result in any increases in flood levels during a base flood discharge, and there shall be compliance with section 3108 of the Natural Resources and Environmental Protection Act (MCL 324.3108).
 - 2. The placement of manufactured homes shall be prohibited except in manufactured home parks and subdivisions which exist at the time this article is adopted.
 - 3. Development which is permitted in the regulatory floodway shall meet the requirements of Sections 78-553 through 78-557, Development Permits, Application Information, General Standards for Flood Hazard Reduction, Specific Base Flood Elevation Standards, and Manufactured Home Standards.
- d. The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this article.

Sec. 78-560. - Floodplain management administrative duties.

- a. With regard to the National Flood Program, and the regulation of development within the flood hazard area zone as prescribed in this article, the duties of the development official shall include, but are not limited to:
 - 1. Notification to adjacent communities and the department of natural resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration.
 - 2. Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures, the elevation to which the structure was made floodproof.
 - 3. Recording of all certificates of floodproofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
- b. All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the

development official and shall be available for public inspection.

- c. It shall be the responsibility of the development official to obtain and utilize the best available flood hazard data for purposes of administering this article in the absence of data from the flood insurance administration.

Sec. 78-561. - Variances.

Variances from the provisions of this article shall only be granted by the zoning board of appeals (ZBA) upon a determination of compliance with the general standards for variances contained in the chapter and each of the following specific standards:

- a. A variance shall not be granted within a floodway where the result of the proposed development would be an increase in flood levels during a base flood discharge, except upon certification by a registered professional engineer or the Michigan Department of Environmental Quality (MDEQ) that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with applicable law shall be required, provided that the allowable increase, including the increase used as the design standard for delineating the floodway, shall not exceed one (1) foot.
- b. A variance under this article shall be granted only upon both:
 1. Compliance with Section 78-585, Powers and Duties in article XXII.
 2. A determination that the granting of a variance will not result in flood heights in excess of those permitted by this article, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- c. The city ZBA may attach conditions to the granting of a variance to ensure compliance with the other standards contained in this chapter.
- d. Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places without regard to the requirements of this section governing variances in flood hazard areas.

Sec. 78-562. - Floodplain mapping disputes.

- a. Where disputes arise as to the location of the flood hazard area boundary or the limits of the floodway, the ZBA shall resolve the dispute and establish the boundary location. In all cases, the decision of the ZBA shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information shall be utilized.
- b. Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the ZBA shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.
- c. All parties to a map dispute may submit technical evidence to the ZBA.

Sec. 78-563. - Disclaimer of liability.

- a. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris.
- b. Approval of the use of land under this article shall not be considered a guarantee or warranty of safety from flood damage. This article does not imply that areas outside the flood hazard area will be free from flood damage. This

article does not create liability on the part of the city or any officer or employees of the city, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Secs. 78-564—78-580. - Reserved.

ARTICLE XXII. - ZONING BOARD OF APPEALS (ZBA)

Sec. 78-581. - Intent and purpose.

It is the intent of this article to:

- a. Ensure that the objectives of this article are fully and equitably achieved.
- b. Provide a means for competent interpretation of this article.
- c. Accomplish flexibility in the strict application of its provisions.
- d. Ensure the spirit of this article be observed, public safety secured, and substantial justice done.

Sec. 78-582. - Creation and membership.

The city council, comprised of six (6) members, one of whom shall be a member of the planning commission, is established as the zoning board of appeals (ZBA) and shall perform the duties and exercise the powers as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.), and in such a way that the objectives of this article shall be observed.

Sec. 78-583. - Organization.

- a. The ZBA shall adopt rules and/or procedures for the conduct of its meetings and the performance of its powers and duties. The procedures shall be in accord with the provisions of this article and applicable state law. The board shall annually elect a chairperson, a vice chairperson, and a secretary.
- b. Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the board may specify in its rules of procedure. The applicable provisions of Public Act No. 267 of 1976 (MCL 15.261 et seq., Open Meetings Act) shall apply.
- c. A majority of the total membership of the board shall comprise a quorum. A majority of the regular member must be present in person for the ZBA to conduct business.
- d. A member of the ZBA who also serves as a member of the planning commission must abstain from voting on a matter being considered by the ZBA that the member voted on as a member of the planning commission where the facts and circumstances associated with the particular decision under review make abstention necessary to satisfy the due process requirement for impartial decision-making.
- e. Minutes shall be kept of each meeting and the ZBA shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member, upon each appeal case. All meetings and records shall be open to the public. All minutes shall be filed in the office of the city clerk. The city clerk, or the clerk's agent, shall act as recording secretary to the ZBA, including recording the minutes, publishing legal notices, and providing notices to property owners and others required by law.

Sec. 78-584. - Application requirements.

- a. Applications shall not be accepted unless all of the following information is submitted:
 1. A completed application form (provided by the city).

2. An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The development official shall determine the completeness of such plans.
 3. An application fee as may be determined by the city council from time to time.
 4. A written explanation from the applicant indicating why the application meets the applicable review standards of this article.
- b. Upon receipt of an application as required by this article the chairperson of the ZBA shall fix a reasonable time and date for a public hearing. Notices for all public hearings shall be given as follows:
1. The notice shall:
 - (a) Describe the nature of the request.
 - (b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (c) State when and where the request will be considered.
 - (d) Indicate when and where written comments will be received concerning the request.
 2. Except as required in 3. and 4., below, notices for all public hearings shall be given as follows:
 - (a) Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.
 - (b) Notice of the hearing shall be published in a newspaper of general circulation within the city.
 - (c) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - (d) Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the city. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 3. For ordinance interpretations and appeals of administrative decisions by the zoning board of appeals notice shall be only to the applicant and by newspaper publication, as required in 2.(b) above.
 4. If the interpretation or appeal of an administrative decision involves a specific property, notice shall be given to the person bringing the appeal and as required in 2.(a)—(d) above.
- c. The ZBA may adjourn any meeting held in order to allow the obtaining of additional information, or to provide further notice as it deems necessary.

Sec. 78-585. - Powers and duties.

- a. The ZBA shall hear only those matters which it is authorized to hear by Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and render its decision based upon the criteria contained in this article. The ZBA shall hear the following applications in accordance with the indicated standards.
- b. Administrative appeals.
 1. A notice of appeal shall be filed with the ZBA and the officer from whom the appeal is taken by the person aggrieved or by any officer, department, board or bureau of the state or local unit of government. The notice shall specify the grounds for the appeal.
 2. The ZBA shall hear and decide appeals where it is alleged that there is an error in fact, judgment, procedure, or interpretation in any order, requirement, permit, or decision made by the development official or other body

enforcing the provisions of this article.

3. Appeals to administrative decisions standards for review. An appeal of an administrative decision may be reversed by the ZBA only if it finds that the action or decision appealed meets one (1) or more of the following requirements:
 - (a) Was arbitrary or capricious.
 - (b) Was based on an erroneous finding of a material fact.
 - (c) Constituted an abuse of discretion.
 - (d) Was based on erroneous interpretation of the zoning ordinance or zoning law.
4. Site plan review.
 - (a) The ZBA shall review and make final determination on properly filed appeals from action by the planning commission or city council with respect to site plan reviews conducted pursuant to article XI, site plan review of this chapter.
 - (b) The ZBA has the power to sustain, reverse or remand for further consideration the decision of the planning commission or city council when it is found that the decision is inconsistent with the provisions of this article or that there was an error of fact involved in the decision. In making this determination, the ZBA shall examine the application and all accompanying data as well as the records of the actions with respect to the site plan review.
- c. Interpretations.
 1. The ZBA shall have the power to make an interpretation of the provisions of this article when it is alleged that certain provisions are not clear or that they could have more than one (1) meaning. In deciding upon the request, the board shall ensure that its interpretation is consistent with the intent and purpose of this article and the article in which the language in question is contained.
 2. The ZBA may also make a determination of the precise location of the boundary lines between zoning districts in accordance with article III, zoning districts in general, of this chapter and the flood hazard area zone in accordance with article XIX, flood hazard area regulations, of this chapter, and records, surveys, maps, and aerial photographs.
 3. The ZBA may determine that a proposed use of land not specifically mentioned as a part of the provisions of any district is similar and compatible in character to a permitted or special land use. If the proposed use is determined to be similar to a permitted or special land use it will be subject to all standards and requirements of the similar use, so that it conforms to a comparable permitted or prohibited use of land in accordance with the purpose and intent of each district.
 4. The ZBA may issue a determination of the off-street parking and loading requirements of a use of land not specifically mentioned in article XIV, off-street parking and loading of this chapter such that it conforms to a comparable use of land.
- d. Special land uses. The ZBA may grant dimensional or other site plan related variances for special land uses. The ZBA shall not have the power to reverse or modify the city council's decision to approve or deny a special land use permit nor grant variances to any conditions placed on special land use approval.
- e. Variances.
 1. The ZBA, after public hearing, shall have the power to grant requests for variances from the provisions of this chapter where it is proved by the applicant that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter relating to the construction, equipment, or alteration of

buildings or structures, or of stormwater management requirements so that the spirit of this chapter shall be observed, public safety secured and substantial justice done.

2. Non-use variance standards for review. A non-use variance may be allowed by the ZBA only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
 - (a) *Extraordinary circumstances.* There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - (1) Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived.
 - (2) By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure.
 - (3) By reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this chapter would involve practical difficulties.
 - (4) Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.
 - (b) *Practical difficulty/substantial justice.* Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions, would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 - (c) *Impact on surrounding neighborhood.* The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood or interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.
 - (d) *Public safety and welfare.* The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the city.
 - (e) *Not self-created.* The immediate practical difficulty causing the need for the variance request was not self-created by the applicant.
3. Use variance standards for review. A use variance may be allowed by the ZBA only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:
 - (a) *Unreasonable current zoning designation.* The applicant has demonstrated that the site can not reasonably be used for any of the uses allowed within the current zoning district designation. The ZBA may require submission of documentation from professionals or certified experts to substantiate this finding.
 - (b) *Unique circumstances.* That the condition or situation of the specific parcel of property or the intended use of such property for which the variance is sought is unique to that property and not commonly present in the general vicinity or in the zone district. The applicant must prove that there are certain features or conditions

of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return without some adjustment. Such unique conditions or situations include.

- (1) Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived.
 - (2) Exceptional topographic conditions or other extraordinary situation on the land, building or structure.
 - (3) The use or development of the property immediately adjoining the property in question.
 - (4) Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.
- (c) *Character of neighborhood.* The use variance will not alter the essential character of the neighborhood or the intent of the comprehensive development plan, or be a detriment to adjacent properties.
- (d) *Capacity of roads, infrastructure and public services.* The capacity and operations of public roads, utilities, other facilities and services will not be significantly compromised.
- (e) *Not self-created.* The immediate practical difficulty causing the need for the variance request was not self-created by the applicant.
4. Planning commission recommendation on use variance. Prior to the decision of the ZBA on a request for a use variance, the board may request that the planning commission, upon presentation of the application by the applicant, consider such request and forward a report to the ZBA. If requested by the board such report shall be limited to the planning commission's review of the effect of the proposal on the existing or intended character of the neighborhood and the ability of the property owner to use the property for a use already permitted under the existing zoning classification.
 5. Stormwater management variance. Upon application for a variance under article XX, stormwater management, the ZBA shall have the power to grant variances from its requirements, provided that any variance is in harmony with the general purpose and intent of its design, construction and maintenance standards. In addition to the procedures of this article XXII, zoning board of appeals, when variances are requested from article XX, stormwater management the applicant must show that stormwater management systems have been provided to the maximum extent feasible with the requirements of article XX, stormwater management.

Sec. 78-586. - Voting requirements; effect of variances; resubmission.

- a. The concurring vote of a majority of the entire membership of the ZBA shall be necessary to decide in favor of the applicant for a non-use variance or other matter upon which the board is required to pass, except in the case of a request for a use variance which shall require at least two-thirds (2/3) vote of the entire membership of the ZBA in order to decide in favor of the applicant.
- b. All decisions of the ZBA shall become final when the ZBA certifies its decision in writing or approves the minutes of its decision, whichever is earlier, unless the ZBA shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.
- c. Every variance granted under the provisions of this article shall become null and void unless the construction authorized by such variance has been commenced within six (6) months after the granting of the variance:
 1. An applicant may, at no cost, request up to one (1) six-month extension of such variance from the ZBA, if applied for in writing prior to the expiration of the variance approval.
 2. The ZBA may grant such extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant.
- d. No application for a variance which has been denied wholly or in part by the ZBA shall be resubmitted for a period of

one (1) year from the date of the denial, except on the grounds of newly discovered evidence or proof of changed conditions found, upon inspection by the board, to be valid.

Sec. 78-587. - Conditions of approval.

The ZBA may impose, in writing, specific conditions with an affirmative decision pursuant to Public Act No. 110 of 2006 (MCL 125.3101 et seq.). The breach of any such condition shall be a violation of this article.

Sec. 78-588. - Certification of compliance.

The development official shall certify whether all conditions and other requirements of the variance have been fulfilled, as a precondition to the issuance of any permit required for development, construction, occupancy or use within the area governed by the variance.

Secs. 78-589—78-600. - Reserved.

ARTICLE XXIII. - AMENDMENTS

Sec. 78-601. - To the zoning ordinance.

- a. An amendment to the ordinance from which this chapter is derived, including an amendment to the zoning map, may be initiated by motion of the city council, by motion of the planning commission, or by application for amendment of one or more persons having interest in property located within the city.
- b. The city council shall establish by resolution a fee to be paid in full at the time of receipt of any application to amend the ordinance from which this chapter is derived. Such fee shall be collected by the city clerk and no part shall be refundable to the applicant. No fee shall be charged when that applicant is a governmental body.
- c. The planning commission shall adopt an application form for the purpose of amending the ordinance from which this chapter is derived. An application shall be completed and filed with the city clerk by the person or persons requesting a change in the text of this ordinance or a change in zoning district boundaries for each parcel of land that is not contiguous to any adjacent parcel of land being proposed for the same amendment.
- d. The development official shall review the application for completeness. Any application not properly filed or completed shall be returned to the applicant. Completed applications shall be transmitted to the planning commission.
- e. The development official shall circulate the application to other departments within the city that may be affected by the proposed amendment, as well as to the city planner and the city engineer, if applicable, for comment. In addition, the development official shall notify the following agencies if they are affected by the proposed amendments within five days of receipt of a proper application from a petitioner or the adoption of a motion from the city council or planning commission to amend the ordinance from which this chapter is derived, requesting their comments and recommendations. The planning commission may, at its discretion, also seek additional comments and recommendations from the listed agencies or any other agency that may be affected.
 1. Chairperson of the parks and recreation committee.
 2. Superintendent of DeWitt Public Schools.
 3. Clinton County Drain Commissioner.
 4. Mid-Michigan District Health Department.

5. Other governmental units having jurisdiction within ¼ mile of the property affected by the proposed amendment.
 6. Public utilities.
 7. Southern Clinton County Municipal Utilities Authority.
- f. If notified, the planning commission shall consider any comments received prior to the public hearing. If no written response is received from an agency at least five business days prior to the date of the public hearing, the planning commission shall presume that the agency has no objections to the proposed amendment.
- g. Public hearing.
1. The planning commission shall hold a public hearing on the proposed amendment within a reasonable time following receipt of a completed application to amend the ordinance from which this chapter is derived or after the motion initiating the change is adopted by the city council or planning commission, as the case may be.
 2. Notice of the public hearing shall be given in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as set out in Article XXIV.
- h. Planning commission recommendation.
1. In reviewing any application for an amendment to the ordinance from which this chapter is derived the planning commission shall identify and evaluate all factors in its view that are relevant to the application.
 2. In the case of an amendment to the text of this ordinance, the matters to be considered by the planning commission shall include, but not be limited, to the following:
 - (a) The proposed text amendment would clarify the intent of the ordinance.
 - (b) The proposed text amendment would correct an error in the ordinance.
 - (c) The proposed text amendment would address changes to the state legislation, recent case law or opinions from the attorney general of the state of Michigan.
 - (d) The proposed text amendment would implement a recommendation, goal or objective of the master plan.
 - (e) The proposed text amendment would promote compliance with changes in other county, state or federal regulations.
 - (f) In the event the proposed text amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district.
 - (g) The proposed text amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.
 - (h) The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
 - (i) As applicable, the proposed change shall be consistent with the city's ability to provide adequate public facilities and services.
 - (j) The proposed change shall be consistent with the city's desire to protect the public health, safety, and welfare of the community.
 - (k) Other factors deemed appropriate by the planning commission.
 3. In the case of an amendment to the zoning map (rezoning), the matters to be considered by the planning commission shall include, but shall not be limited, to the following:
 - (a) Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the master plan; or, if conditions have changed significantly since the master plan was adopted, consistency with

recent development trends in the area.

- (b) Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
- (c) Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks, and road lighting.
- (d) Other factors deemed appropriate by the planning commission.

3.[4.] All findings of fact shall be made a part of the public records of the meetings of the planning commission. The planning commission shall transmit its findings of fact, a summary of comments received at the public hearing and its recommended action to the city council.

i. Consideration by the city council.

- 1. Upon receipt of a report and summary of hearing comments from the planning commission, the city council may hold an additional public hearing, if it considers it necessary, or may proceed to adopt the proposed amendment.
- 2. The city council may adopt the proposed amendment as recommended by the planning commission, or may modify and subsequently adopt it. The city council may refer any proposed modifications back to the planning commission for a further report.

j. Notice of adoption.

- 1. Following adoption of the amendment by the city council, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption.
- 2. The notice shall include the following information:
 - (a) Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
 - (b) The effective date of the amendment.
 - (c) The place and time where a copy of the ordinance or amendment may be purchased or inspected.

k. Effective date. The amendment shall become effective seven days after its publication in a newspaper of general circulation within the city, unless the ordinance enacting the amendment specifies a later effective date.

(Ord. of 2-14-2012)

Sec. 78-602. - Conditional rezoning.

A. *Intent.* It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. *Application and offer of conditions.*

- 1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- 2. The required application and process for considering a rezoning request with conditions shall be the same as

that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.

3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
 5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.
 6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this ordinance may only be commenced if a variance for such use or development is ultimately granted by the zoning board of appeals in accordance with the provisions of this ordinance.
 7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.
 8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the city council provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.
- C. *Planning commission review.* The planning commission, after public hearing and consideration of the factors for rezoning set forth in Section 78-601 of this article, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
- D. *City council review.* After receipt of the planning commission's recommendation, the city council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The city council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 78-601 of this article. Should the city council consider amendments to the proposed conditional rezoning, and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the city council may refer such amendments to the planning commission for a report thereon within a time specified by the city council. City council may then proceed to deny or approve the conditional rezoning with or without amendments.
- E. *Approval.*
1. If the city council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the rezoning ordinance adopted by the city council to accomplish the requested rezoning.
 - a. The statement of conditions shall:
 - i. Be in a form recordable with the register of deeds of the county in which the subject land is located or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the city council.

- ii. Contain a legal description of the land to which it pertains and a statement acknowledging that the statement runs with the land and is binding upon successor owners of the land.
 - iii. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - iv. Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the city with the register of deeds of the county in which the land referenced in the statement of conditions is located.
 - v. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
 - vi. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The city clerk shall maintain a listing of all lands rezoned with a statement of conditions.
 - vii. The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the city with the register of deeds of the county in which the land is located. The city council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.
 - viii. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.
- F. *Compliance with conditions.*
1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this zoning ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
 2. No permit or approval shall be granted under this ordinance for any use or development that is contrary to an applicable statement of conditions.
- G. *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by city council if (1) it is demonstrated to the city council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the city council finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
- H. *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame

specified under subsection 78-602 G. above, then the land shall automatically revert to its former zoning classification.

- I. *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to subsection 78-602 H. above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the register of deeds of the county in which the land is located a notice that the statement of conditions is no longer in effect.
- J. *Amendment of conditions.*
 1. During the time period for commencement of an approved development or use specified pursuant to subsection 78-602 G. above or during any extension thereof granted by the city council, the city shall not add to or alter the conditions in the statement of conditions.
 2. The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.
- K. *City right to rezone.* Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act (MCL 125.3101 et seq.)
- L. *Failure to offer conditions.* The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this ordinance.

(Ord. of 8-27-2018(2))

Secs. 78-603—78-620. - Reserved.

ARTICLE XXIV. - ADMINISTRATION AND ENFORCEMENT

Sec. 78-621. - Responsibility.

The administration of this chapter shall be supervised by the mayor. The planning commission shall monitor the administration of this chapter through reports from the development official. The planning commission may recommend to the city council policies and procedures to assist the development official and/or their designee in the administration on and enforcement of this chapter. Upon adoption by the city council, the policies and procedures shall be carried out by the development official.

Sec. 78-622. - Development official.

- a. The mayor shall appoint a development official to act as the officer to properly and consistently administer and enforce this chapter. The terms and conditions of employment shall be established by the city council. The development official shall have all power and authority granted by law and necessary to enforce this chapter, and shall, among other responsibilities, be empowered to issue appearance summons, seek legal action against alleged violations through the city attorney, and bring civil action in the name of the city against the violations of the provisions of this chapter.
- b. Duties of the development official. The development official shall enforce the provisions of this chapter and shall

perform the following duties:

1. All applications for permits required by this chapter shall be submitted to the development official who shall issue permits when all applicable provisions of this chapter have been met. Permits shall be issued after due regard has been given to land restrictions and reservations, of record.
2. The development official shall maintain files of all applications for permits and shall keep records of all permits issued. These files and records shall be open to public inspection, and copies shall be furnished, at cost, upon request.
3. The development official shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this chapter.
4. The development official shall keep a record of filed complaints of violations of the provisions of this chapter and of the action taken in response to each complaint.

Sec. 78-623. - Planning commission.

The planning commission shall perform the following duties:

- a. Recommend policies and procedures to the city council for the proper administration and enforcement of this chapter.
- b. Act on policy matters that may arise and are not covered by adopted policies or guidelines.
- c. Conduct public hearings as required by this chapter and Public Act No. 110 of 2006 and making specific findings of fact and a determination on each matter.

Sec. 78-624. - Public hearings.

Unless otherwise required, notices for all public hearings shall be given as follows:

- a. The notice shall:
 1. Describe the nature of the request.
 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 3. State when and where the request will be considered.
 4. Indicate when and where written comments will be received concerning the request.
- b. Except as required in c. below, notices for all public hearings shall be given as follows:
 1. Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.
 2. Notice of the hearing shall be published in a newspaper of general circulation in the city.
 3. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 4. Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- c. Newspaper publication, as required in b. above, shall be the only notice required for an amendment to the

zoning ordinance or the zoning map that affects eleven (11) or more adjacent properties.

Sec. 78-625. - Development permits.

- a. Development permits are required for certain developments. The development official is hereby authorized and directed to issue development permits in accordance with the following provisions, in addition to any other requirements contained in this chapter:
 1. Excavation for buildings or structures shall not be commenced, the erection, addition to, structural alteration of, or moving of any building or structure shall not be undertaken, nor shall any use of land regulated by this chapter be changed to a use of a different use group or land use classification until a development permit has been obtained from the development official.
 2. A development permit shall not be issued for those uses requiring a special land use permit as provided in this chapter, until a special land use permit and site plan review have been approved in compliance with the provisions of this chapter.
 3. A development permit shall not be issued for those uses requiring site plan review until site plan approval is granted pursuant to this chapter.
 4. A development permit shall not be issued for those uses requiring parking and loading spaces until a plan has been reviewed and approval granted for such spaces pursuant to the requirements of this chapter.
 5. In the case of signs and other structures under the jurisdiction of this chapter, a sign permit shall be considered a development permit.
- b. Except upon written order of the ZBA or court order, no development permit shall be issued that would otherwise be a violation of any provision of this chapter.
- c. An application for development permit shall be considered for approval by the development official when the application contains the following information:
 1. In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, one (1) of the following shall be required:
 - (a) Report from Mid-Michigan District Health Department certifying, in writing, the approval of a private sanitary sewage disposal system.
 - (b) A written notice of acceptance or hook-up receipt for public sanitary sewer service.
 2. When a municipal, public or private water supply system is required by law or proposed by the applicant, one (1) of the following shall be required:
 - (a) A report from the Mid-Michigan District Health Department certifying approval of private water supply systems.
 - (b) A written notice of acceptance or hook-up fee receipt for public water supply.
 3. When a new or rehabilitated driveway is required or proposed, a receipt of application for a driveway permit shall be required.

Sec. 78-626. - Fees and charges.

The city council shall by resolution establish such fees and charges as it may require for applications, permits, reviews, and for other procedures and services related to the provisions of this chapter.

Sec. 78-627. - Performance guarantees.

- a. As a condition of approval of a site plan review, special land use, or variance, the city council, development official, or the board of zoning appeals, shall require a written financial guarantee and security of sufficient sum to assure the installation of those features or components of the approved activity, construction or site plan requirements or conditions. The guarantee shall be in a form and amount acceptable to the city.
- b. Such features or components, referred to as improvements in this article, may include, but shall not be limited to, survey monuments and irons, streets, municipal water and sanitary sewers, curbing, landscaping, fencing, walls, screening, lighting, drainage stormwater management facilities, sidewalks, driveways, utilities, and similar items.
- c. Performance guarantees shall be processed in the following manner:
 1. Prior to the issuance of a certificate of occupancy, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the development official. The amount of the performance guarantee shall be one hundred (100) percent of the cost of purchasing of materials and installation of the required improvements, plus the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.
 2. The required performance guarantee shall be payable to the city and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city.
 3. Upon receipt of the required performance guarantee, the development official shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this chapter and other applicable ordinances of the city.
 4. The development official, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
 5. When all of the required improvements have been completed, the obligor shall send written notice to the development official of completion of such improvements. At that time the development official shall inspect all of the improvements and approve, partially approve, or reject the improvements with a written statement of the reasons for any rejections.
 6. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
 7. If full approval of performance is granted and all other requirements are satisfied, the applicant shall receive from the city the unused portion of the guarantees.
 8. A record of required performance guarantees shall be maintained by the development official.

Sec. 78-628. - Enforcement; violations.

- a. The development official shall enforce the provisions of this chapter in cooperation with the city attorney. The city attorney shall take legal action against alleged violators of this chapter when presented sufficient evidence of violation by the development official. The police department is hereby authorized to enforce any provisions of this chapter as may be delegated to the police department by resolution of the city council.
- b. All violations of this chapter noted by the development official and all complaints received by the city shall be recorded on a form designed for that purpose and filed in accordance with the requirements of this chapter. The name of the person who files a complaint with the city shall not be released without the prior consent of the complaining person.

c. Upon receipt of a complaint, or upon other determination of probable cause to believe that a violation may exist, the development official shall classify the violation as an active or passive violation, and shall proceed as follows:

1. *Active violations.*

- (a) An active violation is a violation which involves ongoing construction, excavation, or other activities which increase the extent of the violation as time passes.
- (b) All active violations shall be issued a written stop work order which shall be posted on the site and either delivered in person or mailed to the property owner by certified mail.
- (c) A stop work order shall state the nature of the violation, the date the violation was observed, the corrective action necessary, and the penalty for continued violation.
- (d) If the person responsible fails to stop all work in furtherance of the violation after receipt of a stop work order, the development official, through the city attorney, shall seek an immediate temporary restraining order from the circuit court.

2. *Passive violations.*

- (a) A passive violation is a violation which does not involve ongoing construction, excavation, or other activities which increase the extent of violation as time passes.
- (b) The property owner maintaining a passive violation shall be contacted in person or by mail by the development official. The development official shall explain the applicable provisions of this chapter, the nature of the violation, and the corrective action necessary to comply with this chapter.
- (c) When it becomes apparent that a property owner or other party who has violated the provisions of this chapter intends not to correct the violation or to further violate the provisions of this chapter, the development official may proceed through the city attorney with the appropriate legal action.
- (d) When a property owner or other party who has violated the provisions of this chapter expresses an intent to correct the violation, the development official may allow a reasonable time period, not to exceed thirty (30) days, for correction of the violation.
- (e) At the end of the correction period, the development official shall make an inspection of the property to determine if the noted violations have been corrected. A record of this inspection shall be made and shall contain photographs, instrument readings, and other information necessary to establish the nature and extent of any remaining violation.
- (f) If corrective action has been taken by the property owner or other person responsible for the violation, the development official shall indicate that the property is in compliance with this chapter in a letter to the property owner.
- (g) If the noted violations remain and are evident in the record of formal inspection, the development official shall issue a notice of violation. The notice shall be delivered in person or by certified mail to the property owner or other person responsible for the violation and shall contain the date of the inspection, the provisions of this chapter violated, the penalties which may be imposed, and the amount of time allowed for corrective action, not to exceed fifteen (15) calendar days.
- (h) At the end of this correction period, the development official shall again make an inspection of the property to determine whether or not the indicated corrective actions have been taken.
- (i) If the violation remains, the development official shall seek appropriate legal action against the property owner or other person responsible for the violation by presenting all evidence to the city attorney.

d. Appearance summons. The use of an appearance summons in connection with a specific enforcement program

is hereby authorized, provided that notice of the enforcement program is published in a newspaper of general circulation in the city at least twenty (20) days before the enforcement action begins.

- e. A person receiving a notice of violation or who is aggrieved by action taken by the development official pursuant to this chapter may appeal the decision of the development official to the zoning board of appeals in accordance with the procedures noted in article XXII of this chapter, provided a written notice of appeal is filed within ten (10) working days of receipt of notice of violation.
- f. The development official shall refuse to issue development permits to any person who has failed to take corrective action upon receipt of a notice of violation, stop work order, or who is currently maintaining a violation of the provisions of this chapter, or the state construction code, Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

Sec. 78-629. - Penalties.

- a. A violation of the provisions of this chapter is a municipal civil infraction, for which the fine shall be not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense and not less than two hundred dollars (\$200.00) not more than one thousand five hundred dollars (\$1,500.00) for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, and expenses provided by law.
- b. For purposes of this section, subsequent offense means a violation of the provisions of this chapter committed by the same person within twelve (12) months of a previous violation of the same provision of this chapter for which such person admitted responsibility or was adjudicated to be responsible. However, offenses committed on subsequent days within a period of one (1) week following the issuance of a citation for a first offense shall all be considered separate first offenses.
- c. Each day during which any violation continues shall be deemed a separate offense.
- d. Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of the ordinance from which this chapter is derived and is in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
- e. The rights and remedies provided in this section are cumulative and in addition to any other remedies provided by law.

Secs. 78-630—78-650. - Reserved.

ARTICLE XXV. - DEFINITIONS

Sec. 78-651. - Rules of construction.

The purpose of this chapter is to establish rules for the interpretation of the text of this chapter, to define certain words and terms, and to provide for the interpretation of this chapter by adoption of a technical dictionary. Certain words and terms which may not appear in this chapter, but which have special application may be defined in other articles to which they apply.

Sec. 78-652. - Use of words and terms.

- a. If the meaning of this chapter is unclear in a particular circumstance, the zoning board of appeals (ZBA) shall construe the provision to carry out the intent of this chapter if such can be discerned from other provisions of this chapter or law.

- b. All words and phrases used in this chapter shall be construed and understood according to the common preferred usage of the language; but technical words and phrases and such as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
- c. Words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words in the plural number shall include the singular, unless the context clearly indicates and stipulates the contrary.
- d. The words "person," "proprietor," "property owner," and "operator" shall include any recognized form of legal entity.
- e. The words "property," "lot," "parcel," "real estate," "premises," "plot" and "land" shall be interpreted to mean real property as delineated and described by legal documents and instruments.
- f. The word "road" shall also mean "highway," "street," "alley," "drive," "cul-de-sac," "land" or other public thoroughfare.
- g. The word "building" shall include the word "structure."
- h. The words "used" or "occupied," when applied to any land or building, shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."
- i. The words "shall" and "required" are always interpreted as mandatory and never as permissive or discretionary.
- j. The word "may" shall be interpreted as permissive or discretionary.
- k. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
 1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
 2. "Or" indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 3. "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- l. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the city or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

Sec. 78-653. - Definitions: A—B.

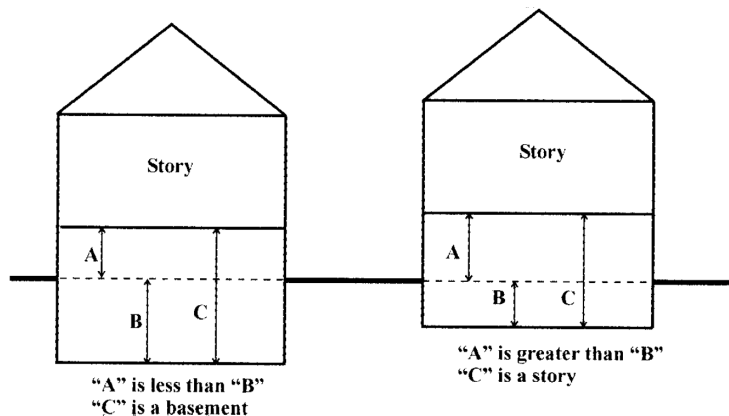
The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. *Accessory structure.* A building or structure located on the same lot as the principal building or structure, the use of which is incidental or secondary to the principal building or use.
- b. *Accessory use.* A use of land or of a building or portion of a building which is customarily and naturally incidental to, subordinate to, and devoted exclusively to the principal use of the land or building and located on the same lot with the principal use.
- c. *Addition.* A structure added to the existing structure after the completion of the existing structure which extends or increases the floor area, or height of a building or structure.
- d. *Administratively complete.* An application that includes all information required by this chapter, any other required information relevant to the application, all required fees and financial guarantees, and any other information that is determined by the city to be needed.
- e. *Adult entertainment uses.* Includes adult bookstores, adult motion picture theaters, adult motels, adult nightclubs, and massage parlors. These terms and related terms shall have the following additional meanings:

1. *Adult bookstore.* An establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
2. *Adult motion picture theater.* An enclosed building used for presenting material distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
3. *Adult motel.* A motel where material is presented which is distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
4. *Adult nightclub.* A theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on sexual conduct or specified anatomical areas.
5. *Massage parlor.* Any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with sexual conduct or where any person providing such treatment, manipulation or related services exposes specified anatomical areas.
6. *Sexual conduct:*
 - (a) Human genitals in a state of sexual stimulation or arousal.
 - (b) Acts of human masturbation, sexual intercourse or sodomy.
 - (c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
7. *Specified anatomical areas:*
 - (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola.
 - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- e. *Agriculture.* The use of land for tilling the soil, raising tree or field crops, or animal husbandry as a source of income.
- f. *Agricultural building or structure.* An accessory building or structure which is incidental to the use of the same parcel of land for agricultural purposes excluding the business of retail trade.
- g. *Agricultural business.* A business of sales, service, repair, storage, and processing activities which are directly dependent upon the agricultural community and are necessary to support agricultural enterprise, such as commercial riding stables, greenhouses and nurseries with on-premise retail sales, farm implement dealers, seasonal farm markets, and veterinary clinic and offices.
- h. *Alteration.* Any modification, remodeling, change or rearrangement in the structural or supporting members such as bearing walls, columns, or girders, as well as any change in the doors or windows which affect the means of egress which is undertaken without adding to the floor area height or physical size of the building or structure.
- i. *Animal.*
 1. *Domestic (pet).* An animal that is commonly considered capable of being trained or is capable of adapting to living in a human environment and which is not likely to bite without provocation nor cause death, maiming or illness to human beings, including bird (caged), fish, rodent (bred, such as a gerbil, rabbit, hamster or guinea pig), cat (domesticated), lizard (non-poisonous), and dog. Exotic animals and animals bred, raised or boarded for commercial purposes shall not be considered domestic animals.
 2. *Exotic.* Any animal from a species which is not commonly domesticated or kept as livestock, or which is not

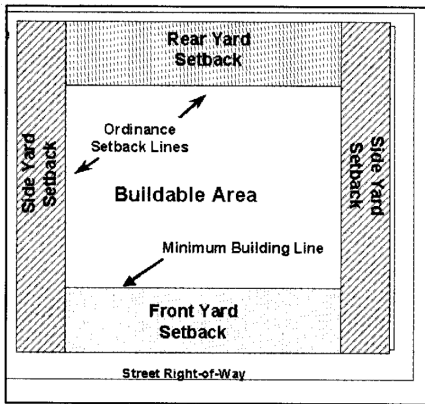
native to the State of Michigan, or a species which is of wild or predatory character or which because of size, aggressive or vicious characteristics would constitute an unreasonable danger to human life or property if not kept, maintained or confined in a safe and secure manner, including any hybrid animal that is part exotic animal including elephants, rhinoceroses, lions, tigers, leopards, panthers, cheetahs, cougars, jaguars, lynx, mountain lions, puma, badgers, bears, bobcats, coyotes, snakes, crocodiles, alligators, seals, sharks, wolves and primates such as baboons, orangutans, chimpanzees, monkeys and gorillas.

3. *Livestock*. Any of various bird or animal breeds, domesticated so as to live and breed in a tame, docile, tractable condition useful to man, including horses, ponies, mules, donkeys, cattle, sheep, goats, buffaloes, llama, ostriches, chickens, ducks, geese, turkeys and swine.
- j. *Area of shallow flooding*. A designated AO zone on the city's flood insurance rate map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
- k. *Area of special flood hazard*. Land in the floodplain within the city subject to a one (1) percent or greater chance of flooding in any given year.
- l. *Base flood level*. The highest elevation of a flood having a one (1) percent chance of being equaled or exceeded in any given year.
- m. *Basement or cellar*. That portion of a building which is partly below and partly above grade, and having at least half its height below grade.



Basement or Cellar

- n. *Bed and breakfast*. A use within a detached single-family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.
- o. *Building*. A combination of material, whether portable or fixed, forming a structure having a roof supported by columns or by walls affording a facility or shelter for use or occupancy by persons, animals, or property.
- p. *Building envelope*. The three-dimensional buildable area within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height, and bulk.



Buildable Area

- q. *Building inspector*. The officer or other designated authority charged with the administration and enforcement of the city building code, or his/her duly authorized representative.
- r. *Building permit*. An authorization issued by the building inspector to move, erect or alter a structure within the city.
- s. *Building, principal*. A building in which is conducted the primary use of the lot upon which it is situated.
- t. *Buildable area*. The space remaining within a lot after the minimum setback and open space requirements of this chapter have been met.

Sec. 78-654. - Definitions: C—D.

- a. *Campground*. shall be as defined in section 12501 of Public Act No. 368 of 1978 (MCL 333.12501 et seq.).
- b. *Cemeteries*. A privately or publicly owned property which provides perpetual care of grounds used solely for the interment of human beings or customary household pets.
- c. *Central business district*. The CB district, central business commercial district.
- d. *Change of use*. A use of a building, structure or parcel of land, or portion of a building, structure or parcel of land, which is different from the previous use in the way it is classified in this chapter.
- e. *City Building Code*. The duly adopted building code of the city.
- f. *City council*. The legislative body of the city.
- g. *Cluster development*. A development where structures are arranged in closely related groups. Units are typically of the same type or design character, and built at higher densities in certain areas of a site while preserving the natural features in others on the same site.
- h. *City engineer*. The person designated by the city to carry out day-to-day engineering responsibilities.
- i. *Commercial use*. An activity carried out as a use of property for financial gain including, but not limited to retail sales, repair service or salvage operators, business offices, food service, entertainment, and brokerages related to the purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement enterprise or garage/basement sales operating more than twelve (12) days during any one (1) twelve-month period.
- j. *Commercial wireless telecommunication services*. Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
- k. *Commercial vehicles*. A vehicle having a gross vehicle weight greater than one (1) ton designed for transportation of

commodities, merchandise, produce, freight, animals, or passengers, including buses.

- l. *Comprehensive development plan.* The statement of policy adopted by the planning commission. It is the officially adopted guidelines for future community development consisting of a series of maps, charts and written material.
- m. *Condominium.* The ownership of a dwelling unit and the space enclosed by the description thereof as contained in the master deed for the complex or project, established in conformance with the provisions of the Condominium Act (MCL 559.101 et seq.).
 1. Common elements.
 - (a) *General common area.*
 - (1) Land. All land described in the site plan not identified as limited common area.
 - (2) Roads. All internal roads and drives designated in the site plan.
 - (3) Easements. All beneficial ingress, egress and utility easements.
 - (4) Mechanical and electrical equipment and utilities. The electrical transmission mains, telephone system, gas distribution, and telecommunications system throughout the site plan, up to the point of lateral connections for building envelope service.
 - (5) Retention basis system and storm drainage system. The retention basis system and storm drainage system throughout the site plan.
 - (6) Other. Such other general common area of the site plan, not designated as a common element or limited common area, which are not enclosed within the boundaries of a building envelope, and which are intended for common use or are necessary to the existence, upkeep, appearance, utility or safety of the site plan.
 - (b) *Limited common area.* Subject to the exclusive use and enjoyment of the owner of the condominium unit to which the limited common areas are appurtenant and consist of but are not limited to, the following:
 - (1) Yard area. Each limited common area immediately surrounding a building envelope, as designated on the site plan, is a yard area limited in use to the building envelope which it immediately surrounds.
 - (2) Electrical transformer. Each electrical transformer shall be a limited common area appurtenant to the building envelope(s) which it services.
 - (3) Water and sewer. Each water well and sanitary disposal system within the individual building envelope is limited in use to the building envelope served thereby.
 2. Condominium, detached. A residential condominium project designed to be similar in appearance to a conventional single-family subdivision, except that the limited common areas are arranged in a manner such that clearly defined condominium lots are not created.
 3. Condominium documents. The master deed, recorded pursuant to the Condominium Act, the association articles of incorporation, bylaws and any other instrument referenced in the master deed or bylaws which affect the rights and obligations of ownership of a co-owner in the condominium.
 4. Condominium lot or unit lot. That portion of the land area of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in this ordinance.
 5. Condominium master deed. The condominium document recording the condominium project, as approved by the city attorney, to which is attached by-laws for the project and approved condominium subdivision plan for the project.
 6. Condominium, site. A condominium project containing or designed to contain structures or other improvements

for residential, commercial, office, business, or other uses permitted in the zoning district in which it is located and in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed as a condominium unit as described in a master deed. A site condominium, when constructed as an alternative to a platted subdivision, may be also be referred to as a "condominium subdivision" and shall be considered as equivalent to a platted subdivision for the purpose of regulation by this ordinance and other ordinances of the city.

7. Condominium unit. That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project.
- n. *Construction*. The erection, alteration, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, and grading of a lot.
- o. *Construction contractors establishment*. A parcel of land, building or structure, or a portion of a parcel of land, building or structure, used to store trucks, excavation equipment, supplies, tools or materials utilized by construction contractors, subcontractors, and builders.
- p. *Customary agricultural operation*. A condition or activity which occurs on a parcel of land in connection with the commercial production of farm products and includes, but is not limited to, noise, odors, dust, fumes, operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, insecticides and herbicides and the employment of labor when such conditions or activities are conducted in a usually or generally accepted manner.
- q. *Cut*. An earth change, which lowers topography or removes soil.
- r. *Day care*.
 1. Commercial. A facility, other than a private residence, receiving minor children for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered commercial day care.
 2. Family. A single-family residence, occupied as such, in which care is provided for more than one (1) but less than seven (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related to a member of the family by blood, marriage or adoption occupying the dwelling is excluded from this definition.
 3. Group. A single-family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related to a member of the family by blood, marriage, or adoption occupying the dwelling is excluded from this definition.
- s. *Demolition*. The purposeful razing, destruction, or disassembly of a building or structure.
- t. *Density*. The number of dwelling units per unit of lot area. See "lot area."
 1. Gross. A figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot.
 2. Net. A figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot; excluding all open bodies of water, land within the 100-year floodplain, public rights-of-way and areas within overhead utility line easements. For purposes of calculating maximum density, only twenty-five (25) percent of the acreage determined to be wetlands protected by the Goemaere-Anderson Wetland Protection Act, PA 203 of 1979 shall be calculated toward the total site acreage.

- u. *Detention*. A system, which is designed to capture stormwater and release it over a given period of time through an out structure at a controlled rate.
- v. *Detention basin*. A designed (although may be a natural area) facility which stores and detains runoff and releases water at a controlled rate. Size will depend on the design storm event (10-, 25-, 100-year storm). These basins may be dry between runoff events or may be "wet bottom", where a base water level occurs below the elevation of the outlet structure.
- w. *Detention time*. The length of time water is held in a detention basin. This time is dictated by the amount of water stored and the release rate of same.
- x. *Developed or development*. The installation or construction of impervious surfaces on a development site that require, pursuant to state law or local ordinance, the city approval of a site plan, plat, site condominium, special land use, planned unit development, land division approval, private road approval or other approvals required for the development of land or the erection of buildings or structures; provided, however, that for purposes of this article only, developed or development shall not include the actual construction of, or an addition, extension or modification to, an individual single-family or a two-family detached dwelling.
- y. *Development official*. The individual delegated to administer and enforce this chapter.
- z. *Development permit*. A permit issued to a person proposing a development which is regulated by this chapter, which indicates compliance with this chapter and thereby grants permission to proceed.
- aa. *Diameter at breast height (dbh)*. The diameter measured at a height of four and one-half (4.5) feet above the natural grade.
- bb. *Discharge*. The rate of flow or volume of water passing a given point. Expressed as cubic feet per second.
- cc. *Disturbed area*. The surface of land from which vegetation has been removed and/or subjected to earth moving activities.
- dd. *Disturbed land*. A parcel of land which is graded, filled, excavated or mined or stripped of its natural vegetative cover or grass for a purpose other than agriculture land use.
- ee. *Driveway*. A private path of travel over which a vehicle may be driven which provides access from parcels of land to a public or private road.
- ff. *District, zoning*. An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations.
- gg. *Drain*. Any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1 et seq., other than an established county or intercounty drain.
- hh. *Drainage*. The collection, conveyance, or discharge of ground water and/or surface water.
 - ii. *Drainage area*. The contributing watershed, which is expressed in acres or square miles.
 - jj. *Drive-through facilities*. A business establishment whose method of operation involves the delivery of a service or product directly to a patron inside a vehicle, typically through a service window or other appurtenance to a building, where vehicles are queued within a stacking area or approach to the service window or facility.
- kk. *Dwelling*. A detached building or portion of a detached building designed or used exclusively as the home, residence or sleeping place of one (1) or more persons, not including accessory buildings or structures, either attached or detached. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this chapter and shall comply with the chapter provisions relative to dwellings.
 - 1. *Duplex*. A detached building, designed for independent occupancy and/or ownership or occupied by two (2)

families living independently of each other, where each dwelling unit is separated by one vertical wall extending from the basement floor to the roof, without openings. Duplexes are designed similarly to a single-family dwelling, with private entrances, dedicated vehicular access and parking, and completely separate utility services.

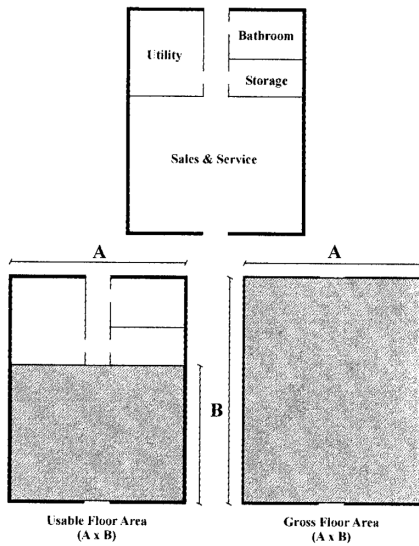
2. *Dwelling unit.* A building, or portion of a building, designed exclusively for human occupancy providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.
3. *Multiple-family.* A single building with abutting walls containing three (3) or more residential dwelling units.
 - (a) *Townhouse.* An attached dwelling unit with common walls, its own front door which opens to the outdoors, and typically, with its own utility connections and front and rear yards. Townhouses are also commonly known as terrace dwellings or row houses.
 - (b) *Apartment.* An apartment is an attached dwelling unit with common walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway.
4. *Single-family.* A detached building, designed for or occupied exclusively by one (1) family.

(Ord. No. 2017-01, § 4, 2-28-2017)

Sec. 78-655. - Definitions: E—F.

- a. *Earth change.* Any human activity which removes ground cover, changes the slope or contours of the land, or exposes the soil surface to the actions of wind and rain. Earth change includes, but is not limited to, any excavating, surface grading, filling, landscaping, or removal of vegetative roots.
- b. *Educational institution.* A public or private accredited kindergarten through 12th grade school, college, trade, or business school, nursery school, preschool, or day care center, and/or related administrative offices, excluding a maintenance garage.
- c. *Erosion.* The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.
- d. *Essential public services.* The erection, construction, alteration, or maintenance by public or quasi-public franchised utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems. These may include, but are not necessarily limited to: mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare. Essential services shall not include buildings other than such buildings that are primarily enclosures or shelters of the above essential service equipment. Cellular telephone or communications towers as defined by this article shall not be considered essential services.
- e. *Excavation.* Removal or recovery by any means whatsoever of soil, rock, sand, gravel, peat, muck, barrow, shale, limestone, clay or other mineral or organic substances, other than vegetation, from water or land, whether exposed or submerged.
- f. *Existing use.* The use of a parcel of land or a structure at the time of the enactment of this chapter.
- g. *Family:*
 1. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit; or

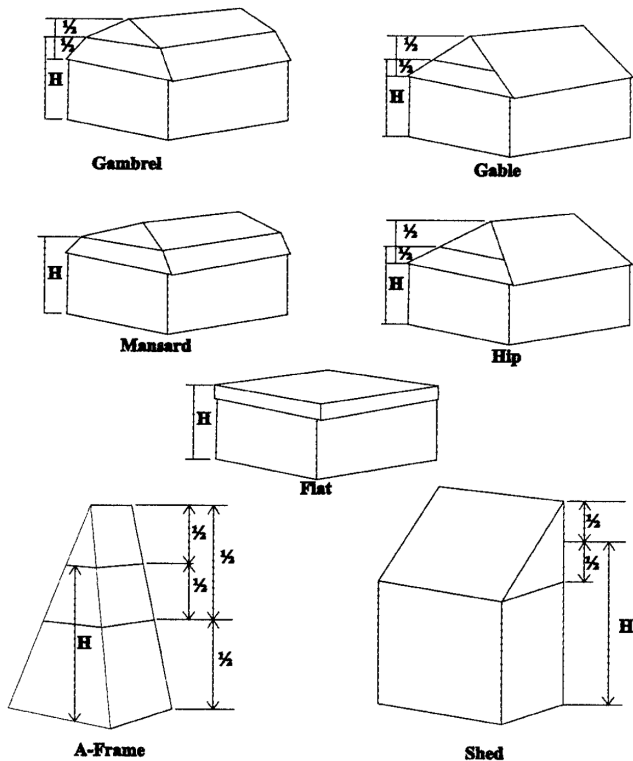
2. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition includes any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.
- h. *Farm*. Real property which is used for commercial agriculture or horticulture, comprising at least five (5) contiguous acres and including all necessary buildings and structures.
- i. *Fence*. An unroofed structure of definite height and location constructed of wood, masonry, stone, wire, metal, or any other material or combination of materials serving as a physical barrier, marker, or enclosure.
- j. *Fill*. Earth or other materials added to existing topography.
- k. *First flush*. The term given to the initial runoff quantity typically highest in pollutant concentration, which is generally believed to be the first one-half (½) inch of precipitation which washes pollutants off impermeable surfaces.
- l. *Flood or flooding*. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of waters; or the unusual and rapid accumulation of runoff of surface waters from any source.
- m. *Flood hazard area*. Land which on the basis of available floodplain information is subject to a one (1) percent or greater chance of flooding in any given year.
- n. *Flood Insurance Rate Map (FIRM)*. An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special hazards and the risk premium zones applicable to the community.
- o. *Flood insurance study*. The official report provided by the Federal Insurance Administration, containing flood profiles, as well as the flood hazard boundary/floodway map and the water surface elevation of the base flood.
- p. *Floodway*. The channel of a river or other watercourse and the adjacent land areas designated in the flood insurance study which must be reserved in order to discharge the base flood.
- q. *Floor area*. The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of exterior walls, or from the centerline of walls separating dwelling units. Unenclosed porches, courtyards, patios and cellars shall not be considered as part of floor area, except when utilized for commercial or industrial purposes.
 1. Gross floor area (GFA). The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets/storage rooms, thickness of walls, columns, or other features.
 2. Usable floor area (UFA). 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.
 - (a) Such floor area which is used or intended to be used for hallways, stairways, elevator shafts, utility or sanitary facilities or the storage or processing of merchandise shall be excluded from this computation of usable floor area.
 - (b) Measurement of usable floor area shall be the sum of the horizontal areas of each story of a structure measured from the internal faces of the exterior walls.



Usable Floor Area

Sec. 78-656. - Definitions: G—H.

- a. *Government and community service facility.* A facility under the operational control of a governmental unit, specifically a township, city, village, county, state, the United States Government, or some combination of governmental units, including, but not limited to, offices, libraries, museums, town halls, post offices, courts, and civic centers; excluding vehicle and equipment maintenance, garages and correctional institutions.
- b. *Grade.* The average elevation of the finished surface of ground after the development, filling, or excavation of a parcel of land.



Gambrel, Gable, Mansard, etc.

- c. *Grading.* Any stripping, excavating, filling, and stockpiling of soil or any combination thereof and the land in its

- excavated or filled condition.
- d. *Greenbelt*. A landscaped area between the property line and the front yard building or parking setback line.
 - e. *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 for personal enjoyment. See "nursery."
 - f. *Ground cover*. Grasses or other plants grown to keep soil from being blown or washed away.
 - g. *Groundwater*. The naturally existing water beneath the land surface. The uppermost elevation, or "water table", will fluctuate seasonally or in response to precipitation. May be in multiple layers separated by aquatards (relatively impermeable layers). Deeper aquifers are used to withdraw water for domestic wells or irrigation.
 - h. *Group day care center*. See "day care, group."
 - i. *Heavy equipment*. Commercial vehicles with a gross vehicle weight in excess of ten thousand (10,000) pounds, and excavating, grading, road building, earth moving, demolition, loading and similar equipment.
 - j. *Height*. The vertical distance of a structure measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the structure, or as otherwise provided in this chapter.
 - k. *Height, building*. The vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.
 - l. *Home occupation*. An occupation customarily conducted in a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single-family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation. A home occupation may also be commonly known as cottage industry, home based business, home marketing network, or home interactive distribution or marketing, but shall not be construed to include day care or state licensed residential care facilities.
 - m. *Human occupancy*. A building or portion of a building primarily used or intended to be used for individuals to congregate for any purpose and which is equipped with means of egress, light, and ventilation facilities in accordance with the state construction code, excluding a building or portion of a building incidental to the use for agricultural purposes of the land on which the building is located, or a building used exclusively for the purpose of storage in which there are no employees or occupants.

Sec. 78-657. - Definitions: I—J.

- a. *Impervious*. The ground condition (e.g. roads, parking lots, sidewalks, and rooftops) which does not allow percolation or infiltration of precipitation. The condition causes water to accumulate on the surface resulting in increased runoff.
- b. *Indoor kennel*. Any lot or premises on which three (3) or more animals, four (4) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or sale.
- c. *Industrial use*. A structure, building, or parcel of land, or portion thereof utilized or inherently designed to be utilized for the purpose of production, manufacturing, processing, cleaning, testing, rebuilding, assembly, distribution, finishing, constructing, or printing of goods or products, and related research and development facilities.
- d. *Infiltration*. The percolation and movement of water downward into and through the soil column. The rate of this movement is expressed in inches per hour.

Sec. 78-658. - Definitions: K—L.

- a. *Land use*. A description of how land is occupied or utilized.

- b. *Lighting*. The following words, terms and phrases related to lighting, when used in this ordinance, shall have the meanings ascribed to them:
1. *Canopy structure*. Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.
 2. *Flood or spot light*. Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.
 3. *Glare*. A direct light emitted by a lamp, luminous tube lighting or other light source.
 4. *Lamp*. The component of the luminaire that produces the actual light including luminous tube lighting.
 5. *Light fixture*. The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.
 6. *Light pollution*. An artificial light which causes a detrimental effect on the environment, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties.
 7. *Light trespass*. The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
 8. *Luminaire*. The complete lighting system including the lamp and light fixture.
 9. *Luminous tube lighting*. Gas filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, etc.
 10. *Outdoor light fixtures*. Outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement.
 11. *Shielded fixture*. Outdoor light fixtures shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted, e.g. "shoebox-type" fixtures. A luminaire mounted in a recessed fashion under a canopy or other structure such that the surrounding structure effectively shields the light in the same manner is also considered fully shielded.
- c. *Loading space*. An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
- d. *Lot*. A parcel of land, or contiguous parcels of land under one (1) ownership described within fixed boundaries, of sufficient size and configuration to meet the site development requirements of this chapter and having access to a public road. The word "lot" shall include plot or parcel. A lot need not be a lot of record. A lot may also mean a portion of a condominium project, as regulated by Public Act No. 59 of 1978 (MCL 559.101 et seq.), designed and intended for separate or limited ownership and/or use.
- e. *Lot area*. The total area within the described lot lines of a parcel of land, excluding road right-of-way or the submerged area of any river or lake at the shoreline or ordinary high water mark. Regulated wetlands may be included within the area of a lot, provided at least seventy-five (75) percent of the minimum required lot area shall be buildable upland area.
- f. *Lot frontage*. The dimension of a lot measured along the public road right-of-way line or easement.
- g. *Lot, corner*. A parcel of land abutting upon two (2) or more streets at their intersection, or upon parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.
- h. *Lot coverage*. That portion of the area of lot that contains buildings and structures measured as a percent of the entire lot area.
- i. *Lot depth*. The average distance from the front lot line to the rear lot line measured in the general direction of the

side lines of the lot.

- j. *Lot, interior.* A lot other than a corner lot.
- k. *Lot line.* The boundaries of a lot which divide one (1) lot from another lot or from a public or existing private road or any other publicly owned parcel of land.
 - 1. *Lot line, front.* A lot line of a length equal to or greater than the minimum lot width as required in this chapter, which is also the road right-of-way line on interior lots which front a public or private road, in the case of a corner lot each of the lot lines abutting a road right-of-way shall be considered a front lot line.
 - 2. *Lot line, rear.* The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line twenty (20) feet entirely within the lot parallel to and at a maximum distance from the front lot line. In the case of a corner lot, the lot line opposite the shortest front lot line shall be considered the rear lot line.
 - 3. *Lot line, side.* Any lot line other than a front or rear lot line.
- l. *Lot, through.* A parcel of land abutting on two more or less parallel streets, at the front and at the back of the lot.
- m. *Lot width.* The horizontal distance between the side lot lines, as measured at the front yard setback line.

(Ord. of 2-14-2012)

Sec. 78-659. - Definitions: M—N.

- a. *Manufactured home.* A structure transportable in one (1) or more sections, eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to required utilities and including plumbing, heating and electrical systems contained therein.
- b. *Manufactured home development or manufactured home park.* A parcel of land upon which are located two (2) or more manufactured homes whether attached or detached from each other or adjacent buildings which are occupied for residential purposes or are connected to a water supply or wastewater disposal system either on a temporary or permanent basis, regardless of whether or not the development offers rental lots or manufactured homes to the public.
- c. *"Marihuana, also known as Marijuana, also known as Cannabis".* That term shall have the meaning given to it in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d). Any other term pertaining to marihuana used in this Chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.
- d. *"Marihuana dispensary or dispensary; collective, compassion club or cooperative".* Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary care giver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The terms "dispensary" "collective," "compassion club," or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008; Administrative Rules of Michigan Department of Community Health; and the Home Occupation rules of this Ordinance. A "marihuana dispensary," "collective," "compassion club," or "cooperative" shall

not include the following uses that are in compliance with this Ordinance and all laws and rules of the State of Michigan, and intended for on-site patient use only: a state-licensed health care facility, a state-licensed residential care facility for the elderly or infirm, or a residential hospice care facility.

- e. *"Medical use of marihuana"*. The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under Section 3 of The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(a).
- f. *Moving*. The purposeful removal of a building or structure from a particular location in order to re-establish the building or structure in another location.
- g. *Municipal water supply*. A water supply system owned by a village, township, charter township, city, county, the state, or an authority or commission comprised of these governmental units.
- h. *Non-conforming building*. A building or portion of a building lawfully existing at the effective date of the ordinance from which this chapter is derived or amendments, and which does not conform to the provisions of the zoning district in which it is located.
- i. *Non-conforming lots of record*. A platted lot that conformed with all city zoning requirements at the time of recording of such plat, which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; or a lot outside a recorded plat that conformed with all city zoning requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to this chapter, which no longer conforms with the zoning requirements for lot area, lot width, or both.
- j. *Non-conforming use*. A use which lawfully occupied a building or land at the effective date of the ordinance from which this chapter is derived or the effective date of an amendment to this chapter that does not conform to the use regulations of the zoning district in which it is located.
- k. *Non-point source*. "... sources of pollution which enter surface or groundwater through widely diffused small increments," (from Federal Clean Water Act, 33 U.S. CFR Part 1344). This type of pollution is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands and underground sources of drinking water.
- l. *Nursery*. A parcel of land utilized for the purpose of growing ornamental trees, shrubbery, house plants, flowers, or perennial ground covers from seed or seedlings for the purpose of retail or wholesale trade.

(Ord. of 1-10-2012)

Sec. 78-660. - Definitions: O—P.

- a. *Occupancy certificate*. A written document received from the building inspector stating that the city building code, as amended, and this chapter have been complied with as they apply to the construction of a building or structure and the use of a lot and that the building may now be occupied for its previously declared purpose.
- b. *Occupy*. The residing of an individual or individuals overnight in a dwelling unit or the installation, storage, or use of equipment merchandise or machinery in any institutional, commercial, agricultural, or industrial building.
- c. *Open space, common*. Parcel or parcels of land or an area of water or combination of land and water designed and intended for the use or enjoyment of the residents of the PUD, the subdivision or of the general public.
- d. *Owner, property*. The owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, or his/her duly

- authorized agent, sole proprietorship, partnership, association, limited liability company or corporation directly or indirectly in control of a building, structure, or real property.
- e. *Parks and recreation facility, commercial.* An indoor or outdoor recreational facility, operated for profit, located near a major travel corridor or a natural feature including but not limited to campgrounds, swimming beaches, boat rentals, athletic fields or courts, bowling alleys, skating rinks, and fitness clubs.
 - f. *Parks and recreation facility, noncommercial.* A parcel of land, building or structure used for public or private recreational purposes including, but not limited to, playgrounds, sport fields, game courts, beaches, trails, picnic areas, and leisure time activities.
 - g. *Permit.* An official document or certificate issued by an authorized official, empowering the holder thereof to perform a specified activity which is not prohibited by law, but not allowed without such authorization.
 - h. *Personal service establishment.* Establishments that perform services on the premises, such as, but not be limited to, tailors, beauty and barbershops, interior decorators, photographers, dry cleaners, physical therapy, massage therapists, or professional medical/mental counseling services.
 - i. *Planned unit development (PUD).* The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one (1) owner or organized group.
 - j. *Point source.* A discharge that is released to the surface waters of the State by a discernible, confined and discrete conveyance, including, but not limited to, a pipe, ditch, channel, tunnel, conduit, well, boat, and concentrated animal feeding facility.
 - k. *Practicable.* Available and capable of being done after taking into consideration cost, existing technology and logistics.
 - l. *Principal use.* The primary or predominant purpose to which a parcel of land is devoted as distinguished from an accessory use.
 - m. *Private sanitary sewage disposal system.* An individual on-site sewage disposal system as defined in the Mid-Michigan District Health Department Sanitary Code.
 - n. *Private water supply.* A well or other water supply system approved by the Mid-Michigan District Health Department pursuant to Part 127 of Public Act No. 368 of 1978, as amended, (MCL 333.12701 et seq.).
 - o. *Public assembly.* A building or structure for groups of people to gather for an event or regularly scheduled program. Places of public assembly include but are not limited to arenas, religious institutions, lecture halls, banquet facilities, and similar facilities.
 - p. *Public sanitary sewer.* A system of pipe owned and maintained by a governmental unit used to carry human, organic and industrial waste from the point of origin to a point of treatment or discharge.
 - q. *Public storm sewer.* A system of pipe owned and maintained by a governmental unit, used to carry stormwater collected from multiple sources including streets, downspouts, and parking lots to a discharge point. Discharge points include, but are not limited to, a lake, river or tributary, and retention or detention ponds.
 - r. *Public water supply.* A waterworks system which provides water for drinking or household purposes to persons other than the supplier of water, except those waterworks systems which supply water to only one (1) living unit, or as further defined in Public Act No. 399 of 1976, as amended, (MCL 325.1001 et seq.)
 - s. *Public watercourse.* A stream or creek which may or may not be serving as a drain as defined by Public Act No. 40 of 1956, as amended, being (MCL 280.1 et seq.) or any body of water which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

Sec. 78-661. - Definitions: Q—R.

- a. *Recreational vehicle.* A vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.
- b. *Rehabilitation.* The upgrading of an existing building or part of an existing building which is in a dilapidated or substandard condition.
- c. *Repair.* The reconstruction or renewal of any part of an existing building for the purpose of maintenance.
- d. *Research and development establishment.* A structure or group of structures used primarily for research, development, or controlled production of high-technology electronic, industrial, or scientific products or commodities or laboratories conducting educational or medical research or testing applied and developmental research, where product testing is an integral part of the operation and goods or products may be manufactured as necessary for testing, evaluation and test marketing.
- e. *Residential family care center.* See "state licensed residential facility."
- f. *Restaurant.* Any use that includes the sale of food and/or beverages to a customer in a ready-to-consume state.
 1. *Carry-out restaurant.* A use that involves the sale of food, beverages, and/or desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption off the premises.
 2. *Drive-up/in restaurant.* A use that involves delivery of prepared food so as to allow its consumption within a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
 3. *Standard restaurant.* A standard restaurant is a use that involves either of the following:
 - (a) The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building.
 - (b) The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers within a completely enclosed building.
 4. *Lounge/tavern.* A lounge or tavern is a type of restaurant that is operated primarily for the dispensing of alcoholic beverages. The preparation and sale of food or snacks to customers may be permitted.
- g. *Restoration.* The reconstruction or replication of an existing building's original architectural features.
- h. *Retail store.* A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.
- i. *Retention.* A system, which is designed to capture stormwater and contain it until it infiltrates the soil or evaporates.
- j. *Retention basin.* A stormwater management facility, either natural or manmade, which does not have an outlet, which captures and holds runoff directed into it.
- k. *Right-of-way.* A public or private strip of land acquired or utilized by reservation, dedication, easement, prescription, purchase or condemnation and permanently established for the passage of persons, vehicles, railroads, water, utility lines, and similar uses.
- l. *Runoff.* The portion of precipitation which does not infiltrate or percolate into the ground, but rather moves over the land eventually reaching a waterbody, wetland, or low area.
- m. *Runoff coefficient.* The ratio of the amount of precipitation which is runoff over rainfall.

Sec. 78-662. - Definitions: S—T.

- a. *Satellite dish antenna* or *dish antenna*. An apparatus capable of receiving communications from a transmitter or a trans-relay located in planetary orbit.
- b. *Secondhand store*. A building or portion of a building in which the public sale of previously owned goods, having no generally recognized cultural or historic value as antiques, is carried out for a period of time greater than seven (7) consecutive days during a six-month period of time.
- c. *Sediment*. Any solid particulate matter which has been moved from the site of origin by erosion, is being transported by water, is in suspension in water, or has been deposited in a water body, wetland or floodplain.
- d. *Setback*. The minimum required horizontal distance measured from the front, side, or rear lot line, as the case may be, which setback describes an area termed the setback on a lot or parcel required by this chapter for the district in which it is located.
 1. *Front*. The minimum required horizontal distance measured from the front lot line which describes an area termed the front setback on a lot or parcel required by this chapter for the district in which it is located.
 2. *Rear*. The minimum required horizontal distance measured from the rear lot line which describes an area termed the rear setback on a lot or parcel required by this chapter for the district in which it is located.
 3. *Side*. The minimum required horizontal distance measured from the side lot lines which describes an area termed the side setback on a lot or parcel required by this chapter for the district in which it is located.
- e. *Shopping center*. A group of retail and other commercial establishments that is planned, owned, and managed as a single property. On-site parking is typically provided.
- f. *Sign*. Every individual announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person.
 1. *Sign, business*. Any sign erected for the purpose of advertising a business, product, or subject related to the premises on which the sign is located.
 2. *Sign, display area*. The entire area enclosing the extreme limits or writing, lighting, representation, emblem or any figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed.
 3. *Sign, pole or pylon*. An advertising structure which is supported by one (1) or more uprights with all parts of the display surface of the sign eight (8) feet or more above the grade at the base of the sign.
 4. *Sign, monument or ground*. A sign which is supported by one (1) or more uprights in or upon the ground where parts of the display surface are less than eight (8) feet above the grade to the bottom of the display area.
 5. *Sign, home occupation*. A sign containing only the name and occupation used for the purpose of advertising services in conjunction with a lawful home occupation.
 6. *Sign, identification*. A sign giving the nature, logo, trademark or other identifying symbol; address; or any combination of the name, symbol and address of a building, business, development or establishment on the premises where it is located.
 7. *Sign, incidental*. A sign that identifies street addresses, entrances and exits, safety precautions, identifying logos without text, and other such incidental information, and which sets forth no other advertisement intended to be read from the street.
 8. *Sign, marquee*. A sign which is attached to or hung from the underside of a marquee, awning, canopy, or other covered structure projecting from and supported by a building and does not project horizontally beyond or

vertically above such marquee, awning, canopy, or covered structure.

9. *Sign, nameplate.* A sign located on premises, giving the name or address, or both, of the owner or occupant of a building or premises.
 10. *Sign, off-premises.* A sign located on a different parcel of land, lot or premise than where the business, product, service; event, or person or subject is being advertised.
 11. *Sign, on-premises.* A sign located on the parcel of land or lot advertising a business, product, service, event, person or subject being offered on such parcel of land or lot.
 12. *Sign, placard.* A sign not exceeding two (2) square feet which provides notices of a public nature, such as "No Trespassing" or "No Hunting" signs.
 13. *Sign, portable.* A sign that is not permanent, affixed to a building, structure or the ground, excluding signs supported on mobile or motor vehicle chassis.
 14. *Sign, projecting.* A sign which is attached directly to the building wall, and which extends more than fifteen (15) inches but not more than five (5) feet from the face of the wall.
 15. *Sign, roof.* A sign which is erected, constructed and maintained upon or above the roof of a building, or parapet wall and which is wholly or partially supported by the building.
 16. *Sign setback.* The minimum linear distance as measured from the street right-of-way line to the nearest part of the sign or advertising structure.
 17. *Sign, wall.* A sign that is attached directly to a wall, mansard roof, roof overhang, parapet wall, or above a marquee of a building with the exposed face of the sign in a plane parallel to the building wall or to the surface on which it is mounted, and which does not have any part of such sign or sign supports extending above the uppermost building line not including chimneys, flagpoles, electrical or mechanical equipment, TV antennas or any other similar equipment and extensions.
- g. *Site.* Any tract, lot, or parcel of land or combination of tracts, lots, or parcels, which compose an area proposed for development and/or earth change.
 - h. *Soil erosion.* The stripping of soil and weathered rock from land creating sediment for transportation by water, wind or ice, and enabling formation of new sedimentary deposits.
 - i. *Soil erosion control.* Structures, facilities, barriers, berms, vegetative cover, basins, and/or any other installation, temporary or permanent, which are designed to minimize and prevent erosion.
 - j. *State licensed residential facility.* A residential care family or group facility licensed by the state under Public Act No. 287 of 1972, as amended, or Public Act No. 116 of 1973, as amended, which provides resident care services under 24-hour supervision or care for persons in need of that supervision or care. This term does not include such facilities licensed by the state for care and treatment of persons released from or assigned to adult correctional institutions:
 1. *Family facility.* A state licensed residential facility providing resident services to six (6) or fewer persons.
 2. *Group facility.* A state licensed residential facility providing resident services to more than six (6) persons.
 - k. *Stop work order.* An administrative order which is either posted on the property, or personally served on the owner or the owner's representative, or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this chapter.
 - l. *Storm drain.* A system of open or enclosed conduits and appurtenant structures intended to convey or manage stormwater runoff, ground water and drainage.
 - m. *Stormwater management.*
 1. *Best management practices (BMPs).* A practice, or combination of practices and design criteria that comply with

the Michigan Department of Environmental Quality's Guidebook of BMPs for Michigan Watersheds, or equivalent practices and design criteria that accomplish the purposes of this article (including, but not limited to minimizing stormwater runoff and preventing the discharge of pollutants into stormwater) as determined by the city engineer, and, when applicable, the standards of the Clinton County Drain Commissioner.

2. *Construction site stormwater runoff.* Stormwater runoff from a development site following an earth change.
3. *Design storm.* A precipitation event of a designated amount and/or frequency. Typically used in a regulatory setting to designate required design criteria for stormwater facilities.
4. *Offsite facility.* Any portion of a stormwater management system which is located off the development site which it serves.
5. *100-year flood.* That water occupation adjacent to a waterbody which results from a storm event having a one (1) percent probability of occurrence in any given year. Thus, a 50-year storm has a two (2) percent probability, a ten-year storm a ten (10) percent probability, etc.
6. *Overland flow-way.* Surface area that conveys a concentrated flow of stormwater runoff.
7. *Peak discharge rate.* The maximum rate of stormwater flow from within a drainage area expressed as cubic feet per second.
8. *Sheetflow.* Overland runoff which moves relatively uniformly over the ground surface rather than being concentrated in a conveyance channel.
9. *Stormwater facility.* Methods, structures, BMP's, areas, or related items, which are used to control, store, receive, infiltrate, or convey runoff.
10. *Stormwater runoff.* The runoff and drainage of precipitation resulting from rainfall, snowmelt or other natural event or process.
11. *Time of concentration.* The time it takes runoff to travel from the furthest portion of the watershed or drainage area to the point of flow measurement.
- n. *Story.* That portion of a building, other than a basement or mezzanine as defined herein, included between the surface of any floor and the floor next above it, or, if there is not a floor above, then the ceiling above. A mezzanine shall be deemed a full story when it covers more than fifty (50) percent of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below the mezzanine to the floor next above it is twenty-four (24) feet or more.
- o. *Street, collector.* A road whose principal function is to carry traffic between minor and local roads and arterial roads but may also provide direct access to abutting properties. Collector streets in Dewitt include Bridge Street, DeWitt Road, Herbison Road, Main Street, Turner Street, Schavey Road, Wilson Street, Norris Road, and Webb Drive.
- p. *Street, private.* A privately owned and maintained thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare. A private street shall include any drive or roadway which is not a dedicated public right-of-way, and which provides or has the potential for providing access to two (2) or more existing parcels and/or main buildings.
- q. *Street, public.* A public thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare; except an alley.
- r. *Structural alterations.* Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or in the dimensions or configurations, or of the roof and exterior walls or means of egress.

- s. *Structure*. A combination of materials whether fixed or portable, anything constructed, erected, or artificially built-up w requires a location on or below the surface of land or water, including a part or parts thereof and all equipment within 1 structure.
- t. *Subdivision*. The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act, Public Act No. 288 of 1967, as amended. The term "subdivide" or "subdivision" does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one (1) parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Act or the requirements of the city land division ordinance.
- u. *Subdivision plat*. A map or chart depicting the subdivision of land as regulated by the Land Division Act of 1967, Public Act No. 288 of 1967, as amended.
- v. *Substantial improvement*. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any compatible alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

- w. *Swimming pool*. A nonporous container containing water having a depth of greater than twenty-four (24) inches or having a surface area of greater than two hundred fifty (250) square feet, or a pool permanently equipped with a water re-circulating system or constructed of structural materials, excepting retention or detention ponds.
- x. *Temporary use*. A use established for a fixed period of time, with the intent to discontinue such use upon the expiration of such time that does not involve the construction or alteration of any permanent structure.
- y. *Tower, communication*. Towers erected for the purpose of providing commercial wireless telecommunication services or other radio wave communications.
- z. *Travel trailer*. A vehicular portable structure built on a chassis which is less than thirty-two (32) feet in length and is of such a width and weight as not to require special highway movement permits when drawn by a vehicle.

Sec. 78-663. - Definitions: U—V.

- a. *Use*. The purpose or activity for which land or structures are designed, arranged, or intended or for which land or structures are occupied or maintained.
- b. *Use group*. The classification of a building or structure based upon its purpose as contained in the state construction code.
- c. *Variance*. Permission given by the zoning board of appeals to a property owner to depart from the literal requirements of this chapter which may occur when compliance with this chapter would create a practical difficulty or unnecessary hardship on the property owner.
- d. *Vehicle*. Every device in, upon, or by which any person or property is or may be transported or drawn upon a

- highway, or road, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- e. *Vehicle repair.* Any major activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing, refinishing or steam cleaning.
 - f. *Vehicle service station.* A building and lot or parcel designed or used for the retail sale of fuel, lubricants, air, water or other operating commodities for motor vehicles, including trucks, aircraft and boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this article.
 - g. *Vehicle wash establishment.* A building or portion of a building, the primary purpose of which is that of washing motor vehicles.
 - h. *Veterinary hospital.* A facility maintained for the practice by a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases; where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment, and wherein the animals are limited to dogs, cats, or other comparable household pets/domestic animals. Short-term overnight care or boarding only when necessary in the medical treatment of the animal is permitted.

(Amend. of 7-22-2014)

Sec. 78-664. - Definitions: W—X.

- a. *Wall.* The vertical exterior surface of a building and the vertical interior surfaces which divide a building's space into rooms.
- b. *Watercourse.* An open trench either naturally or artificially created which periodically or continuously contains moving water draining an area of at least two (2) acres which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.
- c. *Watershed.* The total land area which contributes runoff, or is within such an area, to a common outlet, such as a lake or stream. Also known as the drainage area.
- d. *Wetland.* Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation and/or aquatic life. Also known as a bog, swamp, marsh, etc. (Public Act 451 of 1994, as amended). The Michigan Department of Environmental Quality is the authority on the presence and regulatory status of wetlands.
- e. *Wireless communication facilities.* All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices, personal communication transmission equipment and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities.
 - 1. *Alternative tower structure.* Manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
 - 2. *Antenna.* Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), commercial wireless telecommunications signals or other communication signals.
 - 3. *Backhaul network.* The lines that connect a provider's towers/cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
 - 4. *Co-location.* Location by two (2) or more wireless communication providers of wireless communication facilities

on a common structure, tower or building, to reduce the overall number of structures required to support wireless communication antennas within the city.

5. *FAA*. The Federal Aviation Administration.
6. *FCC*. The Federal Communications Commission.
7. *Height*. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
8. *Preexisting towers and preexisting antennas*. Any tower or antenna for which a building permit or special land use permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
9. *Tower*. A self-supporting monopole structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto. Tower does not include lattice structures or structures supported by guy wires or cables.

Sec. 78-665. - Definitions: Y—Z.

- a. *Yard*. An open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.
 1. *Front yard*. An open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.
 2. *Rear yard*. An open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.
 3. *Side yard*. An open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.
- b. *Zoning*. The dividing of the city into districts of a number and shape considered best suited to carry out the purposes, of the zoning act and the creation of uniform regulations throughout each individual district. Such districts are referred to as zoning districts in this chapter.
- c. *Zoning Act*. The Michigan Zoning Enabling Act Public Act 110 of 2006, as amended.
- d. *Zoning board of appeals (ZBA)*. The Dewitt City Council is the zoning board of appeals.
- e. *Zoning ordinance*. The City of Dewitt Zoning Ordinance.