Chapter 74 - ZONING

Footnotes:
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Cross reference— *Administration, ch. 2; buildings and building regulations, ch. 10; businesses, ch. 14; fire prevention and protection, ch. 34; utilities, ch. 66.*
State Law reference— *City or village districts or zones, MCL 125.581 et seq.*

ARTICLE I. - IN GENERAL

Sec. 74-1. - Short title.

This chapter shall be known and may be cited as the City of Iron Mountain Zoning Ordinance.

(Ord. of 5-1-95, § 8-1-1)

Sec. 74-2. - Purpose.

Pursuant to the authority conferred by the Public Acts of the state, this chapter has been established for the purposes of:

(1) Promoting and protecting the public health, safety, peace, comfort, convenience and general welfare of the inhabitants of the city.
(2) Protecting the character and the stability of the residential and commercial areas within the incorporated city and promoting the orderly and beneficial development of such areas.
(3) Providing adequate light, air and privacy and reasonable access to property.
(4) Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and of structures necessary to provide adequate light and air and to protect the public health.
(5) Lessening and avoiding congestion on the public highways and streets.
(6) Promoting healthful surroundings for family life in residential areas.
(7) Preventing 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.
(8) Enhancing social and economic stability in the city.
(9) Enhancing the aesthetic desirability of the environment throughout the city.
(10) Conserving the expenditure of funds for public improvements, energy and other services to conform with the most advantageous uses of land.

(Ord. of 5-1-95, § 8-2-1)

Sec. 74-3. - Rules of construction.

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

(1) All words and phrases shall be construed and understood according to the common and approved usage of

the language, but technical words and phrases and such as may have a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(2) The particular shall control the general.

(3) In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

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

(5) When not inconsistent with the context, words in the present tense shall include the future and words in the singular number shall include the plural.

(6) The word "building" includes the word "structure" and the word "dwelling" includes the word "residence." The word "building" or "dwelling" includes any part thereof.

(7) The words "used" and "occupied" include the words "intended," "designed" or "arranged" to be used or occupied.

(8) The word "person" includes any firm, association, organization, partnership, trust, corporation or similar entity, as well as an individual.

(9) The word "lot" includes the words "plot" and "parcel."

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

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

b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(11) Every word importing the singular number only may extend to and embrace the plural number, and every word importing the plural number may be applied and limited to the singular number. Every word importing the masculine gender only may extend and be applied to females as well as males.

(12) Whenever a reference is made to several sections and the section numbers are connected by the word "to," the reference includes both sections whose numbers are given and all intervening sections.

(13) In computing a period of days, the first day is excluded and the last day is included. If the last day of any period 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.

(Ord. of 5-1-95, § 8-3-1)

Sec. 74-4. - Definitions.

For the purpose of this chapter, words pertaining to access, buildings, property, land use, building use, building measurement and enforcement shall have the following meaning:

Access means a way or means of approach to provide vehicular or pedestrian entrance or exit to a property from an abutting property or a public roadway.

Access management means the process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system.

Access point means:

(1) The connection of a driveway at the right-of-way line to a road.

(2) A new road, driveway, shared access or service drive.

Accessory building means a building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

Accessory use means a use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Alley means a public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

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

Apartment means a dwelling unit in a multiple dwelling as defined in this chapter.

Automobile repair garage means premises where the following services may be carried out in a completely enclosed building: general repairs, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame or fender straightening and repair; and painting and undercoating of automobiles.

Automobile service station means a building or premises used primarily for the sale and installation of major automobile accessories, such as tires, batteries, radios, air conditioners and mufflers, plus such services as brake adjustment and wheel alignment and balancing; but excluding any major mechanical repairs, collision work, undercoating or painting. Sale of gasoline, stored only in underground tanks, shall be incidental to the activities enumerated in this definition.

Awning and *canopy* mean any covered structure made of cloth, metal or other material with supporting frames attached to a building which projects beyond the building wall or is carried by a frame supported by the building, ground or sidewalk below it.

Basement means that portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

Bed and breakfast operation means a use which is subordinate to the principal use of a dwelling as a single-family detached dwelling unit in which transient guests are provided a sleeping room and breakfast in return for payment. The maximum stay of any one guest shall not exceed 14 days per stay.

Berm means a manmade, formed earth mound of definite height and width used for obscuring purposes, the purpose of which is to provide a transition between uses of differing intensity.

Billboard means any structure or portion thereof or sign used as an outdoor display by painting, posting or affixing on any surface on which lettered, figured or pictorial matter is displayed for advertising purposes, unrelated to the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon. For further definitions relating to signs and billboards see section 74-512.

Block means the property abutting one side of a street and lying between the two nearest intersecting streets crossing or terminating, or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or stream, or between any of these and any other barrier to the continuity of development or corporate boundary lines of the city.

Boardinghouse and *roominghouse* mean any dwelling where meals or lodging or both are provided for compensation to persons outside of the family members.

Buffer and *bufferyard* mean a strip of land, including any specified type and amount of planting or structures, which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.

Building means any structure having a roof supported by columns and walls, for the shelter, support or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced firewalls extending from the ground up, each part is deemed a separate building, except for minimum side yard requirements as provided in this chapter.

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

Building line means a line parallel to the front lot line; for purposes of this chapter, a minimum building line is the same as the minimum required front setback line.

Canopy. See *Awning*.

Carport means a partially open structure intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to private garages.

Carwash means a lot or building where motor vehicles are washed or waxed either by the patron or by others, using machinery specially designed for that purpose.

Church means a building wherein persons regularly assemble for religious worship which is used only for that purpose, and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses primarily associated with such primary purpose.

Clinic means a place for the care, diagnosis and treatment of sick or injured persons, and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for inpatient care or major surgery.

Club means an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities, but not operated for profit and open only to members and not the general public.

Comprehensive plan means the statement of policy by the city relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions.

Convalescent home means a structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.

County primary shall include the following primary roads under the jurisdiction of the Dickinson County Road Commission means within the City of Iron Mountain.

Court means an open, unoccupied space other than a yard and bounded on at least two sides by a building. A court extending to the front lot line or front yard, or to the rear lot line or rear yard, is an outer court. Any other court is an inner court.

Curb level means the grade elevation, as established by the city, of the curb in front of the center of the building or proposed building, or the elevation at the center of the traveled street in case no curb exists.

Day care center. See *Nursery school*.

District means 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.

Drive-in means a business establishment so developed that its retail or service character is dependant on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, or to provide self-service for food carryout.

Driveway means any entrance or exit used by vehicular traffic to or from land or buildings abutting a road.

Driveway offset means the distance between the centerline of two driveways on opposite sides of an undivided roadway.

Driveway, shared means a driveway connecting two or more contiguous properties to the public road system.

Dry cleaning plant means a building, portion of a building or premises used or intended to be used for cleaning fabrics, textiles, wearing apparel or articles of any sort by immersion and agitation, or by immersion only, in volatile solvents, including, but not by way of limitation, solvents of the petroleum distillate type or the chlorinated hydrocarbon type, and the process incidental thereto, including, but without limitation, spotting, wet cleaning and finishing.

Dwelling, duplex means a building designed or modified to contain two dwelling units.

Dwelling, multiple-family means a building used or designed as a residence for three or more families living independently of each other.

Dwelling, single-family means a detached building, designed for or occupied exclusively by one family. See also, *Single-family dwelling*.

Dwelling, two-family means a detached building, designed for or occupied by two families living independently of each other. See also, *Two-family dwelling*.

Dwelling unit means one or more rooms connected together with principal kitchen and bathroom facilities designed as a unit for use by only one family or one functional family for living and sleeping purposes, constituting a separate independent housekeeping unit, and physically separated from any other rooms or dwelling units which might be in the same structure.

Efficiency apartment means a dwelling unit with a bathroom and principal kitchen facilities designed as a self-contained unit for living, cooking and sleeping purposes and having no separate designated bedroom.

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

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, or collection, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience or welfare, but not including office buildings, substations, structures which are enclosures or shelters for service equipment, or maintenance depots.

Excavation means any breaking of ground except common household gardening and general ground care.

Family means an individual, or two or more persons related by blood, marriage or adoption or parents, along with their direct lineal descendants and adopted or foster children, including domestic employees, or a group not to exceed two persons not related by blood or marriage, occupying premises and living as a single housekeeping unit with single cooking facilities. Every additional group of two or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this chapter. This definition shall not apply in instances of group care centers, or state-licensed residential facilities as established under Act No. 395 of the Public Acts of Michigan of 1976 (MCL 125.286a), as amended.

Family, functional means a group of persons which does not meet the definition of "family" in this section, living in a dwelling unit and intending to live together as a group for the indefinite future. This definition shall not include any fraternity, sorority, club, hotel or other group of persons whose association is temporary or commercial in nature.

Fence means an artificially constructed barrier of wood, metal, stone or any manufactured materials erected for the enclosure of yard areas.

Filling means the depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.

Floor area, gross means the sum of all gross horizontal areas of the several floors of a building, measured from the outside dimensions of the structure. Unenclosed porches, courtyards or patios, whether covered or uncovered, shall not be considered as a part of the gross floor area unless used for commercial purposes such as nursery beds or sales of outdoor equipment.

Floor area, usable, for purposes of computing parking requirements, means that area to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, stairways and elevator shafts, or for utilities or sanitary facilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal area of the several floors of the building, measured from the interior faces of the exterior walls.

Frontage road or *front service drive* means a local street/road or private road typically located in front of principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

Garage, private means an accessory building, or portion of a principal building, designed or used solely for the storage of noncommercial motor vehicles, boats and similar items or equipment, and having no public sales or shop services in connection therewith.

Gasoline service station means a structure used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for storage, minor motor repair or servicing, but not including bumping, painting, refinishing or conveyor-type carwash operations.

Grade means a ground elevation established for the purpose of controlling the number of stories and height of any structure. The building grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.

Greenbelt means a strip of land of specified width and location reserved for the planting of shrubs and trees to serve as an obscuring screen or buffer strip.

Home occupation means any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not involve any alteration of the structure or change the character thereof. Home occupations shall satisfy the following conditions:

(1) The nonresidential use shall only be incidental to the primary residential use.

(2) The home occupation shall utilize no more than 25 percent of the floor area on any one floor of the principal building.

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

(4) The home occupation shall not involve persons other than those members of the immediate family residing on the premises.

(5) All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.

(6) There shall be no change in the exterior appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one announcement sign, not exceeding 300 square inches in area, nonilluminated, and mounted flat against the wall of the principal building.

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

(8) The permission for home occupations as provided in this chapter is intended to secure flexibility in the application of the requirements of this chapter; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of nonresidential activities.

(9) Garage sales, rummage sales, yard sales and similar activities may be conducted for no longer than three days and no more than two times per calendar year on the same property.

(10) Limited retail sales may be permitted on the premises, as a part of or in conjunction with a home occupation.

(11) Application for a home occupation shall be made to the planning commission on a form prescribed by it, describing the proposed activity. The commission shall review the application at its next regular meeting following filing and shall hold the necessary hearings according to this chapter and state law. The planning commission shall, after the necessary hearings, recommend approval or denial to the city council, which shall make the decision on whether or not to approve the application. Home occupation requests shall be reviewed in terms of the requirements and standards listed in this definition.

(12) The home occupation shall not constitute a nuisance as defined by this chapter.

Hotel means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

House of worship. See *Church*.

Household pet means animals that are customarily kept for personal use or enjoyment. Household pets shall include but are not limited to domestic dogs, domestic cats, domestic tropical birds and rodents.

Housekeeping unit means a dwelling unit organized as a single entity in which the members share common kitchen facilities and have access to all parts of the dwelling.

Housing for the elderly means an installation other than a hospital, hotel or nursing home which provides dwelling units for persons primarily 60 years of age or older, and conforming to the requirements of the state and federal programs for elderly care.

Junk means any motor vehicles, machinery, appliances, products or merchandise with parts missing, or scrap metals or other scrap materials that are damaged or deteriorated.

Junkyard means any land or building used for abandonment, storage, keeping, collecting or baling of paper, rags, scrap metals, or other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of automobiles or other vehicles not in normal running condition, machinery or parts thereof.

Kennel, commercial means any lot or premises used for the commercial sale, boarding or treatment of dogs, cats or other domestic pets.

Kennel, private means any lot or premises used for the private maintenance of more than three dogs, cats or other household pets, four months of age or older, not involving any commercial activities.

Loading space means 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.

Lodginghouse means a building, other than a motel, in which lodging for three or more persons is provided for compensation.

Lot means land occupied or to be occupied by a building, structure, land use or group of buildings together with such open spaces or yards as are required under this chapter, and having its principal frontage upon a street.

Lot area means the total horizontal area within the lot lines of a lot.

Lot, corner means a lot which has at least two contiguous sides abutting upon a street for their full length.

Lot, depth of means the mean distance from the front lot line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

Lot, interior means a lot other than a corner lot.

Lot line means any of the lines bounding a lot.

(1) *Front lot line.* In the case of an interior lot, it is that line separating the lot from the street. In the case of a through lot, it is that line separating the lot from either street. In the case of a corner lot, the shorter street line shall be considered the front lot line, except, in the case of both street lines being equal, the choice may be made by the property owner. Once declared and so indicated on the building permit application, the designated front lot line shall remain as such.

(2) *Rear lot line.* That lot line opposite and most distant from the front lot line. In the case of an irregularly shaped l lot line shall be an imaginary line parallel to the front lot line not less than ten feet in length, lying farthest from lot line and wholly within the lot.

(3) *Side lot line.* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

Lot of record means a lot which is part of a subdivision, the map of which has been recorded in the office of the register of deeds in the county, or a parcel or lot described by metes and bounds, the deed to which has been recorded in the office of the register of deeds in the county, prior to May 1, 1995.

Lot, through means a double-frontage lot, not a corner lot, having a street for both front and rear lot lines.

Lot, width of means the straight line horizontal distance between the side lot lines, measured at the two points where the building line, or setback line, intersects the side lot lines.

Lot, zoning means a tract or parcel of land which is designated by its owner or developer as a tract to be used, developed or built on as a unit, under single ownership or control. A zoning lot may or may not coincide with a lot of record.

Major thoroughfare means an arterial street which is intended to serve as a large volume trafficway for both the immediate area and the region beyond.

Marquee means a roof-like structure of a permanent building nature projecting from the wall of a building.

Mobile home means a moveable or portable dwelling which is constructed to be towed on its own chassis, is capable of being connected to public utilities, and is designed for yearround living as a single-family dwelling unit without the necessity for a permanent foundation. The term shall not include pickup campers, travel trailers, motor homes, converted buses, or tent or pop-up trailers.

Modular housing unit means a dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

Motel means a series of attached or detached rental units containing bedroom, bathroom and closet space. Units shall provide for overnight lodging, are offered to the public for compensation, and shall cater primarily to the public travelling by motor vehicle.

Nonconforming building or structure means a building or structure or portion thereof lawfully existing on May 1, 1995, that does not conform to the provisions of this chapter relative to height, bulk, area, placement or yards for the zoning district in which it is located.

Nonconforming use means a use of a building or structure or of a parcel or tract of land, lawfully existing on May 1, 1995, that does not conform to the regulations of the zoning district in which it is situated.

Nuisance means an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as:

(1) Noise.

(2) Dust.

(3) Smoke.

(4) Odor.

(5) Glare or light.

(6) Objectionable effluent.

(7) Flashes.

(8) Vibration.

(9) Fumes.

(10) Noise of a congregation of people, particularly at night.

(11) Passing traffic.

(12) Invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

Nursery school and *day care center* mean a public or private school, kindergarten or child care facility wherein day care, or day care and education, is provided for five or more minors.

Nursing home means an installation, other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury or infirmity.

Open space, required means the yard space of a lot which is established by and between the street or the lot lines and required setback line, and which shall be open, unoccupied and unobstructed by any structure or any part thereof except as otherwise provided in this chapter.

Overlay zone or overlay district means a zoning district that encompasses one or more underlying zones and that imposes additional requirements beyond those required for the underlying zone.

Parking space means an area of not less than 180 square feet in area, exclusive of drives, aisles or entrances giving access thereto, and which shall be fully accessible for the storage or parking of permitted vehicles.

Planned unit development means a tract of land on which are located two or more principal buildings, developed under single ownership or management, the development of which is unique, and which may contain a mix of housing types and uses. Such development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements.

Planning commission means the city planning commission of the City of Iron Mountain.

Principal building means an individual structure on a lot or site which contains the main use.

Public utility means any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public the following services: gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

Rear service drive means a local street/road or private road typically located behind principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

Recreation area, private means all lands and structures which are owned and operated by private individuals, a business or a corporation, and provide for outdoor recreation activities.

Recreational vehicle means a vehicle for the transportation of people primarily for recreational purposes and which may permit occupancy thereof as a dwelling or sleeping place, such as motor homes, camper trailers, pickup campers and similar camping type vehicles.

Restaurant means an establishment whose principal business is the sale of food or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

(1) Customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee, at the same table or counter at which food and beverages are consumed.

(2) The establishment is a cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

Restaurant, fast food means an establishment whose principal business is the sale of food or beverages in a ready-to-consume state, for consumption:

(1) Within the restaurant building;

(2) Within a motor vehicle parked on the premises; or

(3) Off the premises as carryout orders;

and whose principal method of operation includes the following characteristics: food and beverages are usually served in edible containers or in paper, plastic or other disposable containers.

Right-of-way means a street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

Satellite dish antenna means a parabolic antenna greater than 24 inches in diameter designed as an earth-based station for the reception of radio, television or microwave communications, or other signals from orbiting satellites or other sources, together with other incidental transmission equipment related to such purpose.

Screen means a structure providing enclosure such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be nonstructured, consisting of shrubs or other growing materials.

Setback means the minimum required unoccupied distance between the lot line and the principal and accessory buildings, as required in this chapter.

Setback, front means the minimum required unoccupied distance, extending the full lot width, between the principal building and the front lot line.

Setback, rear means the minimum required unoccupied distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front lot line.

Setback, side means the minimum required unoccupied distance, extending from the front setback to the rear setback, between the principal and accessory buildings and the side lot line.

Shopping center means a business or group of businesses which provides a variety of merchandise or services which requires a location on a major road and a large parking area to accommodate vehicular traffic. Such a center may be a small neighborhood center, a discount store or a mall, though this does not limit such use to be one or any or these.

Sight distance means the distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway.

Sign means a name, identification, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or piece of land, which directs attention to an object, product, place, activity, person, institution, organization or business and is visible to the general public.

Single-family dwelling means a detached building or portion thereof designed or used exclusively as the home, residence or sleeping place of one or more persons. 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 provisions in this chapter relative to dwellings. Garage space, whether in an attached garage or detached garage, shall not be considered part of a dwelling for meeting area requirements. A dwelling shall comply with the following standards:

(1) The dwelling shall meet the minimum square footage requirements for the district in which it is located.

(2) The minimum width across any front, side or rear elevation shall be at least 20 continuous feet of exterior wall.

(3) The dwelling shall comply in all respects with the applicable building codes and regulations in force at the time of construction.

(4) The dwelling shall be placed upon and secured to a permanent foundation in accordance with the applicable building codes and regulations in force at the time of construction. The area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the applicable code for single-family dwellings.

(5) If a dwelling is a mobile home, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism under the carriage or chassis.

(6) All dwellings abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer and public water supply shall connect to the public sewer and water supply, or, if not available, then to such private facilities as approved by the local health department.

(7) The dwelling shall contain a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever is greater.

(8) The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity; shall have a roof overhang of not less than six inches on all sides, or alternatively shall have windowsills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; shall have not less than two exterior doors, with the second one being on either the rear or side of the dwelling; and shall contain permanently attached steps connected to the exterior door areas or to porches connected to the door areas where a difference in elevation requires such steps.

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

(10) The compatibility of design and appearance shall be determined in the first instance by the zoning administrator upon review of the plans. which may include elevations or photographs submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning board of appeals within a period of 30 days from the receipt of notice of the zoning administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this definition as well as the character, design and appearance

of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within such area; or, where the area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the city. This subsection 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.

(11) The dwelling shall conform to all pertinent building and fire codes in effect at the time of construction. In the case of a mobile home, all construction and plumbing, electrical apparatus and insulation within and connected to the mobile 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. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

(12) Subsections (1) through (11) of this definition shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinances of the city pertaining to mobile home parks.

Site plan means a plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this chapter.

Special use permit means a permit issued by the city council to a person intending to undertake the operation of an activity upon land or within a structure and for those uses not specifically mentioned in this chapter which possess unique characteristics and are found to be not injurious to the health, safety, convenience and general welfare of the city's inhabitants.

Spouse abuse shelter means a home for the temporary residence of victims of domestic abuse.

Story means that part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or, if there is no floor above, then the space between the floor and the ceiling next above it. A story, thus defined, shall not be counted as a story when more than 50 percent by cubic content is below the height level of the adjoining ground.

Story, half means that part of a building between a pitched roof and the uppermost full story, such part having a finished floor area which does not exceed one-half of the floor area of a full story.

Street means a public dedicated right-of-way which affords traffic circulation and the principal means of access to abutting property.

Structure means any constructed, erected or placed material or combination of materials in or upon the ground, and attached to something having a permanent location on or in the ground, including, but not by way of limitation, billboards and signs, buildings, mobile homes, radio towers, sheds, signs and storage bins, but excluding sidewalks and paving on streets, driveways, parking areas and patios.

Subdivision means the division of a lot, tract or parcel of land into five or more lots, tracts or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term "subdivision" shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of more than ten acres.

Swimming pool means any artificially constructed pool or structure, erected in connection with or appurtenant to one or more private residences, either above or below or partly above or below grade, located either in part or wholly outside of a permanently enclosed and roofed building, designed to hold water to a depth, in any place in the pool or structure, greater than 24 inches when filled to capacity, and intended to be used for swimming and wading.

Throat length means the distance parallel to the centerline of a driveway to the first on-site location at which a driver can make a right-turn or a left-turn. On roadways with curb and gutter, the throat length shall be measured from the face of the curb. On roadways without a curb and gutter, the throat length shall be measured from the edge of the paved shoulder.

Throat width means the distance edge-to-edge of a driveway measured at the right-of-way line.

Trip generation means the estimated total number of vehicle trip ends produced by a specific land use or activity. A trip end is the total number of trips entering or leaving a specific land use or site over a designated period of time. Trip generation is estimated through the use of trip rates that are based upon the type and intensity of development.

Two-family dwelling means a building containing two separate dwelling units designed for residential use and conforming in all other respects to the standards set for single-family dwellings.

Underlying district means the base zone below an overlay zone, that establishes the fundamental permitted uses, densities and dimensional regulations applicable to lands subject to a zoning ordinance.

Variance means a modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

Yards.

(1) *Yard, front* means an open space extending the full width of the lot and lying between the front line of the lot and the nearest line of the principal building.

(2) *Yard, rear* means an open space extending the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

(3) *Yard, side* means an open space between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard.

Zoning administrator means the official of the city or his authorized representative charged with the responsibility of administrating this chapter.

Zoning board of appeals means the board authorized to grant a variance or modification of the literal provisions of this chapter when, in its judgment, the strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

(Ord. of 5-1-95, § 8-3-2; Ord. of 3-20-06, § II; Ord. of 6-6-11)

Cross reference— Definitions generally, § 1-2.

Sec. 74-5. - Illustrations.

The following illustrations shall be applicable for purposes of this chapter:

LOTS AND AREAS

ADD FIGURE

YARDS

ADD FIGURE

SIDE YARDS ABUTTING A STREET

ADD FIGURE

BUILDING LINE

ADD FIGURE

FLOOR AREA

ADD FIGURE

BASIC STRUCTURAL TERMS

ADD FIGURE

BUILDING HEIGHT

ADD FIGURE

BASEMENT AND STORY

ADD FIGURE

(Ord. of 5-1-95, § 8-3-3)

Sec. 74-6. - Interpretation of chapter.

In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this chapter to repeal, invalidate, annul or in any way impair or interfere with the existing and unrepealed provisions of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or land; provided, however, that, where this chapter imposes a greater restriction upon the use of buildings, structures or land or upon the courts or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this chapter shall control.

(Ord. of 5-1-95, § 8-29-1)

Sec. 74-7. - Severability.

Sections of this chapter shall be deemed to be severable, and, should any section, paragraph or provision of this chapter be declared by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

(Ord. of 5-1-95, § 8-29-2)

Sec. 74-8. - Repeal of existing ordinances.

All ordinances and amendments thereto enacted or adopted by the city or the city council by virtue of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended, and all ordinances and parts of ordinances inconsistent with the provisions of this chapter, are hereby repealed, as of May 31, 1995. The repeal of existing ordinances or parts of ordinances and their amendments does not affect or impair any act done, offense committed or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

(Ord. of 5-1-95, § 8-29-3)

Sec. 74-9. - Vested rights.

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 or zoning classification or any permissible activities therein; and the provisions of this chapter are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

(Ord. of 5-1-95, § 8-29-4)

Sec. 74-10. - Violations; penalties; nuisances.

(a) *Violations generally.* Whenever by the provisions of this chapter the performance of any act is required, or the performance of any act is prohibited, or wherever any regulation, dimension or limitation is imposed on the use of any land, or upon any land, or on the erection or alteration or the use or change of occupancy of structure, a failure to comply with such provisions of this chapter shall constitute a violation of this chapter. Every day on which a violation exists shall constitute a separate violation and a separate offense.

(b) *Civil fine.* Any person, or any other acting in behalf of such person, who violates any of the provisions of this chapter or any amendment thereto, or who fails to perform any act required under this chapter or does any prohibited act, shall be responsible for a municipal civil infraction. It shall be the duty of the zoning administrator to investigate, administer and enforce these regulations. If, after investigation, the zoning administrator or his authorized representative determines that a person is in violation of this chapter, he is authorized to issue a municipal civil infraction notice or municipal civil infraction citation to the alleged violator. Service of the civil infraction notice or civil infraction citation shall be made in accordance with section 38-1 et seq. A civil fine shall be imposed as follows: $50.00 for a first offense, $150.00 for a first repeat offense, and $250.00 for any second or subsequent repeat offense. Each and every day on which any violation is committed or permitted to continue shall constitute a repeat offense, subject to the fines established in this subsection. Additionally, any violation of these regulations is hereby declared to be a public nuisance per se, and the imposition of any fines shall not exempt the offender from compliance with the requirements of this chapter.

(c) *Violations declared nuisance.* 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 in violation of any of the provisions of this chapter is hereby declared to be a public nuisance per se, and the city may institute proceedings in the circuit court for the county for the purpose of enforcing this chapter.

(Ord. of 5-1-95, § 8-29-5)

Sec. 74-11. - Effective date.

This chapter shall take effect following adoption and upon publication of a notice of adoption, published in a newspaper of general circulation in the city, within 30 days after adoption.

(Ord. of 5-1-95, § 8-29-6)

Sec. 74-12. - Fees in escrow for professional reviews.

(a) Any application for rezoning, site plan approval, a special land use permit, planned unit development, variance, or other use or activity requiring a permit under this chapter above the following threshold, may also require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required by either the zoning administrator or the planning commission for any project which requires a traffic impact study under Article IX of this chapter, or which has more than 20 dwelling units, or more than 20,000 square feet of enclosed space, or which requires more than 20 parking spaces, or which involves surface or below surface mining or disposal of mine materials. An escrow fee may be required to obtain a professional review of any other project which may, in the discretion of the zoning administrator or planning commission create an identifiable and potentially negative impact on public roads, other infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

(b) The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise, the city values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the planning commission indicating the extent of conformance or nonconformance with this chapter and identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by the city and a copy of the statement of expenses for the professional services rendered, if requested.

(c) No application for which an escrow fee is required will be processed until the escrow fee is deposited with the treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the zoning administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.

(d) If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by the city in response to the applicant's request. Any unused fee collected in escrow shall be promptly returned to the applicant once a final determination on an application has been made or the applicant withdraws the request and expenses have not yet been incurred.

(e) Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.

(Ord. of 3-20-06, § 1)

Secs. 74-13—74-40. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 74-41. - Administration generally.

The provisions of this chapter shall be administered by the city council in accordance with the City Zoning Act, Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended. The city council shall employ or appoint a zoning administrator to effectuate administration of this chapter. The zoning administrator shall have all the powers of a public officer in the enforcement of this chapter.

(Ord. of 5-1-95, § 8-25-1)

Sec. 74-42. - Duties of zoning administrator.

(a) The zoning administrator or his agent shall have the power to issue zoning permits, and to make inspections of premises necessary to carry out his duties in the enforcement of this chapter.

(b) It shall be unlawful for the zoning administrator to approve plans or issue zoning permits for any construction or use until he has inspected such plans and found them to conform with this chapter.

(c) The zoning administrator shall not vary, change or grant exceptions to any terms of this chapter, or to any person making application under the requirements of this chapter.

(d) The zoning administrator shall issue a permit when the conditions of this chapter are complied with by the applicant, regardless of the effect of such a permit on contracts such as deed covenants or private agreements.

(e) If the zoning administrator shall find that any of the provisions of this chapter are being violated, he shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuation of illegal uses of land, buildings or structures, and removal of illegal work being done, or shall take any other action authorized by this chapter to ensure compliance with or prevent violation of its provisions.

(f) The zoning administrator shall maintain a record of all approved preliminary and final site plans.

(Ord. of 5-1-95, § 8-25-2)

Sec. 74-43. - Zoning compliance permit.

(a) It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, until a zoning compliance permit has been issued by the zoning administrator.

(b) A building permit for erection, alteration, moving, enlargement or repair of any building shall not be issued until an approved zoning permit has been issued therefor. Issuance of the permit shall indicate that the uses and plans for which the permit is requested comply with this chapter.

(c) The zoning administrator shall maintain a record of all permits issued, and the record shall be open to public inspection. Failure to obtain a zoning permit shall be a violation of this chapter.

(d) For any building other than a single-family and two-family dwelling, two complete sets of building plans shall accompany an application for a zoning permit.

(Ord. of 5-1-95, § 8-25-3)

Sec. 74-44. - Building permit.

(a) No building permit for erection, alteration, moving or repair of any building shall be issued until a zoning permit has been issued.

(b) No building or other structure shall be erected, moved, added to or structurally altered or demolished without a building permit issued by the Dickinson Area Construction Code Commission.

(c) No building permit shall be issued by the Dickinson Area Construction Code Commission except in conformity with this chapter, unless the commission receives a written order from the zoning board of appeals or the zoning administrator in the form of an administrative review or a variance, as provided in this chapter.

(d) Plans submitted in an application for a building permit shall contain information necessary for determining conformity with this chapter.

(Ord. of 5-1-95, § 8-25-4)

Sec. 74-45. - Certificate of occupancy.

(a) No building, structure or lot for which a zoning and building permit have been issued shall be used or occupied until the Dickinson Area Construction Code Commission has, after final inspection, issued a certificate of occupancy indicating compliance has been made with all provisions of the applicable building codes.

(b) A record of all certificates issued shall be kept on file in the office of the Dickinson Area Construction Code Commission, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(Ord. of 5-1-95, § 8-25-5)

Secs. 74-46—74-70. - Reserved.

DIVISION 2. - ZONING BOARD OF APPEALS

Sec. 74-71. - Creation; membership.

There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided in Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended, and in such a way that the objectives of this chapter shall be observed, public safety secured and justice done. The board shall consist of five members appointed by the city council. Appointments shall be for a period of three years. All members shall be legal residents of the city.

(Ord. of 5-1-95, § 8-26-1)

Sec. 74-72. - Powers and duties.

(a) The zoning board of appeals shall perform its duties and exercise its powers as provided in Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.581 et seq.), as amended.

(b) The zoning board of appeals shall hear and decide only those matters which it is specifically authorized to hear by Public Act and this chapter, and decide such matters as provided in this chapter.

(c) The zoning board of appeals shall not alter or change the zoning district classifications of any property, or make any change in the terms of this chapter, and shall not take any action which results, in effect, in making such legislative changes.

(d) Decisions of the zoning board of appeals shall become effective immediately, following the final hearing and ruling of the board. The board shall, however, decide all applications and appeals within 30 days after completion of its final hearing thereon.

(Ord. of 5-1-95, § 8-26-2)

Sec. 74-73. - Organization, meetings and rules of procedure.

(a) *Officers; adoption of rules of procedure.* The zoning board of appeals shall annually elect from its membership a chairman, a vice-chairman, a secretary and such other officers as it may deem necessary. Rules and regulations prescribing procedure for the performance of its authorized powers and duties shall be adopted by the board. The procedures shall be in accordance with the provisions of this chapter and applicable state law.

(b) *Required vote.* The concurring vote of three-fifths of the members of the zoning board of appeals shall be necessary to revise any order, requirement, decision or interpretation of the zoning administrator, or to decide in favor of an applicant any matter upon which the board is required to pass under this chapter or to effect any variation in this chapter.

(c) *Quorum.* Three members of the board present at a meeting shall constitute a quorum for the conduct of its business.

(d) *Meeting dates.* Meetings of the zoning board of appeals shall be held at the call of the chairman and at such other times as the board may specify in its rules of procedure.

(e) *Minutes.* Minutes shall be kept of each meeting, and the zoning board of appeals shall record into the minutes all findings, conditions, facts and other relevant factors, including the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and all of its official actions.

(f) *Meetings and records to be open to public.* 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 his agent, shall act as recording secretary to the zoning board of appeals, including recording the minutes, legal notices and property notices.

(g) *Assistance by city departments.* The board may call on any city departments for assistance in the performance of its duties, and it shall be the responsibility of such departments to render such assistance as may reasonably be required.

(h) *Adjournment.* The board may adjourn any meeting held for purposes of reviewing an application, or hearing an appeal, in order to allow the obtaining of additional information or to cause such further notice as it deems necessary to be served upon such other property owners as it decides may logically be concerned with the application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of the hearing unless the board so decides.

(Ord. of 5-1-95, § 8-26-3; Ord. of 10-6-97)

State Law reference— Board of appeals, MCL 125.585.

Sec. 74-74. - Hearings.

(a) The chairman of the zoning board of appeals shall fix a reasonable time and date for a public hearing, not to

exceed 30 days from the date of filing any application with the city clerk.

(b) On behalf of the board, the clerk shall give due notice of the hearing by regular mail to the parties of interest and to property owners within 300 feet of the subject property as shown in the most recent assessment roll of the city.

(c) All zoning board of appeals hearings shall be noticed in a newspaper of general circulation. All notices of hearing shall be mailed and published not more than 15 days and not less then five days prior to the date on which the hearing is to be held.

(Ord. of 5-1-95, § 8-26-4)

Sec. 74-75. - Administrative review.

The zoning board of appeals shall hear and decide appeals where it is alleged by the appellant that there is error in any order, requirements, permit, decision or determination made by the zoning administrator in enforcing any provision of this chapter, as follows:

(1) The zoning board of appeals, on appeal, shall interpret zoning district boundaries according to the provisions of this chapter.

(2) The zoning board of appeals, on appeal, shall classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use in accordance with the purpose and intent of each district.

(3) The zoning board of appeals, on appeal, shall determine the off-street parking and loading space requirements of any use not specifically mentioned in article VI of this chapter either by classifying it with one of the groups listed in article VI or by an analysis of the specific need.

(Ord. of 5-1-95, § 8-26-5)

Sec. 74-76. - Variances.

(a) The zoning board of appeals may, upon appeal, authorize specific variances from site development requirements, regulations and conditions, parking and loading requirements and advertising structure provisions of this chapter; provided, however, that all the required findings listed in this subsection are met, and that the spirit of this chapter is observed, public safety and welfare secured and substantial justice done:

(1) That compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

(2) That a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

(3) That the plight of the landowner is due to the unique circumstances of the property.

(4) That the problem is not self-created, resulting from the actions of the applicant.

(b) A nonconforming use of land or a structure or building shall not solely constitute grounds for the issuance of a variance.

(c) The zoning board of appeals shall further find that the reasons set forth in the application justify the granting of

the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building or structure.

(d) The zoning board of appeals shall further find that granting of the variance will be in harmony with the intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public interest.

(e) In granting any variance, the board may prescribe appropriate conditions and safeguards, to be made a part of the terms under which the variance is granted, the breach of which shall be deemed a violation of this chapter.

(f) In exercising the powers mentioned in this section, the board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal is taken.

(g) Each variance granted under the provisions of this chapter shall become null and void unless the construction or occupancy authorized by such variance or permit has been commenced within one year after the granting of such variance and pursued diligently to completion.

(Ord. of 5-1-95, § 8-26-6)

Sec. 74-77. - Appeals.

(a) Appeals concerning interpretation and administration of this chapter shall be made by filing a notice of appeal specifying the grounds thereof with the city clerk within a period of 30 days from the occurrence of the contested action. The clerk shall transmit to the zoning board of appeals copies of all papers constituting the record upon which the action appealed from was taken.

(b) An appeal shall stay all proceedings in furtherance of the action appealed, unless the Dickinson Area Construction Code Commission or the zoning administrator certifies to the board that a stay would, in its or his opinion, cause imminent peril to life or property, in which case the proceedings should not be stayed other than by a restraining order granted by the courts.

(c) Appeals may be filed by any person or agency felt to be aggrieved.

(d) Any party may appear at the hearing in person or by agent or attorney. The zoning board of appeals shall decide upon all matters within the required time limit. The decision of the board of appeals shall be on a special form for that purpose, which contains a record of its findings and its determination along with a record of the vote. The time limit may be extended by written agreement between the applicant and the zoning board of appeals.

(Ord. of 5-1-95, § 8-26-7)

Sec. 74-78. - Presentation of questions to zoning administrator; recourse from decisions of board.

All questions concerning application of the provisions of this chapter shall first be presented to the zoning administrator. Such questions shall be presented to the zoning board of appeals only on appeal from the decisions of the zoning administrator. Recourse from decisions of the zoning board of appeals shall be to the circuit court of the county, as prescribed by law.

(Ord. of 5-1-95, § 8-26-8)

Secs. 74-79—74-100. - Reserved.

DIVISION 3. - PLANNING COMMISSION

Sec. 74-101. - Designation; powers and duties.

The city planning commission is hereby designated the commission specified in chapter 7, section 7.9(A), of the Charter, with such powers and duties as are given to the commission by the Charter.

(Ord. of 5-1-95, § 8-27-1; Ord. of 6-6-11)

Secs. 74-102—74-120. - Reserved.

DIVISION 4. - AMENDMENTS

Sec. 74-121. - Intent.

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the city, this chapter shall not be amended except to correct an error in this chapter, or, because of changed or changing conditions in a particular area in the city generally, to rezone an area, to extend the boundary of an existing district, or to change the regulations and restrictions thereof.

(Ord. of 5-1-95, § 8-28-1)

Sec. 74-122. - Initiation.

Subject to the limitations of the statement of intent in section 74-121, an amendment to this chapter text or a map may be initiated by the city council on it own motion, or by petition of any person desiring an amendment or change.

(Ord. of 5-1-95, § 8-28-2)

Sec. 74-123. - Referral of petition to planning commission.

Upon receipt of a petition to amend this chapter, the city clerk shall refer the petition to the planning commission for study and recommendation to the city council.

(Ord. of 5-1-95, § 8-28-3; Ord. of 6-6-11)

Sec. 74-124. - Action by planning commission.

The planning commission shall make a complete study of a petition to amend this chapter. The commission shall recommend to the city council such action as the commission deems proper.

(Ord. of 5-1-95, § 8-28-4; Ord. of 6-6-11)

Sec. 74-125. - Action by city council; review criteria.

(a) A public hearing shall be held by the city council before adoption of any proposed amendment to this chapter. Notice of the public hearing shall be given by publishing the notice at least once in a newspaper of general

circulation, stating the time and place of such hearing and the substance of the proposed amendment. This notice shall appear in the newspaper at least 15 days prior to the date set for the public hearing. Notice shall be given by ordinary mail to each public utility or railroad company owning and operating any public utility or railroad within the districts or zones affected, that registers its name with the city clerk for purposes of receiving such notice.

(b) In reviewing any petition for a zoning amendment, the planning commission and the city council shall identify and evaluate all factors relevant to the petition. The facts to be considered by the planning commission and city council include but shall not be limited to the following:

(1) Whether or not the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.

(2) The precedents, and the possible effects of such precedents, which might result from approval or denial of the petition.

(3) The capability of the city or other government agencies to provide any services, facilities and programs that might be required if the petition were approved.

(4) Effect of approval of the petition on the condition and value of property in the city.

(5) Effect of approval of the petition on adopted development policies of the city.

All findings of fact shall be made a part of the public records of the planning commission and city council. An amendment shall not be approved unless these and other identified facts are affirmatively resolved in terms of the general health, safety and welfare of the citizens of the city.

(Ord. of 5-1-95, § 8-28-5; Ord. of 6-6-11)

Sec. 74-126. - Contents of petition.

All petitions for amendments to this chapter, without limiting the right to file additional material, shall contain at least the following:

(1) The petitioner's name, address and interest in the petition, as well as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition.

(2) The nature and effect of the proposed amendment.

(3) If the proposed amendment would require a change in the zoning map, a fully dimensional map showing:

a. The land which would be affected by the proposed amendment.

b. The legal description of such land.

c. The present zoning classification of the land.

d. The zoning classification of all abutting districts.

e. All public and private rights-of-way and easements bounding and intersecting the land under consideration.

(4) The alleged error in this chapter, if any, which would be corrected by the proposed amendment, together with a detailed explanation of such error in this chapter which is alleged, and detailed reasons as to how the proposed amendment will correct the error.

(5) The changed or changing conditions, if any, in the area or in the municipality generally, which make the proposed amendment reasonably necessary.

(6) All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.

(Ord. of 5-1-95, § 8-28-6)

Sec. 74-127. - Comprehensive review of zoning regulations.

The planning commission, at intervals of not less than three years, shall examine the provisions of this chapter and shall submit a report to the city council recommending changes, if any, deemed desirable in the interests of public health, safety and welfare.

(Ord. of 5-1-95, § 8-28-7; Ord. of 6-6-11)

Secs. 74-128—74-150. - Reserved.

DIVISION 5. - SITE PLAN REVIEW

Sec. 74-151. - Purpose.

It is the purpose of this division to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained in this division are intended to provide and promote the orderly development of the city; safe and convenient traffic movement, both within a site and in relation to access streets; the stability of land values and investments, by preventing the impairment or depreciation of land values and development by the erection of structures or additions or alterations thereto without proper attention to setting or to unsightly or undesirable appearances; harmonious relationships of buildings, other structures and uses, both within a site and with adjacent sites; and the conservation of natural amenities and resources.

(Ord. of 5-1-95, § 8-24-1)

Sec. 74-152. - Applicability.

Site plan review approval is required as follows:

(1) For those uses requiring special use permit review, as specified.

(2) For all land uses, excepting single-family detached dwellings, two-family dwellings and nonresidential uses requiring less than five parking spaces.

(Ord. of 5-1-95, § 8-24-2)

Sec. 74-153. - Procedure.

(a) *Submission of application; payment of fee.* Application for site plan review shall be submitted to the zoning administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee in accordance with the duly adopted schedule of fees to cover the costs of processing the application. No part of any fee shall be refundable.

(b) *Required information and data.* Every application should be accompanied by the following information and data:

(1) The special form supplied by the zoning administrator filled out in full by the applicant.

(2) A site plan, plot plan or development plan, drawn to a scale of not less than one inch equals 50 feet, showing:

a. Date, north point and scale.

b. The actual dimensions of all lot and property lines, as shown by a licensed surveyor, with the survey stakes visible, showing the relationship of the subject property to abutting properties.

c. Size, shape and location of existing and proposed buildings and structures.

d. The location of parking areas, all parking spaces and driveways.

e. Existing public rights-of-way and private easements.

f. Watercourses and water bodies, including surface drainageways.

g. A stormwater drainage plan, to include elevation contour lines not exceeding five feet showing existing and proposed grades and drainage systems and structures.

h. Existing significant vegetation.

i. A landscaping plan indicating locations of proposed planting and screening, fencing, signs and advertising features.

(c) *Review by zoning administrator.* The zoning administrator shall review the site plan to determine compliance with permitted land use, density of development, general circulation and other provisions of this chapter. The zoning administrator shall respond to the applicant within 45 days of filing, and, if the application is denied, shall cite the reasons for denial.

(Ord. of 5-1-95, § 8-24-3)

State Law reference— Site plans, MCL 125.584d.

Sec. 74-154. - Standards for approval.

(a) All elements of the site plan 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 will be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

(b) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

(c) Special attention shall be given to proper site surface drainage so that removal of stormwater will not adversely affect neighboring properties.

(d) The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(e) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.

(f) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(g) There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.

(h) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or ar from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or p materials no less than six feet in height.

(i) Exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

(Ord. of 5-1-95, § 8-24-4)

Sec. 74-155. - Action by zoning administrator.

The zoning administrator shall have the function, duty and power to approve or disapprove, or to approve subject to compliance with such modifications or conditions as he may deem necessary to carry out the purpose of these regulations, the design and site plan of all proposed buildings or structures, or the development of the entire property, the specifications of all exits, entrances, streets, highways or other means of ingress and egress, the proposed timing of construction, the proposed manner of dedication to the public or maintenance of such facilities, and the construction of appropriate screens or buffers.

(Ord. of 5-1-95, § 8-24-5)

Sec. 74-156. - Modifications.

Once site plan approval has been granted by the zoning administrator, changes to the approved site plan shall require a resubmission and payment of fees.

(Ord. of 5-1-95, § 8-24-6)

Sec. 74-157. - Appeals.

Any person considering himself aggrieved by the decision of the zoning administrator in granting or denial of site plan approval shall have the right to appeal the decision to the zoning board of appeals. The appeal shall be exclusive and must be filed with the city clerk within ten days of the decision of the zoning administrator. Appeals of a decision of the zoning board of appeals shall be taken to a court of competent jurisdiction.

(Ord. of 5-1-95, § 8-24-7)

Secs. 74-158—74-180. - Reserved.

ARTICLE III. - DISTRICTS AND DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 74-181. - Establishment of districts.

For the purpose of this chapter, the city is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

Residential Districts	
R-1	Single-Family Residential
R-2	Moderate Density Residential
R-3	Multiple-Family Residential
Nonresidential Districts	
O-S	Office Service
B-1	Neighborhood Business
B-2	General Business
I-1	Light Industrial
I-2	General Industrial
O-R	Open Space Conservation/Recreation

(Ord. of 5-1-95, § 8-4-1)

Sec. 74-182. - District map.

(a) The boundaries of the zoning districts listed in section 74-181 are hereby established as shown on the zoning map of the city which accompanies the ordinance from which this chapter is derived, which map, with all notations, references and other information shown thereon, shall be as much a part of this chapter as if fully described in this chapter.

(b) One copy of the official zoning map is to be maintained and kept up to date by the zoning administrator, accessible to the public, and shall be the final authority as to the current zoning status of properties in the city.

(Ord. of 5-1-95, § 8-4-2)

Sec. 74-183. - Scope of district regulations.

(a) Except as may otherwise be provided 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 occurring, and every enlargement of or addition to an existing use, building and structure occurring after May 31, 1995, shall be subject to all regulations of this chapter which are applicable in the zoning district in which such use, building or structure shall be located.

(b) Uses are permitted by right only if specifically listed as uses permitted by right in the various zoning districts. Where specifically permitted, uses are thereby prohibited, unless construed by the zoning administrator to be similar to a u expressly permitted by this chapter.

(c) Accessory uses are permitted as indicated for the various zoning districts, and if such uses are clearly incidental to the permitted principal uses.

(d) The uses permitted subject to special conditions are recognized as possessing characteristics of such unique and special nature, relative to location, design, size, etc., as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.

(Ord. of 5-1-95, § 8-4-6)

State Law reference— Regulation of buildings, authority to zone, MCL 125.582.

Sec. 74-184. - Conflicting regulations.

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

(Ord. of 5-1-95, § 8-4-7)

Sec. 74-185. - Zoning of annexed areas.

Any area annexed to the city shall, immediately upon such annexation, be automatically classified as an R-1 district, until a zoning map for the area has been adopted by the city council. The planning commission shall recommend appropriate zoning for such an area within three months after the annexation becomes effective.

(Ord. of 5-1-95, § 8-4-8; Ord. of 6-6-11)

Sec. 74-186. - Exemptions.

The location of pipes, wires, poles, and generating and transmission equipment of public utilities or railroad tracks regulated by the state or by the United States are exempt from regulation under this chapter. The erection, construction, alteration or maintenance of essential services by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, or collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience or welfare, shall be permitted as authorized and regulated by law and other ordinances of the city and upon filing of an application for administrative review of the proposed activity with the city manager. While the erection, construction, alteration or maintenance of essential services is exempted from the application of other provisions as contained in this chapter, such exemption shall not extend to utility buildings, substations, communication, microwave or wind generation towers, structures which are enclosures or shelters for service equipment, or maintenance depots.

(Ord. of 5-1-95, § 8-4-9)

Secs. 74-187—74-210. - Reserved.

DIVISION 2. - R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 74-211. - Purpose.

A single-family residential district implies a predominance of dwelling structures located on individual lots of land and housing only one family or household group. The R-1 single-family residential districts are designed to be the most restrictive of all residential zoning districts in the city. It is the purpose of this division to create districts providing stability to the essential characteristics of these residential areas and to promote and encourage a suitable and safe environment for family life. Regulations contained in this division also provide for the development of certain limited residentially related facilities which can provide convenient services to residential areas yet still preserve the residential character of the district. In order to avoid intrusion of undesirable uses and to foster all possible benefits for continued high quality of the residential environment, all nonresidential land and structure uses are classified as being permitted by special use permit. Such uses present a potential injurious effect upon residential and other property unless authorized under specific imposed conditions.

(Ord. of 5-1-95, § 8-5-1)

Sec. 74-212. - Uses permitted by right.

In the R-1 single-family residential district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this chapter: single-family detached dwellings.

(Ord. of 5-1-95, § 8-5-2)

Sec. 74-213. - Permitted accessory uses.

The following are permitted accessory uses in the R-1 district:

(1) Accessory structures, subject to the requirements of section 74-420, normally associated with single-family dwellings, such as a private garage, shed for yard tools, playhouse, boathouse and the like.

(2) Automobile parking, subject to the requirements of article VI of this chapter.

(3) Pens or enclosures for household pets. A maximum of three household pets per household are allowed in the R-1 district.

(4) Portable buildings such as ice-fishing shacks and storage buildings not attached to a permanent foundation, which are allowed in the rear yard only, subject to the regulations in section 74-420.

(5) Swimming pools (refer to section 74-558).

(Ord. of 9-18-95(2))

Sec. 74-214. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in the R-1 district by the application for and the issuance of a special use permit as provided for in article VIII of this chapter:

(1) Religious institutions: churches, synagogues, houses of worship, convents and other housing for religious perso

(2) Educational and social institutions: public or private elementary and secondary schools, institutions for higher education, auditoriums and other places for assembly and centers for social activities, public libraries, museums and art galleries, and nursery schools and day care centers.

(3) Recreational facilities: public and private parks, playgrounds, community centers, parkways, golf courses and similar recreational facilities.

(4) Radio and television towers, public utility towers and microwave towers and attendant facilities. Such towers shall be situated only within the following property descriptions:

a. Northeast quarter of the northeast quarter of Section 31, Township 40 North, Range 30 West.

b. Northwest quarter of the northwest quarter of Section 32, Township 40 North, Range 30 West.

c. Northeast quarter of the northwest quarter of Section 32, Township 40 North, Range 30 West.

d. Northeast quarter of the northwest quarter of Section 25, Township 40 North, Range 30 West.

(5) Planned unit residential developments (refer to section 74-557).

(6) Home occupations.

(7) Radio and television satellite dish antennas over 24 inches in diameter (refer to section 74-560).

(8) Private kennels.

(Ord. of 5-1-95, § 8-5-4)

Sec. 74-215. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the R-1 district:

(1) *Minimum lot area.* No structures shall be established on any parcel, nor shall any lot be subdivided, providing less than 9,000 square feet of lot area.

(2) *Minimum lot width.* The minimum lot width shall be 80 feet for single-family dwellings.

(3) *Maximum lot coverage.* The maximum lot coverage by all buildings, including accessory buildings, shall not exceed 35 percent.

(4) *Yard and setback requirements.*

a. *Front yard.* The required front yard setback shall be not less than 30 feet, or equal to the established setback line of existing homes on the same side of the street within 100 feet.

b. *Side yard.* The side yard setback shall be in accordance with the following schedule, except, in the case of a corner lot where the side yard abuts a street, the minimum width of such yard shall be ten feet where there is a common rear yard. In the case of a rear yard abutting the side yard of an adjacent lot, the side yard abutting the street shall not be less than the required front yard of that district.

1. On lots of less than 100 feet of street frontage, the minimum side-yard setback shall be ten percent of the width of the lot measured at the front setback line.

2. On lots of more than 100 feet of street frontage, the minimum side-yard setback shall be ten feet.

c. *Rear yard.* The rear yard setback shall be 30 feet.

d. *Setback from right-of-way or water body.* No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way, or closer than 75 feet

to any body of water.

(5) *Maximum height.*

a. No residential structure shall exceed 2½ stories or 35 feet, measured from the average finished grade at the front setback line. Accessory buildings shall not exceed one story, or a height of 18 feet, on any residential lot.

(6) *Minimum building floor area.* Every dwelling erected shall have a minimum gross living space per dwelling unit of not less than 1,000 square feet on the first floor, if one story, or 800 square feet on the first floor level if two stories. In any case, the total living area shall not be less than 1,000 square feet exclusive of basements, garages, porches and breezeways.

(7) *One principal building permitted per lot.* No more than one principal building may be permitted on a lot or parcel located in the R-1 district.

(8) *Nuisances prohibited.* No use in this district shall constitute a nuisance as defined by this chapter.

(Ord. of 5-1-95, § 8-5-5; Ord. of 7-16-01(1))

Secs. 74-216—74-230. - Reserved.

DIVISION 3. - R-2 MODERATE DENSITY RESIDENTIAL DISTRICT

Sec. 74-231. - Purpose.

The purpose of the R-2 district is to achieve the same character, stability and sound residential environment as intended for the R-1 district, yet at a slightly higher density of population. This is to be accomplished through the construction and occupancy of single-family dwellings on slightly smaller lots and also by permitting two-family dwellings. There is no intent to promote, by these requirements, a residential district of lower quality than the R-1 district.

(Ord. of 5-1-95, § 8-6-1)

Sec. 74-232. - Uses permitted by right.

In an R-2 moderate density residential district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) Single-family detached dwellings.

(2) Two-family dwellings.

(Ord. of 5-1-95, § 8-6-2)

Sec. 74-233. - Permitted accessory uses.

The following are permitted accessory uses: those accessory uses as permitted in the R-1 single-family residential district.

(Ord. of 5-1-95, § 8-6-3)

Sec. 74-234. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in the R-2 district by the application for and the issuance of a special use permit as provided for in article VIII of this chapter:

(1) Those special uses as permitted in section 74-214.

(2) Spouse abuse shelters.

(3) Administrative offices accessory to an approved special use.

(Ord. of 5-1-95, § 8-6-4)

Sec. 74-235. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the R-2 district:

(1) *Minimum lot area.*

a. Single-family detached dwellings shall require a minimum parcel size of not less than 6,000 square feet of lot area.

b. Two-family dwellings shall require a minimum parcel size of not less than 7,200 square feet of lot area.

(2) *Minimum lot width.*

a. The minimum lot width for single-family detached dwellings shall be 50 feet.

b. The minimum lot width for two-family dwellings shall be 60 feet.

(3) *Yard and setback requirements.*

a. *Front yard.* The required front yard setback shall not be less than 25 feet, or equal to the established setback line of existing homes on the same side of the street within 100 feet.

b. *Side yards.* Side yard setbacks are as follows:

1. On lots of less than 100 feet of street frontage, the minimum side-yard setback shall be ten percent of the width of the lot measured at the front setback line.

2. On lots of more than 100 feet of street frontage, the minimum side-yard setback shall be ten feet.

c. *Rear yard.* Rear yard setbacks are as follows:

1. Single-family: 30 feet.

2. Two-family: 40 feet.

d. *Setback from right-of-way or water body.* No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way, or closer than 75 feet to any body of water.

(4) *Maximum height requirements.*

a. No residential structure shall exceed 2½ stories or 35 feet, measured from the average finished grade at the front setback line.

b. Accessory buildings shall not exceed one story or a height of 18 feet on any residential lot.

(5) *Minimum building floor area.*

a. Single-family dwelling: See section 74-215(6).

b. Minimum gross living space in a two-family dwelling shall not be less than 1,800 square feet, and neither living unit shall contain less than 800 square feet of living area, exclusive of basements, garages, porches

and breezeways.

(6) *One principal building permitted per lot.* No more than one principal building shall be permitted on a lot or parcel located in the R-2 district.

(7) *Nuisances prohibited.* No use in this district shall constitute a nuisance as defined by this chapter.

(Ord. of 5-1-95, § 8-6-5; Ord. of 7-16-01(2))

Secs. 74-236—74-250. - Reserved.

DIVISION 4. - R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 74-251. - Purpose.

It is the purpose of the R-3 district to accommodate a mixture of housing types, including multiple-family residential uses, occurring at a higher density than in the single-family district, but at no lower standards of quality. Multiple-family residential development is to be located near major utility and transportation corridors, and major concentrations of natural and social amenities. In certain instances this district may act as a buffer area between single-family residential and nonresidential uses. This district is further provided to serve the residential needs of persons desiring the apartment type of accommodation with central services and minimal maintenance, as opposed to the residential patterns found in the single-family districts.

(Ord. of 5-1-95, § 8-7-1)

Sec. 74-252. - Uses permitted by right.

In the R-3 multiple-family district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) Single-family detached dwellings.

(2) Single-family attached dwellings (townhouses).

(3) Two-family dwellings (duplexes).

(4) Multiple-family dwellings (apartments) of three stories or less.

(5) Lodginghouses or boardinghouses.

(Ord. of 5-1-95, § 8-7-2)

Sec. 74-253. - Permitted accessory uses.

The following are permitted accessory uses in the R-3 district:

(1) Accessory buildings and uses customarily incidental to any of the permitted uses listed in section 74-252.

(2) Accessory buildings or uses developed to service only the residents of an apartment complex, including swimming pools, community buildings, recreation areas and other similar uses.

(3) Those uses allowed in the R-1 single-family residential district.

(Ord. of 5-1-95, § 8-7-3)

Sec. 74-254. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in the R-3 district by the application for and the issuance of a special use permit as provided for in article VIII of this chapter:

(1) Those special uses as permitted in the R-2 moderate density residential district.

(2) Multiple-family dwellings (apartments) in structures of three stories or more.

(3) Bed and breakfast operations.

(4) Nursing or convalescent homes.

(5) Multiple-family low rent family public housing and multiple-family low rent senior citizen housing.

(6) Mobile home parks.

(Ord. of 5-1-95, § 8-7-4)

Sec. 74-255. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the R-3 district:

(1) *Minimum lot area.*

a. Single-family detached dwellings shall conform to section 74-215.

b. Single-family attached dwellings (townhouses) shall require a minimum parcel size of not less than 6,000 square feet.

c. Two-family dwellings shall require a minimum parcel size of not less than 7,200 square feet of lot area.

d. Multiple-family dwellings (apartments) shall require a minimum parcel size of 10,000 square feet.

(2) *Minimum lot width.*

a. The minimum lot width for single-family detached dwellings shall be 50 feet.

b. The minimum lot width for single-family attached dwellings (townhouses) shall be 100 feet of public road frontage.

c. The minimum lot width for multiple-family dwellings (apartments) shall be 100 feet of public road frontage.

(3) *Yard and setback requirements.*

a. *Front yard.* The required front yard setback shall be not less than 25 feet for one- or two-story buildings, with an additional one-foot setback required for each additional one foot the building exceeds 40 feet.

b. *Side yards.*

1. *One- and two-family dwellings.* The side yard shall not be less than eight feet.

2. *Three-family to ten-family dwellings.* The side yard shall not be less than 15 feet.

3. *Greater than ten-family dwellings.* The side yard shall not be less than 25 feet from the property line for one- or two-story buildings, with an additional foot required for each additional foot of height of the building over 40 feet.

4. *Setback from right-of-way.* No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way.

c. *Rear yard.* The rear yard setback shall be 40 feet from the property line for one- or two-story buildings,

with an additional foot required for each additional foot of height of the building over 40 feet.

d. *Other yard dimensions.*

1. No multiple-family building designed, erected or used for ten or more families shall be located closer than 50 feet to any single-family residential zone line.
2. No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way, or closer than 75 feet to any body of water.
3. No single building or connected buildings may exceed 200 feet in any one dimension. All buildings shall be so arranged as to permit emergency vehicle access, by some practical means, to all sides.
4. The distance of separation between grouped buildings shall be a minimum of 30 feet.
5. No entrance to a multiple-family structure shall be located closer to any street, access road, driveway or parking area than 25 feet.

(4) *Minimum living space.*

a. *Single-family detached dwellings.* Minimum gross living space in a single-family detached dwelling shall comply with section 74-215(6).

b. *Two-family dwellings.* Minimum gross living space in a two-family dwelling shall comply with section 74-235(5)b.

c. *Townhouses and multiple-family dwellings.* The minimum gross living space in a single-family attached dwelling (townhouse) or multiple-family dwelling shall be provided in accordance with the following schedule:

	Square Feet
Efficiency	350
One-bedroom unit	600
Two-bedroom unit	800
Three-bedroom unit	1,000

(5) *Nuisances prohibited.* No use in this district shall constitute a nuisance as defined by this chapter.

(Ord. of 5-1-95, § 8-7-5)

Secs. 74-256—74-270. - Reserved.

DIVISION 5. - O-S OFFICE SERVICE DISTRICT

Sec. 74-271. - Purpose.

It is the purpose of the O-S district to permit the integration of office, personal service and limited business uses. This district is specifically designed for applications where existing residential uses are experiencing redevelopment pressures. Among the purposes of the O-S district is the development of various office uses performing administrative, professional and personal services, and very limited commercial ventures.

(Ord. of 5-1-95, § 8-10-1)

Sec. 74-272. - Uses permitted by right.

In an O-S office service district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) Office establishments which perform services on the premises.
   a. Financial institutions.
   b. Insurance offices.
   c. Real estate offices.
   d. Offices for attorneys, accountants, architects, engineers and similar professionals.
   e. Photographic studios.
   f. Other office establishments similar to and compatible with such uses.

(2) Professional service establishments, medical offices and clinics providing human health care on an outpatient basis.

(3) Miscellaneous business service establishments.
   a. Consumer credit reporting agencies.
   b. Mailing list and stenographic services.
   c. Business management consulting services.
   d. Duplicating services.
   e. Other establishments similar to and compatible with such uses.

(4) Governmental offices and libraries.

(5) Churches and related facilities.

(6) Offices of nonprofit organizations, such as professional membership organizations, labor unions, civic, social and fraternal associations and political organizations.

(7) Mortuaries and funeral homes, subject to the following restrictions:
   a. Sufficient off-street automobile parking and assembly area shall be provided for vehicles to be used in funeral processions. The assembly area shall be provided in addition to the otherwise required off-street parking area.
   b. Loading and unloading areas used by ambulances, hearses or other such service vehicles shall be obscured from view with an opaque fence or wall not less than six feet in height.

(8) Hospitals.

(9) Nursing or convalescent homes.

(Ord. of 5-1-95, § 8-10-2)

Sec. 74-273. - Permitted accessory uses.

The following are permitted accessory uses in the O-S district:

(1) Any use customarily incidental to the permitted principal use.

(2) Signs, subject to the regulations established in article VII of this chapter.

(3) Off-street parking as required by article VI of this chapter.

(Ord. of 5-1-95, § 8-10-3)

Sec. 74-274. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in the O-S district by the application for and the issuance of a special use permit as provided for in article VIII of this chapter: establishments customarily related to medical and dental uses when located in a medical or dental building or complex and when intended primarily to serve the occupants of the building or complex in which they are located.

(1) Pharmacies.

(2) Medical, dental and optical laboratories.

(3) Stores offering supportive or corrective garments and prosthetic appliances.

(4) Other establishments similar to and compatible with such uses.

(Ord. of 5-1-95, § 8-10-4)

Sec. 74-275. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the O-S district:

(1) *Minimum lot area.* No structure shall be established on any parcel providing less than 5,000 square feet of lot area.

(2) *Minimum lot width.* The minimum lot width shall be 50 feet.

(3) *Yard and setback requirements.*

a. *Front yard.* The required front yard setback shall be not less than 30 feet, or equal to the established setback line.

b. *Side and rear yards.* The side and rear yard setback shall be ten feet, except in the case of a corner lot, where the side yard shall not be less than the setback required for the front yard.

c. *Side and rear yards adjacent to residential district.* No structure shall be less than 20 feet from any residential district boundary line.

d. *Setback from right-of-way or water body.* No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way, or closer than 75 feet to any body of water.

(4) *Maximum height.* Maximum height is 35 feet measured from the average finished grade at the front setback line, unless the required front yard is increased by one foot for every foot of height above 35 feet.

(5) *Other requirements.*

a. Landscaping shall be maintained in all required front, side and rear yards, in accordance with plans approved by the zoning administrator as a part of the site plan review.

b. Lighting shall be accomplished in a manner such that no illumination source shall adversely affect the welfare of an adjacent property.

c. Front, side or rear yards may not be used for storage.

d. Trash containers shall be enclosed by a covered structure on at least three sides. The property shall be maintained free from litter.

e. Air conditioning units, heating oil storage tanks or similar appurtenances shall be properly screened as appr zoning administrator.

f. In addition to the site plan requirements of article II, division 5, of this chapter, for all proposed office or commercial uses in the O-S district, an elevational drawing and complete set of construction plans shall be submitted for approval.

(6) No use in this district shall constitute a nuisance as defined by this chapter.

(Ord. of 5-1-95, § 8-10-5)

Secs. 74-276—74-290. - Reserved.

DIVISION 6. - B-1 NEIGHBORHOOD BUSINESS DISTRICT

Sec. 74-291. - Purpose.

The neighborhood business district is intended to encompass businesses which cater to the retail and service needs of the surrounding neighborhood, but which do not require large areas of land. These districts are encouraged to develop in clusters with common parking areas. The regulations and conditions contained in this division are designed to promote residential and commercial uses such as small stores and service establishments which serve primarily the people of the immediate neighborhood and which can thrive without drawing patrons from a large part of the city and creating the traffic congestion which results therefrom.

(Ord. of 5-1-95, § 8-11-1)

Sec. 74-292. - Uses permitted by right.

In a B-1 neighborhood business district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) All uses permitted by right in the R-2 district.

(2) Retail establishments marketing convenience goods, such as groceries, fruit, meats, dairy products, produce, baked goods and alcoholic beverages, and stores selling drugs, hardware, novelties and gifts, flowers, books, stationary, tobacco and sundries and small household articles, all of which primarily serve the immediate neighborhood.

(3) Personal service establishments performing services on the premises such as barbershops and beauty shops, shoeshine and shoe repair shops, self-service laundries, branch banks, professional offices and studios.

(4) Eating and drinking establishments where food or alcoholic beverages are served within a completely enclosed building. Fast food and drive-up restaurants are not included in this district.

(5) Bed and breakfast operations.

(Ord. of 5-1-95, § 8-11-2)

Sec. 74-293. - Permitted accessory uses.

The following are permitted accessory uses in the B-1 district:

(1) Any use customarily incidental to the permitted principal use.

(2) Signs, subject to the regulations in article VII of this chapter.

(3) Off-street parking as required in article VI of this chapter.

(4) Those uses permitted in the R-2 district.

(Ord. of 5-1-95, § 8-11-3)

Sec. 74-294. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in the B-1 district by the application for and the issuance of a special use permit as provided for in article VIII of this chapter:

(1) The same special uses as permitted in the R-2 moderate density residential district.

(2) Automobile service stations.

(3) Wholesale establishments involved with the processing, packaging and treatment of food products.

(4) Open air businesses such as retail sales of nursery stock, lawn furniture, playground equipment and garden supplies, provided the total sales and storage area is fenced or otherwise enclosed in a permanent manner.

(5) Temporary outdoor uses or sales, incidental to the business conducted on the premises.

(6) Utility and public service buildings.

(7) Veterinary clinic and/or animal hospital.

(8) Greenhouses.

(Ord. of 5-1-95, § 8-11-4; Ord. of 3-17-08; Ord. of 7-7-08)

Sec. 74-295. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the B-1 district:

(1) *Minimum lot area.* No structure shall be established on any parcel providing less than 5,000 square feet of lot area.

(2) *Minimum lot width.* The minimum lot width shall be 50 feet.

(3) *Yard and setback requirements.*

a. *Front yard.* The required front yard setback shall be not less than 20 feet, or equal to the established setback line.

b. *Side and rear yards.*

1. The side and rear yard setback shall be ten feet, except in the case of a corner lot, where the side yard shall not be less than the setback required for the front yard.

2. The side yard may be eliminated under the following conditions:

i. The side walls are of a fireproof construction in compliance with applicable building codes in effect at the time of construction and are wholly without opening.

ii. The adjacent property is not residential in nature.

c. *Setback from right-of-way or water body.* No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way, or closer than 75 feet

to any body of water.

(4) *Maximum height.* Maximum height is 35 feet measured from the average finished grade at the front setback line, unless the required front yard is increased by one foot for every foot of height above 35 feet.

(5) *Other requirements.*

a. Landscaping shall be maintained in all required front, side and rear yards, in accordance with plans approved by the zoning administrator as a part of the site plan review.

b. Lighting shall be accomplished in a manner such that no illumination shall adversely affect the welfare of an adjacent property.

c. Side or rear yards may not be used for storage, except in accordance with a special use permit issued under section 74-294(4).

d. Trash containers shall be enclosed by a covered structure on at least three sides. The property shall be maintained free from litter.

e. Air conditioning units, heating oil storage tanks or similar appurtenances shall be properly screened as approved by the zoning administrator.

f. Where a B-1 district is located adjacent to a residential district, a greenbelt buffer, vertical screen, solid fence or berm shall be provided along the side and rear yard as approved by the zoning administrator.

(6) *Nuisances prohibited.* No use in this district shall constitute a nuisance as defined by this chapter.

(Ord. of 5-1-95, § 8-11-5)

Secs. 74-296—74-310. - Reserved.

DIVISION 7. - B-2 GENERAL BUSINESS DISTRICT

Sec. 74-311. - Purpose.

It is the purpose of the B-2 district to provide a district and area within the city where a wide range of commercial and business facilities can be centralized to most efficiently and effectively serve the community. These regulations are intended to ensure harmonious relationships with surrounding land uses and in particular have minimal impact on surrounding residential neighborhoods.

(Ord. of 5-1-95, § 8-12-1)

Sec. 74-312. - Uses permitted by right.

In a B-2 general business district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) All uses permitted by right in the B-1 neighborhood business district, except single-family residences and duplexes. Residential occupancy is permitted above the ground floor. Residential occupancy is only permitted on the ground floor if required to comply with barrier-free access requirements under state or federal law, but no greater occupancy shall be allowed than that required to comply.

(2) General retail establishments whose principal activity is the sale of new merchandise to the public, including

but not limited to household appliance stores, furniture stores, office supply stores, gift stores, hardware stores, banks, restaurants, cocktail lounges, supermarkets, bakeries, delicatessens, variety stores and other retail establishments similar to and compatible with such uses, except those in which the required repair and service facilities occupy more than 50 percent of the total floor area.

(3) Personal service establishments and studios, such as beauty shops and barbershops, dressmakers, tailors, upholsterers, offices of lawyers, doctors or dentists, photo shops and similar service establishments.

(4) Theaters, excepting outdoor or drive-in theaters.

(5) Automobile service stations, automobile repair garages, automatic and self-service carwash establishments and tire shops.

(6) Art or antique shops, secondhand stores and pawnshops.

(7) Amusement enterprises, including billiard or pool halls, bowling alleys, dancehalls, nightclubs, skating rinks and the like, if conducted wholly within an enclosed building.

(8) Hotels, motels, motor hotels, and bed and breakfast operations.

(9) Printing, publishing, photographic reproduction, blueprinting and related trades and arts.

(10) Other retail or service uses similar to such uses.

(Ord. of 5-1-95, § 8-12-2)

Sec. 74-313. - Permitted accessory uses.

The following are permitted accessory uses in the B-2 district:

(1) Any use customarily incidental to the permitted principal use.

(2) Signs, subject to the regulations in article VII of this chapter.

(3) Off-street parking as required in article VI of this chapter.

(Ord. of 5-1-95, § 8-12-3)

Sec. 74-314. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in the B-2 district by the application for and the issuance of a special use permit as provided for in article VIII of this chapter:

(1) Shopping malls or similar development.

(2) Outdoor display and sales of motor vehicles, boat sales, recreational vehicles and the like provided the outdoor area is paved and properly drained, and otherwise complies with all licensing and regulatory requirements set forth in MCL 257.248, et seq, of the Michigan Motor Vehicle Code, and provided no dismantled or inoperative vehicles or parts thereof are stored outside.

(3) Temporary structures, tents, greenhouses or fruit and vegetable stands erected for a period of more than 72 hours; provided that all wiring, plumbing, fire protection and exits are approved by the fire chief and building inspector.

(4) Adult entertainment (refer to section 74-561).

(5) Drive-in or fast food restaurants (refer to section 74-562).

(6) The same special uses as listed for the R-3 district.

(Ord. of 5-1-95, § 8-12-4; Ord. of 9-4-01)

Sec. 74-315. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the B-2 district:

(1) *Minimum lot area.* There are no minimum requirements for lot area.

(2) *Minimum lot width.* There are no minimum requirements for lot width.

(3) *Yard and setback requirements.*

a. *Front yard.* The front yard setback shall be 20 feet, or equal to the minimum distance established by existing buildings within 200 feet of a proposed principal building location.

b. *Side and rear yards.*

1. The principal building may be constructed on the side property line provided that access is available to the rear yard by means of a drive or an alley; but if side yards are provided they shall be ten feet in width.

2. If side yards are eliminated, the following conditions must be met:

i. The side walls shall be of a fireproof construction in compliance with applicable codes in force at the time of construction and shall be wholly without opening.

ii. The adjacent property shall not be residential in nature.

c. *Setback from right-of-way or water body.* No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way, or closer than 75 feet to any body of water.

d. *Side and rear yards adjacent to residential district.* No structure shall be less than 20 feet from any residential district boundary line.

(4) *Maximum height.* Maximum height is 40 feet, measured from the average finished grade at the front setback line.

(5) *Other requirements.*

a. Lighting shall be accomplished in a manner such that no illumination shall adversely affect the welfare of an adjacent property.

b. Side or rear yards may not be used for storage.

c. Trash containers shall be enclosed by a covered structure on at least three sides. The property shall be maintained free from litter.

d. Air conditioning units, heating oil storage tanks or similar appurtenances shall be properly screened as approved by the zoning administrator.

e. Where a B-2 district is located adjacent to a residential district, a greenbelt buffer, vertical screen, fence or berm shall be provided along the side and rear yard as approved by the zoning administrator.

(6) *Nuisances prohibited.* No use in this district shall constitute a nuisance as defined by this chapter.

(Ord. of 5-1-95, § 8-12-5)

Secs. 74-316—74-330. - Reserved.

DIVISION 8. - I-1 LIGHT INDUSTRIAL DISTRICT

Sec. 74-331. - Purpose.

It is the purpose of the I-1 district to encourage and facilitate the development of research, warehouse, light industrial and wholesale activities in a setting conducive to public health; economic stability and growth; protection from blight, deterioration and nonindustrial encroachment; and efficient traffic movement, including both employee and truck traffic. These enterprises will be characterized by the absence of objectionable external effects and the potentiality of attractive industrial architecture. Regulations for this district are designed to promote the development of industrial areas which will be compatible with one another and with adjacent or surrounding districts. Further, the regulations contained in this division are intended to prohibit residential or commercial uses as being incompatible with the primary permitted uses, as well as being adequately provided for in other districts.

(Ord. of 5-1-95, § 8-13-1)

Sec. 74-332. - Uses permitted by right.

In an I-1 light industrial district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) Any use allowed in the B-2 district.

(2) Nonmanufacturing research and development establishments, including:

a. Laboratories, offices and other facilities for research, both basic and applied, conducted by or for any individual, organization or concern.

b. Production of prototype products, limited to the scale necessary for full investigation of the merits of the product.

(3) Wholesale and warehousing: the sale at wholesale or warehousing of automotive equipment, dry goods and apparel, groceries and related products, raw farm products except livestock, electrical goods, hardware, plumbing, heating equipment and supplies, machinery and equipment, tobacco and tobacco products, beer, wine and distilled alcoholic beverages, paper and paper products, furniture and home furnishings, and any commodity the manufacture of which is permitted in this district, also storage or transfer buildings, recycling centers, commercial laundries or cleaning establishments, frozen food lockers and miniwarehouses or self-store warehousing.

(4) Industrial establishments, including:

a. The assembly, fabrication, compounding, packaging, manufacture or treatment of such articles as food products, candy, drugs, cosmetics and toiletries, musical instruments, toys, novelties, electrical instruments and appliances, radios and phonographs, pottery and figurines or other similar ceramic products using only previously pulverized clay, furniture cabinets and related products.

b. The assembly, fabrication, compounding, packaging, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fiber, glass, leather, paper, plastics, precious or semiprecious metals or stones, sheetmetal, ferrous or nonferrous metals, shell, textiles, wax, wire, wood (excluding sawmills), yarn and paint.

c. Tool and die shops: metalworking machine shops involving the use of grinding or cutting tools, such as

manufacturing tools, dies, jigs and fixtures, publishing, printing, or forming of box, carton, and cardboard products.

(5) Retail sales typically incidental to contractors' establishments which require a workshop and retail outlet or showroom as accessory uses, including:

a. Plumbing and electrical contractors.

b. Building material suppliers and wholesalers such as lumberyards and other similar uses.

c. Carpenter shops, including door, sash or trim manufacturing.

d. Jobbing and repair machine shops.

e. Commercial garages, bump shops, or automobile repair garages.

f. Plastic products forming and molding.

g. Printing and publishing.

h. Trade and industrial schools.

i. Air conditioning and heating dealers, including incidental sheetmetal work.

j. Furniture reupholstering and refinishing establishments.

k. Sign painting establishments.

l. Establishments producing and selling monuments, cut stone, stone and similar products.

m. Other uses similar to and compatible with such uses.

(6) Communications facilities with buildings, public utility buildings, telephone exchange buildings, electric transformer stations and substations, gas regulator stations, communication and relay stations, but not including towers.

(Ord. of 5-1-95, § 8-13-2)

Sec. 74-333. - Permitted accessory uses.

The following are permitted accessory uses in the I-1 district:

(1) Any use customarily incidental to the permitted principal use.

(2) Living quarters of a watchman or caretaker employed on the premises.

(3) Dispensaries and clinics on the premises of and clearly incidental to any business, trade or industry.

(4) Restaurant or cafeteria facilities for employees.

(5) Signs, subject to the regulations established in article VII of this chapter.

(6) Off-street parking as required by article VI of this chapter.

(Ord. of 5-1-95, § 8-13-3)

Sec. 74-334. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in the I-1 district by the application for and the issuance of a special use permit as provided for in article VIII of this chapter:

(1) Planned research or industrial parks.

(2) The storage of trucks, trailer coaches, campers, buses and recreational vehicles.

(3) Commercial kennels.

(Ord. of 5-1-95, § 8-13-4)

Sec. 74-335. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the I-1 district:

(1) *Minimum lot area.* No structure shall be established on any parcel providing less than 12,000 square feet of lot area.

(2) *Minimum lot width.* The minimum lot width shall be 100 feet.

(3) *Yard and setback requirements.*

a. *Front yard.* The required front yard setback shall be 25 feet.

b. *Side and rear yards.* The side and rear yard setback shall be ten feet, except in the case of a corner lot, where the side yard shall not be less than the setback required for the front yard.

c. *Side and rear yards adjacent to residential district.* No structure shall be located less than 25 feet from any residential district boundary line.

d. *Setback from right-of-way or water body.* No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way, or closer than 75 feet to any body of water.

(4) *Maximum height.* Maximum height is 40 feet, measured from the average finished grade at the front setback line, unless each required yard setback is increased by one foot for every foot of height above 40 feet.

(5) *Other requirements.*

a. The storage of materials or equipment is permitted in the side and rear yards, but all storage areas shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates. The wall or fence shall in no case be lower than the enclosed storage.

b. Landscaping shall be maintained in all required front yards, in accordance with plans approved by the zoning administrator as a part of the site plan approval.

c. Lighting shall be accomplished in a manner such that no illumination source shall adversely affect the welfare of adjacent properties.

d. Trash containers shall be enclosed by a structure covered on at least three sides. The property shall be maintained free from litter and in a sanitary condition.

e. Air conditioning units, heating oil storage tanks or similar appurtenances shall be properly screened as approved by the zoning administrator.

(Ord. of 5-1-95, § 8-13-5)

Sec. 74-336. - Performance standards.

It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building or equipment that produces irritants to the sensory perceptions greater than the measures established in this section, which are hereby determined to be the maximum permissible hazards to humans or human activities. Such measures may be supplemented by other measures which are duly determined to be maximum permissible hazards to humans or to human activity.

(1) *Noise.* The intensity level of sounds shall not exceed the decibel levels listed in section 30-26 et seq.

(2) *Vibration.* All machinery shall be so mounted and operated as to prevent transmission of ground vibration to neighboring property.

(3) *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines as to produce a public nuisance or hazard beyond lot lines is prohibited.

(4) *Gases.* The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.

(5) *Glare and heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

(6) *Light.* Exterior lighting shall be so installed and shall be so arranged as far as practical to reflect light away from any residential use.

(7) *Electromagnetic radiation.* Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this chapter.

(8) *Smoke.* It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator which is:

a. As dark or darker in shade as that designated as no. 2 on the Ringelmann Chart. The Ringelmann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the umbrascope readings of smoke densities may be used when correlated with the Ringelmann Chart. A Ringelmann Chart shall be on file in the office of the zoning administrator.

b. Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in subsection a. of this subsection, except when the emission consists only of water vapor.

(9) *Drifted and blown material.* The drifting or airborne transmission to areas beyond the lot line of dust, particles or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.

(10) *Radioactive material.* Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.

(11) *Sewage wastes.* No industrial sewage wastes shall be discharged into any storm or sanitary sewers that will cause chemical reaction, either directly or indirectly, with the materials of construction so as to impair the strength or durability of sewer structures, cause mechanical action that will destroy or damage the sewer structures, cause restriction of the hydraulic capacity of sewer structures, cause placing of unusual demands on the sewage treatment equipment or process, cause limitation of the effectiveness of the sewage treatment process, cause danger to public health and safety, or cause obnoxious conditions contrary to the public interest. Industrial sewage discharges shall meet all applicable state and federal requirements.

(Ord. of 5-1-95, § 8-13-6)

Secs. 74-337—74-350. - Reserved.

DIVISION 9. - I-2 GENERAL INDUSTRIAL DISTRICT

Sec. 74-351. - Purpose.

It is the purpose of the I-2 district to encourage sound industrial development by providing and protecting an environment exclusively for such development, subject to regulations necessary to ensure the purity of the air and groundwater or surface water, and the protection of adjacent uses from hazards or nuisance factors.

(Ord. of 5-1-95, § 8-14-1)

Sec. 74-352. - Uses permitted by right.

In an I-2 general industrial district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided for in this chapter:

(1) All uses permitted by right in the I-1 light industrial district are permitted.

(2) Any industrial, manufacturing or repair use may be permitted, provided the nature or manner of operation is in compliance with section 74-336, pertaining to performance standards.

(Ord. of 5-1-95, § 8-14-2)

Sec. 74-353. - Permitted accessory uses.

The following are permitted accessory uses in the I-2 district: those accessory uses as permitted in the I-1 light industrial district, except those uses identified with the B-2 general business district.

(Ord. of 5-1-95, § 8-14-3)

Sec. 74-354. - Uses permitted by special use permit.

The following uses of land and structures may be permitted in this district by the application for and the issuance of a special use permit as provided for in article VIII of this chapter:

(1) Those special uses as permitted in the I-1 light industrial district.

(2) The storage of used materials, including rags, wastepaper, waste products or similar materials, and open storage or salvage yards.

(3) Petroleum bulk stations and terminals.

(4) Breweries and distilleries.

(5) Millwork, lumber mills (sawmills) and planing mills.

(6) Metal stamping, punching, buffing, plating and hammering.

(7) Chemical processes and manufacture.

(8) Foundries.

(9) Railroad terminal facilities.

(10) Legally licensed manufacturers and/or distributors of medical marijuana.

(Ord. of 5-1-95, § 8-14-4; Ord. of 10-1-14)

Sec. 74-355. - Site development standards.

The following maximum and minimum standards shall apply to all uses and structures in the I-2 district:

(1) *Minimum lot area.* No structure shall be established on any parcel providing less than 15,000 square feet of lot a

(2) *Minimum lot width.* The minimum lot width shall be 100 feet.

(3) *Yard and setback requirements.*

a. *Front yard.* The required front yard setback shall not be less than 25 feet.

b. *Side and rear yards.* The side and rear yard setback shall be 10 feet, except in the case of a corner lot, where the side yard shall not be less than the setback required for the front yard.

c. *Setback from right-of-way or water body.* No building or structure, including accessory buildings, shall be constructed closer than ten feet to any dedicated public street or alley right-of-way, or closer than 75 feet to any body of water.

d. *Side and rear yards adjacent to residential district.* No structure shall be located less than 50 feet from any residential district boundary line.

(4) *Maximum height.* Maximum height is 40 feet, measured from the average finished grade at the front setback line, unless each required yard setback is increased by one foot for every foot of height above 40 feet.

(5) *Other requirements.*

a. The storage of materials or equipment is permitted in the side and rear yards, but all storage areas shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates. The wall or fence shall in no case be lower than the enclosed storage.

b. Landscaping shall be maintained in all required front yards, in accordance with plans approved by the zoning administrator as a part of the site plan review.

c. Lighting shall be accomplished in a manner such that no illumination shall adversely affect the welfare of adjacent property.

d. Trash containers shall be enclosed by a structure covered on at least three sides. The property shall be maintained free from litter and in a sanitary condition.

e. Air conditioning units, heating oil storage tanks or similar appurtenances shall be properly screened as approved by the zoning administrator.

(Ord. of 5-1-95, § 8-14-5)

Sec. 74-356. - Performance standards.

Those requirements as contained in section 74-336, pertaining to performance standards, shall be complied with by all activities permitted in the I-2 general industrial district.

(Ord. of 5-1-95, § 8-14-6)

Secs. 74-357—74-370. - Reserved.

DIVISION 10. - O-R OPEN SPACE CONSERVATION/RECREATION DISTRICT

Sec. 74-371. - Purpose.

The O-R district is intended to provide for permanent open spaces in the community, and designed for undeveloped or low intensity developed public and private recreational uses, and to safeguard the health, safety and welfare of the city's residents by limiting development in areas where police and fire protection, protection against flooding, high water table or stormwater, and dangers from excessive erosion is not possible without excessive costs to the city. The regulations and conditions contained in this division are designed to promote development that can be compatible with the preservation of natural amenities and open space areas and to prohibit development which might detract from, injure, harm, impair or destroy the natural or existing character of these areas.

(Ord. of 5-1-95, § 15-17-1)

Sec. 74-372. - Uses permitted by right.

In an O-R open space conservation/recreation district, no building or land shall be used and no building erected except for one or more of the following specified uses, unless otherwise provided in this chapter:

(1) Public and private conservation areas, including structures used in the development, protection and maintenance of open space, watersheds, and water, soil, forest and wildlife resources.

(2) Public or private parks or recreation areas, including but not limited to playgrounds, playfields, golf courses, hiking or skiing trails, fishing sites, parks, parkways or preserves.

(3) Public marinas or boat launching facilities and fishing piers.

(4) Public and private utilities and services, providing the facilities do not detract from the natural appearance of the area or have a potential for causing erosion.

(Ord. of 5-1-95, § 15-17-2)

Secs. 74-373—74-410. - Reserved.

ARTICLE IV. - SPECIAL PROVISIONS

Sec. 74-411. - Scope of article.

The special provisions in this article establish miscellaneous regulations which have not been specifically provided for in other portions of this chapter, yet are applicable to all zoning districts unless otherwise indicated.

(Ord. of 5-1-95, art. XIX)

Sec. 74-412. - Unsafe buildings.

Nothing in this chapter shall prevent compliance with an order by an appropriate authority to correct, improve or strengthen, or restore to a safe condition, any building or any part of a building declared to be unsafe.

(Ord. of 5-1-95, § 8-19-1)

Sec. 74-413. - Number of principal buildings on lot.

No more than one principal building may be permitted on a lot or parcel located in the R-1 or R-2 district.

(Ord. of 5-1-95, § 8-19-2)

Sec. 74-414. - Access to street.

A lot of record created before May 31, 1995, without any frontage on a street shall not be occupied without access to a street provided by an easement or other right-of-way no less than 20 feet wide. No more than one lot may be served by such an access route.

(Ord. of 5-1-95, § 8-19-3)

Sec. 74-415. - Grading.

The finished surface of the ground areas outside the walls of any building constructed or altered after May 31, 1995, shall be so designed that surface waters shall flow away from the building walls in such a direction and collected so that inconvenience or damage to adjacent properties shall not occur.

(Ord. of 5-1-95, § 8-19-4)

Sec. 74-416. - Water supply and sanitary sewerage facilities.

Any structure erected for human occupancy after May 31, 1995, and used for dwelling, business, industrial or recreational purposes shall be provided with a safe, sanitary and potable water supply, and with a safe and effective means of collection, treatment and disposal of human, commercial or industrial wastes. All such installations shall comply with the requirements of the state, the county health department and the city, and all applicable codes in force at the time of application.

(Ord. of 5-1-95, § 8-19-5)

Sec. 74-417. - Moving buildings.

No existing building or other structure within or outside the city shall be relocated upon any parcel or lot within the city unless the building design and construction are compatible with the general architectural character, design and construction of other structures located in the immediate area of the proposed site, the building and all materials therein are in conformity with all applicable building codes, and the building or structure can be located upon the parcel and conform to other requirements of the respective zoning district. A moving permit shall be issued by the building inspector upon evidence of compliance to the requirements in this section.

(Ord. of 5-1-95, § 8-19-6)

Sec. 74-418. - Prior building permits.

Any building permits issued prior to May 31, 1995, shall be valid even though not conforming to the provisions of this chapter, provided that construction is commenced within 90 days after the date of permit issuance and carried on diligently without interruption for a continuous period of 90 days.

(Ord. of 5-1-95, § 8-19-7)

Sec. 74-419. - Fences, walls and screens.

It shall be unlawful for any person to construct or install, or cause to be constructed or installed, any fence, wall or screen of any material other than plant material upon any property within the city, except in accordance with the requirements and the restrictions provided in this section.

(1) *Permit.* Any person desiring to build or install, or cause to be built or installed, a fence, wall or screen upon any property in the city shall first apply to the office of the zoning administrator for a permit to do so. Application for such permit shall contain any and all information, including drawings, as may be required and necessary for the determination as to whether the erection of such fence, wall or screen would be in compliance with these regulations or the laws of the state, including identification of property stakes to show actual lot lines on the affected property. A fence permit fee shall be paid to the city.

(2) *Restrictions.*

a. Fences, walls or screens shall not exceed six feet in height in residential districts, except for sports facilities such as tennis courts, backstops or similar uses, located along rear yard and side yard property lines, and shall not exceed a height of four feet and 60 percent solid or opaque in construction along front yard property lines, subject to the provisions in this section. Fences, walls and screens shall not exceed eight feet in height, except for sports facilities such as tennis courts, backstops or similar uses, in commercial and industrial districts located along front, rear and side property lines.

b. A fence, wall or screen shall be erected at least one foot from the property line of the requestor and parallel to the property line unless the abutting property owner consents in writing to erecting the fence, wall or screen on the property line. However, no fence; wall or screen shall be constructed nearer than five feet to any public street or alley right-of-way; provided, however, that ornamental and decorative wood or metal fences that are not in excess of 60 percent solid or opaque, and retaining walls or screens that do not exceed four feet in height may be erected on the lot lines of the front and side yards in residential districts adjacent to any public street or alley right-of-way provided the design has been approved by the zoning administrator.

c. Fences on residential lots of record shall not contain barbed wire or be electrified or chain link type fences with sharp wire exposed. Front yard fencing shall exclude: T type posts, snow fence, slack wire and chicken wire type fences.

d. The construction design and construction materials for the building of fences shall be in accordance with all applicable building codes in force at the time of construction. All fences shall be constructed with the finished side facing out.

e. The requirements for fences, walls and screens are not intended to restrict landscaping features that may be planted or exist as part of a beautification project of any premises.

(3) *Clear vision requirements.*

a. No fence, wall, sign or screen or any planting shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve, or between a height of three and ten feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points which are located on those intersecting right-of-way lines 30 feet from the point of intersection of the right-of-way lines. The three-foot height limit shall be measured from the lowest elevation of the segment

of the intersecting road's centerline which lies between the point of intersection of the other centerline and the extension of the line drawn through the points 30 feet from the intersection of the right-of-way lines.

b. No fence, wall, sign, screen or any planting shall be erected or maintained in such a way as to obstruct vision between a height of three and ten feet within the triangular area formed by the intersection of a street right-of-way and a driveway and a line connecting two points which are located on the right-of-way line and the driveway 20 feet from the point of intersection of the right-of-way line and driveway. The three-foot height limit shall be measured from the lowest elevation of the segment of the intersecting road and driveway's centerline which lies between the point of intersection of the centerline and the extension of the line drawn through the points 20 feet from the intersection of the right-of-way and driveway.

(4) *Maintenance of fences, walls and screens.*

a. Fences, walls and screens shall be maintained so as not to endanger life or property.

b. Any fence, wall or screen which, through lack of repair, type of construction or otherwise, endangers life or property is hereby declared a nuisance as defined in this chapter. (See the definition of nuisance.)

c. If unsafe conditions exist in regard to a fence, wall or screen, the zoning administrator shall serve on the owner, agent or person in control of the property upon which the fence, wall or screen is located a written notice describing the unsafe conditions and specifying the required repairs or modifications to be made to render the fence, wall or screen safe, or requiring the removal of the fence, wall or screen if such repairs or modifications are not done, and shall provide a time limit for such repair, modification or removal.

(Ord. of 5-1-95, § 8-19-8; Ord. of 9-18-17)

Sec. 74-420. - Accessory buildings.

Accessory buildings, except as otherwise provided in this chapter, shall be subject to the following regulations:

(1) An accessory building, including carports attached to the principal building, shall be made structurally a part thereof, and shall comply in all respects with the requirements of this chapter applicable to the principal building. Breezeways, as an attachment between the garage or carport and the main building, shall be considered a part of the main building, but shall not be considered livable floor area.

(2) An accessory building, unless attached to and made structurally a part of the principal building, shall not be closer than ten feet to any other structure on the lot.

(3) No accessory building shall be closer than three feet to any interior side or rear lot line, and no structure shall be constructed closer than ten feet to any dedicated public street or alley right-of-way.

(4) Accessory buildings are subject to all setback requirements from the street applying to the principal building, except for the rear setback; provided, however, when topographic conditions prevent compliance with this subsection the zoning board of appeals may vary the requirements of this subsection in such a manner as to contribute to the public safety and general welfare.

(5) No detached accessory building in any residential district shall exceed one story or 18 feet in height. Detached accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in such districts, subject to approval of the zoning board of appeals, if the building

exceeds one story or 18 feet in height.

(6) The design of the accessory building is compatible with the existing neighborhood by taking into account height, bulk, and site location, and incorporating materials, colors, and design motif that is compatible with and compliments the architectural theme and style of the principle dwelling unit.

(7) Fabric structures (hoop or otherwise framed) shall be allowed in a rear yards only on lots with a minimum of 150 feet of frontage. Existing fabric structures at the time of this amendment may remain as legal non-conforming until the fabric is past its rated life, or until the condition is determined by the zoning administrator to be deteriorated or not serviceable. The fabric may not be replaced, and the whole structure (tube frame) must be removed.

(Ord. of 5-1-95, § 8-19-9; Ord. of 7-16-01(3); Ord. of 12-3-18 ; Ord. of 12-16-19)

Sec. 74-421. - Variance of requirements for lots of record.

Any residential lot created and recorded prior to May 31, 1995, may be used for residential purposes, even though the lot area or dimensions are less than those required for the district in which the lot is located; provided that yard dimensions and other requirements of the district, not involving lot area or width, are met.

(Ord. of 5-1-95, § 8-19-10)

Sec. 74-422. - Allocation of lot area.

No portion of a lot may be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.

(Ord. of 5-1-95, § 8-19-11)

Sec. 74-423. - Permitted yard encroachments.

The following elements of structures may extend or project into a required yard area in accordance with the following provisions:

(1) Certain architectural features such as cornices, eaves, gutters, chimneys, bay windows, balconies and similar features may project three feet into the required front setback, six feet into required rear setback areas and two feet into the required side yard setback areas.

(2) Unenclosed porches, patios, paved terraces and decks may project into a required front setback area for a distance not to exceed eight feet, into the required rear setback area for a distance not to exceed 15 feet, and into a required side setback area for a distance not to exceed three feet, but in no case shall such a structure be placed closer than five feet to any lot line.

(3) Fire escapes or open stairways may project into a side yard not more than three feet, or six feet into the required rear yard.

(Ord. of 5-1-95, § 8-19-12)

Sec. 74-424. - Front setback reduction or increase.

Any front setback area in any district may be reduced below the minimum requirements only when the average front setback of existing principal buildings within 100 feet of a proposed principal building location is less than the minimum required, in which case the zoning administrator shall establish the required average. Where the established setback is greater than the required minimum, the required setback for the proposed building shall be the average of the existing buildings.

(Ord. of 5-1-95, § 8-19-13)

Sec. 74-425. - Rear setback reduction.

When a lot of record in any single-family residential district has a depth of less than 120 feet prior to May 31, 1995, the rear setback area of such a lot may be reduced one-quarter of the distance of the lot depth less than 120 feet, except that no rear setback area shall be reduced to a depth less than 20 feet, and except further that, if a rear lot line abuts an existing or proposed street, the zoning administrator may establish the required minimum rear setback, based on the average procedure set forth in section 74-424.

(Ord. of 5-1-95, § 8-19-14)

Sec. 74-426. - Rear yards for lake frontage lots.

Residential lots having water frontage shall maintain the required rear yard open space on the water side as an open unobscured space, except that a covered or uncovered boat well shall be permitted after review and approval of plans by the zoning administrator.

(Ord. of 5-1-95, § 8-19-15)

Sec. 74-427. - Double-frontage lots.

In the case of double-frontage lots (interior lots having frontages on two streets) all sides of the lots adjacent to streets shall be considered frontage and front yards shall be provided as required. In the case of any plat approved after May 31, 1995, one street will be designated as the front street in the plat.

(Ord. of 5-1-95, § 8-19-16)

Sec. 74-428. - Access through yards.

Access drives may be placed in the required front, rear or side yards so as to provide access to the rear yard or accessory or attached structures. Further, any walk or other pavement serving a like function shall not be considered a structure and shall be permitted in any required yard.

(Ord. of 5-1-95, § 8-19-17)

Sec. 74-429. - Use of temporary buildings and structures.

Use of temporary buildings and structures is permitted as follows:

(1) Temporary buildings and structures incidental to construction work, except work on single-family residences. The temporary buildings shall be removed within 15 days after construction is complete. In no case shall the

building or structure be allowed more than 12 months, unless expressly authorized after petition to the zoning administrator.

(2) Temporary buildings incidental to a house of worship, church or school, provided that all wiring, plumbing, fire protection and exits are approved by the fire chief and building inspector, and by relevant state agencies. Such uses shall be authorized by the zoning board of appeals, after application.

(Ord. of 5-1-95, § 8-19-18)

Sec. 74-430. - Essential services.

The erection, construction, alteration or maintenance of essential services by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, or collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience or welfare, shall be permitted as authorized and regulated by law and other ordinances of the city and upon filing of an application for administrative review of the proposed activity with the city manager. While the erection, construction, alteration or maintenance of essential services is exempted from the application of other provisions as contained in this chapter, such exemption shall not extend to utility buildings, substations, communication, microwave or wind generation towers, structures which are enclosures or shelters for service equipment, or maintenance depots.

(Ord. of 5-1-95, § 8-19-19)

Sec. 74-431. - Swimming pools.

Private swimming pools shall be permitted in rear yards only, provided that they meet the following requirements:

(1) *Permit required; approval of plans.* A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged or altered until plans have been approved and a permit issued by the zoning administrator. Plans shall accurately show dimensions and construction of the pool and appurtenances and properly established distances to lot lines, buildings, walks and fences, as well as details of the water supply system, drainage system and water disposal system, and all appurtenances pertaining to the swimming pool. Detailed plans of structures, vertical elevations and sections through the pool showing depth shall be included.

(2) *Location.*

a. Private swimming pools shall not encroach on any front or side yard. A wall of a swimming pool shall not be located less than ten feet from any rear or side property line or ten feet from any street or alley line. There shall be a distance of not less than ten feet between the pool wall and a building located on the same lot.

b. No swimming pool shall be located under any power lines, or located within an easement.

(3) *Enclosure.* Every person owning land on which there is situated a swimming pool which contains 24 inches or more of water in depth at any point shall erect and maintain thereon an adequate enclosure either surrounding the property or surrounding the pool area, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four feet above the underlying

ground. All gates must be self-latching and capable of being securely locked when not in use, with latches placed four feet above the underlying ground and otherwise made inaccessible from the outside to small children.

(Ord. of 3-13-01)

Sec. 74-432. - Medical marihuana facilities.

(a) *General regulations.* It is the intent of this section to authorize the establishment of certain types of medical marijuana facilities in the City of Iron Mountain and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods and business districts; and mitigate potential impacts on surrounding properties and persons.

It is further the intent of this section to implement the provisions of the Michigan Medical Marihuana Facilities Licensing Act (Public Act 281 of 2016; MCL 333.27101 et seq.) with respect to local zoning and land use, and to permit the growing, processing, sale, and distribution of medical marihuana consistent with applicable state statutes.

Nothing in this chapter purports to permit activities that are otherwise illegal under state or local law, and nothing in this article is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacturing, possession, use, sale, or distribution of marijuana, in any form, that is not in compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; and all other applicable rules promulgated by the State of Michigan. Through this article, the City of Iron Mountain adopts all definitions contained in any of the state rules, regulations, statutes, administrative code, enacted for the purpose of regulating marihuana facilities.

(b) *Regulations*. Medical marihuana facilities as defined by this article shall be subject to the following regulations:

(1) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by City of Iron Mountain. In the event that a court with jurisdiction declares some or all of this section invalid, the City of Iron Mountain may suspend the acceptance of applications for permits pending the resolution of the legal issue in question.

(2) An operator of a medical marihuana facility shall at all times have a valid medical marihuana facility license issued by the City of Iron Mountain, pursuant to this chapter, as amended, and a state operating license as issued by LARA pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.

(3) *Separation of licensed premises*. One building may be used for one or more types of marihuana facilities, provided that the locational requirements and all other standards for each type of medical marihuana facility are satisfied. In addition to all other application requirements for separate premises, each business shall:

a. Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.

b. Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical marihuana business and any adjacent business.

(4) *Operation and safety/security plans*. In addition to the materials required for site plan review, chapter 74, article II, division 5, an application for a medical marihuana facility shall also include a comprehensive facility operation and safety plan.

a. A comprehensive facility operation plan for the medical marihuana commercial entity which shall contain,

at minimum, a safety/security plan indicating how the applicant will comply with the requirements of this article and any other applicable law, rule or regulation.

b. The safety/security plan shall include details of security arrangements and will be protected from disclosure as provided under Michigan Freedom of Information Act, MCL 15.231 et seq. If the city finds that such documents are subject to disclosure, it will attempt to provide at least two business days' notice to the applicant prior to such disclosure.

c. The security plan must include, at a minimum, the following security measures:

1. *Cameras*. The medical marihuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to medical marihuana or cash maintained by the medical marihuana business entity. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of 45 days in a secure offsite location in the city or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the city and provided to the City of Iron Mountain Police Department upon request, and updated within 72 hours of any change of such location. Security cameras shall be directed to record only the subject property and may not be directed to public rights-of-ways as applicable, unless required to comply with licensing requirements of the State of Michigan.
2. *Use of safe for storage*. The medical marihuana business shall install and use a safe for storage of any cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For medical marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe so long as the container is affixed to the building structure.
3. *Alarm system*. The medical marihuana business shall install and use an alarm system that is monitored by a company that is staffed 24 hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and updated within 72 hours of any change of monitoring company.
4. For grower and processing facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city.
5. A lighting plan showing the lighting outside of the medical marihuana facility for security purposes and compliance with applicable city requirements.
6. A plan for disposal of any medical marihuana or medical marihuana-infused product, including any/all byproducts and/or waste products that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
7. A plan for ventilation of the medical marihuana facility that describes the ventilation systems that will be used to prevent any odor of medical marihuana off the premises of the business. For medical marihuana facilities that grow medical marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with

the systems preventing any odor leaving the premises. For medical marihuana businesses that produce medical marihuana-infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

8. A description of all toxic, flammable, or other materials regulated by a federal, state, or local authority that would have jurisdiction over the business if it was not a medical marihuana business, that will be used or kept at the medical marihuana business, the location of such materials, and how such materials will be stored.
9. A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility.
10. Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the city and have an approved completed application for modification of premises in the form provided by the city.
11. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a medical marihuana facility and any adjacent business or residence.
12. A description of the security plan shall be submitted with the application for a city operating license. The security system, shall be maintained in good working order and provide 24 hours per day coverage. A separate security system is required for each facility.

(4) Pursuant to MCL 333.7410 et seq., medical marihuana facilities shall not be located within 500 feet of a school property.

(5) Unless otherwise provided or exempted by this section, medical marihuana facilities shall comply with all other applicable standards of this article.

(6) The license required by the City of Iron Mountain and the State of Michigan shall be prominently displayed on the premises of a medical marihuana facility.

(7) Disposal of medical marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with state law.

(8) All chemicals or hazardous substances used in the growing, processing, testing or storage of medical marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, state or local regulations.

(9) *Warning signs*. There shall be posted in a conspicuous location inside of each facility at least one legible sign containing the content of this section warning that:

a. The possession, use or distribution of marihuana is a violation of federal law;
b. It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by marihuana;
c. No one under the age of 18 is permitted on the premises.

(10) In addition, it shall be unlawful for any licensee to:

a. Use signage or advertising with the word "marihuana", "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marihuana or any advertising material that would appeal to minors;
b. Advertise in a manner that is inconsistent with the medicinal use of medical marihuana or use

advertisements that promote medical marihuana for recreational or any use other than medicinal purposes.

(c) *Visibility of activities; control of emissions.*

(1) All activities of medical marihuana commercial entities, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of medical marihuana and medical marihuana-infused products shall be conducted indoors and out of public view.

(2) No medical marihuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

(3) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a medical marihuana commercial entity must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a medical marihuana commercial entity, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(4) No person, tenant, occupant, or property owner shall permit the emission of medical marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

(5) Whether or not a medical marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(6) A grower or a processor shall install and maintain in operable condition a system which precludes the emission of medical marihuana odor from the premises.

(d) *Additional requirements.*

(1) No medical marihuana business may use metals, butane, propane, or other flammable product, or produce flammable vapors, to process medical marihuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

(e) *Medical marihuana cultivation/growers.*

(1) *Cultivation, generally.*

a. No medical marihuana cultivation shall be conducted openly or publicly.

b. Medical marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the city and the state.

c. Medical marihuana cultivation shall not occur in detached outbuildings.

d. All medical marihuana cultivation shall take place in a locked and enclosed space.

(2) All medical marihuana products kept on premises where medical marihuana plants are grown shall be stored in a locked and enclosed space.

(3) No medical marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the structure (including dwellings) at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or

other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.

(4) As required by the MMFLA, growers shall only be permitted on parcels within the industrial district (I-1 and I-2).

(5) Light cast by fixtures within the building shall not be visible from outside the building.

(6) The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The facility shall not emanate odors at any time that are readily detectible at the property line.

(7) Doors and windows to a growing facility shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.

(f) *Processing facilities.*

(1) As required by the MMFLA processors shall only be permitted on parcels within the industrial district (I-1 and I-2).

(2) Light cast by fixtures within the building shall not be visible from outside the building.

(3) The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The facility shall not emanate odors at any time that are readily detectible at the property line.

(4) Doors and windows to a growing facility shall remain closed and locked, except for the minimum length of time needed to allow people to reasonably enter or exit the building.

(g) *Provisioning centers.*

(1) Provisioning centers shall be permitted in any B-2, I-1 or I-2 only, but shall not be closer than 500 feet from any school.

(2) All activities of a provisioning center, including all sales/transfers of medical marihuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or a drive-thru window service.

(3) Unless otherwise permitted, public or common areas of the medical marihuana provisioning center must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. No medical marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.

(4) Medical marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the provisioning center.

(5) The exterior appearance of a provisioning center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Iron Mountain.

(6) Provisioning centers shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an

activated carbon filter. The facility shall not emanate odors at any time that are readily detectible at the property line.

(h) *Safety compliance facilities.*

(1) Medical marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the safety compliance facility.

(2) Doors and windows to a safety compliance facility shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building. (B-2, I-1, I-2).

(i) *Secure transporters.*

(1) Medical marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the secure transporter.

(2) Doors and windows to a secure transporter shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building. (B-2, I-1, I-2).

(Ord. of 6-3-19(2))

Sec. 74-433. - Recreational marihuana establishments.

(a) *General regulations.* It is the intent of this section to authorize the establishment of certain types of recreational marihuana establishments in the City of Iron Mountain and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the character of neighborhoods and business districts; and mitigate potential impacts on surrounding properties and persons.

It is further the intent of this section to implement the provisions of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq., with respect to local zoning and land use, and to permit the growing, processing, sale, and distribution of recreational marihuana consistent with applicable state statutes.

Nothing in this chapter purports to permit activities that are otherwise illegal under state or local law, and nothing in this article is intended to grant immunity from criminal or civil prosecution, penalty, or sanction for the cultivation, manufacturing, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with either the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; the Marihuana Tracking Act, MCL 333.27901 et seq.; or Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq.; and all other applicable rules promulgated by the State of Michigan.

Through this article, the City of Iron Mountain adopts all definitions contained in any of the state rules, regulations, statutes, administrative code, enacted for the purpose of regulating recreational marihuana establishments.

(b) *Regulations*. Recreational marihuana establishments, as defined by this article, shall be subject to the following regulations:

(1) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law may not be permitted by City of Iron Mountain. In the event that a court with jurisdiction declares some or all of this section invalid, the City of Iron Mountain may suspend the acceptance of applications for permits pending the resolution of the legal issue in question.

(2) An operator of a recreational marihuana establishments shall at all times have a valid recreational marihuana establishment license issued by the City of Iron Mountain, pursuant to this chapter, as amended, and a state

operating license as issued by LARA pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951 et seq.

(3) *Separation of licensed premises*. One building may be used for one or more types of marihuana facilities, provided that the locational requirements and all other standards for each type of recreational marihuana establishments are satisfied. In addition to all other application requirements for separate premises, each business shall:

a. Have separate operations, ventilation, security, and fire suppression systems, and separate access from a public area.

b. Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical marihuana business and any adjacent business.

(4) *Operation and safety/security plans*. In addition to the materials required for site plan review, chapter 74, article II, division 5, an application for a recreational marihuana establishment shall also include a comprehensive facility operation and safety plan.

a. A comprehensive facility operation plan for the recreational marihuana establishment which shall contain, at minimum, a safety/security plan indicating how the applicant will comply with the requirements of this article and any other applicable law, rule or regulation.

b. The safety/security plan shall include details of security arrangements and will be protected from disclosure as provided under Michigan Freedom of Information Act, MCL 15.231 et seq. If the city finds that such documents are subject to disclosure, it will attempt to provide at least two business days' notice to the applicant prior to such disclosure.

c. The security plan must include, at a minimum, the following security measures:

1. *Cameras*. The recreational marihuana establishments shall install and use security cameras to monitor and record all areas of the premises (except in restrooms) where persons may gain or attempt to gain access to recreational marihuana or cash maintained by the recreational marihuana establishment. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of 45 days in a secure offsite location in the city or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The offsite location shall be included in the security plan submitted to the city and provided to the City of Iron Mountain Police Department upon request, and updated within 72 hours of any change of such location. Security cameras shall be directed to record only the subject property and may not be directed to public rights-of-ways as applicable, unless required to comply with licensing requirements of the State of Michigan.

2. *Use of safe for storage*. The recreational marihuana establishment shall install and use a safe for storage of any cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For recreational marihuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the city in place of use of a safe so long as the container is affixed to the building structure.

3. *Alarm system*. The recreational marihuana establishment shall install and use an alarm system that is

monitored by a company that is staffed 24 hours a day, seven days a week. The security plan submitted to the city shall identify the company monitoring the alarm, including contact information, and updated within 72 hours of any change of monitoring company.

4. For grower and processing facilities, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the city.
5. A lighting plan showing the lighting outside of the recreational marihuana establishment for security purposes and compliance with applicable city requirements.
6. A plan for disposal of any recreational marihuana or recreational marihuana-infused product, including any/all byproducts and/or waste products that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.
7. A plan for ventilation of the recreational marihuana establishment that describes the ventilation systems that will be used to prevent any odor of recreational marihuana off the premises of the business. For recreational marihuana establishments that grow recreational marihuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For recreational marihuana establishments that produce recreational marihuana-infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.
8. A description of all toxic, flammable, or other materials regulated by a federal, state, or local authority that would have jurisdiction over the business if it was not a recreational marihuana establishment, that will be used or kept at recreational marihuana establishment, the location of such materials, and how such materials will be stored.
9. A statement of the amount of the projected daily average and peak electric load anticipated to be used by the business and certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility.
10. Prior to making a modification to a structure that would require a building permit or which would alter or change items required by this subsection, the licensee shall submit to the city and have an approved completed application for modification of premises in the form provided by the city.
11. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a recreational marihuana establishment and any adjacent business or residence.
12. A description of the security plan shall be submitted with the application for a city operating license. The security system, shall be maintained in good working order and provide 24 hours per day coverage. A separate security system is required for each facility.

d. Pursuant to MCL 333.27951 et seq., recreational marihuana establishments shall not be located within 500 feet of a school property.

e. Unless otherwise provided or exempted by this section, recreational marihuana establishments shall comply with all other applicable standards of this article.

f. The license required by the City of Iron Mountain and the State of Michigan shall be prominently

displayed on the premises of a recreational marihuana establishment.

g. Disposal of recreational marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with state law.

h. All chemicals or hazardous substances used in the growing, processing, testing or storage of recreational marihuana shall be stored and used in strict compliance with manufacturer recommendations and all applicable federal, state or local regulations.

i. Warning signs: There shall be posted in a conspicuous location inside of each facility at least one legible sign containing the content of this section warning that:

1. The possession, use or distribution of marihuana is a violation of federal law;
2. It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by marihuana;
3. No one under the age of 18 is permitted on the premises.

j. In addition, it shall be unlawful for any licensee to:

1. Use signage or advertising with the word "marihuana", "marihuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marihuana or any advertising material that would appeal to minors;
2. Advertise in a manner that is inconsistent with the use of recreational marihuana or use advertisements that promote recreational marihuana for any use other than its purpose.

(c) *Visibility of activities; control of emissions*.

(1) All activities of recreational marihuana establishments, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, and storage of recreational marihuana and recreational marihuana-infused products shall be conducted indoors and out of public view.

(2) No recreational marihuana or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

(3) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a recreational marihuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a recreational marihuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(4) No person, tenant, occupant, or property owner shall permit the emission of recreational marihuana odor from any source to result in detectable odors that leave the premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.

(5) Whether or not a recreational marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

(6) A grower or a processor shall install and maintain in operable condition a system which precludes the emission of recreational marihuana odor from the premises.

(d) *Additional requirements.*

(1) No recreational marihuana establishment may use metals, butane, propane, or other flammable product, or pr flammable vapors, to process recreational marihuana unless the process used and the premises are verified as compliance with all applicable codes by a qualified industrial hygienist.

(e) *Recreational marihuana cultivation/growers.*

(1) *Cultivation, generally.*

a. No recreational marihuana cultivation shall be conducted openly or publicly.

b. Recreational marihuana cultivation shall comply with all applicable requirements of the laws and regulations of the city and the state.

c. Recreational marihuana cultivation shall not occur in detached outbuildings.

d. All recreational marihuana cultivation shall take place in a locked and enclosed space.

(2) All recreational marihuana products kept on premises where recreational marihuana plants are grown shall be stored in a locked and enclosed space.

(3) No recreational marihuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the structure (including dwellings) at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. In the event there is a lessee of the subject premises, the owner and the lessee shall be jointly and severally liable for such conditions.

(4) As required by the MMFLA, growers shall only be permitted on parcels within the industrial district (I-1 and I-2).

(5) Light cast by fixtures within the building shall not be visible from outside the building.

(6) The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The facility shall not emanate odors at any time that are readily detectible at the property line.

(7) Doors and windows to a growing facility shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building.

(g) *Processing facilities.*

(1) As required by the MMFLA processors shall only be permitted on parcels within the industrial district (I-1 and I-2).

(2) Light cast by fixtures within the building shall not be visible from outside the building.

(3) The building shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The facility shall not emanate odors at any time that are readily detectible at the property line.

(4) Doors and windows to a growing facility shall remain closed and locked, except for the minimum length of time needed to allow people to reasonably enter or exit the building.

(g) *Provisioning centers.*

(1) Provisioning centers shall be permitted in any B-2, I-1 or I-2 only, but shall not be closer than 500 feet from any s

(2) All activities of a provisioning center, including all sales/transfers of recreational marihuana, shall be conducted within the structure and out of public view. A provisioning center shall not have a walk-up window or a drive-thru window service.

(3) Unless otherwise permitted, public or common areas of the recreational marihuana provisioning center must be separated from restricted or non-public areas of the provisioning center by a permanent barrier. No recreational marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.

(4) Recreational marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the provisioning center.

(5) The exterior appearance of a provisioning center shall remain compatible with the exterior appearance of buildings already constructed or under construction within the immediate area. The exterior shall be maintained as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area. New buildings shall be constructed in accordance with the adopted plans and policies of the City of Iron Mountain.

(6) Provisioning centers shall be equipped with an activated carbon filtration system or other comparable odor control system to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter. The establishment shall not emanate odors at any time that are readily detectible at the property line.

(h) *Safety compliance facilities.*

(1) Recreational marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the safety compliance facility.

(2) Doors and windows to a safety compliance facility shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building. (B-2, I-1, I-2).

(i) *Secure transporters.*

(1) Recreational marihuana products shall not be smoked, ingested, or otherwise be consumed in the building or on the property occupied by the secure transporter.

(2) Doors and windows to a secure transporter shall remain closed, except for the minimum length of time needed to allow people to reasonably enter or exit the building. (B-2, I-1, I-2).

(Ord. of 10-7-19(2))

Secs. 74-434—74-450. - Reserved.

ARTICLE V. - NONCONFORMING USES AND STRUCTURES

Footnotes:
*--- (**2**) ---*
***State Law reference—** Nonconforming uses and structures, MCL 125.583a.*

Sec. 74-451. - Intent.

(a) It is the intent of this article to permit legal nonconforming lots, structures or uses to continue until they are remove not to encourage their survival.

(b) It is recognized that there exist, within the districts established by this chapter and subsequent amendments, lots, structures and uses of land and structures which were lawful before May 1, 1995, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.

(c) Such uses are declared by this article to be incompatible with permitted uses in the districts involved. It is further the intent of this article that nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after May 1, 1995.

(d) To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of any building on which construction was lawfully begun prior to May 31, 1995, and upon which actual construction has been diligently carried on. For purposes of this subsection, actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that, where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

(Ord. of 5-1-95, § 8-20-1)

Sec. 74-452. - Nonconforming uses of land.

Where, at May 31, 1995, lawful use of land exists that is no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at May 31, 1995.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at May 31, 1995.

(3) Nonconforming uses shall not be changed to another nonconforming use, except after approval of the zoning board of appeals. Before granting such approval, the zoning board of appeals shall determine that such change in use will have a less detrimental effect on neighboring properties than the existing nonconforming use.

(4) If such nonconforming use of land ceases for any reason for a period of more than 90 consecutive days, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. The time limit of discontinuance may be extended beyond the 90 days, for a period of time not to exceed one year, upon proper application to the zoning board of appeals within the 90-day period and upon presentation of evidence that an unnecessary hardship or practical difficulty would exist should the 90-day limitation be strictly enforced. At the end of this period of abandonment, the nonconforming use shall not be reestablished and any future use shall be in conformity with the provisions of this chapter.

(5) No nonconforming use shall be extended to displace a permitted conforming use.

(Ord. of 5-1-95, § 8-20-2)

Sec. 74-453. - Nonconforming structures.

Where a lawful structure exists at May 31, 1995, that could not be built under the terms of this chapter by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) Nonconforming structures shall not be altered or expanded without the prior approval of the zoning board of appeals, except that the following structural alterations may be permitted:

a. Structural alterations or extensions adding to the bulk of a residential structure which is nonconforming only by reason of lot size or lot width shall be permitted without prior approval of the zoning board of appeals; provided that such structure, alteration or extension shall not increase the extent of nonconformity and shall satisfy all other site development regulations which are applicable.

b. Structural alterations which do not add to the bulk of the structure or increase the intensity of use of the structure shall not require prior approval of the zoning board of appeals.

(2) Nonconforming buildings and structures shall not be structurally altered so as to prolong the life of the building or structure, unless the zoning board of appeals shall give its approval for the alteration of nonconforming buildings or structures. Only when it is determined that the proposed building or structure alteration or extension complies as nearly as is practical with the requirements of this chapter, and that the granting of the approval for the construction of the proposed structural alteration or extension will not have a detrimental effect on neighboring property, shall approval for the alteration by the zoning board of appeals be granted.

(3) Nonconforming structures shall not be reestablished in their nonconforming condition in any zoning district after damage or destruction of the nonconforming structure if the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost of the entire building or structure exclusive of foundation. In cases where such cost does exceed 50 percent, the nonconforming structure shall not be replaced unless it shall comply with the provisions of this chapter.

(4) The estimated expense of reconstruction shall be determined by the city assessor. Persons aggrieved by the determination of estimated replacement cost by the city assessor may appeal such determination to the zoning board of appeals.

(Ord. of 5-1-95, § 8-20-3)

Sec. 74-454. - Nonconforming uses of structures and land.

If a lawful use of a structure, or of structure and land in combination, exists at May 31, 1995, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at May 1, 1995, but no such use shall be extended to occupy any land outside such building.

(3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the zoning board of appeals, by making findings in

the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board of appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this chapter.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded or changed to a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and shall not revert back to a nonconforming use.

(5) Where a nonconforming use of a structure, or structure and premises in combination, is discontinued for 90 consecutive days, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. The time limit of discontinuance may be extended beyond the 90 days, for a period of time not to exceed one year, upon proper application to the zoning board of appeals within the 90-day period and upon presentation of evidence that an unnecessary hardship or practical difficulty would exist should the 90-day limitation be strictly enforced. At the end of this period of abandonment, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(Ord. of 5-1-95, § 8-20-4)

Sec. 74-455. - Repairs and maintenance.

Work may be done on any building devoted in whole or in part to any nonconforming uses in any period of 12 consecutive months on ordinary repairs, or on repairs or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the assessed value of the building, provided that the cubic content of the building as it existed at May 1, 1995, shall not be increased. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any buildings or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Ord. of 5-1-95, § 8-20-5)

Sec. 74-456. - Prior construction approval.

Nothing in this article shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to May 31, 1995, provided that construction is commenced within 90 days after the date of issuance of the permit, that construction is carried on diligently and without interruption for a continuous period in excess of 30 days, and that the entire building shall have been completed according to the plans filed with the permit application within two years after the issuance of the building permit.

(Ord. of 5-1-95, § 8-20-6)

Sec. 74-457. - Change of tenancy or ownership.

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

(Ord. of 5-1-95, § 8-20-7)

Secs. 74-458—74-480. - Reserved.

ARTICLE VI. - OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 74-481. - Purpose.

It is the purpose of this article that parking space shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles used by the occupants, employees or patrons of each building constructed or altered under the provisions of this chapter.

(Ord. of 5-1-95, § 8-21-1)

Sec. 74-482. - General requirements for parking facilities.

At the time any building or structure is erected, altered, enlarged or increased in capacity, or at any time when the use of any building, structure or land is altered or established, off-street parking spaces shall be provided as prescribed in this article and as follows:

(1) *Submission of plans.* Plans and specifications showing required off-street parking spaces, including the means of access and exit and interior traffic circulation, shall be submitted to the zoning administrator for review at the time of application for a zoning permit for the erection or enlargement of a building.

(2) *Location of parking area*. Off-street parking for other than residential uses shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the building entrance to the nearest point of the off-street parking lot, without crossing any major thoroughfare.

The planning commission may modify the numerical requirement for off-street parking based on evidence submitted by the applicant that another standard would be more reasonable because of the level of current or future employment or customer traffic.

The planning commission may attach conditions to the approval of a modification of the requirements of section 74-483 that bind such approval to the specific use in question.

(3) *Reduction of parking area.* No parking area or parking space which exists at May 31, 1995, or which subsequently thereto is provided for the purposes of complying with the provisions of this chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this chapter.

(4) *Parking of commercial vehicles in residential districts.* Parking of commercial motor vehicles in residential districts shall be limited to vehicles under five tons GVW. The parking of any commercial vehicle over five tons GVW in a residential district, except those making deliveries or on business or those belonging to a use permitted by special use permit in the district and on such property, is prohibited.

(5) *Prohibited uses and structures in parking areas.* No commercial vehicle repair work, servicing or selling of any kind shall be conducted on any parking area except that which is specifically permitted by this chapter. No items such as plastic animals, streamers, cloth signs, children's play areas, mechanical entertainment devices or other similar devices shall be permitted in the parking area.

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

(7) *Dual function facilities.* Where the owners of two or more buildings, or uses whose operating hours do not

overlap, desire to utilize common off-street parking facilities, application shall be made to the zoning board of appeals. The zoning board of appeals may grant approval of such dual function off-street parking facilities, subject to a finding that the following conditions have been met:

a. The business hours of the buildings or uses in no way overlap, except for custodial personnel.

b. The common parking lot meets the off-street parking requirements of the largest building or use plus 15 percent.

c. The common parking lot meets all locational requirements of this chapter with respect to each building or use.

(8) *Calculation of number of spaces.* When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one space.

(9) *Single-family and two-family dwellings.* Residential off-street parking spaces for single-family and two-family dwellings shall consist of a parking strip, driveway, garage or combination thereof and shall be located on the premises they are intended to serve.

(10) *Handicap parking.* Handicap parking shall be provided in accordance with applicable state or national laws and codes.

(Ord. of 5-1-95, § 8-21-2; Ord. of 7-6-20)

Sec. 74-483. - Schedule of parking requirements.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the zoning administrator considers as similar in type.

Use			Number of Minimum Parking Spaces per Unit of Measure
(1)	*Residential uses:*		
	a.	Residential one-family and two-family dwellings	2 for each dwelling unit.
	b.	Residential multiple-family dwellings	2 for each dwelling unit.
	c.	Housing for the elderly or similar uses	1 for every 2 dwelling units, and 1 for each employee.
	d.	Boardinghouses	1 for each rental unit, plus 2 for owner/manager.
(2)	*Institutional uses:*		
	a.	Houses of worship	1 for each 3 seats or 6 feet of pews in the main unit of worship.
	b.	Hospitals	1½ for each 1 bed, plus 1 for each doctor, plus 1 space for each 50 square feet of medical clinic office, plus 1 space for each employee on the peak employment shift.
	c.	Homes for the aged and convalescent homes	1 for each 4 beds, plus 1 for each employee on the peak employment shift.

	d.	Elementary and junior high schools, middle schools	1 for each 1 teacher, employee and administrator, plus 1 for each classroom, plus required space for auditorium.
	e.	Community centers or similar uses	1 space for each 250 square feet of gross floor area.
	f.	Senior high schools and colleges	1 for each 1 teacher, employee or administrator, 1 for each classroom, and 1 for each 10 students, plus spaces for auditorium.
	g.	Private clubs or lodges	1 for each 3 persons allowed within the maximum occupancy load as established by the fire marshal, plus 1 for each employee.
	h.	Miniature golf courses	1½ spaces per hole.
	i.	Private golf clubs, swimming pool clubs or other similar uses	1 for each 3 members.
	j.	Stadium and sports arenas or similar outdoor places of assembly	1 for each 5 seats or 10 feet of benches, plus 1 for each employee.
	k.	Theaters and auditoriums or similar uses	1 for each 4 seats, plus 1 for each employee.
	l.	Libraries and museums or similar uses	1 per 500 feet of gross floorspace, plus 1 per employee.
	m.	Public utilities	1 per employee.
	n.	Nursery schools, day nurseries or child care centers	1 for each 350 square feet of usable floorspace.
(3)	*Commercial uses:*		
	a.	Amusement arcades or similar uses	1 for every 4 game tables or devices, plus off-street bicycle racks with capacity for 1 bicycle for every table and device.
	b.	Auto wash, automatic and self-serve	4 spaces at the entry, plus 1 space at the exit, all on exteriors of the building shall be provided on the premises for each wash lane, plus 1 for each employee.
	c.	Beauty parlors or barbershops	2 for each chair.
	d.	Bed and breakfast establishments	1 per sleeping room, plus 2 for the manager/owner.
	e.	Bowling alleys	5 for each lane, plus 1 for each employee, plus parking required for each auxiliary use such as a restaurant, lounge, etc.
	f.	Convenience stores or similar uses	1 space per each 200 square feet of gross floor area.
	g.	Dancehalls, roller rinks, exhibition halls and assembly halls without fixed seats, or similar uses	1 for each 100 square feet of gross floor area.
	h.	Drive-in banks	4 waiting spaces for each drive-in window, in addition to normal parking required for banks.

	i.	Drive-in restaurants	1 for every 3 seats or 1 for each 30 square feet of usable floor area, whichever is greater, plus 5 waiting spaces for each drive-up window.
	j.	Furniture and appliances, household equipment, repair shops, showroom of a plumber, electrician or similar trade, and other similar uses	1 for each 800 square feet of usable floorspace.
	k.	Greenhouses, fruit and vegetable stands or similar uses	1 space for each 300 square feet.
	l.	Laundromats and coin-operated dry cleaners	1 for every 3 machines.
	m.	Mortuary establishments and funeral homes	1 for each 25 square feet of assembly room floor area.
	n.	Motel or hotel	1 space for each rental unit, plus 1 additional space for each employee, plus required parking for each auxiliary use such as a restaurant, lounge, etc.
	o.	Motor vehicle sales and service	1 for each 500 square feet of floor area of sales room, 2 for each auto service stall in the service room, plus 1 for each employee. A minimum of 3 customer spaces shall be provided.
	p.	Retail stores less than 25,000 square feet, except as otherwise specified herein	1 for each 150 square feet of usable floor area.
	q.	Planned commercial or shopping centers or discount department stores or grocery stores in excess of 25,000 square feet	6 per 1,000 square feet of gross leasable floor area.
	r.	Restaurants, sit-down	1 for every 3 seats.
	s.	Service stations, full-serve	2 for each lubrication rack or pit, and 1 for each gasoline pump; a service bay is not a parking space.
	t.	Service stations, self-serve	2 for each gasoline pump.
	u.	Taverns and cocktail lounges or similar uses	1 for each 100 square feet of usable floor area.
(4)	*Offices:*		
	a.	Banks	1 for each 200 square feet of usable floor area, plus 4 stacking spaces for each drive-up window, and a bypass lane shall be provided.
	b.	Business offices or professional offices, except as otherwise indicated	1 for each 150 square feet of usable floor area.

	c.	Professional offices of doctors, dentists and similar professions	1 for each 100 square feet of usable floor area in the waiting room, plus 2 for each examining room or dental chair, plus 1 for each doctor, dentist, or employee.
(5)	*Industrial uses:*		
	a.	Industrial or research facilities	5 spaces, plus 1 space on-site for every 2 employees in the largest working shift, or 1 space for every 500 square feet of usable floorspace, whichever is greater.
	b.	Warehouses	1 per 500 square feet of floorspace.

(Ord. of 5-1-95, § 8-21-3)

Sec. 74-484. - Parking facility development standards.

Whenever the off-street parking requirements in section 74-483 require the building of an off-street parking facility, such off-street parking lots shall be designed, constructed and maintained in accordance with the following standards and regulations:

(1) *Approval of plans.* Plans for all off-street parking lots providing spaces for more than four vehicles shall be submitted as part of the site plan review process and must be approved by the zoning administrator prior to construction.

(2) *Size of spaces.* Each off-street parking space for vehicles shall not be less than 180 square feet in area, exclusive of access drives or aisles.

(3) *Marking of spaces.* Each space shall be clearly marked and reserved for parking purposes.

(4) *Access drive.* There shall be provided a minimum access drive of 20 feet in width and so located as to secure the most appropriate development of the individual property. Where a turning radius is necessary, it shall be of an arc that reasonably allows an unobstructed flow of vehicles.

(5) *Width of parking aisles.* Parking aisles shall be of sufficient width to allow a minimum turning movement into and out of parking spaces. The minimum width of such aisles shall be in accordance with the following minimum regulations:

	Maneuvering Lane Width				Total Width of 2 Tiers of Spaces Plus Maneuvering	
Parking Pattern	1-way (feet)	2-way (feet)	Parking Space Width (feet)	Parking Space Length (feet)	1-way (feet)	2-way (feet)
0-degree parallel parking	11	18	8.5	25	28	35

30° to 53°	12	20	9	21	54	62
54° to 74°	13	22	9	21	55	64
75° to 90°	15	24	9.5	20	55	64

(6) *Drainage and surfacing.* All off-street parking areas shall be drained so as to eliminate surface water ponding and prevent drainage onto abutting properties. The surface of the parking lot, including drives and aisles, excepting landscaped areas, shall be constructed of asphaltic bituminous material two inches thick after compaction, or concrete with a minimum thickness of six inches, on a stable base four inches thick after compaction. The parking area shall be so surfaced prior to issuance of a certificate of occupancy by the building inspector; however, paving may be delayed up to one year from the date of occupancy upon approval by the zoning administrator and submittal to the city of a financial guarantee equal to the total cost of surfacing or paving the parking area. The cost shall be determined by the zoning administrator. The financial guarantee shall be forfeited if the parking area is not fully completed within the one-year period. During this period, however, any unpaved parking area shall be kept in a dust-free condition by spraying with water or chemicals.

(7) *Lighting.* Any lighting fixtures used to illuminate off-street parking shall be so arranged as to reflect light away from any adjoining residential properties, institutional premises, or streets and highways, and shall be installed in such a manner as to allow for reduction of the amount of light after normal parking hours.

(8) *Buffer adjacent to residential districts.* Where a parking area with a capacity of four or more vehicles adjoins a residential district, a buffer at least ten feet wide shall be provided between the parking area and the adjoining property and a vertical screen shall be erected consisting of structural or plant materials no less than six feet in height.

(9) *Buffer adjacent to public street.* Where a parking area with a capacity of four or more vehicles adjoins a public street, a buffer at least ten feet wide shall be provided between the parking area and the adjacent street, provided that the buffer shall comply with the provisions of this chapter in relation to clear vision.

(10) *Number of driveways.* No more than two driveway approaches may be permitted from a major street, and no more than one driveway from a minor street.

(11) *Landscaping.* In addition to any landscaping required in any particular district, all parking areas for ten or more vehicles shall be landscaped. Such landscaping shall be accomplished throughout the parking area on the basis of 100 square feet of grass and planted area (including trees) for each ten parking spaces. All landscaping shall be adequately maintained in a healthy condition.

(Ord. of 5-1-95, § 8-21-4)

Sec. 74-485. - Loading and unloading space.

(a) *Required for certain uses.* On the same premises with every building, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department stores, wholesale stores, markets, laundries, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials or merchandising, there

shall be provided and maintained on the lot adequate space for standing, loading and unloading service in order to avoid undue interference with public use of the streets, alleys or any required access aisles for off-street parking areas.

(b) *Dimensions; paving; number of spaces.* Such loading and unloading space, unless adequately provided for within a building, shall be an area ten feet by 50 feet, with a 15-foot height clearance, having paving suitable for the zoning district wherein located, and shall be provided according to the following schedule:

Gross Floor Area (square feet)	Loading and Unloading Spaces
0—1,999	None
2,000—19,999	1 space
20,000—99,999	1 space, plus 1 space for each 20,000 square feet in excess of 20,000 square feet.
100,000—500,000	5 spaces, plus 1 space for each 50,000 square feet in excess of 100,000 square feet.

(c) *Approval of design.* The location and design of loading and unloading areas shall be reviewed at the time of site plan submission, to ensure adequate protection is afforded adjacent districts, especially residential districts, from noise and other disruptive elements normally associated with such facilities.

(Ord. of 5-1-95, § 8-21-5)

Secs. 74-486—74-510. - Reserved.

ARTICLE VII. - RESERVED

Secs. 74-511—74-550. - Reserved.

Editor's note— Ord. of 9-3-13 repealed §§ 74-511—74-525, which pertained to signs and derived from Ord. of 5-1-95, §§ 8-22-1—8-22-15; Ord. of 1-6-97; Ord. of 4-5-10; Ord. of 6-6-11. For current sign provisions, see § 14-131 et seq.

ARTICLE VIII. - SPECIAL USE PERMITS

Footnotes:
--- (3) ---
State Law reference— *Uses of land and structures, MCL 125.58.*

Sec. 74-551. - Purpose.

(a) Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more districts. However, the functions and characteristics of an increasing number of new kinds of land uses, combined with conclusive experience regarding some of the older, more familiar kinds of uses, call for a more flexible and equitable procedure for properly accommodating these activities in the community. It should be recognized that the forces that influence decisions regarding the nature, magnitude and

location of such types of land use activities are many and varied, depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the community's inhabitants.

(b) In order to accomplish such a dual objective, provision is made in this chapter for a more detailed consideration of certain specified activities as each may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, and amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as special uses and may be authorized by the issuance of a special use permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. The following sections, together with references in other articles, designate what uses require a special use permit. With any exception noted, the procedures for obtaining such a permit apply to all special uses indicated.

(Ord. of 5-1-95, § 8-23-1)

Sec. 74-552. - Application.

(a) Any person owning or having an interest in the subject property may file an application for one or more special use permits provided for in this chapter in the zoning district in which the land is situated.

(b) Applications shall be submitted through the city clerk to the planning commission. Each application shall be accompanied by the payment of a fee in accordance with the duly adopted schedule of fees to cover costs of processing the application. No part of any fee shall be refundable.

(c) Every application shall be accompanied by the following information and data:

(1) A special form supplied by the city clerk filled out in full by the applicant.

(2) A site plan, plot plan or development plan, drawn to a readable scale, of the total property, showing the location of all abutting streets, the location of all existing and proposed structures, and the types of buildings and their uses.

(3) Preliminary plans and outline specifications of the proposed development.

(4) A statement with supporting evidence regarding the required findings specified in section 74-554.

(Ord. of 5-1-95, § 8-23-2; Ord. of 6-6-11)

Sec. 74-553. - Review and findings; issuance.

(a) *Public hearing.* The planning commission shall review the application for a special use permit at its next meeting following filing and shall set a date for public hearing within 30 days thereafter. The city clerk shall cause to be published one notice of the public hearing, not less than 15 days in advance of such hearing, and shall notify by regular mail the parties of interest and all property owners within 300 feet of the subject property, as ownership is listed in the last printed assessment roll for the city. Such notice shall describe the nature of the request, indicate the property involved, state the time and place of the hearing, and indicate when and where written comments will be received concerning the request.

(b) *Action by planning commission; issuance.* Upon conclusion of the hearing procedures, the planning commission

may recommend approval with conditions or disapproval of a special use permit to the city council. The city council shall either approve with conditions or deny the request, at the next council meeting after the public hearing by the planning commission. The city clerk shall be authorized to issue an approved special use permit, subject to site plan approval or other conditions as have been placed on the permit by the city council.

(Ord. of 5-1-95, § 8-23-3; Ord. of 6-6-11; Ord. of 3-6-2017(1))

Sec. 74-554. - General standards for making determinations.

The planning commission shall review the particular facts and circumstances of each proposal under this article in terms of the following standards, and shall find adequate evidence showing that the proposed use will:

(1) Be harmonious with and in accordance with the general objectives or with any specific objectives of the comprehensive community plan of current adoption.

(2) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area.

(3) Not be hazardous or disturbing to existing or future neighboring uses.

(4) Be a substantial improvement to property in the immediate vicinity and to the community as a whole.

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

(6) Not create excessive additional requirements at public cost for public facilities and shall not place demands on public services in excess of current capacity and will not be detrimental to the economic welfare of the community.

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

(8) Be consistent with the intent and purposes of this chapter.

(Ord. of 5-1-95, § 8-23-4; Ord. of 6-6-11)

Sec. 74-555. - Conditions and safeguards.

(a) Prior to granting any special use permit, the city council may impose any additional conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the special use permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, and the health, safety and welfare, as well as the social and economic well-being, of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole, and be consistent with the general standards as established in this chapter and therefore be necessary to meet the intent and purpose of the regulations contained in this chapter.

(b) Conditions and requirements stated as part of special use permit authorization shall be a continuing obligation of special use permit holders. The planning commission shall make periodic investigations of developments authorized by special use permit to determine compliance with all requirements.

(c) Special use permits may be issued for time periods as determined by the city council. Special use permits may be renewed in the same manner as originally applied for.

(d) In authorizing a special use permit, the city council may require that a cash deposit, certified check, bond or other financial guarantee acceptable to the city, of ample sum, be furnished by the developer to ensure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the city clerk at the time of issuance of the permit authorizing the use or activity. As work progresses, the city council may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

(e) Continuance of a special use permit by the city council shall be withheld only upon a determination by the city council that:

(1) Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period.

(2) Violations of conditions pertaining to the granting of the permit continue to exist more than 30 days after an order to correct has been issued.

(f) All plans, specifications and statements submitted with the application for a special use permit shall become, along with any changes ordered by the city council, a part of the conditions of any special use permit issued thereto.

(g) No application for a special use permit which has been denied wholly or in part by the city council shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the city council.

(h) The general standards in this section are basic to all special uses, and the specific requirements in the sections of this article relating to particular uses are in addition to and shall be required in all applicable situations.

(Ord. of 5-1-95, § 8-23-5; Ord. of 6-6-11)

Sec. 74-556. - Nonresidential structures and uses in residential districts.

(a) *Uses requiring special use permit.* The following uses of land and structures are permitted in one or more residential districts:

(1) Religious institutions: Churches, houses of worship, convents and other housing for religious personnel.

(2) Educational and social institutions: Public or private elementary and secondary schools, institutions for higher education, auditoriums and other places for assembly and centers for social activities, public libraries, museums and art galleries, and nursery schools and day care centers.

(3) Recreational facilities: Public and private parks, playgrounds, community centers, parkways, golf courses and similar recreational facilities.

(4) Public buildings and public service installations: Municipal administration or public service buildings; utility and public service facilities and uses, but excluding storage yards; and telephone exchange buildings, transformer stations and substations.

(5) Institutions for human care: Hospitals, clinics, sanitariums, nursing or convalescent homes, homes for the aged, and philanthropic and charitable institutions.

(b) *General standards.* Inasmuch as the nonresidential uses permitted in residential districts may have an adverse

affect on residential properties if not properly located and designed, the following general standards must be met prior to development of such uses:

(1) Hazardous areas must be adequately fenced to avoid accidents. Such areas include public utility substations.

(2) Any permitted nonresidential structure should preferably be located at the edge of a residential district, abutting a commercial or industrial district, or a public open space.

(3) If possible, all permitted nonresidential uses should front on a major street (minor arterial or collector).

(4) Motor vehicle entrance and exit should be made on a major street to avoid the impact of traffic generated by the nonresidential use upon the residential area.

(5) Site locations should be chosen which offer natural or manmade barriers that would lessen the effect of the intrusion of a nonresidential use into a residential area.

(6) Nonresidential uses should not be located so as to cause costly public improvements.

(c) *Specific standards.*

(1) *Public utility structures and substations.* No building shall be erected to a height greater than that permitted in the district in which the proposed use would be located. Adequate planting materials to screen exposed facilities from view shall be required. Evergreens are recommended, however, selected deciduous trees may be used when appropriate.

(2) *Golf courses.* Development features, including the principal and accessory buildings and structures, shall be so located as to minimize the possibilities of any adverse affects upon adjacent property. This shall mean that all principal or accessory buildings shall not be less than 200 feet from any abutting property line of residentially zoned lands; provided that, where topographic conditions are such that buildings would be screened from view, the city council may modify this requirement.

(3) *Nursery schools and day care centers.* There shall be provided a fenced outdoor play area of a size meeting the requirements of the current state regulations pertaining to such areas.

(Ord. of 5-1-95, § 8-23-6)

Sec. 74-557. - Planned unit developments.

(a) *Intent.* The intent of this section is to:

(1) Permit more flexibility in the use and design of structures and land than is allowable under the districts of this chapter, where such modifications will not be contrary to the intent of this chapter.

(2) Require a higher degree of urban amenities, the preservation of natural scenic qualities and open spaces, and more creative and imaginative design of developments in return for such flexibility.

(3) Promote more efficient and economical use of land.

(4) Give the developer reasonable assurance of ultimate approval before expending complete design monies, while providing city officials with assurances that a project will retain the character envisioned at the time of agreement.

(b) *Minimum PUD size.* Minimum PUD size is as follows:

(1) Five contiguous acres, which may be divided by a public right-of-way.

(2) One contiguous acre in a platted subdivision in which at least 80 percent of the lots have been built on.

(c) *Permitted uses; establishment of guidelines.*

(1) Any use is permitted if the developer can demonstrate that the proposed PUD is of such a scale and is sufficient designed to accomplish the intent of this chapter with respect to adjoining land uses, both existing and anticipa

(2) A mixture of uses is allowable within any PUD providing that the developer can demonstrate that such mixture is so designed as to meet the intent of this chapter in respect to both the uses within and the existing and anticipated uses adjoining the PUD.

(3) The planning commission shall recommend, with the concurrence of the city council, guidelines for determining the compliance of a PUD with the intent of this chapter. These guidelines include but are not limited to density, open space, outdoor livability space, traffic circulation, parking standards, environmental design and nonresidential development.

(d) *Application procedure; approval.*

(1) *Consultation with zoning administrator.* The developer shall consult with the zoning administrator concerning the requirements for application and guidelines set by the planning commission and the city council.

(2) *Submission of preliminary development plan.* The developer shall submit a preliminary development plan. This plan shall consist of written and graphic documents.

a. The written documents shall consist of:

1. A legal description of the total site proposed for development, including the present and proposed ownership.
2. A statement of the nature and character of the proposed development, and the methods to be used in achieving these goals.
3. A schedule of the approximate date, or dates if the development is to be divided into stages, when construction will begin and be completed.
4. A statement of the developer's intentions with regard to future ownership of all or parts of the development.
5. Quantitative data for the following: total number and type of dwelling and nonresidential units, the proposed floor area, ground coverage, outdoor livability and open space ratios, the proposed gross residential density, and the net residential density of any separate stages, the number of parking spaces for each use proposed, and any market or feasibility studies the developer wishes to submit in support of his plan.
6. Such additional documentation as may be required by the planning commission.

b. The graphic documents shall consist of:

1. A plan at scale of one to 1,200 (one inch equals 100 feet) showing the existing site conditions, including contours at an interval no greater than five feet, waterways or water bodies, unique natural features, rock outcroppings and vegetative cover.
2. A preliminary plat meeting the requirements of the Subdivision Control Act (MCL 560.101 et seq.) and Ordinance, if the land is to be platted.
3. A site plan at a scale of one to 1,200 (one inch equals 100 feet) showing the location and floor area and use of all existing and proposed buildings, structures and improvements, including maximum heights, the location and size of all areas to be conveyed, dedicated or reserved as outdoor livability space, recreational areas, school sites and similar public or semipublic uses, the proposed circulation

system, including private and public streets, parking and loading areas, and pedestrian ways, and access to existing and proposed utilities, including sanitary and storm sewers and water, gas, electric, telephone and television cable lines, and a preliminary landscape plan.

4. A plan at an appropriate scale showing land areas adjacent to the proposed development, their uses, zoning and general character, and the effects of the proposed development on such land, including the treatment of the perimeter areas of the PUD.
5. Such additional material as may be required by the planning commission.

(3) *Action on preliminary development plan.* Within 60 days following the submission of a preliminary development plan, the zoning administrator shall submit an analysis of the plan to the planning commission, and the planning commission shall hold a public hearing on the plan, and vote to approve, approve with modifications or disapprove the plan. If the planning commission action is for approval or approval subject to modifications, a recommendation for similar action shall be made to the city council, which shall then act within 30 days. Failure of either the planning commission or the city council to act within the specified times shall constitute disapproval of the plan.

(4) *Notation on zoning map.* If the preliminary development plan is approved, with or without modifications, by the city council, the official zoning map shall be changed to so signify. Such a change shall not constitute final approval of a plat, or authorization to issue building permits.

(5) *Submission of final development plan.* Within nine months following approval of the preliminary development plan, the developer shall submit to the zoning administrator a final development plan. At its discretion and for good cause, the planning commission may extend for six months the period for filing the final development plan.

(6) *Failure to submit final development plan.* If the developer fails to submit a final development plan for any reason within the time allowed, the tentative approval shall be revoked and all the area within the development for which final approval has not been given shall be subject to the original zoning.

(7) *Action on final development plan.* If the final development plan is in compliance with the preliminary development plan as determined by the application of standards adopted by the planning commission with the concurrence of the city council, it shall be approved by the planning commission within 30 days. Notice of such approval shall then be given to the city council, which shall approve the final development plan, and the plat involved, if any, within 30 days; providing that such approval shall not be given until the financial assurances of development required by the Subdivision Ordinance have been made.

(8) *Modification of final development plan.* If, subsequent to the start of construction, it becomes necessary to modify the final development plan, the zoning administrator may do so at his discretion to the limits established in the PUD guidelines. If greater modifications are requested by the developer, they shall be subject to approval by the planning commission, which shall act within 30 days. In granting such modifications, the planning commission shall not act so as to substantially change the character or nature of the final development plan.

(Ord. of 5-1-95, § 8-23-7; Ord. of 6-6-11)

State Law reference— Planned unit development, MCL 125.584b.

Sec. 74-558. - Reserved.

Editor's note— Ord. of March 19, 2001, repealed § 74-558 which pertained to swimming pools and derived from Ord. of September 18, 1952(2).

Sec. 74-559. - Mobile home parks.

(a) *Intent.* It is the intent of this section to provide for the establishment in a residential district of comparable density, well-designed mobile home parks. The regulations and conditions contained in this section are designed to ensure that mobile home parks will provide a comfortable and pleasing environment for persons who seek mobile home residence. Regulations and conditions contained in this section are intended to ensure that mobile home park developments will be served adequately by essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities, refuse disposal, schools, and police and fire protection. The city council may, by the issuance of a special use permit, authorize the establishment of a mobile home park in an R-3 district. Such authorization shall be granted only when all the applicable procedures and requirements stated in this section are complied with.

(b) *General requirements, restrictions and standards.*

(1) *Project area.* Minimum project area for a mobile home park development shall be 20 acres, with a maximum site size not to exceed 40 acres.

(2) *Location.* Mobile home parks may be located only in the R-3 multiple-family residential district, upon approval of the city council and in accordance with the following standards:

a. The site shall be adjacent to and serviced by a collector or arterial street as designated on the city transportation plan map.

b. The site shall be serviced by existing essential public facilities and services such as access streets, public water, sanitary sewer and storm drainage facilities and fire protection.

c. Mobile home parks shall not abut single-family residential districts on more than two sides, and only with an intervening planted greenbelt at least 20 feet wide. A ten-foot-wide greenbelt shall be provided between a mobile home park and an R-3 district.

(c) *Uses permitted.* Only the following land and building uses may be permitted under the provisions of this section:

(1) Mobile homes as defined in this chapter.

(2) One office building exclusively for conducting the business operations of the mobile home park.

(3) Utility buildings for laundry facilities and auxiliary storage space for mobile home tenants.

(4) Recreation areas, community building, playground and open space for use by mobile home park tenants.

(5) Such additional accessory buildings and uses as are customarily incidental to mobile home park developments, except that this shall not include the sale of mobile home units other than by their individual resident owners or the servicing of mobile home units except as is required for normal maintenance by the individual resident owner or his contractors.

(6) Signs pertaining exclusively to the mobile home park.

(d) *General development standards.* The design and development of mobile home parks shall be subject to all current provisions of the mobile home commission general rules as adopted by the state mobile home commission, which are hereby incorporated by reference as a part of this chapter.

(e) *Operating standards.*

(1) The operating and business practices of mobile home parks shall be subject to all current provisions of the mob commission general rules as adopted by the state mobile home commission, which are hereby incorporated by as part of this chapter.

(2) No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management of mobile home parks.

(3) Home occupations shall be prohibited from mobile home parks.

(f) *Review and approval procedure.*

(1) *Application for approval.* Applications shall be submitted through the city clerk to the planning commission; see section 74-552.

(2) *Preliminary review.*

a. In addition to those requirements set forth in section 74-552, the developer must submit the following for the initial phase of project review:

1. A development plan, drawn to a readable scale, of the total property involved, showing its location in the city and its relationship to adjacent property.
2. A site plan indicating the proposed location of mobile home units and the anticipated population density associated with the entire project.
3. A site plan indicating the location and purpose of all nonresidential structures, traffic circulation, parking layout and pedestrian pathways.
4. A site plan showing the acreage, nature and location of common open space, and a general statement as to the means by which the developer will guarantee its continuity and maintenance.

b. Following receipt and review of the application, the planning commission shall hold a legally advertised public hearing on the proposed development. Upon conclusion of the public hearing, the planning commission will make a decision to approve or deny the plan based on the submitted information.

c. At the time of approval by the planning commission, the preliminary review of the project will be sent to the city council for its action. If approved, the project continues under the secondary review procedure. If denied, the city council shall so notify the applicant and the planning commission.

(3) *Secondary review.*

a. Prior to receiving secondary approval, the developer must submit the following to the planning commission for its review:

1. A site plan indicating engineering recommendations for water, sanitary sewer, storm drainage, natural gas, electric and telephone systems.
2. A site plan indicating recommendations for road alignments, with provisions for dealing with topography and soil conditions.
3. A site plan indicating existing contours and the final topographic conditions proposed for the site after grading.
4. A detailed landscaping plan.
5. A specific schedule of the intended development and construction details, including phasing or timing as it relates to open space, recreational features, common use areas, utilities and screening requirements.

b. The planning commission will make a final recommendation to the city council to approve or deny the project based on the final detailed information specified in this subsection.

(4) *Commencement and construction.* The applicant shall commence construction for an approved mobile home park development within one year following secondary special use permit approval. Failure to do so will invalidate the permit. The applicant may request one extension for not more than one year from the city council, providing such request is received prior to the expiration of the original permit.

(Ord. of 5-1-95, § 8-23-9; Ord. of 6-6-11)

Sec. 74-560. - Radio and television satellite dish antennas.

(a) *Intent.* It is the intent of this section to provide regulations controlling the placement of satellite dish antenna systems. Satellite dish antennas, given their size and general appearance, may be perceived as having a significant impact on adjoining residents and the character of a given neighborhood, or, if widespread, the community as a whole.

(b) *Special use permit required.* No person shall construct or install a satellite dish antenna greater than 24 inches in diameter in the city without first obtaining a special use permit therefor in the manner provided for in this article.

(c) *Height restrictions and location in residential districts.*

(1) Satellite dish antennas shall be located in rear yards only.

(2) There shall be no more than one satellite dish antenna per lot and the antenna shall be no more than 12 feet in diameter.

(3) No advertising or word messages shall be permitted on the satellite dish antenna.

(4) Roof-mounted satellite dish antennas greater than 24 inches in diameter are prohibited in the residential districts of the city.

(5) Ground-mounted satellite dish antennas shall not exceed 15 feet in height.

(d) *Height restrictions and location in commercial and industrial districts.*

(1) Location and height shall conform to the minimum yard requirements of either principal buildings or accessory structures as defined in the respective zoning district.

(2) No satellite dish antenna shall be used for nor contain a commercial or residential advertisement, or be painted or lighted or altered from its original form and condition at the time of its installation so as to resemble an advertising structure.

(e) *Review and findings.* Denial of a special use permit application for a satellite dish antenna which otherwise complies with the specific requirements of this section and of other applicable provisions of this chapter shall be based upon a finding that the installation would have a substantial detrimental effect upon one or more adjoining private or public properties or would otherwise be contrary to public health, safety or welfare, specifying the basis for such findings. The conditions which may be attached may relate to the following: location, size, elevation, color, screening, landscaping, fencing or other matters having an impact on adjoining properties.

(Ord. of 5-1-95, § 8-23-10)

Sec. 74-561. - Adult entertainment activities.

(a) *Intent.* It is the intent of this section to provide regulations controlling those uses which by their very nature are

recognized as having serious objectionable operational characteristics inducing a unwholesome impact on adjacent uses and areas. Special regulation of these uses is 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, cabarets and massage parlors.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection:

(1) *Adult bookstore* means an establishment having as a substantial 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* means 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* means a motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.

(4) *Cabaret* means a nightclub, theater or other establishment which features live performances by topless 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* means any place where, for any form of consideration or gratuity, massage, alcohol rubs, 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 service relating thereto exposes specified anatomical areas.

(6) *Sexual conduct* means:

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 area* means:

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 discernible erect state, even if completely and opaquely covered.

(c) *Standards for approval.* The city council shall issue a special use permit for adult entertainment uses which comply with the following requirements:

(1) No such adult entertainment uses shall be located in any zoning district except the B-2 general business district.

(2) No such adult entertainment uses shall be allowed within 1,000 feet of another existing adult entertainment use.

(3) No such adult entertainment use shall be located within 1,000 feet of any residential zoning district.

(4) No such adult entertainment use shall be located within 1,000 feet of an existing church, school, park or playground.

(5) All other requirements applicable to special use permits, including the holding of a public hearing, shall be

met.

(Ord. of 5-1-95, § 8-23-11)

Sec. 74-562. - Drive-in and fast food restaurants.

(a) *Intent.* It is the intent of this section to provide development regulations for drive-in and fast food restaurants which potentially present particular problems in their relationships to adjacent uses and traffic patterns in the districts in which they are permitted.

(b) *Site development standards.* The city council shall only issue special use permits for drive-in and fast food restaurants which comply with the following site development standards:

(1) The minimum site size shall be 20,000 square feet.

(2) The minimum lot width shall be 125 feet.

(3) All points of entrance or exit for motor vehicles shall be no closer than 30 feet to the intersection of the right-of-way lines of two streets and no closer than ten feet to an adjacent property line. The minimum driveway width at the curbline shall be 30 feet. No more than two driveway approaches shall be permitted on any street frontage.

(4) The outdoor space used for parking and vehicle stacking shall be hard surfaced and adequately drained.

(5) All areas used for the storage of trash and rubbish shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height, with a view-obstructing door.

(Ord. of 5-1-95, § 8-23-12)

Sec. 74-563. - Reserved.

Editor's note— Ord. of 11-6-17 repealed § 74-563, which pertained to medical marihuana provisioning centers and derived from Ord. of 10-20-14.

Secs. 74-564—74-580. - Reserved.

ARTICLE IX. - ACCESS MANAGEMENT

Sec. 74-581. - Findings and intent.

Conditions along the major highways in Dickinson County are changing with increasing development and traffic. Continued development along US-2/US-141 and M-95 will further increase traffic volumes and introduce additional conflict points which will erode traffic operations and increase potential for traffic crashes. Numerous published studies document the positive relationship between well-designed access management systems and traffic operations and safety. Those studies and the experiences of many other communities demonstrate that implementing standards on the number, placement and design of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for crashes while preserving a good business environment and the existing investment in the highway. The conditions along US-2/US-141/M-95 and a series of access management recommendations are embodied in the US-2/US-141/M-95 Access Management Action Plan. Among those recommendations are the creation of an overlay zone along these highways within Dickinson County and the adoption of uniform access management standards by all the

jurisdictions along the US-2/US-141/M-95 corridor which are based on the Michigan Department of Transportation access management standards and the Michigan Access Management Guidebook, provided to local governments by the Michigan Department of Transportation.

The provisions of this section are intended to promote safe and efficient travel on state highways within Dickinson County; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the Comprehensive Use Plan and the US-2/US-141/M-95 Access Management Action Plan recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, the Dickinson County Road Commission, and adjoining jurisdictions, as applicable.

To these ends, the following provisions:

(1) Establish a highway overlay zone to regulate access points along the highway.

(2) Identify additional submittal information and review procedures required for parcels that front along US-2/US-141/M-95.

(3) Require demonstration that new parcels are accessible and in compliance with the access standards of this article to ensure safe accessibility as required by the Land Division Act.

(4) Restrict lots and parcels to a single access point except under certain circumstances.

(5) Require longer frontages or wider minimum lot widths than are required in underlying zoning districts to help achieve access management spacing standards.

(6) Require coordinated access among adjacent lands wherever feasible.

(7) Improve situations where existing development along the highways does not conform to the standards and intent of this article.

(8) Establish uniform standards to ensure fair and equal application.

(Ord. of 3-20-06, § 2(A))

Sec. 74-582. - Applicability.

The standards of this section apply to all lots and parcels that abut the highway right-of-way of US-2/US-141/M-95 and such other lands that front on intersecting streets within 350 feet of the US-2/US/141/M-95 right-of-way within the City of Iron Mountain. This area is referred to as the highway overlay zone.

The standards of this section shall be applied by the zoning administrator during site plan review and by the planning commission during site plan review, as is appropriate to the application. The planning commission shall make written findings of nonconformance, conformance, or conformance if certain conditions are met with the standards of this section prior to disapproving or approving a site plan per the requirements of section 74-585. The city shall coordinate its review of the access elements of a plot plan or site plan with the appropriate road authority prior to making a decision on an application (see section 74-584). The approval of a plot plan or site plan does not negate the responsibility of an applicant to subsequently secure driveway permits from the appropriate road authority, either the City of Iron Mountain, the Dickinson

County Road Commission, or the Michigan Department of Transportation (depending on the roadway). Any driveway permit obtained by an applicant prior to review and approval of a plot plan or site plan as required under this article will be ignored, unless it is conditioned upon approval under this article.

These regulations apply in addition to, and simultaneously with, the other applicable regulations of the zoning ordinance. Permitted and special land uses within the highway overlay zone shall be as regulated in the underlying zoning district (as designated on the zoning map), and shall meet all the applicable requirements for that district, with the following additional provisions:

(1) The number of access points is the fewest needed to allow motorists reasonable access to the site.

(2) Access spacing from intersections and other driveways shall meet the standards within the highway overlay zone, and the guidelines of the applicable road agency (MDOT and/or Dickinson County Road Commission) and the recommendations of the US-2/US-141/M-95 Access Management Access Plan as appropriate.

(3) Where an applicant shares access with adjacent uses, either now or in the future, any shared access and maintenance agreements must be recorded with the county register of deeds.

(4) No building or structure, nor the enlargement of any building or structure, shall be erected unless the highway overlay zone regulations applicable to the site are met and maintained in connection with such building, structure, or enlargement.

(5) No land division, subdivision or site condominium project for land within this highway overlay zone shall be approved unless compliance with the access spacing standards in this section is demonstrated.

(6) Any change in use on a site that does not meet the access standards of this highway overlay zone, shall be required to submit an application for approval by the planning commission and submit information to the MDOT, and/or county road commission as appropriate, to determine if a new access permit is required. See section 74-591 below.

(7) For building or parking lot expansions, or changes in use, or site redevelopment that cannot meet the standards of this article due to parcel size or configuration, the planning commission shall determine the extent of upgrades to bring the site into greater compliance with the access standards of this highway overlay zone. In making its decision, the planning commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, characteristics of the affected land uses, recommendations within the US-2/US-141/M-95 Access Management Action Plan, and any recommendations from the MDOT, and/or Dickinson County Road Commission as appropriate. Required improvements may include removal, rearrangement or redesign of driveways or other access.

(8) Where conflict occurs between the standards of this article and other applicable ordinances, the more restrictive regulations shall apply.

(Ord. of 3-20-06, § 2(B))

Sec. 74-583. - One access per parcel.

(a) All land in a parcel or lot having a single tax code number, as of the effective date of the amendment adding this provision to the article (hereafter referred to as "the parent parcel"), that shares a lot line for less than 600 feet with right-of-way on US-2/US-141/M-95 shall be entitled to one driveway or road access per parcel from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.

(1) All subsequent land divisions of a parent parcel, shall not increase the number of driveways or road accesses be entitled to the parent parcel on the effective date of this amendment.

(2) Parcels subsequently divided from the parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or developed as a condominium project in accord with the Condominium Act, Public Act 59 of 1978, as amended, shall have access by a platted subdivision road, by another public road, by an approved private road, frontage road or rear service drive.

(b) Parent parcels with more than 600 feet of frontage on a public road or highway shall also meet the requirements of C.1.a and C.1.b above, except that whether subsequently divided or not, they are entitled to not more than one driveway for each 600 feet of public road frontage thereafter, unless a registered traffic engineer determines to the satisfaction of the planning commission that topographic conditions on the site, curvature on the road, or sight distance limitations demonstrate an additional driveway within a lesser distance is safer or the nature of the land use to be served requires an additional driveway for improved safety. See also subsection 74-598(2)a.

(Ord. of 3-20-06, § 2(C))

Sec. 74-584. - Applications.

(a) Applications for driveway or access approval shall be made on a form prescribed by and available at the Michigan Department of Transportation and Dickinson County Road Commission as applicable. A copy of the completed form submitted to the applicable road authority shall be submitted to the zoning administrator as well.

(b) Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of Article V of the city zoning ordinance in addition to those of this article. In addition:

(1) Applications are strongly encouraged to rely on the following sources for access designs, the National Access Management Manual, TRB, 2003; National Cooperative Highway Research Program (NCHRP), "Access Management Guidelines to Activity Centers" Report 348, "Impacts of Access Management Techniques" Report 420; and the AASHTO (American Association of State Highway and Transportation Officials) "Green Book" A Policy on Geometric Design of Highways and Streets. The following techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:

a. Not more than one driveway access per abutting road.

b. Shared driveways.

c. Service drives: front and/or rear.

d. Parking lot connections with adjacent property.

e. Other appropriate designs to limit access points on an arterial or collector.

(2) As applicable, applications shall be accompanied by an escrow fee for professional review per the requirements of section 74-12.

(3) In addition to the information required in Article V of this chapter the information listed below shall also be submitted for any lot or parcel within the highway overlay zone accompanied by clear, scaled drawings (minimum of 1"=20') showing the following items:

a. Property lines.

b. Right-of-way lines and width, and location and width of existing road surface.

c. Location and size of all structures existing and proposed on the site.

d. Existing access points. Existing access points within 500 feet (250 in cities) on either side of the US-2/US-141 and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plar

e. Surface type and dimensions shall be provided for all existing and proposed driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs), intersecting streets, and all curb radii within the site.

f. The site plan shall illustrate the route and dimensioned turning movements of any passenger vehicles as well as expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing of vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.

g. Size and arrangement of parking stalls and aisles.

h. The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the Michigan Department of Transportation or Dickinson County Road Commission are met.

i. Dimensions between proposed and existing access points on both sides of the highway or road (and median cross-overs if applicable now or known in the future).

j. Design dimensions and justification for any alternative or innovative access design such as frontage roads, rear access or service drives, or parking lot cross-access.

k. Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval. Once approved, this agreement shall be recorded with the county register of deeds.

l. Show all existing and proposed landscaping, signs, and other structures or treatments within and adjacent to the right-of-way.

m. Dumpsters or other garbage containers.

n. The location of all proposed snow storage from parking lots which must not interfere with clear sight distance when turning into or out of a site, or safely moving within a site.

o. Traffic impact study meeting the requirements of section 74-601 where applicable.

(Ord. of 3-20-06, § 2(D))

Sec. 74-585. - Review and approval process.

The following process shall be completed to obtain access approval:

(1) An access application meeting the requirements of this article above shall be submitted to the zoning administrator on the same day it was submitted to the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable.

(2) The completed application must be received by the zoning administrator at least 14 days prior to the planning commission meeting where the application will be reviewed.

(3) The applicant, the zoning administrator and representatives of the Dickinson County Road Commission, the Michigan Department of Transportation and the planning commission may meet prior to the planning commission meeting to review the application and proposed access design. Such a meeting shall occur for all projects where a traffic impact study is required.

(4) If the planning commission considers the application first, it shall recommend approval conditioned upon apprc applicable road authority, or it shall recommend denial based on nonconformance with this article, or if necessa action and request additional information. The action of the planning commission shall be immediately transmit applicable road authority.

(5) It is expected that if the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, review the application first, each entity will immediately send its decision on the application to the planning commission for their consideration. One of three actions may result;

a. If the planning commission and the Michigan Department of Transportation, and the road commission, as applicable, approve the application as submitted, the access application shall be approved.

b. If both the planning commission and the Michigan Department of Transportation and the road commission, as applicable, deny the application, the application shall not be approved.

c. If either the planning commission, Michigan Department of Transportation, or road commission, as applicable, requests additional information, approval with conditions, or does not concur in approval or denial, there shall be a joint meeting of the zoning administrator, a representative of the planning commission and staff of the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, and the applicants. The purpose of this meeting will be to review the application to obtain concurrence between the planning commission and the applicable road authorities regarding approval or denial and the terms and conditions of any permit approval.

(6) No application will be considered approved, nor will any permit be considered valid unless all the above-mentioned agencies, as applicable, have indicated approval unless approval by any of the above-mentioned agencies would clearly violate adopted regulations of the agency. In this case the application shall be denied by that agency and the requested driveway(s) shall not be constructed. Conditions may be imposed by the planning commission to ensure conformance with the terms of any driveway permit approved by a road authority.

(Ord. of 3-20-06, § 2(E))

Sec. 74-586. - Record of application.

The zoning administrator shall keep a record of each application that has been submitted, including the disposition of each one. This record shall be a public record.

(Ord. of 3-20-06, § 2(F))

Sec. 74-587. - Period of approval.

Approval of an application remains valid for a period of one year from the date it was authorized. If authorized construction, including any required rear service road or frontage road is not initiated by the end of one year, the authorization is automatically null and void. Any additional approvals that have been granted by the planning commission or the zoning board of appeals, such as special land use permits, or variances, also expire at the end of one year.

(Ord. of 3-20-06, § 2(G))

Sec. 74-588. - Renewal.

An approval may be extended for a period not to exceed one-year. The extension must be requested, in writing by the applicant before the expiration of the initial approval. The zoning administrator may approve extension of an authorization provided there are no deviations from the original approval present on the site or planned, and there are no violations of applicable ordinances and no development on abutting property has occurred with a driveway location that creates an unsafe condition. If there is any deviation or cause for question, the zoning administrator shall consult a representative of the Michigan Department of Transportation and/or the Dickinson County Road Commission, as applicable, for input.

(Ord. of 3-20-06, § 2(H))

Sec. 74-589. - Re-issuance requires new application.

Re-issuance of an authorization that has expired requires a new access application form to be filled out, fee paid, and processed independently of previous action. See subsection 74-585(1).

(Ord. of 3-20-06, § 2(I))

Sec. 74-590. - Maintenance.

The applicant shall assume all responsibility for all maintenance of driveway approaches from the right-of-way line to the edge of the traveled roadway.

(Ord. of 3-20-06, § 2(J))

Sec. 74-591. - Change of use also may require new driveway.

When a building permit is sought for the reconstruction, rehabilitation or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities shall comply, or be brought into compliance, with all design standards as required by the Michigan Department of Transportation and/or the Dickinson County Road Commission as applicable, and as set forth in this article prior to the issuance of a zoning permit, and pursuant to the procedures of this section.

(Ord. of 3-20-06, § 2(K))

Sec. 74-592. - Changes require new application.

Where authorization has been granted for entrances to a parking facility, said facility shall not be altered or the plan of operation changed until a revised access application has been submitted and approved as specified in this section.

(Ord. of 3-20-06, § 2(L))

Sec. 74-593. - Closing of driveways.

Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unused entrances and approaches to the same site at the expense of the property owner, unless some other arrangement is agreed to by the road authority responsible for the road in question.

(Ord. of 3-20-06, § 2(M))

Sec. 74-594. - Inspection.

The zoning administrator shall inspect the driveway and any other required access elements during construction and following construction for conformance with the approved application prior to allowing occupancy. The zoning administrator may consult with MDOT and/or the county road commission as applicable, prior to making a determination of conformance or nonconformance with an approved application.

(Ord. of 3-20-06, § 2(N))

Sec. 74-595. - Performance bond.

The community may require a performance bond or cash deposit in any sum not to exceed $5,000.00 for each such driveway approach or entrance to insure compliance with an approved application. Such bond shall terminate and the deposit be returned to the applicant when the terms of the approval have been met or when the authorization is cancelled or terminated.

(Ord. of 3-20-06, § 2(O))

Sec. 74-596. - Reserved.

Sec. 74-597. - Lot width and setbacks.

(a) *Minimum lot width.* Except for existing lots of record, all lots fronting on US-2/US-141/M-95 subject to this section, shall not be less than 300 feet in width, unless served by shared access or a service drive that meets the requirements of subsection 74-598(9), (10), or (11), in which case minimum lot width may be reduced to not less than 100 feet in width if a deed restriction is approved and recorded with the county register of deeds demonstrating an effective method for long term maintenance of the shared access, service drive and/or parking lot cross-access.

(b) *Structure setback.* No structure other than signs, as allowed in Article VII of the city zoning ordinance, telephone poles and other utility structures that are not buildings, transfer stations or substations, shall be permitted within 50 feet of the roadway right-of-way.

(c) *Parking setback and landscaped area.* No parking or display of vehicles, goods or other materials for sale, shall be located within 50 feet of the roadway right-of-way. This setback shall be planted in grass and landscaped with small clusters of salt tolerant trees and shrubs suitable to the underlying soils unless another design is approved under the landscape provisions of Article VI of the city zoning ordinance.

(Ord. of 3-20-06, § 2(Q))

Sec. 74-598. - Access management standards.

No road, driveway, shared access, parking lot cross-access, service road, or other access arrangement to all lots and parcels within the highway overlay zone shall be established, reconstructed or removed without first meeting the requirements of this section.

(1) Each lot/parcel with highway frontage on US-2/US-141/M-95 shall be permitted one access point. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. As noted in sections 74-582 and 74-583, land divisions shall not be permitted that may

prevent compliance with the access location standards of this highway overlay zone.

(2) When alternatives to a single, two-way driveway are necessary to provide reasonable driveway access to property fronting on US-2/US-141/M-95, and shared access or a service drive are not a viable option, the following progression of alternatives should be used:

a. One standard, two-way driveway;

b. Additional ingress/egress lanes on one standard, two-way driveway;

c. Two, one-way driveways;

d. Additional ingress/egress lanes on two, one-way driveways;

e. Additional driveway(s) on an abutting street with a lower functional classification;

f. Additional driveway on arterial street.

Note: Restricted turns and roadway modifications will be considered in conjunction with alternative driveway designs.

(3) Driveways and new intersecting streets shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline of each access point), based on the posted speed limit along the public street segment, unless the appropriate road authority approves less based on the land use characteristics, lot size, and/or restricted turns in the driveway design.

Posted Speed Limit	Along US-2/US-141/M-95*	Along Other Intersecting Major Arterials**	Along all Other Intersecting Streets (not major arterials)
35 mph or less	245 ft.	245 ft.	150 ft.
40 mph	300 ft.	300 ft.	185 ft.
45 mph	350 ft.	350 ft.	230 ft.
50 mph	455 ft.	455 ft.	275 ft.
55 mph	455 ft.	455 ft.	350 ft.

* Unless greater spacing is required by MDOT.

(4) Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.

(5) Driveways or new intersecting streets along sections of US-2/US-141/M-95 with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards.

(6) Driveways and new intersecting streets shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline wherever feasible. The planning commission may reduce this to not less than 150 feet where each of the opposing access points generates less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist, or shall rely on the best option identified by MDOT.

(7) Minimum spacing of driveways from intersections shall be in accordance with the table below (measured from pavement edge to pavement edge) unless MDOT authorizes a lesser spacing:

Signalized Locations*	Distance in Feet	Unsignalized Locations	Distance in Feet
Along US-2/US-141/M-95	300	Along US-2/US-141/M-95	300
Along other public streets	200	Intersections with US-2/US-141/M-95	300
		Other intersections	150

* Spacing for signalized intersections shall also be applied at intersections where MDOT indicates spacing and approach volumes may warrant a signal in the future.

(8) Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the planning commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized locations, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.

(9) a. Sharing or joint use of a driveway by two or more property owners shall be encouraged. In cases where access is restricted by the spacing requirements of subsection (3) above a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another, and/or access the public street.

b. In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the site plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a performance guarantee to cover the cost of removing the temporary driveway if the applicant or then owner does not remove the temporary driveway once a permanent driveway is established.

(10) Frontage roads or service drives (see Figure 1) shall be designed, constructed and maintained in accordance with the following standards:

a. *Location.* Frontage roads or service drives shall generally be parallel to the front property line and may be located either in front of, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the planning commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.

b. *Alignment.* The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This determination may require use of aerial photographs, property line maps, topographic information and other supporting documentation.

c. *Setback.* Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of 30 feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum 60 feet of throat depth provided at the access point. The access point location shall conform with all the applicable standards of this article.

d. *Access easement.* A frontage road or service drive shall be within an access easement permitting traffic circulation between properties. The easement shall be recorded with the county register of deeds. This

easement shall be at least 40 feet wide. A frontage road or service drive shall have a minimum pavement width of 26 feet, measured face to face of curb with an approach width of 36 feet at intersections. The frontage road or service drive shall be constructed of a paved surface material that is resistant to erosion and shall meet City of Iron Mountain, Dickinson County Road Commission or MDOT (depending on what road the service drive parallels) standards for base and thickness of asphalt or concrete, unless the community has more restrictive standards.

e. *Snow storage.* A minimum of 15 feet of snow storage/landscaping area shall be reserved along both sides of the frontage road or service drive.

f. *Service drive maintenance.* No service drive shall be established on existing public right-of-way. The service drive shall be a public street (if dedicated to and accepted by the public), or a private road maintained by the adjoining property owners it serves who shall enter into a formal agreement for the joint maintenance of the service drive. The agreement shall also specify who is responsible for enforcing speed limits, parking and related vehicular activity on the service drive. This agreement shall be approved by the city attorney and recorded with the deed for each property it serves by the county register of deeds. If the service drive is a private road, the local government shall reserve the right to make repairs or improvements to the service drive and charge back the costs directly or by special assessment to the benefiting landowners if they fail to properly maintain a service drive.

g. *Landscaping.* Landscaping along the service drive shall conform with the requirements of Article VI of this chapter. Installation and maintenance of landscaping shall be the responsibility of the developer or a property owners association.

h. *Parking areas.* All separate parking areas (i.e. those that do not use joint parking cross-access) shall have no more than one access point or driveway to the service drive.

i. *Parking.* The service road is intended to be used exclusively for circulation, not as a parking, loading or unloading aisle. Parking shall be prohibited along two-way frontage roads and service drives that are constructed at the minimum width (see subsection 74-582(4)). One-way roads or two-way roads designed with additional width for parallel parking may be allowed if it can be demonstrated through traffic studies that on-street parking will not significantly affect the capacity, safety or operation of the frontage road or service drive. Perpendicular or angle parking along either side of a designated frontage road or service drive is prohibited. The planning commission may require the posting of "no parking" signs along the service road. As a condition to site plan approval, the planning commission may permit temporary parking in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow extension of the service road. Temporary parking spaces permitted within the service drive shall be in excess of the minimum required under Article VI of this chapter, Parking and Loading Standard).

j. *Directional signs and pavement markings.* Pavement markings may be required to help promote safety and efficient circulation. The property owner shall be required to maintain all pavement markings. All directional signs and pavement markings along the service drive shall conform with the current Michigan Manual of Uniform Traffic Control Devices.

k. *Assumed width of pre-existing service drives.* Where a service drive in existence prior to the effective date of this provision has no recorded width, the width will be considered to be 40 feet for the purposes of establishing setbacks and measured an equal distance from the midpoint of the road surface.

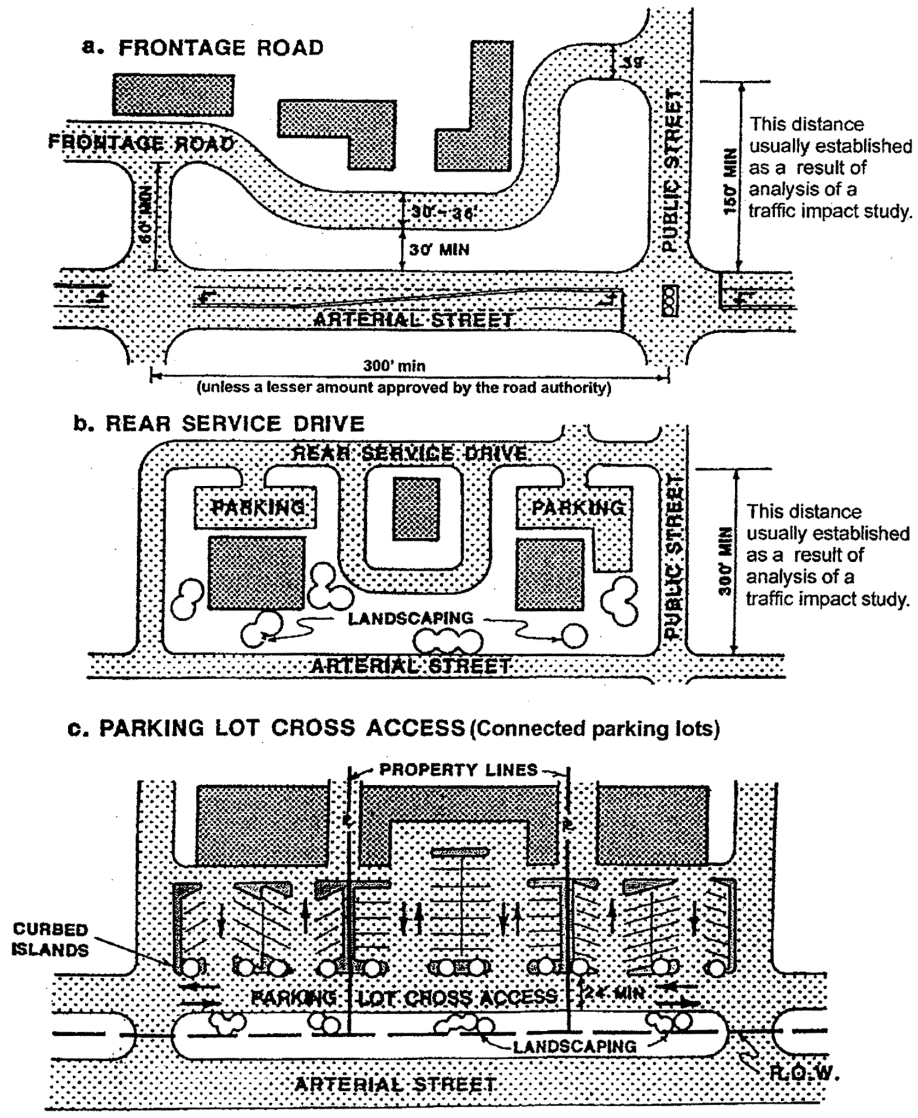
l. *Pedestrian and bicycle access.* Separate, safe access for pedestrians and bicycles shall be provided on a side path that generally parallels the service drive unless alternate and comparable facilities are approved by the commission.

m. *Number of lots or dwellings served.* No more than 25 lots or dwelling units may gain access from a service drive to a single public street.

n. *Service drive signs.* All new public and private service drives shall have a designated name on a sign meeting the standards on file in the office of the zoning administrator.

o. *Pre-existing conditions.* In the case of expansion, alteration or redesign of existing development where it can be demonstrated that pre-existing conditions prohibit installation of a frontage road or service drive in accordance with the aforementioned standards, the planning commission shall have the authority to allow and/or require alternative cross access between adjacent parking areas through the interconnection of main circulation aisles. Under these conditions, the aisles serving the parking stalls shall be aligned perpendicularly to the access aisle, as shown in Figure 1c., with islands, curbing and/or signage to further delineate the edges of the route to be used by through traffic.

Figure 1: Frontage Road, Rear Service Drive and Parking Lot Cross Access



(11) *Parking lot connections or parking lot cross-access.* Where a proposed parking lot is adjacent to an existing park similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as dete the planning commission. For developments adjacent to vacant properties, the site shall be designed to provide future connection. A written access easement signed by both landowners shall be presented as evidence of the connection prior to the issuance of any final zoning approval.

(12) *Access easements.* Shared driveways, cross access driveways, connected parking lots, and service drives shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities should be recorded with the deed. (Examples of access easements are found in Appendix B of the Michigan Access Management Guidebook.)

(13) Access points shall be located to provide safe sight distance, as determined by the applicable road agency.

(14) All access points shall maintain clear vision as illustrated in Figures 2 and 3.

Figure 2

CLEAR VISION AT DRIVEWAYS

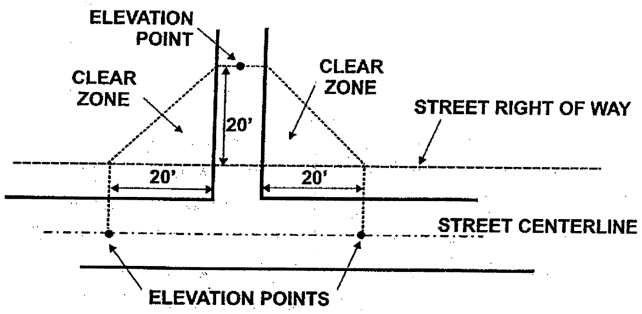
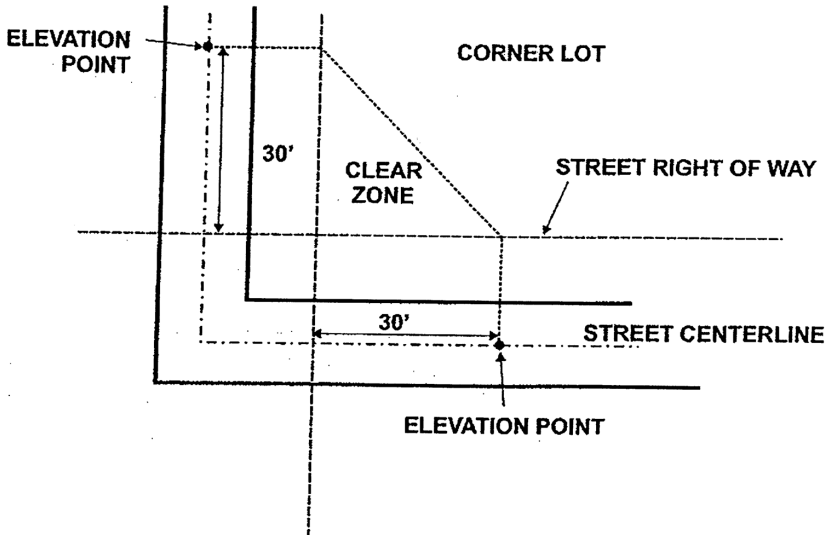


Figure 3

CLEAR VISION ON CORNER



(15) Throat width and throat length of driveways shall be as required by the road authority and this article. The driveway design shall safely accommodate the needs of pedestrians and bicyclists.

(16) *Grades and drainage:*

a. Driveways shall be constructed such that the grade for the 25 feet nearest the pavement edge or shoulder does not exceed 1.5 percent (one and one-half foot vertical rise in 100 feet of horizontal

distance) wherever feasible. Where not feasible, grades shall conform with requirements of the applicable road authority.

b. Driveways shall be constructed such that drainage from impervious areas located outside of the public right-of-way, which are determined to be in excess of existing drainage from these areas shall not be discharged into the roadway drainage system without the approval of the responsible agency. Storm drains, or culverts, if required shall be of a size adequate to carry the anticipated storm flow and be constructed and installed pursuant to the specifications of the responsible road authority.

(17) *Directional signs and pavement markings.* In order to ensure smooth traffic circulation on the site, direction signs and pavement markings shall be installed at the driveway(s) in a clearly visible location as required by the City of Iron Mountain as part of the site plan review process and approved by the Michigan Department of Transportation and Dickinson County Road Commission (as appropriate), and shall be maintained on a permanent basis by the property owner. Directional signs and pavement markings shall conform to the standards in the Michigan Manual of Uniform Traffic Control Devices.

(18) *Traffic signals.* Access points on US-2/US-141/M-95 may be required to be signalized in order to provide safe and efficient traffic flow. Any signal shall meet the spacing requirements of the applicable road authority. A development may be responsible for all or part of any right-of-way, design, hardware, and construction costs of a traffic signal if it is determined by the road authority that the signal is warranted by the traffic generated from the development. The procedures for signal installation and the percent of financial participation required of the development in the installation of the signal shall be in accordance with criteria of the road authority with jurisdiction.

(19) No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The zoning administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating any new or proposed such driveways shall be at the expense of the property owner with the problem driveway.

(Ord. of 3-20-06, § 2(R))

Sec. 74-599. - Nonconforming driveways.

(a) Driveways that do not conform to the regulations in this section, and were constructed before the effective date of this section, shall be considered legal nonconforming driveways. Existing driveways previously granted a temporary access permit by MDOT or the county road commission are legal nonconforming driveways until such time as the temporary access permit expires.

(b) Loss of legal nonconforming status results when a nonconforming driveway ceases to be used for its intended purpose, as shown on the approved site plan, or a plot plan, for a period of 12 months or more. Any reuse of the driveway may only take place after the driveway conforms to all aspects of this article.

(c) Legal nonconforming driveways may remain in use until such time as the use of the driveway or property is changed or expanded in number of vehicle trips per day or in the type of vehicles using the driveway (such as many more trucks) in such a way that impact the design of the driveway. At this time, the driveway shall be required to conform to all aspects of the article.

(d) Driveways that do not conform to the regulations in this article and have been constructed after adoption of this

article, shall be considered illegal nonconforming driveways.

(e) Illegal nonconforming driveways are a violation of this article. The property owner shall be issued a violation notice which may include closing off the driveway until any nonconforming aspects of the driveway are corrected. Driveways constructed in illegal locations shall be immediately closed upon detection and all evidence of the driveway removed from the right-of-way and site on which it is located. The costs of such removal shall be borne by the property owner.

(f) Nothing in this article shall prohibit the repair, improvement, or modernization of lawful nonconforming driveways, provided it is done consistent with the requirements of this section.

(Ord. of 3-20-06, § 2(S))

Sec. 74-600. - Waivers and variances of requirements.

(a) Any applicant for access approval under the provisions of this section may apply for a waiver of standards in section 74-598 if the applicant cannot meet one or more of the standards according to the procedures provided below:

(1) For waivers on properties involving land uses with less than 500 vehicle trips per day based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: Where the standards in this section cannot be met, suitable alternatives, documented by a registered traffic engineer and substantially achieving the intent of the section may be accepted by the zoning administrator, provided that all of the following apply:

a. The use has insufficient size to meet the dimensional standards.

b. Adjacent development renders adherence to these standards economically unfeasible.

c. There is no other reasonable access due to topographic or other considerations.

d. The standards in this section shall be applied to the maximum extent feasible.

e. The responsible road authority agrees a waiver is warranted.

(2) For waivers on properties involving land uses with more than 500 vehicle trips per day based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: During site plan review the planning commission shall have the authority to waive or otherwise modify the standards of section 74-598 following an analysis of suitable alternatives documented by a registered traffic engineer and substantially achieving the intent of this section, provided all of the following apply:

a. Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.

b. Roadway improvements (such as the addition of a traffic signal, a center turn lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.

c. The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.

d. The proposed location and design is supported by the county road commission and/or the Michigan Department of Transportation, as applicable, as an acceptable design under the circumstances.

(b) *Variance standards.* The following standards shall apply when the board of appeals considers a request for a variance from the standards of this section.

(1) The granting of a variance shall not be considered until a waiver under subsection(1) or (2) above has been

considered and rejected.

(2) Applicants for a variance must provide proof of practical difficulties unique to the parcel (such as wetlands, steep slopes, an odd parcel shape or narrow frontage, or location relative to other buildings, driveways or an intersection or interchange) that make strict application of the provisions of this section impractical. This shall include proof that:

a. Indirect or restricted access cannot be obtained; and,

b. No reasonable engineering or construction solution can be applied to mitigate the condition; and,

c. No reasonable alternative access is available from a road with a lower functional classification than the primary road; and,

d. Without the variance, there is no reasonable access to the site and the responsible road authority agrees.

(3) The board of appeals shall make a finding that the applicant for a variance met their burden of proof above, that a variance is consistent with the intent and purpose of this section, and is the minimum necessary to provide reasonable access.

(4) Under no circumstances shall a variance be granted unless not granting the variance would deny all reasonable access, endanger public health, welfare or safety, or cause an unnecessary hardship on the applicant. No variance shall be granted where such hardship is self-created.

(Ord. of 3-20-06, § 2(T))

Sec. 74-601. - Traffic impact study.

(a) If the proposed land use exceeds the traffic generation thresholds below, then the zoning administrator shall require submittal of a traffic impact study at the expense of the applicant, as described below prior to consideration of the application or site plan by either the zoning administrator or the planning commission. At their discretion, the planning commission may accept a traffic impact study prepared for another public agency. A traffic impact study shall be provided for the following developments unless waived by the planning commission following consultation with the Michigan Department of Transportation or Dickinson County Road Commission, as applicable:

(1) For any residential development of more than 20 dwelling units, or any office, commercial, industrial or mixed use development, with a building over 50,000 square feet, or

(2) When permitted uses could generate either a 30 percent increase in average daily traffic, or at least 100 directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over 750 trips in an average day.

(3) Such other development that may pose traffic problems in the opinion of the planning commission.

(b) At a minimum the traffic impact study shall be in accordance with accepted principles as described in the handbook Evaluating Traffic Impact Studies, a Recommended Practice for Michigan, developed by the MDOT and other Michigan transportation agencies and contain the following:

(1) A narrative summary including the applicant and all project owners, the project name, a location map, size and type of development, project phasing, analysis of existing traffic conditions and/or site restrictions using current data transportation system inventory, peak hour volumes at present and projected, number of lanes,

roadway cross section, intersection traffic, signal progression, and related information on present and future conditions. The capacity analysis software should be the same for each project, such as using HCS 2000 or a later version.

(2) Projected trip generation at the subject site or along the subject service drive, if any, based on the most recent edition of the Institute of Transportation Engineers Trip Generation manual. The city may approve use of other trip generation data if based on recent studies of at least three similar uses within similar locations in Michigan.

(3) Illustrations of current and projected turning movements at access points. Include identification of the impact of the development and its proposed access on the operation of the abutting streets. Capacity analysis shall be completed based on the most recent version of the Highway Capacity Manual published by the Transportation Research Board, and shall be provided in an appendix to the traffic impact study.

(4) Description of the internal vehicular circulation and parking system for passenger vehicles and delivery trucks, as well as the circulation system for pedestrians, bicycles and transit users.

(5) Justification of need, including statements describing how any additional access (more than one driveway location) will improve safety on the site and will be consistent with the US-2/US-141/M-95 Access Management Action Plan and the Community or Comprehensive Master Plan, and will not reduce capacity or traffic operations along the roadway.

(6) Qualifications and documented experience of the author of the traffic impact study, describing experience in preparing traffic impact studies in Michigan. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least five years of experience preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.

(c) The city may utilize its own traffic consultant to review the applicant's traffic impact study, with the cost of the review being borne by the applicant per section 74-12.

(Ord. of 3-20-06, § 3)