Chapter 34 - ZONING

Footnotes:
*--- (**1**) ---*
***Editor's note—** Ord. No. 468, adopted May 26, 2009, amended chapter 34 in its entirety to read as herein set out. Former chapter 34, §§ 34-1—34-495, pertained to similar subject matter, and derived from Ord. No. 441, adopted June 26, 2000; Ord. No. 444, adopted June 25, 2001; Ord. No. 445, adopted May 28, 2002; Ord. No. 450, adopted October 28, 2002; Ord. No. 452, adopted December 23, 2002; and Ord. No. 464, adopted April 14, 2008.*

ARTICLE I. - IN GENERAL

Sec. 34-1. - Purpose.

The purpose of this chapter is to establish minimum requirements for the promotion of public health, safety, morals and general welfare. Other provisions are intended to provide for adequate light, air and convenient access; to allow safety from fire and other dangers; to encourage the wise use of lands and other natural resources, within the jurisdiction, in accordance with their character, adaptability and suitability for particular purposes; to ensure social and economic stability, property values and the general character and trends of community development; to ensure adequate population concentrations by regulating and limiting the height and bulk of erected structures.

(Ord. No. 468, 5-26-09)

Sec. 34-2. - Definitions.

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

Abutting means having property or district lines in common.

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:

(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 subordinate building or structure on the same lot with the main building, or a portion of the main building, occupied or devoted exclusively to an accessory use. When an accessory building is attached to the main building in a substantial manner by a wall or roof, it shall be considered part of the main building.

Accessory use means a use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main building, but does not include its use for dwelling, residential, lodging or sleeping quarters for human beings.

Adult foster care family home means a private residence, licensed by the State of Michigan pursuant to Act No 218 of 1979 or Act No. 116 of 1973, as amended, with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks, but not an adult foster care facility licensed by a

state agency for care and treatment of persons released from or assigned to adult correctional institutions. The adult foster care family home license shall be a member of the household, and an occupant of the residence.

Alley means any dedicated public way, affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Basement means a story having part but not more than one-half (½) its height below grade. A basement is counted as a story for the purposes of height regulations, if subdivided and used for business or dwelling purposes (see cellar).

Bed and breakfast means an owner occupied dwelling where no more than five (5) guest rooms are made available for the temporary accommodation of the traveling or vacationing public. Such establishments may offer meals to the public and persons temporarily residing at the establishment.

Boarding house means a dwelling having one (1) kitchen and which is used for the purpose of providing meals, lodging or both for pay or compensation of any kind, computed by the day, week, month or year, to persons other than family members occupying such dwelling.

Building means any structure having a roof supported by columns or walls used or intended to be used for shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one (1) or more unpierced walls, each part is deemed a separate building.

Building, height of means the vertical measurement from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story, in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and the ridge of a gable, hip or gambrel roof.

Building, nonconforming means any structure, the construction of which was lawfully established prior to the passage of this chapter (or any amendments thereto), which for any reason does not meet all the applicable regulations contained in the ordinance (or its amendments).

Building permit means a written authority issued by the building inspector in conformity with the provisions of the building code.

Camping trailer means a vehicular portable temporary living quarters used for recreational camping or travel and of a size and weight as not to require special highway movement permits when drawn by a motor vehicle.

Carport means any structure or portion of a building or structure, other than an attached or detached garage, used for the shelter of self-propelled vehicles.

Cellar means a story having more than one-half (½) of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measurement.

Child care center or *day care center* means a facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care facility includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery school, parent cooperative preschool, play group, or a drop-in center. This includes the same provisions and exclusions as the definition in MCL 722.11.

Commercial means a business operated primarily for profit or nonprofit, including those of retail trade and professional, personal, technical and mechanical services.

Court means an open unoccupied space, other than a yard, that is bounded on at least two (2) sides by a building. A court not extending to the street, front yard or rear yard is an outer court.

District means a portion of the incorporated areas of the city within certain regulations and requirements or various combinations thereof apply uniformly under the provisions of this chapter.

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 (2) driveways on opposite sides of an undivided roadway.

Driveway, shared means a driveway connecting two (2) or more contiguous properties to the public road system.

Dwelling unit means one (1) or more rooms connected together but structurally divided from all other rooms in the same structure, constituting separate living quarters, designed for permanent residential occupancy by a single-family. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.

Dwelling, duplex means a building designed or modified to contain two (2) dwelling units including mobile homes, travel trailers, and tents. Not more than one (1) family may occupy each dwelling unit.

Dwelling, multiple-family means a building designed or modified to contain three (3) or more dwelling units not including mobile homes, travel trailers, and tents. Not more than one (1) family may occupy each dwelling unit.

Dwelling, single-family means a building designed exclusively for use as one (1) dwelling unit not including mobile homes, travel trailers, and tents. Not more than one (1) family may occupy each dwelling unit.

Earthwork means the removal of earth materials, clearing of vegetation, mass grading, or regrading of a site.

Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, call boxes, traffic signals, hydrants and other similar equipment, and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health, safety or general welfare.

Family means one (1) or two (2) persons or parents with their direct descendants and adopted children (and including the domestic animals, other than house pets, which shall be permitted in connection with the farm use as an accessory use of a one-family residence established and existing on the premises where such animals, poultry or birds are to be kept).

Family day care home means a private home in which more than one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year; or a home licensed by the Michigan Department of Social Services as a family day care home.

Fence means a structure of definite height and location to serve as an enclosure in carrying out the requirement of this chapter; a barrier designed to bound an area.

Fence, screening means a structure of definite height and location, maintained to prevent passage of light and to screen and separate a use from adjacent property. Unless otherwise regulated in this chapter or as required by the board of zoning appeals or the planning commission in carrying out the spirit and intent of this chapter, a screening fence shall be an obscuring fence or wall not less than four (4) feet in height.

Floor means the level base of the room, hollow structure, or enclosed area capable of supporting individuals or other materials, including basements.

Floor area means the total gross area of all floors, as measured to the outside surface of exterior walls.

Foster family home means a private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to the adoption code, Chapter X of Act No. 288 of the Public Acts of 1939, being Sections 710.21 to 710.70 of the Michigan Compiled Laws, are given care and supervision for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

Foster family group home means a private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to the adoption code, Chapter X of Act No. 288 of the Public Acts of 1939, are provided care and for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

Fraternity or *sorority house* means a building occupied and maintained exclusively for students affiliated with and formally recognized as a group by an academic or professional college or university or other recognized institution of high learning.

Frontage means all property on one (1) side of a street between intersecting or intercepting streets or between a street and railroad right-of-way, waterway, end of a dead-end street or city boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street, which it intercepts.

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.

Grade means the average level of the finished surface levels of the ground adjacent to all exterior walls of those buildings more than five (5) feet from a right-of-way. For buildings closer than five (5) feet to a right-of-way the grade is the curb elevation at the center of the building. If there is no curb, the city engineer shall establish the grade.

Ground cover ratio means the ratio area of the areas covered by the maximum horizontal cross section of a building or buildings to the area of the site (i.e., twenty (20) square feet of building cross section on one hundred (100) square feet of land would give a ratio of 20/100 or 0.20).

Group day care home means a private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Group residential facilities shall be defined to include the following:

(1) Halfway house means a house licensed by a state agency for the continued care, treatment and counseling of individuals who have successfully completed institutional treatment and who will benefit from a controlled atmosphere in a residential dwelling.

(2) Adult foster care facility means a governmental or nongovernmental establishment that provides foster care to adults. Includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. This definition includes other provisions and limitations appearing in MCL 400.703.

(3) Spouse abuse shelter means a home for the temporary residence of victims of domestic violence.

Garage, private means a detached accessory building or portion of a main building for parking or temporary storage and having a maximum gross floor area as defined in this chapter.

Garage, public means a space or structure other than a private garage for the storage, care, repair, refinishing or servicing of motor vehicles. However, a structure or room used solely for the display and sale of such vehicles, in which they are not operated under their own power and in connection with which there is no storage, repair, care, refinishing or servicing of

vehicles other than those displayed for sale, shall not be considered a public garage.

Gross floor area means the area included within the exterior walls of a building.

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 change the character thereof.

Industrial means a business operated primarily for profit or nonprofit, including those of product manufacturing or conversion through the assembly of new or used products or through the disposal or reclamation of salvaged materials, and including those businesses and service activities that are normal integral parts of an industrial enterprise.

Junk means any motor vehicle, machinery, appliance, product or merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated or are in a condition which cannot be used for the purpose for which the product was manufactured.

Junkyard means any area of more than two hundred (200) square feet, unless entirely within an enclosed building, used for storage, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, machinery or parts thereof.

Landscaping means the modification of the landscape for an aesthetic or functional purpose. It includes the preservation of existing vegetation and the continued maintenance thereof together with the installation of minor structures and appurtenances.

Living space means that area within a structure intended, designed, erected or used for human occupancy, but excluding any cellar area or accessory use areas.

Loading space means an off-street space on the same lot with a building, or a group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Lot, for the purpose of this chapter, means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area to provide such yards and other open spaces as are herein required. Such a lot shall have its front line abutting a public street or a private street meeting the standards of an approved planned unit development (PUD) and may consist of:

(1) A single lot of record;

(2) A portion of a lot of record;

(3) A combination of complete lots of record, complete lots of record and portions of lots of record, or of portions of lots of record; or

(4) A parcel of land described by metes and bounds.

Lot, nonconforming means a lot, the size, width or other characteristic of which fails to meet requirements of the zoning district in which it is located and which was conforming ("of record") prior to enactment of this chapter.

Lot of record means a lot, which is part of a plat or a lot or parcel described by metes and bounds recorded in the office of the county register of deeds at the time of adoption of this chapter.

Lot, corner means a lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of the chapter, if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.

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

Lot lines means the line abounding a lot as defined herein:

(1) *Lot line, front:* That line separating the lot from the right-of-way, in the case of a through lot, the lines separating the lot from each right-of-way; in the case of a corner lot one (1) such front line may be designated as a side lot line.

(2) *Lot line, rear:* A lot line, which is opposite, the front lot line. In the case of a corner lot, the rear lot line shall be opposite either front line, but there shall only be one (1) rear lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.

(3) *Lot line, side:* Any lot line not a front lot line or not a rear lot line.

Lot, through means an interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. All sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

Lot width means the horizontal distance between the side lot lines, measured at the interior front yard lines.

Major essential service facilities. Essential service facilities are deemed "major" if they are nonroutine in purpose, size and anticipated impact, as determined by the zoning administrator and approval of the planning commission. Major essential service facilities include, but are not limited to, utility substations, sewage treatment plants, and biomass heating, cooling and energy production plants.

Major street means any street designated as a major street pursuant to Act 51 of the public Acts of 1951.

Master plan means the comprehensive land use plan adopted by the Ironwood City Commission pursuant to the Michigan Planning Enabling Act (Public Act 33 of 2008), as amended.

Minor street means any street designated as a minor street pursuant to Act 51 of the Public Acts of 1951.

Motel means a series of rental units, each containing at least a bedroom and bathroom, provided for compensation to the traveling public for overnight lodging.

Mobile home means any vehicle designed, used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one (1) or more persons. Such mobile home shall include units with or without wheels attached. When occupied as a dwelling unit such mobile home must be located in the mobile home park.

Mobile home park means a planned unit development designed for the placement of mobile homes to be occupied as dwelling units.

Nonconforming building refers to a building or portion thereof lawfully existing at the effective provisions of this chapter in the district in which it is located.

Nonconforming use refers to a use which lawfully occupied a building or land at the effective date of this chapter, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

Nuisance means an offensive, annoying, unpleasant or obnoxious thing or practice, a course or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of a use of activity across a property line, which can be perceived by or affects a human being adversely.

Nursing home, convalescent home, extended care facility means an establishment which provides full-time convalescent, or extended care, or both for three (3) or more individuals who are not related by blood or marriage to the operator and, who, by reason of chronic illness or infirmity are unable to care for themselves. Surgical and obstetrical services and care for the acutely ill are not available on the premises.

Occupants, capacity means the maximum number of persons who may occupy a structure as determined by the city fire chief, as authorized by state or local statute.

Occupancy means being present in any manner of form. This includes the meaning of intent, design, or arrangement for the use, or inhabitation of.

Office means a building or portion of a building wherein services are performed including, predominantly administrative, professional, or clerical operations.

Off-street parking means parking, which applies to vehicles parking in all areas, except parking in garages, and parking along streets or alleys.

Open space means that portion of a site not covered by structures (see also outdoor livability space).

Outdoor livability space means any area of a site, which is not, covered by a structure, is not included in required parking area, and is available for use by residents and visitors.

Overlay zone or *overlay district* means a zoning district that encompasses one (1) or more underlying zones and that imposes additional requirements beyond those required for the underlying zone.

Parking lot means a hard surfaced, dust free area with well-defined entrances and exit lanes for unencumbered access to individual parking spaces.

Parking space means a defined area of at least nine (9) feet by eighteen (18) feet for the storage or parking of a single permitted vehicle. This area is to be exclusive of drives, driveways, isles or entrances giving access to the space from the public right-of-way.

Permanent structure means any building, (whether residential, commercial, or industrial), mobile home, accessory structure or related building, or any septic system, tile field or other waste handling facility erected, installed or moved onto a parcel of property. Excluded are recreational vehicles, picnicking shelters or moveable storage sheds, stairways, dock, or erosion control structures.

Planned unit development (PUD) means a development of flexible design, which meets the requirements of the planned unit development district, other applicable sections of this chapter and any additional requirements placed upon it by the planning commission.

Public utilities means any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under federal, state or municipal regulations, to the public, electricity, steam, communications, 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 vehicle (RV) means a vehicular-type structure, primarily used as temporary living quarters for recreation, camping or travel use, which has either its own motive power or is mounted on or drawn by another vehicle which is self-powered. An RV is not a trailer coach or a mobile home.

Retail business means a business, which sells commodities or goods in small quantities to the ultimate consumer.

Retaining wall means a wall that is built to resist lateral pressure; specifically a wall built to prevent the advance of a mass of earth.

Setback represents a distance that is established in like manner as that for yard.

Sexually oriented businesses means any establishment having a substantial or significant portion of its business devoted to the sale, rental or viewing of books, magazines, films or adult novelties that are characterized by their emphasis on matter either depicting or describing sexual activities. Such businesses are governed by the rules set for in article XIV of this chapter.

Shoreline means the area of the shorelines where land and water meet.

Sidewalk cafe means an outdoor dining area on a public sidewalk or right-of-way where patrons consume food and beverages provided by an abutting food service establishment. Such establishments include either table service in the outdoor area or takeout items to be consumed there.

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.

Site means one (1) or more lots under the same ownership or control, which are proposed, to the ongoing administrator as a whole for the purpose of compliance with the requirements and regulations of this chapter.

Site area, net means the planned unit development district. The net site area shall include the area of any existing or required right-of-way located within the boundaries of the site. In all other districts the net site area shall be the total site area.

Site improvements means any work performed on a site that is not building construction or earthwork.

Site plan means a graphic document of existing site conditions and proposed alterations and construction submitted in compliance with the requirements of this chapter.

Site plan review means a process conducted by the planning commission for the purpose of reviewing all plans for proposed developments in the city, except for single-family homes on single lots or parcels, for the purpose of assuring compliance of all permitted uses with the provisions of this chapter.

Special use permit means a permit issued by the planning commission to an applicant in accordance with the provisions of this chapter and which must be approved and issued by the planning commission prior to the issuance of a zoning permit or building permit by the building inspector.

Story means the portion of a building between one (1) floor level and the floor level next above it or between the uppermost floor and the roof. Any story lying more than fifty (50) percent by volume below the highest level of the adjoining ground and any mezzanine, balcony or similar story having a floor area of less than fifty (50) percent of the floor area immediately above it or, where there is no story above, less than fifty (50) percent of the floor area immediately below it, shall not be counted as a story in measuring the height of buildings under this chapter.

Story, half means an uppermost story lying under a sloping roof, the usable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it, and not used or designed, arranged or intended to be used, in whole or in part, as an independent housekeeping unit or dwelling.

Street means a dedicated and accepted public right-of-way for vehicular traffic, which is the primary means of access to abutting property. A street includes the entire right-of-way and any improvements constructed thereon.

Structure means anything constructed or erected which requires location on the ground or attached to something having location on the ground, including fences, signs and billboards.

Tent means a structure whose walls and roof are entirely or primarily made of fabric.

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.

Travel trailer means a vehicular portable structure mounted on wheels and of a size and weight as not to require special highway movement permits when drawn by a stock passenger automobile or when drawn with a fifth wheel hitch mounted on a motor vehicle, and is primarily designed, constructed, and used to provide temporary living quarters for recreational camping or travel.

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.

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.

Use means any purpose, for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied, or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Use, accessory means any use of land and/or structures, which may customarily accompany the permitted uses within each zoning district as the principal use to which it is accessory.

Use, conditional means any building, structure, or use, which complies with the applicable regulations governing uses, other than principal and accessory uses, in the zoning district in which such building, structure, or use is located, and for which a permit has been issued by the planning commission.

Use, nonconforming means any structure, use of a structure or land use which was lawfully established prior to the time of passage of this chapter (or any amendments thereto) and which does not conform to all of the applicable regulations contained in the ordinance (or its amendments).

Use, permitted means a use by right, which is specifically authorized in a particular zoning district.

Use, principal means the main use of land or structures as distinguished from a secondary or accessory use.

Uses subject to appeal means a use, which may be approved by decision of the zoning administrator, which decision may be appealed to the planning commission review of conditional uses.

Yard means required open space on the same site as a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in the city Code, as defined therein.

Yard, front means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance permitted between the front lot line and the nearest point of the building.

Yard, rear means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance permitted between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage, but there shall only be one (1) rear yard.

Yard, side means an open space between the main building and the side lot line, extending from the front yard to the rear yard, the width of which is the minimum horizontal distance permitted between the nearest point on the side lot line to the nearest point of the main building.

Yard, transitional means a required yard located on sites abutting zoning district boundaries for the purpose of creating a buffer zone to reduce conflict between incompatible districts.

Zoning interpretation means such interpretation as is necessary because the permissions of this chapter, in respect to the listed permitted principal and accessory uses, are not and cannot be made either comprehensive or precise enough to all applications of this chapter without interpretation, and such review, by the zoning board of appeals, is therefore required by this chapter in order to make such variances possible.

Zoning variance means a variation from the strict application of the provisions of this chapter with as strict as possible adherence to the intent and purpose of the equal application of the law principle as is possible and additionally those variations specified in this chapter which can be granted by the zoning board of appeals due to the unnecessary hardship (a variation of permitted use) or practical difficulties (a variation from a required dimensional or performance standard) due to unusual lot shape or size, or on-site natural characteristics as compared with other similarly zoned parcels in the district in which it is located.

(Ord. No. 468, 5-26-09; Ord. No. 488, 9-26-11; Ord. No. 493, 10-14-11)

Sec. 34-3. - Planning commission—Administration of provisions.

The provisions of this chapter shall be administered by the Ironwood Planning Commission in accordance with the Michigan Planning Enabling Act (Public Act 33 of 2008, MCL 125.3801 et. seq), as amended, and the Michigan Zoning Enabling Act (Public Act 110 of 2006, MCL 125.3101 et seq.), as amended, where and if possible is also relied upon as statutory authority.

(Ord. No. 468, 5-26-09)

Sec. 34-4. - Responsibilities.

(1) The planning commission must prepare and adopt a master plan to guide development in the city.
(2) The planning commission shall prepare recommendations to the Ironwood City Commission concerning the zoning ordinance, and amendments thereto, in accordance with state laws.
(3) The planning commission advises the city commission concerning future amendments, changes, additions or departures from the zoning ordinance. A zoning map is considered an element of this chapter.
(4) The planning commission shall review proposed site plans, conditional use requests and PUDs for compliance with standards stated in this chapter.
(5) The planning commission shall recommend the designation of an individual to serve as the planning director/zoning administrator of the City of Ironwood to the city commission, to effect proper administration of this chapter.

(Ord. No. 468, 5-26-09)

Sec. 34-5. - Compliance with building code and sewer use ordinance.

All development occurring within the city is affected by and shall comply with the BOCA National Building Code as adopted by the city and provisions of the sewer use ordinance which is contained within chapter 31 of this code.

(Ord. No. 468, 5-26-09)

Sec. 34-6. - Special care facilities.

Special care facilities are considered a permitted use in all residential zone districts by conditional use permit. Such permits shall be approved by the planning commission and in accordance with procedures defined by state law. These facilities may include adult foster care family home, child care center or day care center, foster family home, foster family group home, group day care house, nursing home, convalescent house, extended care facility, and other similar facilities as the planning commission approves.

(Ord. No. 468, 5-26-09)

Sec. 34-7. - Enforcement.

(1) *Violations and penalties.*

a. *Violation a nuisance.* Buildings erected, altered, moved, razed or converted or any other uses of land or premises carried on in violation of any provision of this chapter are declared to be a nuisance per se. Any and all building or land use activities considered possible violations of this chapter observed by or communicated to public safety department employees or to any city official shall be reported to the zoning administrator.

b. *Inspection of violation.* The zoning administrator shall inspect each alleged violation and shall order correction, in writing, of all conditions found in violation of this chapter.

c. *Correction period.* All violations shall be corrected within a period of thirty (30) days after the order to correct is issued or as long as six (6) months, as the zoning administrator shall permit. A person not correcting a violation within this period shall be issued a zoning citation remanding the violation to the local district court.

i. *Penalty for violation.* Every person who violates, disobeys, omits, neglects or refuses to comply with any provision of this chapter or any permit, license or exception granted hereunder or any lawful order of the zoning administrator, zoning board of appeals, planning commission or the city commission issued in pursuance of this chapter shall be guilty of a misdemeanor. Upon issuance of a zoning citation and conviction thereof before any court of competent jurisdiction, the person shall be punishable as provided in section 1-13 of this Code. The imposition of any sentence shall not exempt the offender from compliance with the provisions of this chapter.

d. *Rights and remedies.* The zoning administrator, the city commission, the planning commission, the zoning board of appeals or the city attorney and any other interested party may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, abate or remove any unlawful erection, maintenance or use. The rights and remedies provided in this subsection are civil in nature and in addition to criminal remedies.

e. *Scope of remedies.* The rights and remedies provided in this chapter are cumulative and are in addition to all other remedies provided by law. All monies received from penalties assessed shall be paid to the city treasurer on or before the first Monday of the month next following receipt thereof by any judicial officer. All fines collected shall belong to the city and shall be deposited in the general fund.

(2) *Enforcement procedure.* In addition to the enforcement actions provided in this chapter, the following additional enforcement procedures may be applicable in the instances of violations of (i) provisions of this chapter; (ii) approved special uses; (iii) approved planned unit developments; (iv) approved site plan; or (v) decisions of the zoning board of appeals, planning commission, city commission, district court or circuit court relative to a particular land use development or activity approved under the provisions of this chapter.

a. When a violation is initially determined by the zoning administrator, it shall be the administrator's responsibility to issue a notice of zoning ordinance violation to the owner and occupant of the lot or parcel upon which the zoning violation has occurred.

b. This notice shall be issued on a special form for this purpose and shall at least include the following information per the violation:
   i. Date and location of each violation observed by the zoning administrator;
   ii. Names and addresses of owners and occupants;
   iii. The specific section of this chapter, which has been violated. If more than one (1) violation, list each violation and each section violated;
   iv. Length of time allowed before further prosecution of the violation.
c. Failing compliance by the owner and occupant by the specified date in subsection (2)(b)(iv) of this section, the zoning administrator shall issue a second notice of zoning ordinance violation.
d. Failure to comply with the procedures outlined in subsections (2)(a) and (2)(b) of this section shall then upon recommendation of the zoning administrator result in the issuance of a notice of show-cause hearing by the city commission for a special hearing by interested parties on the violation.
e. Failure to comply with the procedures of subsections (2)(a), (2)(b) and (2)(c) of this section shall then result in the issuance of a show-cause hearing, finding and order by the city commission. The show-cause hearing, finding and order form shall indicate the findings of fact about the violation by the city commission, the commission's conclusions and its order for compliance with this chapter with respect to each violation.
f. Failure to comply with the procedure outlined in subsections (2)(a) through (2)(e) of this section shall then be followed by the issuance of a zoning ordinance violation appearance ticket, permitted in accordance with Act No. 366 of the Public Acts of Michigan of 1984 which amended Sections 9c and 9f of Chapter IV of Act No. 175 of the Public Acts of Michigan of 1927 (MCL 764.9c, 764.9f), to the owner and occupant of the property upon which the violation occurred. The information contained on the appearance ticket shall be drafted by the city attorney, submitted to the city commission for its approval and submitted to the presiding district court judge for approval and subsequent use by the city.
g. Bond for compliance. In authorizing any variance, the zoning board of appeals may require that a bond of ample sum, but not to exceed five thousand dollars ($5,000.00), be furnished to ensure compliance with the requirements, specifications and conditions imposed by the time. Any infraction or violation of the provisions of any variance shall cause the zoning administrator to proceed under provisions of the zoning board of appeals to complete and ensure compliance.

(Ord. No. 468, 5-26-09)

Sec. 34-8. - Fees.

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter may be collected by the zoning administrator or his/her designee in advance of issuance. The amount of the fees shall be established by resolution of the city commission and shall cover the cost of inspection and supervision resulting from enforcement of this chapter.

(Ord. No. 468, 5-26-09)

Sec. 34-9. - Vested rights.

Nothing in this chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation on any particular use, district, zoning classification or any permissible activities therein, and they are hereby declared to be subject to subsequent amendment, change, or modification as may be necessary to the preservation or protection of public health,

safety and welfare.

(Ord. No. 468, 5-26-09)

Sec. 34-10. - Essential service facilities.

(a) *Generally.* Essential services, including major essential service facilities, may be permitted in any zoning district by conditional use permit. Such permits shall be approved, denied or approved with conditions by the planning commission and in accordance with procedures defined by state law.

(b) *Regulations and standards.*

(1) Any above ground major essential service facility shall be fully secured from unauthorized entry either by construction of the facility itself or through fencing which meets the requirements of this section.

(2) As a condition of approval of a conditional use permit, the planning commission may require remote monitoring of major essential service facilities that may be vulnerable to damage or disruption.

(3) Essential service facilities located out-of-doors shall be screened from view from adjoining properties and from public road rights-of-way with materials and methods appropriate to the zoning district, the surrounding neighborhood, the proposed site, and the proposed facility. The spacing and density of living materials will be such that optimal screening is realized when materials, e.g., plantings, reach maturity. The options described in the table below suggest potential materials and methods for each zoning district. Final determination of screening materials and methods shall be at the discretion of the planning commission.

Screening Options Table

Zoning District	Suggested Screening Materials and Methods
R-1 Single-Family Residential	Solid wall or fence materials of sufficient height Trees and plantings along the property line or running parallel to the facility structure Buffer area with trees and plantings
R-2 Multifamily Residential	Same as R-1
R-3 Rural Residential	Same as R-1 Evergreen plantings and trees
C-1 Neighborhood Commercial	Deciduous ornamental (understory) trees Deciduous shade (overstory) trees Evergreen plantings and trees
C-2 Downtown Commercial	Deciduous ornamental trees Evergreen plantings and trees

C-3 Highway Commercial	Deciduous ornamental trees Evergreen plantings and trees
I Industrial	Deciduous ornamental trees Evergreen plantings and trees Buffer area with trees and plantings
O Open Area	Match the use and function of the immediate area Evergreen plantings and trees
PUD Planned Unit Development	Variable

(4) Equipment buildings intended to house major essential service facilities, such as well houses, pump buildings or equipment shelters, shall be constructed of face brick, decorative masonry, cement board or wood lap siding designed to resemble nearby structures. A side of such equipment building that is not visible from a public right-of-way may be constructed of common cement block or metal panels.

(5) All above ground major essential service facilities shall be located in conformance with the yard, lot width and lot area, height and other standards of the zoning district in which the facility is proposed, except in those cases where such standards restrict the safe and effective essential service function of the facility, or in cases involving smaller support facilities, such as electric poles or junction boxes. Applicants for permits shall justify any lot, dimension and smaller support facility exceptions to the planning commission.

(6) A major essential service facility shall be considered an accessory use to any other permitted or special land use, if it occupies no more than ten (10) percent of the parcel which is shared with the principal use. A major essential service facility located on an otherwise vacant parcel shall be considered the principal use of that parcel.

(7) An above ground major essential service facility which is fenced or which is housed in an equipment building, enclosure or other structure shall include a sign placard of not more than two (2) square feet which shall indicate the owner or operator's name, address and emergency contact information. In addition, such facilities may include any required hazard warning signage.

(8) The operations of any essential service facility shall not negatively impact adjacent and nearby property owners through the generation of noise, fumes, pollution, vibrations, light, or other impacts any more than would be expected of any use permitted by right in the zoning district.

(Ord. No. 493, 10-14-11)

Secs. 34-11—34-30. - Reserved.

ARTICLE II. - DISTRICTS

DIVISION 1. - GENERALLY

Sec. 34-31. - Enumeration of districts.

For the purpose of this chapter, the city is hereby divided into ten (10) classes of zone districts known as the following:

R-1 Single-Family Residential

R-2 Multifamily Residential

R-3 Rural Residential

R-4 High Density Residential

C-1 Neighborhood Commercial

C-2 Downtown Commercial

C-3 Highway Commercial

I Industrial

O Open Land

PUD Planned Unit Development

(Ord. No. 468, 5-26-09)

Sec. 34-32. - Map.

The boundaries of the zoning districts are hereby established as shown on the map entitled "The Zoning Map of the City of Ironwood, Michigan 2000," as amended, which accompanies and is made a part of this chapter. Except where referenced on the map to a street line or other designated line by dimensions shown on the map, the district boundary lines follow lot lines or the center of streets or alleys as they existed at the time of the enactment of this chapter, but where a district line does not coincide with such lot lines or such street centerlines or where it is not designated by dimensions, it shall be deemed to be one hundred seventy-five (175) feet back from the center of the nearest parallel street.

(Ord. No. 468, 5-26-09)

Secs. 34-33—34-50. - Reserved.

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

Sec. 34-51. - Purpose.

The purpose of the regulations covering the R-1 single-family residential district are to provide a stable and sound family residential environment with its appropriately related level of urban utilities, facilities and services. The essential difference between this and any other residential district is that a moderate density of urban-type residential development will be permitted through the construction and occupancy of one-family structures on moderately sized lot areas. There is no intent to promote, by these regulations for R-1 districts, any lower quality of livability than that possible in any other residential district.

(Ord. No. 468, 5-26-09)

Sec. 34-52. - Permitted uses.

(1) Permitted uses in the R-1 single-family residential district include one-family residences, churches, schools, parks and accessory structures thereof and providing, if public water supply and public storm drainage systems are available or constructed, that appropriate connections are made thereto. Mobile homes placed in this district shall comply with section 621 of the building code and be no more than one (1) year old, eighty-five (85) feet in length, have a 6/12 roof pitch and have a minimum 24-foot cross section along the entire length. Churches and schools shall submit plans and specifications under the provisions of the site plan review.

(2) Special care facilities are subject to review and approval as outlined in section 34-6.

(Ord. No. 468, 5-26-09)

Sec. 34-53. - Accessory buildings.

(1) Accessory buildings are permitted in the R-1 single-family residential district but not prior to erection of the principal buildings.

(2) Accessory buildings shall be permitted in the R-1 district, provided the following regulations are met:

(a) The total area and dimensions of all detached accessory buildings shall not exceed the following:

(i) For lots of ten thousand (10,000) square feet in area or less, the accessory building shall not exceed twenty-six (26) feet by twenty-six (26) feet or six hundred seventy-six (676) square feet. They shall not exceed fifteen (15) feet in height.

(ii) For lots greater than ten-thousand (10,000) square feet in area, up to one (1) acre, the accessory building shall not exceed thirty (30) feet by thirty (30) feet or nine hundred (900) square feet. They shall not exceed eighteen (18) feet in height.

(iii) For lots greater than one (1) acre, the accessory building shall not exceed thirty-six (36) feet by thirty-six (36) feet or one thousand two hundred ninety-six (1,296) square feet. They shall not exceed eighteen (18) feet in height.

(3) An accessory building located in the rear yard shall not occupy more than twenty-five (25) percent of the required rear yard area;

(4) Accessory buildings in excess of two hundred (200) square feet must be designed, constructed, and finished such that the exterior appearance is compatible in terms of materials, color, and general construction with that of the main building;

(5) Detached accessory buildings shall be located according to the following:

(a) For lots less than seventy (70) feet in width, no wall of a detached accessory building shall be closer than three (3) feet from any point along the adjoining property lines, and the drip edge shall not be closer than two (2) feet from any point along the adjoining property line; and

(b) For lots greater than or equal to seventy (70) feet in width, no wall of a detached accessory building shall be closer than five (5) feet from any point along the adjoining property lines, and the drip edge shall not be closer than three (3) feet from any point along the adjoining property line.

(6) The use of temporary tent type buildings is strictly prohibited in the R-1 district. All accessory buildings shall be of wood frame construction, and shall meet all applicable building codes. This does not prohibit the use of tents for temporary events such as garage sales, weddings, or other similar events.

(7) One (1) accessory building, in addition to the principal garage, is permitted, but may not exceed two hundred (200) square feet.

(8) No part of any front yard shall be used for any attached or detached accessory building nor for the permanent parking unlicensed and/or inoperable vehicles.

(Ord. No. 468, 5-26-09)

Sec. 34-54. - Dimensional requirements.

The following minimum dimensions for lot area and width and for floor area, together with maximum dimensions for lot coverage and building heights, shall be required for every structure and land use in the R-1 single-family residential district, except as noted:

(1) *Minimum lot area.* No lots, except as otherwise established for specifically permitted uses, shall hereafter be subdivided to provide less than eight thousand four hundred (8,400) square feet of lot area.

(2) *Minimum lot width.* The lot width shall be an average of seventy-five (75) feet, but no less than seventy (70) feet, along the street upon which the lot fronts. In the case where a curvilinear street pattern produces irregular shaped lots with nonparallel side lot lines, a lesser frontage width at the street line may be permitted, provided that the lot width at the minimum permitted building setback line averages no less than seventy-five (75) feet, but no lot shall be less than seventy (70) feet in width.

(3) *Maximum lot coverage.* All buildings, including accessory buildings, shall not cover more than thirty (30) percent of the total lot area.

(4) *Maximum building height.* No structure shall exceed two (2) stories or thirty-five (35) feet.

(5) *Minimum finished living space.* The minimum gross living space area per family shall not be less than eight hundred fifty (850) square feet of floor area on the first floor if one (1) story, six hundred fifty (650) square feet of floor area on the first floor if two (2) stories, but not less than two hundred fifty (250) square feet of floor area on the second floor level, or a total of not less than one thousand (1,000) square feet of floor area if a split level single-family dwelling.

(6) *Minimum yard dimensions.* Minimum yard dimensions shall be as follows:

a. *Front yard.* Thirty-five (35) feet, minimum setback from street;

b. *Side yards:*

i. For lots seventy (70) feet or more in width at the building line, the least width of each yard shall be eight (8) feet, with a total of twenty (20) feet; and

ii. For corner lots, the side yard abutting a street may have the setback reduced to no more than ten (10) feet by the zoning board of appeals.

c. *Rear yard.* For lots up to one hundred fifty (150) feet in depth, the rear yard shall not be less than thirty (30) feet in depth. For lots over one hundred fifty (150) feet in depth, the rear yard shall not be less than forty (40) feet in depth from the principal structure; and

(7) *Minimum lot depth of 120 feet.*

(8) *Parking restrictions.* No parking of motor vehicles or commercial (i.e., construction) trailers with a carrying capacity of greater than one (1) ton shall occur in this district. Parking of boats or recreational vehicles is restricted to side or rear yards unless parked within an enclosed garage.

(Ord. No. 468, 5-26-09)

Secs. 34-55—34-70. - Reserved.

DIVISION 3. - R-2 MULTIFAMILY RESIDENTIAL DISTRICT

Sec. 34-71. - Purpose.

The purpose of the regulations covering the R-2 multifamily residential district are to provide a stable and sound family residential environment with the highest type of neighborhood-related urban utilities, facilities and services. The essential difference between this and other residential districts is that a relatively high density of urban-type residential development will be permitted in a variety of multifamily dwelling structures on a relatively small area per dwelling unit. There is no intent to promote, by these regulations for R-2 districts, any lower quality of livability than that possible in any other residential district.

(Ord. No. 468, 5-26-09)

Sec. 34-72. - Permitted uses.

(1) Permitted uses in the R-2 multifamily residential district include duplex and multifamily dwellings, churches, schools and parks, providing public water supply, public storm sewers and public sanitary sewer systems will be utilized. The permitted uses shall submit plans and specifications under the provisions of article IX of this chapter; single-family residences shall be exempt from this requirement. Mobile homes placed in this district shall comply with Section 621 of the BOCA National Building Code, and be no more than one (1) year old, eighty-five (85) feet in length, contains a 6/12 roof pitch and have a 24-foot cross section.

(2) Special care facilities are subject to review and approval as outlined in section 34-6.

(Ord. No. 468, 5-26-09)

Sec. 34-73. - Accessory buildings.

(1) Accessory buildings shall adhere to the following:

(a) Accessory buildings shall not exceed eighteen (18) feet in height on any residential lot.

(b) The maximum square footage for accessory buildings in the R-2 district shall be nine hundred (900) square feet except that a maximum of one (1) garage space shall be permitted for each apartment unit and a maximum of two (2) garage spaces shall be permitted for each duplex unit with a maximum size of three hundred seventy-five (375) square feet per garage space not to exceed fifteen (15) feet by twenty-five (25) feet.

(c) An accessory building located in the rear yard shall not occupy more than twenty-five (25) percent of the required rear yard area;

(d) Accessory buildings in excess of two hundred (200) square feet must be designed, constructed, and finished such that the exterior appearance is compatible in terms of materials, color, and general construction with that of the main building.

(e) Detached accessory buildings shall be located so that no drip edge of a detached accessory building shall be closer than ten (10) feet from any point along the adjoining property lines.

(f) Detached accessory buildings shall be located no closer than twenty (20) feet to the nearest point of a dwelling unit on an adjoining lot.

(g) The use of temporary tent type buildings is strictly prohibited in the R-2 district. All accessory buildings shall be of wood frame construction, and shall meet all applicable building codes. This does not prohibit the use of tents for temporary events such as garage sales, weddings, or other similar events.

(2) No part of any front yard shall be used for any attached or detached accessory building nor for the permanent

parking of unlicensed and/or inoperable vehicles.

(Ord. No. 468, 5-26-09; Ord. No. 499 , § 1, 1-17-14)

Sec. 34-74. - Dimensional requirements.

The following minimum dimensions for lot area and width and floor area, together with maximum dimensions for lot coverage and building heights, shall be required for every structure and land use in the R-2 multifamily residential district, except as noted:

(1) *Minimum lot area.* For multiple-family dwellings, minimum lot areas are as follows, providing that public sanitary sewer and public water supply utilities are utilized:

(a) Lot size requirements:

Single Family Dwellings	8,400 sq. ft. per family
2-family dwellings	7,500 sq. ft. per family
3-4 family dwellings	6,000 sq. ft. per family
5-6 family dwellings	5,000 sq. ft. per family
7-8 family dwellings	4,500 sq. ft. per family

(b) The term "dwelling unit structure" as used in this section shall be interpreted to include all of the dwelling units on a use parcel, which may, in order to accomplish a more desirable development, actually be contained in a number of physically separate though functionally related buildings.

(2) *Minimum lot width.* The lot width shall be eighty (80) feet for the first dwelling unit and an additional twenty (20) feet for each additional dwelling unit, up to and including structures containing four (4) dwelling units, and an additional ten (10) feet for each dwelling unit thereafter along the street upon which the lot fronts, with exceptions to be allowed for lots on curvilinear streets producing nonparallel side lot lines. A less frontage width at the street line may be permitted, provided that the lot width at the minimum permitted building setback line is no less than eight (8) feet for the first dwelling unit and an additional ten (10) feet for each dwelling unit thereafter.

(3) *Maximum building height.* No structure shall exceed three (3) stories or fifty (50) feet.

(4) *Minimum living space.* The minimum gross floor living space area per family shall not be less than seven hundred fifty (750) square feet of floor area on the first floor if one (1) story or three hundred seventy-five (375) square feet of floor area on the first floor if two stories, but no less than three hundred seventy-five (375) square feet of floor area on the second floor level.

(5) *Maximum lot coverage.* All buildings, including accessory buildings, shall not cover more than forty (40) percent of the total lot area.

(6) *Minimum yard dimensions for single structures.* Minimum yard dimensions for single structures containing two (2) or more dwelling units are as follows:

(a) *Front yard.* Front yard setbacks shall be at least twenty-five (25) feet.

(b) *Side yards:*

(i) For lots seventy (70) feet or more in width at the building line, the least width of each yard shall be eight (8) feet.

(ii) For corner lots, the side yard abutting a street may have the setback reduced to no more than ten (10) feet by the zoning board of appeals.

(iii) Rear yard. For lots up to one hundred fifty (150) feet in depth, the rear yard shall not be less than forty (40) feet.

(7) *Minimum yard dimensions for group housing developments.* Minimum yard dimensions for group housing developments shall be as follows:

(a) *Principal buildings on same lot.* Between principal buildings on the same lot or parcel, front-to-front, rear-to-rear or front-to-rear, the minimum horizontal distance shall be fifty (50) feet for buildings one (1) story in height. This distance shall be increased by not less than five (5) feet for every story added, except where the finished slope of a site between buildings is equal to a height of one (1) or more stories, the increase in horizontal distance may be reduced. The minimum distance between buildings may be decreased on one (1) side by not more than ten (10) feet, if the distance on the other side is proportionately increased, or, if the buildings are staggered so as to permit free movement of air and allow ample sunlight to reach the ground, other modifications may be permitted by the planning commission if the planned development compensates by other space provisions.

(b) *Ends of buildings.* Between ends of buildings, the distance shall not be less than twenty (20) feet when neither building exceeds two (2) stories. When the end of one (1) building is opposite the long dimensions of another building, the minimum distance shall be thirty (30) feet if one (1) or both buildings are one (1) story, thirty-five (35) feet if one (1) or both buildings are two (2) stores and forty (40) feet if one (1) or both buildings are in excess of two (2) stories.

(c) *Closed courts.* No courts completely enclosed by a building structure shall be permitted; however, screen walls not exceeding six (6) feet in height are permitted to enclose what would otherwise be an open court. All dimensional requirements for open courts shall apply to such enclosed courts.

(d) *Open courts.* The width of any outer court upon which windows from a living room, bedroom or dining room open shall be not less than the height of any opposing wall forming the court. The depth of an open court formed by walls on three (3) sides shall not be greater than one and one-half (1½) times the width. The width of any other outer or open court shall not be less than two-thirds (2/3) the height of any opposing wall forming the court, and the depth shall not be greater than one and one-half (1½) times the width.

(e) *Yard facing street.* A yard facing a street shall be no less than twenty-five (25) feet for up to two-and-one-half-story buildings.

(f) *Side yards.* Side yards shall be no less than one-half (½) the height of the building nearest the side property line, but shall not be less than twenty (20) feet in any case.

(g) *Rear yard.* A rear yard shall be no less than the height of the building nearest the rear property line, but shall not be less than thirty (30) feet in any case.

(h) *Other dimensions.* No entrance to a dwelling unit in a group housing development shall be closer to any street, access road or driveway than thirty-five (35) feet or be farther from a street, access road or driveway than one hundred fifty (150) feet.

(i) *Play areas.* Play areas suitable for preschool children must be provided in all group housing developments.

They shall preferably be located within sight of the dwelling units they serve. A minimum area of thirty (30) square feet per dwelling unit and a minimum total for each play area of one thousand two hundred (1,200) square feet shall be provided.

(j) *Site plan review.* In addition to all previous requirements of this section, all group housing projects shall be required to meet all of the provisions of articles IV and IX of this chapter.

(8) *Parking restrictions.* No parking of motor vehicles or commercial trailers with a carrying capacity of greater than one (1) ton shall occur in this district. Parking of boats or recreational vehicles is restricted to side or rear yards unless parked within an enclosed garage.

(9) *Off-street parking and loading.* Off-street parking and loading/unloading requirements for this district are specified in article VI of this chapter.

(10) *Snow storage.* On-site snow storage shall be provided for in the amount of ten (10) percent of the total required parking space. This storage amount shall be in addition to the required parking space.

(Ord. No. 468, 5-26-09)

Secs. 34-75—34-90. - Reserved.

DIVISION 4. - R-3 RURAL RESIDENTIAL DISTRICT

Sec. 34-91. - Purpose.

The purpose of the R-3 rural residential district is to provide for very low density one-family residences, while preserving the rural character of the district. Another purpose is to delay intensive development until city utilities and services can adequately be provided. There is no intent to promote, by these regulations for R-3 districts, any lower quality of livability than that possible in any other residential district.

(Ord. No. 468, 5-26-09)

Sec. 34-92. - Definitions.

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

Farm consists of the following:

(1) All of the adjoining land operated as a single unit on which the farming of crops is carried on directly by the owner, by the owner's own labor or with the assistance of members of the owner's household or hired employees; provided, however, that land to be considered a farm under this subsection shall include a contiguous parcel of land of five (5) acres or more in area; provided, further, that farms under this subsection may be considered as including establishments operating as greenhouses, nurseries and orchards.

(2) All of the adjoining land operated as a single unit, which includes the farming of crops, the keeping of livestock or poultry, commercial dog kennels, chicken hatcheries or apiaries, and the operations carried on directly by the owner/operator, by the owner's or operator's own labor or with the assistance of members of the owner's or operator's family or hired employees; provided, however, that land to be considered a farm under this subsection shall include a contiguous parcel of land of ten (10) acres or more in area.

(3) No farms under this subsection shall be operated as piggeries or feed lots or for the raising and slaughtering of

animals, except such animals as have been raised or maintained on the premises for at least one (1) year immediately prior to their slaughter and area for the use and consumption by persons actually residing on the premises.

Limited commercial means those types of businesses associated with the agricultural nature of this division and shall include but not be limited to stables, commercial dog kennels, nurseries or the keeping of livestock.

(Ord. No. 468, 5-26-09)

Sec. 34-93. - Permitted uses.

The following uses shall be permitted in the R-3 rural residential district:

(1) Residential;

(2) Farms;

(3) Limited commercial;

(4) Special care facilities subject to review and approval as outlined in section 34-6.

(5) Equine and stables are permissible with five (5) acres for the first two (2) adult animals and an additional one (1) acre required for each additional adult animal. Stables shall be located so as not to create a nuisance because of smell or pests to the surrounding dwellings. Equine in the above shall also include llamas and similar types of animals.

(Ord. No. 468, 5-26-09)

Sec. 34-94. - Required conditions.

The following conditions apply in the R-3 rural residential district:

(1) Municipal sanitary sewer and water service will not be provided.

(2) Sanitary sewer and water provision shall be subject to approval by the county health department.

(3) Mobile homes placed in this district shall comply with section 621 of the BOCA National Building Code and be no more than one (1) year old, eighty-five (85) feet in length, have a minimum 6/12 roof pitch and have a 24-foot cross section along the entire length.

(Ord. No. 468, 5-26-09)

Sec. 34-95. - Height and area.

In the R-3 rural residential district, height and area requirements shall be as follows:

(1) *Maximum height.* The maximum height for structures shall be two (2) stories, but shall not exceed thirty-five (35) feet.

(2) *Front yard.* There shall be a front yard of at least fifty (50) feet in depth.

(3) *Side yard.* There shall be two (2) side yards, each of which shall be at least fifty (50) feet in width.

(4) *Rear yard.* There shall be a rear yard of at least one hundred (100) feet in depth.

(5) *Lot area.* The minimum residential lot area shall be four hundred thirty-five thousand six hundred (435,600) square feet (ten (10) acres) and the minimum residential front lot line shall be three hundred thirty (330) feet in length.

(6) *Floor area.* There shall be a minimum floor area of eight hundred fifty (850) square feet. Dwellings having more

than one (1) story shall have a ground floor area of at least six hundred fifty (650) square feet.

(Ord. No. 468, 5-26-09)

Sec. 34-96. - Accessory buildings.

In the R-3 rural residential district, an accessory building, including a garage, shall not be erected in any required front yard, shall not exceed thirty-five (35) feet in height and shall be at least fifty (50) feet from the side lot lines and one hundred (100) feet from rear lot lines. No part of any required front yard shall be used for any attached or detached accessory building nor for the permanent parking of unlicensed and/or inoperable vehicles.

(Ord. No. 468, 5-26-09)

Sec. 34-97. - Uses subject to special conditions.

In the R-3 rural residential district, the following uses shall be subject to special conditions:

(1) An accessory building to be used as a private stable, barn, chicken coop or similar type building shall be no less than one hundred (100) feet from any lot line and no less than one hundred fifty (150) feet from any dwelling located on the adjoining lot.

(2) The animals, poultry or birds shall be confined in a suitable fenced area, paddock or suitable building.

(3) Stables, barns and other similar accessory buildings shall be kept clean, and manure shall be treated and handled in such a manner as to control odor and flies and shall be screened from view.

(4) All confinement areas, stables, barns and other similar accessory buildings shall in all instances be located in the rear yard.

(Ord. No. 468, 5-26-09)

Secs. 34-98, 34-99. - Reserved.

DIVISION 5. - R-4 HIGH DENSITY RESIDENTIAL DISTRICT

Sec. 34-100. - Purpose.

The purpose of the regulations covering the R-4 residential district are to provide a stable and sound family residential environment with its appropriately related level of urban utilities, facilities and services. The essential difference between this and any other residential district is that a higher density of urban type residential development, including affordable housing units with a smaller size, will be permitted through the construction and occupancy of one-family structures on moderately sized lot areas. There is no intent to promote by these regulations for R-4 districts any lower quality of livability than that possible in any other residential district.

(Ord. No. 468, 5-26-09)

Sec. 34-101. - Permitted uses.

(1) Permitted uses in the R-4 residential district include one- and two-family residences, churches, schools, parks and accessory structures thereof and providing, if public water supply and public storm drainage systems are available or constructed, that appropriate connections are made thereto.

(2) Special care facilities are subject to review and approval as outlined in article IV.

(Ord. No. 468, 5-26-09)

Sec. 34-102. - Accessory buildings.

(1) Accessory buildings are permitted in the R-4 residential district but not prior to erection of the principal buildings.

(2) Accessory buildings shall not occupy more than forty (40) percent of the rear yard, nor shall they be closer to the side lot line than:

(a) Three (3) feet on lots seventy (70) feet in width and less. For corner lots, the side yard abutting a street shall be at least ten (10) feet;

(b) Five (5) feet on lots over seventy (70) feet in width. For corner lots, the side yard abutting a street shall be at least ten (10) feet;

(c) Accessory buildings shall not exceed fifteen (15) feet in building height and shall be at least five (5) feet from principal buildings and not closer than five (5) feet from the rear lot line.

(3) One (1) accessory building, in addition to the principal garage, is permitted, but may not exceed two hundred (200) square feet.

(4) No part of any front yard shall be used for any accessory building or garage nor for the permanent parking of vehicles.

(Ord. No. 468, 5-26-09)

Sec. 34-103. - Dimensional requirements.

The following minimum dimensions for lot area and width and for floor area, together with maximum dimensions for lot coverage and building heights, shall be required for every structure and land use in the R-4 residential district:

(1) *Minimum lot area.* No lots shall hereafter be subdivided to provide less than eight thousand four hundred (8,400) square feet of lot area.

(2) *Minimum lot width.* The lot width shall be no less than seventy (70) feet along the street upon which the lot fronts.

(3) *Maximum lot coverage.* All buildings, including accessory buildings, shall not cover more than thirty (30) percent of the total lot area.

(4) *Maximum building height.* No structure shall exceed two (2) stories or thirty-five (35) feet.

(5) *Minimum finished living space.* The minimum gross floor area per family shall not be less than eight hundred fifty (850) square feet of floor area on the first floor if one (1) story, six hundred fifty (650) square feet of floor area on the first floor if two (2) stories, but not less than two hundred fifty (250) square feet of floor area on the second floor level, or a total of not less than one thousand (1,000) square feet of floor area if a split level single-family dwelling.

(6) *Minimum yard dimensions.* Minimum yard dimensions shall be as follows:

(a) *Front yard.* Thirty-five (35) feet.

(b) *Side yards:*

i. The least width of each yard shall be eight (8) feet, with a total of twenty (20) feet;

ii. For corner lots, the side yard abutting a street shall be at least ten (10) feet;

iii. Rear yard. For lots up to one hundred fifty (150) feet in depth, the rear yard shall not be less than thirty

(30) feet. For lots over one hundred fifty (150) feet in depth, the rear yard shall not be less than forty (40) feet;

iv. Minimum lot depth. One hundred twenty (120) feet.

(c) *Dwelling width.* There shall be a minimum width throughout the entire length of the dwelling of fourteen (14) feet measured between the outside walls having the greatest length.

(d) *Parking restrictions.* No parking of motor vehicles or trailers with a carrying capacity of greater than one (1) ton shall occur in this district. Parking of boats or recreational vehicles are restricted to side or rear yards unless parked within an enclosed garage.

(Ord. No. 468, 5-26-09)

Sec. 34-104—34-110. - Reserved.

DIVISION 6. - C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

Sec. 34-111. - Purpose.

The purpose of the C-1 neighborhood commercial district is to accommodate those retail sales and service facilities that are considered to be an indispensable function of residential neighborhoods. Commercial activities for neighborhood commercial are those which primarily offer goods and services which generally are required by a family on a daily or less than weekly basis. In view of this primary purpose, it is important that such neighborhood shopping developments be built around family, food, household and automotive services.

(Ord. No. 468, 5-26-09)

Sec. 34-112. - Permitted uses.

The following types of commercial activities may be permitted upon approval of the planning commission in a C-1 neighborhood commercial district, providing that no one (1) type of permitted use may occupy more than twenty-five (25) percent of the total area of a separate neighborhood commercial district:

(1) Establishments selling all types of foodstuffs for consumption off premises, including those which produce or manufacture foodstuffs exclusively for sale on the premises; however, no slaughtering or killing of any live animal shall be permitted;

(2) Services such as dry cleaning agencies, self-service laundries, shoe repair shops, beauty parlors and barbershops;

(3) Drugstores and apparel stores;

(4) Lunch counters, dairy bars, restaurants without dancing, entertainment and alcoholic beverages, but excluding drive-in eating establishments;

(5) Offices for neighborhood related personal or business services;

(6) Single-family apartments when above a building's ground floor;

(7) Book stores;

(8) Community centers.

(Ord. No. 468, 5-26-09; Ord. No. 508 , § 1, 4-27-15)

Sec. 34-113. - Conditional use permits.

In addition to the C-1 neighborhood commercial zoning districts, the planning commission may authorize the establishment and construction in residential districts, in accordance with the master plan and located on a major street or highway, neighborhood commercial districts by the issuance of conditional use permits when all procedures and applicable requirements stated in article IV of this chapter, together with the additional requirements stated in this division, can be complied with.

(Ord. No. 468, 5-26-09)

Sec. 34-114. - Site development requirements.

The following site development criteria are required in the C-1 neighborhood commercial districts:

(1) *Minimum lot area.* The minimum lot area shall be seven thousand two hundred (7,200) square feet.

(2) *Minimum lot width.* The minimum lot width shall be sixty (60) feet.

(3) *Required yards:*

(a) *Front yard.* The minimum front yard setback shall be twenty-five (25) feet.

(b) *Side yard:*

i. For lots seventy (70) feet or more in width at the building line, the least width of each side yard shall be eight (8) feet.

ii. For corner lots, the side yard abutting a street may be reduced by no more than ten (10) feet by the zoning board of appeals.

(c) *Rear yard.* For lots up to one hundred fifty (150) feet in depth, the rear yard shall not be less than thirty (30) feet in depth. For lots over one hundred fifty (150) feet in depth, the rear yard shall not be less than forty (40) feet in depth from the principal structure.

(4) *Maximum building height.* The maximum building height shall be two (2) stories, but shall not exceed thirty-five (35) feet.

(5) *Lighting.* Lighting shall be installed and operated in a manner such that no illumination source is visible beyond the property lines or the parcel or lot upon which a use is located.

(6) *Vehicular access.* Vehicular access shall be so designed and located as to create a minimum interference with traffic on the surrounding public streets. No more than two (2) driveways, each not to exceed twenty (20) feet in width at the property line, shall be permitted on each street frontage of the property. No additional vehicle driveway access to this district shall be made through any residential district.

(7) *Off-street parking and loading.* Off-street parking and loading and unloading requirements for this district are specified in article VI of this chapter.

(8) *Storage.* No vehicles, trailers or any other nonpermanent structure may be used for storage of goods or equipment within this district, without the approval of the zoning administrator and the planning commission.

(9) *Temporary structures.* All temporary structures used for display and/or sale of goods or equipments, in direct affiliation with the main business, shall first require a permit from the planning commission prior to erection of the structure. Temporary structures not directly affiliated with the main structure shall be considered a transient merchant and shall obtain a transient merchant license from the city clerk's office.

(10) *Signs.* All signs to be located outside any building in the neighborhood commercial district shall conform to the following requirements:

(a) Signs shall be placed flat against the main building or parallel to the building on a canopy and may face only put parking areas, which are a part of the development. All signs, together with all their supports, braces, guys, and be maintained in a safe manner and kept in good repair. When constructed of materials which require protectic elements, signs shall be protected from the elements to prevent corrosion.

(b) They may not exceed in height twenty (20) percent of the building height, and the total area of all signs shall not exceed twenty (20) percent of the area of the nearest building face with which they are parallel.

(c) All signs in this district shall require written approval of the Zoning Administrator or his/her designee.

(d) One (1) additional sign may be placed freestanding or attached to the building, but not extend over a public right-of-way, near one (1) entrance on each street upon which the lot or parcel fronts. Such a sign shall convey only the identification of the permitted use, shall be located so that view of traffic upon or outside of the development is not obstructed for pedestrians or motorists and may not exceed one hundred (100) square feet in area.

(e) Illuminated or flashing signs are strictly prohibited in the C-1 district.

(f) The operators of each commercial establishment shall be permitted to display one (1) sandwich board sign in the C-1 neighborhood commercial district, providing that the operators of each establishment adhere to the following:

i. Sandwich board signs that are placed in the right-of-way shall be located on the sidewalk, directly in front of the establishment advertising, or from an attached patio area utilized by the establishment advertising;

ii. The sandwich board sign shall not be any longer than three (3) feet in width at the base and not longer than five (5) feet in height at any point;

iii. The sandwich board sign shall be at least two (2) feet in width and no less than four (4) feet in height;

iv. The sandwich board sign shall be constructed of wood or another material suitable to outdoor elements and be of sturdy constructions;

v. Sandwich board signs shall not be illuminated or lit;

vi. Any sandwich board sign which is, or may hereafter become rotted, unsafe, in a state which is not properly maintained, or has loose materials (including peeling paint, paper, wires, braces, or other material), shall be repaired or removed by the owner of the establishment of which the sign represents upon notice of the zoning administrator;

vii. Sandwich board signs shall be placed so as not to interfere with the line of site for any vehicular traffic, or pose any other traffic hazard.

(g) Signs purely for traffic regulation and direction within the development may be utilized as required.

(Ord. No. 468, 5-26-09)

Secs. 34-115—34-130. - Reserved.

DIVISION 7. - C-2 DOWNTOWN COMMERCIAL DISTRICT

Sec. 34-131. - Purpose.

The C-2 downtown commercial district is established for the purposes of accommodating the widest variety and highest concentration of retail and service establishments to be located in the major service centers of the city and, further, to permit those additional uses which can be appropriately located in such a central area. This district provides major retail and service facilities to the people of several neighborhoods, major portions of the city, and extending to the immediately surrounding regions. Collectively, the uses permitted in this district are intended to be retail and service centers for the larger community and its immediate surrounding area in contrast to the other more limited neighborhood districts, which are for more limited and specific purposes.

Note: An historic theme is being promoted for the C-2 zoning district. The adoption of a historic overlay zone will become an amendment to this section.

(Ord. No. 468, 5-26-09)

Sec. 34-132. - Permitted uses.

With only the exceptions noted, all of the uses in the C-2 downtown commercial district must by wholly conducted in permanent, fully enclosed buildings, except public utility structures not usually so enclosed. All uses permitted in this district shall submit plans and specifications under the provisions of article IX of this chapter. Permitted uses include the following:

(1) Single and multiple retail establishments selling principally new merchandise;
(2) Personal and business services;
(3) Hotels and motels;
(4) Passenger terminals;
(5) Offices and banks;
(6) Restaurants, excluding drive-ins;
(7) Public buildings and public utility installations located on lots or parcels;
(8) Business or trade schools;
(9) Dancing and music studios;
(10) Sales and showrooms, including automobiles and recreation vehicles with outside paved lots including driveways;
(11) Research and testing laboratories;
(12) Funeral homes and mortuaries;
(13) Commercial recreational facilities;
(14) Parking lots and sales lots, as long as they are paved with an impermeable surface;
(15) Single-family apartments when above a building's ground floor.

(Ord. No. 468, 5-26-09)

Sec. 34-133. - Permitted uses by conditional use permit.

The following uses may be permitted in the C-2 downtown commercial district under the provisions of articles IV and IX of this chapter:

(1) Automobile service stations;
(2) Servicing and repairing of other types of motor vehicles, trailers and boats;

(3) Manufacturing and processing establishments, selling at least fifty (50) percent of the entire output at retail on the p

(4) Outdoor advertising which exclusively advertises a retail business on the premises, providing that the advertising panel is limited to one (1) per lot or parcel and the total area of the advertising on one (1) side of the panel does not exceed two hundred (200) square feet in area;

(5) Drive-through retail, service establishments and drive-through restaurants, except drive-in theaters;

(6) Second-hand or antique stores;

(7) Household and family service businesses, such as household equipment servicing (except automobile), laundries, dry cleaners and similar establishments;

(8) Theaters (except drive-ins), taverns and nightclubs;

(9) Sexually-oriented businesses, as defined and regulated by article XIV of this chapter;

(10) Storage facilities/units.

(Ord. No. 468, 5-26-09)

Sec. 34-134. - Site development requirements.

The following site development criteria are required in the C-2 downtown commercial district:

(1) *Minimum lot area.* The minimum lot area shall be five thousand (5,000) square feet.

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

(3) *Yards.* No front, side, or rear yards are required.

(4) *Maximum building height.* The maximum building height shall be three (3) stories, but shall not exceed fifty (50) feet.

(5) *General use requirements.* No use in this district shall produce any objectionable noise, odor, dust, smoke, fumes, heat, glare or vibration beyond its lot lines.

(6) *Lighting.* All lighting shall be accomplished in a manner such that no illumination is significantly directed beyond the property lines of the lot or parcel upon which a use is located.

(7) *Signs.* Shall be permitted if they pertain exclusively to the business carried on within the building or upon the lot or parcel, in accordance with the following:

a. A sign may be placed flat against the main building or parallel to the building on a permitted canopy and shall face only public streets or parking areas which are a part of the development, shall not project above the cornice or roof lines, and no sign shall project over or into a public right-of-way.

b. A sign shall not exceed in height twenty (20) percent of the building height, and the total area of all signs shall not exceed twenty (20) percent of the area of the nearest building face with which they are parallel. A sign perpendicular to the building shall not exceed twenty-five (25) square feet in area on each face.

c. Signs may be illuminated, but if intended to have moving illumination, such illumination shall be approved in advance by the zoning administrator who shall make certain that light intensity, color and movement will not likely be as distracting to motor vehicle operators as to constitute a traffic hazard.

d. Signs not exceeding four (4) square feet, for traffic regulation and directions only within the development, may be utilized as required.

e. Sign maintenance. Signs, together with all their supports, braces, guys, and anchors shall be maintained in a safe manner and kept in good repair. When constructed of materials, which require protection from the elements, signs shall be protected from the elements to prevent corrosion.

f. One (1) additional sign may be placed freestanding near one (1) entrance on each street upon which the lot or p Such a sign shall convey only the identification of the permitted use, shall be located so that the view of traffic u the development is not obstructed for pedestrians or motorists and may not exceed one hundred (100) square and, further, this additional sign may not extend into or over any public right-of-way or easement.

g. The operators of each commercial establishment in the C-2 district shall be permitted to display one (1) sandwich board sign, providing that the operators of each establishment adhere to the following:

i. Sandwich board signs that are placed in the right-of-way shall be located on the sidewalk, directly in front of the establishment advertising, or from an attached patio area utilized by the establishment advertising.

ii. The sandwich board sign shall not be any longer than three (3) feet in width at the base and not longer than five (5) feet in height at any point.

iii. The sandwich board sign shall be no smaller than two (2) feet in width and no smaller than four (4) feet in height.

iv. The sandwich board sign shall be constructed of wood or another material suitable to outdoor elements and be of sturdy construction.

v. Sandwich board signs shall not be illuminated or lit.

vi. Any sandwich board sign which is, or may hereafter become rotted, unsafe, in a state which is not properly maintained, or has loose materials (including peeling paint, paper, wires, braces, or other material), shall be repaired or removed by the owner of the establishment of which the sign represents upon notice of the zoning administrator.

(8) *Outside display of merchandise.* All provisions of chapter 29, division 3 shall apply except that owners of retail establishments in the C-2 district may display merchandise outdoors, in accordance with the following:

a. Merchandise shall not be placed in a manner that presents a hazard to pedestrians or vehicular traffic.

b. Merchandise shall not be placed in a manner that disrupts the flow of pedestrian traffic.

c. Merchandise that is displayed outdoors shall only be displayed outdoors during the hours of operation of the retail establishment selling the merchandise.

d. Merchandise that is displayed outdoors shall only be placed directly in front of the retail establishment that is selling the merchandise.

e. All temporary structures used for display and/or sale of goods or equipment shall first require a permit from the planning commission prior to erection of the structure.

(9) *Vehicular access.* Vehicular access shall be designed and located as to create minimum interference with traffic on the surrounding public street. No more than two (2) driveways, each not less than eighteen (18) feet, nor exceeding twenty (20) feet in width at the property line, shall be permitted on each street frontage of the property. No motor vehicle driveway access to this district shall be made through any residential zoning district.

(10) *Storage.* All storage must be conducted wholly in a permanent, fully enclosed building. No vehicles, trailers or any other nonpermanent structure may be used for storage of goods or equipment within this district, without the approval of the zoning administrator and the planning commission.

(Ord. No. 468, 5-26-09)

Secs. 34-135—34-150. - Reserved.

DIVISION 8. - C-3 HIGHWAY COMMERCIAL DISTRICT

Sec. 34-151. - Purpose.

The C-3 highway commercial district is established for the accommodation of those specified retail and business service activities that serve persons in automobiles traveling on streets and highways, and such service activities typically may be located and grouped along a major street or about a major street intersection or highway interchange, generating a considerable volume of vehicular traffic originating from within the community or traveling into, out of or through the community. It is the purpose of this district to provide flexibility for adaptation to new merchandising and service techniques as such may develop, particularly where the provision of retail purchases and services are directly available to occupants of motor vehicles without leaving them. In order to utilize the full potential of this district, certain functions that would operate more effectively in other districts and would not interfere with the general business and service effectiveness of this district have not been included in this district.

Note: A historical, up-north theme is being promoted for the US -2 corridor, and will be considered when site plans are submitted for review by the planning commission.

(Ord. No. 468, 5-26-09)

Sec. 34-152. - Permitted uses.

All of the following permitted uses in the C-3 highway commercial district must be conducted wholly in a permanent, fully enclosed building, except as otherwise stated, except public utility structures not usually so enclosed and all permitted uses shall have plans and specifications submitted in accordance with article IX of this chapter.

(1) Single and multiple retail establishments selling principally new merchandise;
(2) Personal and business services, excluding processing of physical materials;
(3) Passenger terminals and information centers;
(4) Restaurants and drive-through businesses where service may be in automobiles or outdoors, but where all other activities shall be carried on within a building;
(5) Offices, banks, public buildings;
(6) Motels, hotels with a minimum lot area of one (1) acre, with a minimum width of one hundred fifty (150) feet and no less than eight hundred (800) square feet of lot area for each guest unit;
(7) Public utility installations located on lots or parcels;
(8) Multiplex and outdoor theatres (drive-in theatres);
(9) Single-family apartments when above a building's ground floor;
(10) Sales and showrooms, including automobiles and recreation vehicles with outside paved lots including driveways.

(Ord. No. 468, 5-26-09)

Sec. 34-153. - Permitted uses by conditional use permit.

The following uses may be permitted in the C-3 highway commercial district under the provisions of article IV of this chapter, with plans and specifications submitted for article IX of this chapter:

(1) Automobile service stations provided the following requirements for site development, together with any other

applicable requirements in this chapter, shall be complied with:

a. The steam cleaning or physical modification of motor vehicles is specifically prohibited.

b. All activities, except those required to be performed at the fuel pumps, car washing and change of tires, shall be conducted inside of a permanent structure.

c. Other than as stated in this chapter, no structures, except retaining walls, fencing and permitted signs, and lighting, either above the ground or below, may be constructed closer than twenty (20) feet to the line of any public street right-of-way line.

d. No more than one (1) driveway approaches shall be permitted directly from any major street, nor more than one (1) approach from any minor street, each of which shall not be less than twenty (20) feet nor exceed thirty (30) feet in width at the property line. If the property fronts on two (2) or more streets, the driveway shall be located as far from the street intersections as practical, but not less than fifty (50) feet.

(2) Outdoor advertising which does not exclusively advertise the retail or service business on the premises shall be limited to no more than two hundred (200) square feet of advertising space on either of two (2) permitted sides.

(3) Sexually-oriented businesses, as defined and regulated by article XIV of this chapter.

(4) Storage facilities/units.

(Ord. No. 468, 5-26-09)

Sec. 34-154. - Site development requirements.

The following site development criteria are required in the C-3 highway commercial district.

(1) *Minimum lot area.* The minimum lot area shall be nine thousand (9,000) square feet, unless a greater area is required for specific uses.

(2) *Minimum lot width.* The minimum lot width shall be one hundred fifty (150) feet, unless a greater width is required for specific uses.

(3) *Yards:*

a. *Front yards.* The minimum front yard setback shall be twenty-five (25) feet.

b. *Side and rear yards.* Side and rear yards must be at least ten (10) feet, except that no building shall be constructed less than twenty (20) feet from any residential zone boundary and then only if the side or rear yard is used for a landscaped open area and all required parking and any loading/unloading docks are located outside of the side or rear yard area and provided, further, that the 20-foot minimum requirement shall be increased one (1) foot for each foot of height over twenty (20) feet for any commercial building.

(4) *Maximum building height.* The maximum building height shall be three (3) stories, but shall not exceed fifty (50) feet.

(5) *General use requirements.* No use in this district shall produce any objectionable noise, odor, dust, smoke, fumes, heat, glare or vibration beyond its lot lines.

(6) *Lighting.* All lighting shall be accomplished in a manner such that no illumination is significantly directed beyond the property lines of the lot or parcel upon which a use is located.

(7) *Signs.* Signs shall be permitted if they pertain exclusively to the business carried on within the building or upon the lot or parcel, in accordance with the following:

a. A sign may be placed flat against the main building or parallel to the building on a permitted canopy or be freestanding and shall face only public streets or parking areas which are part of the development, shall not

project above cornice or roof lines, and no sign shall project into or over a public right-of-way.

b. A sign may not exceed in height twenty (20) percent of the building height, and the total area of all signs shall not exceed twenty (20) percent of the area of the nearest building area face with which they are parallel.

c. Signs may be illuminated, but if intended to have moving illumination, such illumination must be approved by the zoning administrator who shall make certain that the light intensity, color and movement will not likely be so distracting to motor vehicle operators so as to constitute a traffic hazard.

d. Signs not exceeding two (2) square feet, for traffic regulation and directions only within the development, may be utilized as required.

e. One (1) additional sign may be placed freestanding near one (1) entrance on each street upon which the lot or parcel fronts. Such a sign shall convey only identification of the permitted use, shall be located so that the view of traffic upon or outside the development is not obstructed for pedestrians or motorists and may not exceed one hundred (100) square feet (per side) in total surface area, be no more than twenty-five (25) feet in height (including base) and, further, this additional sign may not extend into or over any public street right-of-way or easement.

f. Sign maintenance. Signs, together with all their supports, braces, guys, and anchors shall be maintained in a safe manner and kept in good repair. When constructed of materials which require protection from the elements, signs shall be protected from the elements to prevent corrosion.

g. Temporary and sandwich board type signs must be approved by the zoning administrator prior to being placed in the C-3 district.

(8) *Motor vehicle access.* Motor vehicle access shall be designed and so located as to create minimum interference with traffic on surrounding public streets, but shall not be closer than fifty (50) feet to any street intersection. Generally, no more than one (1) driveway, not less than twenty (20) feet, nor exceeding thirty (30) feet in width at the property line, shall be allowed. No motor vehicle driveway access to this district shall be made through any residential zoning district.

(9) *Off-street parking requirements.* Off-street parking shall be as specified in article VI.

(10) *Loading and unloading space requirements.* Off-street loading and unloading spaces shall be as specified in article VI.

(11) *Storage.* Storage must be conducted in a permanent, fully enclosed building. No vehicles, trailers or any other nonpermanent structure may be used for storage of goods or equipment within this district, without the approval of the zoning administrator and the planning commission. All temporary structures used for display and/or sale of goods or equipment shall first require approval from the planning commission, and obtain a business license from the city clerk prior to erection of the structure.

(12) *Snow storage.* On-site snow storage shall be provided for in the amount of ten (10) percent of the total required parking space. This storage amount shall be in addition to the required parking space.

(13) *State truckline permits.* Any use that impacts on the state truckline right-of-way shall require a permit from the state department of transportation (MDOT).

(Ord. No. 468, 5-26-09)

Secs. 34-155—34-170. - Reserved.

DIVISION 9. - I- INDUSTRIAL DISTRICT

Sec. 34-171. - Purpose.

The I industrial district is established for the purpose of encouraging within it the development of manufacturing, processing, storage and office establishments as ones in which the principal use of land is for industrial activities wholly compatible with all other uses permitted in this district. In general, the permitted uses include those which are a type not requiring the customer to call at the place of business, but normally having contact only by mail or agent.

(Ord. No. 468, 5-26-09)

Sec. 34-172. - Permitted uses.

In the I industrial district, no building, structure or land shall be used and no building or structure shall be erected, structurally altered or enlarged, except for the following uses, and all permitted uses require plans and specifications to be submitted in accordance with article IX of this chapter.

NOTE: Property in the Ironwood Industrial Park may be subject to "Protective Covenants and Restrictions," as adopted by the Ironwood City Commission. A copy of any such "Protective Covenants and Restrictions" shall be kept on file in the city clerk's office.

(1) Any production, processing, cleaning, testing, repairing, storage and distribution of materials, goods, foodstuffs and products not involving a normal retail or service activity on the lot;

(2) Public buildings and public utility installations;

(3) Contractor's establishments not engaging in any retail activities on the site;

(4) Accessory uses clearly appurtenant to the main use of the lot and customary to and commonly associated with the main use such as:

a. Restaurant or cafeteria facilities for employees;

b. Caretaker's residence if situated upon a portion of the lot;

c. Office facility; and/or

d. Retail uses not to exceed twenty (20) percent of the building's gross floor area.

(5) Wholesale businesses.

(Ord. No. 468, 5-26-09)

Sec. 34-173. - Permitted uses by conditional use permit.

The following uses may be permitted in the I industrial district under the provisions of article IV of this chapter, with plans and specifications submitted for article IX of this chapter in accordance with all provisions:

(1) Log yards (sorting and/or storage).

(2) Stone cutting and monuments.

(3) Building supply and equipment stores and yards.

(4) Storage facilities/units.

(5) Outdoor storage, which shall be defined as materials, products or goods stored outdoors on site which are associated with and accessory to the principle use. All outdoor storage shall be screened from view from all roads and adjacent properties year round through the use of one (1) or a combination of methods to include but

not be limited to landscaping, berming, and fencing. The conditional use permit shall require appropriate screening and shall also control for such factors to include but not be limited to height of storage, location on site and size of storage area.

(6) Outdoor use, which shall be defined as any service/processing areas or any use that is not fully enclosed within a building on site which is associated with and accessory to the principal use. All outdoor uses shall be screened from view from all roads and adjacent properties year round through the use of one (1) or a combination of methods to include but not be limited to landscaping, berming, and fencing. The conditional use permit shall require appropriate screening and shall also control for such factors to include but not be limited to location on site and size of area.

(Ord. No. 468, 5-26-09; Ord. No. 495 , § 1, 7-8-13)

Sec. 34-174. - Prohibited uses.

The following uses are prohibited in the I-industrial district:

(1) Abattoirs or slaughterhouses;

(2) Blast, cupola or metal furnaces;

(3) Boiler shops;

(4) Coke ovens;

(5) Fat rendering;

(6) The incineration, reduction or dumping of offal or garbage;

(7) Lime kilns;

(8) Manufacture of acetylene gas, ammonia, asphalt or its products, asbestos, babbitt, metal, bleaching powder, carbon, lampblack or graphite, celluloid, coal tar or its products, creosote or its products, disinfectant, emery cloth or sandpaper, explosives, fertilizer, gas, glucose, glue, linoleum, paint, matches, oilcloth, oil, shellac, poison potash, printing ink, pulp or paper, rubber, starch, sulfuric acid, tar or asphalt roofing, turpentine, vinegar, yeast, petroleum, refining, radium or uranium extraction, rock washing or storage, salt works, outdoor sandblasting, metalworks, smelting, tannery, wool pulling or scouring, wood or bone distillation.

(Ord. No. 468, 5-26-09)

Sec. 34-175. - Permit, use and site development requirements.

(1) *Building permit application requirements.* Any application for a building permit for a use located in the industrial district shall be accompanied by:

a. A plot or site plan of the gross property showing the location of all present and proposed building drives, parking lots, waste disposal fields, screening fences or walls and other constructional features on the lot as well as street, alleys, highways, streams and other topographical features inside and outside of the lot and within two hundred (200) feet of any lot line;

b. Building, structural and site plans and specifications prepared by a registered architect, engineer or landscape architect;

c. A description of the operations proposed in sufficient detail to indicate the effects of those operations on producing traffic congestion, noise, glare, air pollution, water pollution, fire or safety hazards or the emission of any potentially harmful or obnoxious matter or radiation;

d. Engineering and architectural plans for the pretreatment and disposal of sewage and industrial waste, tailings or ur byproducts;

e. Engineering or architectural plans for the handling of any excess traffic congestion, noise, glare, air pollution, water pollution, fire hazard or harmful or obnoxious matter or radiation;

f. Designation of the fuel to be used, and any necessary architectural and engineering plans for controlling smoke.

(2) *Use requirements:*

a. Activities in this district shall be carried on in completely enclosed buildings except as permitted as a conditional use.

b. Noise emanating from a use in this district shall not exceed the level of ordinary conversation at the boundaries of the lot. Short intermittent noise peaks may be expected.

c. Uses in this district shall be such that they:

i. Emit no obnoxious, toxic or corrosive fumes or gases, except for those produced by internal combustion engines under design and operating conditions;

ii. Emit no odorous gases or other odorous matter in such quantities as to be offensive at or beyond any point on the boundary of the use parcel, provided that any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail;

iii. Emit no noxious smoke, but excluding steam;

iv. Discharge into the air no dust or other particulate matter created by any industrial operation or emanating from any products stored prior to or subsequent to processing;

v. Produce no heat or glare humanly perceptible at or beyond the lot boundaries;

vi. Utilize all lighting in a manner which produces no glare on public streets or any other parcel;

vii. Produce no physical vibrations humanly perceptible beyond the lot boundaries;

viii. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation or of any intensity that interferes with the lawful use of any other property; and

ix. Do not engage in the production or storage of any material designed for use as an explosive, nor in the use of such material in production.

(3) *Minimum lot area.* The minimum lot area shall be ten thousand (10,000) square feet, unless a greater area is required for specific uses.

(4) *Minimum lot width.* The minimum lot width shall be one hundred (100) feet, unless a greater width is required for specific uses.

(5) *Yards:*

a. *Front yards.* The minimum front yard setback shall be thirty (30) feet.

b. *Side* and *rear yards.* Side or rear yards must be at least thirty (30) feet, except that no structure shall be less than one hundred (100) feet from any residential zoning district. Side and rear yards may be used for parking and loading, and, if they are, a strip twenty (20) feet in width along streets and highways and adjacent to residential zoning districts shall be excepted and reserved as an open space or planting strip.

(6) *Maximum building height.* The maximum building height shall be three (3) stories or fifty (50) feet, whichever is the lesser, except that this may be exceeded with the provision of a state fire marshal approved on-site fire protection system.

(7) *General use requirements.* No use in this district shall produce any objectionable noise, odor, smoke, fumes, heat, glare vibration beyond its lot line.

(8) *Lighting.* All lighting shall be accomplished in a manner such that no illumination source is directly visible beyond the property lines of the lot or parcel upon which a use is located.

(9) *Signs.* Signs may be displayed if they pertain exclusively to the business carried on within the building or upon the lot or parcel upon which a use is located. The following shall also apply:

a. Signs may be placed flat against the main building on a permitted canopy and shall face only public street or parking areas which are a part of the development and shall not project above the cornice or roof lines, and no sign shall project into or over a public right-of-way.

b. A sign shall not exceed in height twenty (20) percent of the building height, and the total sign area shall not exceed twenty (20) percent of the nearest building area face with which it is parallel. A sign perpendicular to the building shall not exceed forty (40) square feet in area on each face.

c. Signs may be illuminated, but if intended to have moving illumination, such illumination must be approved in advance by the Zoning Administrator who shall make certain that light intensity, color, and movement will not likely be so distracting to motor vehicle operators as to constitute a traffic hazard.

d. Signs not exceeding four (4) square feet, for traffic regulation and direction only within the development, may be utilized as required.

e. One (1) additional sign may be placed freestanding near one (1) entrance on each street upon which the lot or parcel fronts. Such a sign shall convey only identification of the permitted use, shall be located so that the view of the traffic upon or outside the development is not obstructed for pedestrians or motorists and may not exceed one hundred (100) square feet in area, and, further, this additional sign may not extend over any public right-of-way.

f. Temporary, sandwich board type signs are strictly prohibited in this district.

(10) *Motor vehicle access.* Motor vehicle access shall be designed and so located as to create minimum interference with traffic on surrounding public street, but no more than two (2) driveways, each not less than eighteen (18) feet nor exceeding thirty (30) feet in width at the property line, shall be permitted on each street frontage of the property. No motor vehicle driveway access to this district shall be through any other zoning district.

(11) *Off-street parking and loading requirements.* Off-street parking and loading for this district shall be as specified in article VI of this chapter.

(Ord. No. 468, 5-26-09; Ord. No. 495 , § 1, 7-8-13)

Secs. 34-176—34-190. - Reserved.

DIVISION 10. - O-OPEN AREA DISTRICT

Sec. 34-191. - Purpose.

The primary intended use of the O open area district is for agriculture, forestry, recreation, public land use or similar use and only building incidental thereto.

(Ord. No. 468, 5-26-09)

Sec. 34-192. - Permitted uses by conditional use permit.

Any modifying, altering, excavating, erecting or razing of structures or the natural characteristics of the land shall require the acquisition of a conditional use permit before any modifying, altering, excavation, erecting or razing can take place. All uses permitted by a conditional use permit shall require plans and specifications to be submitted in accordance with the provisions of article IX of this chapter.

(Ord. No. 468, 5-26-09)

Sec. 34-193. - Signs.

Signs shall not be allowed in the O open area district, unless a conditional use permit is issued by the planning commission. Sign dimensions shall be determined by the planning commission and specifically stated in the conditional use permit, after the sign has been approved by both the city engineer and the zoning administrator.

(Ord. No. 468, 5-26-09)

Secs. 34-194—34-220. - Reserved.

ARTICLE III. - HOME OCCUPATIONS

Sec. 34-221. - Purpose and definition.

As used in this chapter, a home occupation is an accessory use of the main dwelling that shall constitute either entirely or partially the livelihood of a person living in the dwelling, provided it complies with all applicable performance standards set forth in this article.

(Ord. No. 468, 5-26-09)

Sec. 34-222. - Performance standards.

Home occupations must be conducted in compliance with the following standards and limitations:

(1) The occupation should not be the primary use of the dwelling. It should occupy no more than one-fourth (¼) of the dwelling floor area.

(2) The business shall not change the residential character of the dwelling, be visible from the street, nor result in outside storage unrelated to the use of the dwelling as a residence.

(3) No full-time employees are permitted who are not a resident of the premises.

(4) It should not involve the use of electrical or mechanical equipment that would change the fire rating of the structure, create visible or audible interference in radio and/or television receivers or cause fluctuations in live voltage outside the dwelling unit.

(5) It should not create objectionable noise (zero dB above ambient at the property lines), noticeable vibrations or objectionable odors at the property lines.

(6) It should not generate sewage or water use in excess of what is normal in the residential district in which it is located.

(7) It should not create vehicular nor pedestrian traffic nor parking in excess of what is normal for the district in

which it is located.

(8) Signage shall be limited to one (1) nonilluminated nameplate measuring one (1) foot by two (2) feet in size, and shall be attached flush to the front of the building.

(9) It shall be registered with the city clerk and the fee shall be paid for a business license.

(Ord. No. 468, 5-26-09)

Sec. 34-223. - Permitted home occupations.

The following are permitted home occupations provided they do not violate any of the provisions of the R-1, R-2 and R-3 districts, and that they are consistent with state and local licensing requirements:

(1) Bed and breakfast operation;

(2) Catering, home cooking and preserving;

(3) Child care;

(4) Computer programming and services (excluding retail sales);

(5) Decorator;

(6) Direct sale product distribution, e.g., Amway, Avon, Mary-Kay;

(7) Taxidermy;

(8) Dressmaking, sewing and tailoring;

(9) Drafting and graphic services;

(10) Flower arranging;

(11) Home crafts such as model making, rug weaving, lapidary work, jewelry making, woodworking and upholstery;

(12) Individual musical instrument instruction provided that no instrument is amplified;

(13) Interior designers;

(14) Laundry and ironing services;

(15) Locksmith;

(16) Mail order catalogue services;

(17) Office of minister, rabbi or priest;

(18) Painting, sculpturing, photography or writing;

(19) Secretarial services;

(20) Telephone answering or solicitation work;

(21) Tutoring or educational instruction;

(22) Or similar types of businesses as approved by the planning commission. The above list is not exclusive.

(Ord. No. 468, 5-26-09)

Sec. 34-224. - Prohibited home occupations.

(1) The following are prohibited as home occupations:

a. Amusement or dance parlor;

b. Funeral home or chapel;

c. Health salons, gyms;

d. Kennel or other boarding of animals;
e. Medical or dental clinic, hospital;
f. Motor vehicle repair, parts sales, or upholstery;
g. Small engine repair, parts, sales;
h. Motor vehicle sales;
i. Motor vehicle fleet storage;
j. Nursing home;
k. Private club;
l. Repair or testing of internal combustion engines;
m. Restaurant;
n. Tavern;
o. Veterinary clinic or animal hospital; or
p. Similar types of businesses.

The above list is not exclusive.

(2) Any proposed home occupation that is neither specifically permitted nor specifically prohibited shall be considered for a conditional use permit to be granted or denied by the planning commission subsequent to a public hearing, in accordance with the conditions set forth in section 34-222 above. In many cases, determination whether a proposed use may be conducted in a dwelling will turn on the nature and extent of the particular professional operation rather than its classification.

(Ord. No. 468, 5-26-09)

Secs. 34-225—34-250. - Reserved.

ARTICLE IV. - CONDITIONAL USE PERMITS

Sec. 34-251. - Purpose.

In order to make this chapter flexible to meet the needs of changing trends in development and new technology, the authorization of conditional uses to be constructed upon approval of the planning commission is made. In this way this chapter does not become a rigid document that cannot be altered, but serves as a guideline upon which the planning commission, with the approval of the city commission, may make enlightened judgment keeping developments within the general philosophy of this chapter. Land and structure uses not specifically mentioned in the foregoing text or possessing unique characteristics are designated as conditional uses and, as such, may be authorized by the issuance of conditional use permits with such conditions and safeguards attached in writing as may be deemed necessary for the protection of the public welfare.

(Ord. No. 468, 5-26-09)

Sec. 34-252. - Application procedures.

The following procedures shall be followed in making application for conditional use permits:

(1) *Submission to planning commission.* Applications shall be submitted through the city clerk to the planning commission. Each application shall be accompanied by a fee established by resolution of the city commission.

(2) *Data required.* Application shall be made on a special form provided for that purpose listing the following information:

a. Site plan, plot plan or development plan of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses;

b. Preliminary plans and specifications of the proposed development.

(3) *Review by planning commission.* The planning commission shall review the application in accordance with article IX of this chapter and the standards therein and shall decide each application on the basis of whether or not the proposal will be harmonious with and in accordance with the general and specific objectives of the master plan and that it will be consistent with the intent and purposes of this chapter.

(4) *Public hearing.* The planning commission shall, after adequate study and review of the application, hold a public hearing on the application after at least one (1) publication in a newspaper of general circulation in the city, at least fifteen (15) days prior to the date of the hearing indicating the time, place and subject of the hearing.

(5) *Issuance of permit.* The planning commission may issue a conditional use permit after conclusion of hearing procedures and subsequent written agreement with the applicant concerning exact plans and specifications of the development proposed as a condition of issuance of the conditional use permit.

(6) *Financial guarantee requirements.* A financial guarantee acceptable to the city commission may be required.

(Ord. No. 468, 5-26-09)

Sec. 34-253. - Cancellation.

The planning commission may cancel any conditional use permit when construction authorized by such permit has not commenced within one hundred eighty (180) days of the date of issuance of the conditional use permit or construction has commenced within the one hundred eighty (180) days, but is not proceeding progressively to completion.

(Ord. No. 468, 5-26-09)

Sec. 34-254. - Conditional uses.

When, in its judgment, the public welfare will be substantially served and the appropriate use of the neighboring property will not be injured thereby, the planning commission in a specific case, after due notice and public hearing and subject to appropriate conditions and safeguards, may determine and vary the application of the regulations of this chapter in harmony with their general purposes and intent by the issuance of either temporary or special permits as conditional uses for the following land and structure uses:

(1) *Temporary permits.* For temporary structures for dwelling purposes, including trailer coaches, subject to the following procedures and limitations:

a. An application for a permit for the erection or movement of a temporary structure for dwelling purposes, including trailer coaches, shall be made to the planning commission on a special form used exclusively for that purpose and a fee submitted at the time of application in accordance with the established fee schedule of the city commission.

b. The planning commission shall give fifteen (15) days' notice by first class mail to the applicant and to all property owners within three hundred (300) feet of all property lines.

c. Such a permit shall not be granted unless the planning commission finds adequate evidence showing that the proposed location will not be detrimental to property in the immediate vicinity and that the proposed

water supply and sanitary facilities have been approved by the Western Upper Peninsula Health Department or that the occupants of the proposed structure will have the right to unlimited use of such facilities in a dwelling upon the same lot.

d. The planning commission may impose any reasonable conditions deemed necessary to protect the public welfare. The violation of any such conditions shall automatically invalidate the permit. The permit issued shall clearly set forth that the structure proposed is intended for temporary dwelling purposes and that the authorized structure is to be vacated upon the expiration of a specific time limit not to exceed six (6) months. On delivery of the permit, the occupant shall certify in a space allotted for the purpose that the applicant has full knowledge of the terms of the permit that can be invoked for violation. No permit shall be transferable to any other owner or occupant.

(2) *Temporary conditional uses.* When conditions are unique to a particular situation, a temporary conditional use permit may be issued with specific limitations imposed by the planning commission. The land or structure use may be permitted to be established and to continue in use as long as the conditions unique to the use exist. The permit shall automatically be cancelled when the conditions upon which the permit was issued cease to exist. The permit issued shall contain all the specific conditions under which continued use may be allowed. Temporary conditional use permits may be issued for the following uses with conditions noted:

a. More than two (2) roomers in any one (1) dwelling, but not more than six (6), may be permitted when it can be demonstrated to the satisfaction of the planning commission that such an expanded capacity is a clear necessity for satisfaction of this particular housing demand, that adequate off-street parking space can be provided in accordance with standards stated in article VI, division 2, of this chapter and that such an extension of use will not injure the character or value of the immediate neighborhood.

b. Joint use of off-street parking areas may be authorized by the issuance of a temporary conditional use permit when joint use of parking area capacities are complied with and when a copy of an agreement between joint users shall be filed with the application for a building permit and the agreement is recorded with the register of deeds of the county, guaranteeing the continued use of parking facilities for each party to the joint use.

c. Temporary conditional use permits may be issued for a structure and/or use in an undeveloped section in a residential district that is not permitted in the use regulations controlling residential districts, provided that no such use shall be authorized for a period to exceed two (2) years, that such structures or uses are authorized for a period to exceed two (2) years, that such structures or uses are important to the undeveloped sections and that such uses are not detrimental to adjoining neighboring sections already developed.

(Ord. No. 468, 5-26-09)

Secs. 34-255—34-280. - Reserved.

ARTICLE V. - ZONING BOARD OF APPEALS

Sec. 34-281. - Intent and purpose.

It is the intent of this article to:

(1) Ensure that the objectives of this article are fully and equitably achieved.

(2) Provide a means for competent interpretation of this article.

(3) Accomplish flexibility in the strict application of its provisions.

(4) Ensure the spirit of this article be observed, public safety secured, and substantial justice done.

(Ord. No. 468, 5-26-09)

Sec. 34-282. - Creation and membership.

The Ironwood City Commission, comprised of five (5) members, is established as the zoning board of appeals (ZBA) and shall perform the duties and exercise the powers as provided in Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and in such a way that the objectives of this article shall be observed.

(Ord. No. 468, 5-26-09)

Sec. 34-283. - Organization.

(1) The ZBA may adopt rules and/or procedures for the conduct of its meetings and the performance of its powers and duties. The procedures shall be in accord with the provisions of this article and applicable state law. The board shall annually elect a chairperson, a vice chairperson, and a secretary.

(2) Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the board may specify in its rules of procedure. The applicable provisions of Public Act No. 267 of 1976 (MCL 15.261 et seq.) (Open Meetings Act) shall apply.

(3) A majority of the total membership of the board shall comprise a quorum. A majority of the regular members must be present in person for the ZBA to conduct business.

(4) Minutes shall be kept of each meeting and the ZBA shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member upon each appeal case. All meetings and records shall be open to the public. All minutes shall be filed in the office of the city clerk. The city clerk, or the clerk's agent, shall act as recording secretary to the ZBA, including recording the minutes, publishing legal notices, and providing notices to property owners and others required by law.

(Ord. No. 468, 5-26-09)

Sec. 34-284. - Application requirements.

(1) Applications shall not be accepted unless all of the following information is submitted:

a. A completed application form (provided by the city);

b. An accurate, scaled plan with enough information to clearly indicate the nature of the issue being considered. The zoning administrator shall determine the completeness of such plans;

c. An application fee as may be determined by the city commission from time to time; and

(2) Upon receipt of an application as required by this article the chairperson of the ZBA shall fix a reasonable time and date for a public hearing. Notices for all public hearings shall be given as follows:

a. The notice shall:

i. Describe the nature of the request.

ii. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

iii. State when and where the request will be considered.

iv. Indicate when and where written comments will be received concerning the request.

b. Except as required in c. and d., below, notices for all public hearings shall be given as follows:

i. Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.

ii. Notice of the hearing shall be published in a newspaper of general circulation within the city.

iii. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.

iv. Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the city. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

c. For ordinance interpretations and appeals of administrative decisions to the zoning board of appeals notice shall be only to the applicant and by newspaper publication, as required in (b)(ii) above.

d. If the interpretation or appeal of an administrative decision involves a specific property, notice shall be given to the person bringing the appeal and as required in (b)(i) through (b)(iv) above.

(3) The ZBA may adjourn any meeting held in order to allow the obtaining of additional information, or to provide further notice as it deems necessary.

(Ord. No. 468, 5-26-09)

Sec. 34-285. - Powers and duties.

The ZBA shall hear only those matters which it is authorized to hear by Public Act No. 110 of 2006 (MCL 125.3101 et seq.) and render its decision based upon the criteria contained in this article. The ZBA shall hear the following applications in accordance with the indicated standards.

(1) *Administrative appeals.*

a. A notice of appeal shall be filed with the ZBA and the officer from whom the appeal is taken by the person aggrieved or by any officer, department, board or bureau of the state or local unit of government. The notice shall specify the grounds for the appeal.

b. The ZBA shall hear and decide appeals where it is alleged that there is an error in fact, judgment, procedure, or interpretation in any order, requirement, permit, determination or decision made by the zoning administrator, planning director or other body enforcing the provisions of this chapter.

(2) *Appeals to administrative decisions standards for review.* An appeal of an administrative order, requirement, decision or determination may be reversed by the ZBA only if it finds that the action or decision appealed meets one (1) or more of the following requirements:

a. Was arbitrary or capricious.

b. Was based on an erroneous finding of a material fact.

c. Constituted an abuse of discretion.

d. Was based on erroneous interpretation of the zoning ordinance or zoning law.

(3) *Site plan review.*

a. The ZBA shall review and make final determination on properly filed appeals from action by the planning commission with respect to site plan reviews conducted pursuant to article IX site plan review of this chapter.

b. The ZBA has the power to sustain, reverse or remand for further consideration the decision of the planning com it is found that the decision is inconsistent with the provisions of this article or that there was an error of fact in decision. In making this determination, the ZBA shall examine the application and all accompanying data as well of the actions with respect to the site plan review.

(4) *Interpretations.*

a. The ZBA shall have the power to make an interpretation of the provisions of this chapter when it is alleged that certain provisions are not clear or that they could have more than one (1) meaning. In deciding upon the request, the board shall ensure that its interpretation is consistent with the intent and purpose of this chapter and the article in which the language in question is contained.

b. The ZBA may also make a determination of the precise location of the boundary lines between zoning districts in accordance with article II ("districts") of this chapter, and records, surveys, maps, and aerial photographs.

c. The ZBA may determine that a proposed use of land not specifically mentioned as a part of the provisions of any district is similar and compatible in character to a permitted or special land use. If the proposed use is determined to be similar to a permitted or special land use it will be subject to all standards and requirements of the similar use, so that it conforms to a comparable permitted or prohibited use of land in accordance with the purpose and intent of each district.

d. The ZBA may issue a determination of the off-street parking and loading requirements of a use of land not specifically mentioned in article VI off-street parking and loading zoning requirements of this chapter such that it conforms to a comparable use of land.

(5) *Special land uses.* The ZBA may grant dimensional or other site plan related variances for special land uses.

(6) *Variances.*

a. The ZBA, after public hearing, shall have the power to grant requests for variances from the provisions of this chapter where it is proved by the applicant that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter relating to the construction, equipment, or alteration of buildings or structures, so that the spirit of this chapter shall be observed, public safety secured and substantial justice done. The zoning board of appeals may impose conditions as otherwise allowed in its granting of variance requests.

b. Nonuse variance standards for review. A nonuse variance may be allowed by the ZBA only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:

i. *Extraordinary circumstances.* There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:

1. Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived.
2. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure.
3. By reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this chapter would involve practical difficulties.
4. Any other physical situation on the land, building or structure deemed by the ZBA to be

extraordinary.

ii. *Practical difficulty/substantial justice.* Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

iii. *Impact on surrounding neighborhood.* The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood or interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

iv. *Public safety and welfare.* The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the city.

v. *Not self created.* The immediate practical difficulty causing the need for the variance request was not self-created by the applicant.

c. *Use variance standards for review.* A use variance may be allowed by the ZBA only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:

i. *Unreasonable current zoning designation.* The applicant has demonstrated that the site cannot reasonably be used for any of the uses allowed within the current zoning district designation. The ZBA may require submission of documentation from professionals or certified experts to substantiate this finding.

ii. *Unique circumstances.* That the condition or situation of the specific parcel of property or the intended use of such property for which the variance is sought is unique to that property and not commonly present in the general vicinity or in the zone district. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return without some adjustment. Such unique conditions or situations include:

1. Exceptional narrowness, shallowness or shape of a specific property on the effective date of the ordinance from which this chapter is derived.
2. Exceptional topographic conditions or other extraordinary situation on the land, building or structure.
3. The use or development of the property immediately adjoining the property in question.
4. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.

iii. *Character of neighborhood.* The use variance will not alter the essential character of the neighborhood or the intent of the comprehensive development plan, or be a detriment to adjacent properties.

iv. *Capacity of roads, infrastructure and public services.* The capacity and operations of public roads, utilities, other facilities and services will not be significantly compromised.

v. *Not self-created.* The immediate practical difficulty causing the need for the variance request was not self-created by the applicant.

d. *Planning commission recommendation on use variance.* Prior to the decision of the ZBA on a request for a

use variance, the board may request that the planning commission, upon presentation of the application by the applicant, consider such request and forward a report to the ZBA. If requested by the board such report shall be limited to the planning commission's review of the effect of the proposal on the existing or intended character of the neighborhood and the ability of the property owner to use the property for a use already permitted under the existing zoning classification.

(Ord. No. 468, 5-26-09)

Sec. 34-286. - Voting requirements; effect of variances; resubmission.

(1) The concurring vote of a majority of the entire membership of the ZBA shall be necessary to decide in favor of the applicant for a nonuse variance or other matter upon which the board is required to pass, except in the case of a request for a use variance which shall require at least two-thirds (2/3) vote of the entire membership of the ZBA in order to decide in favor of the applicant.

(2) All decisions of the ZBA shall become final when the ZBA certifies its decision in writing or approves the minutes of its decision, whichever is earlier, unless the ZBA shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect.

(3) Every variance granted under the provisions of this article shall become null and void unless the construction authorized by such variance has been commenced within six (6) months after the granting of the variance.

a. An applicant may, at no cost, request up to one (1) six (6) month extension of such variance from the ZBA, if applied for in writing prior to the expiration of the variance approval.

b. The ZBA may grant such extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the control of the applicant.

c. No application for a variance which has been denied wholly or in part by the ZBA shall be resubmitted for a period of one (1) year from the date of the denial, except on the grounds of newly discovered evidence or proof of changed conditions found, upon inspection by the board, to be valid.

(Ord. No. 468, 5-26-09)

Sec. 34-287. - Conditions of approval.

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

(Ord. No. 468, 5-26-09)

Sec. 34-288 - Certification of compliance.

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

(Ord. No. 468, 5-26-09)

Sec. 34-289. - Bond for compliance.

In authorizing any variance, the ZBA may require that a bond of ample sum, but not to exceed five thousand dollars ($5,000.00), be furnished to ensure compliance with the requirements, specifications and conditions imposed by the stipulated time.

(Ord. No. 468, 5-26-09)

Sec. 34-290. - Legal nonconforming structures.

(1) If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to this zoning ordinance or amendment.

(2) A variance will not be required when the proposal is to rebuild an existing legal nonconforming structure utilizing the same building footprint. No additional encroachment upon any setback may occur. Additionally, no building permit will be issued under this condition until written approval is received from the zoning administrator or his/her designee.

(3) The elimination of the nonconforming uses and structures in a zoning district is declared to be for a public purpose and for a public use. The legislative body may institute proceedings for condemnation of nonconforming uses and structures under 1911 PA 149, MCL 213.21 to 213.25.

(Ord. No. 468, 5-26-09)

Secs. 34-291—34-310. - Reserved.

ARTICLE VI. - OFF-STREET PARKING AND LOADING ZONING REQUIREMENTS

Footnotes:
*--- (**2**) ---*
***Editor's note—** It is hereby determined that the provision of off-street parking spaces is necessary to reduce traffic hazards and the congestion of streets. It is also determined that regulation of location, design, maintenance, and other features of off-street parking lots is in the interest of public safety and welfare.*

Sec. 34-311. - Schedule of parking requirements.

(1) In all districts there shall be provided off-street parking for motor vehicles. When a public parking lot has been provided by special assessment, the required parking may be reduced by the number of spaces in the public lot representing the same percentage as the property's participation in the special assessment district costs. The number of spaces to be provided shall be based on the following schedule:

a. *Residential.*

Single-family, two-family, and multiple-family units	2 spaces per dwelling unit
Hotels, motels	1.25 spaces per rental unit
Fraternities, sororities, and rooming, boarding, or lodging houses	1 space for each capacity occupant

Housing for the elderly	1 space for each 3 units

b. *Educational and Religious.*

Public and private elementary, junior and senior high schools	1 space for each instructor, administrator or additional employee plus 1 space for each 10 senior high school students.
Commercial and trade schools, colleges, and universities	1 space for each instructor, administrator or other employee plus 1 space for each 4 students
Churches	1 space for each 4 seats in the main unit of worship

c. *Cultural and Recreational.*

Assembly, convention, meeting and exhibition halls, theaters, auditoriums stadiums, sports arenas, and similar places of public gathering	1 space for every 3 capacity occupants
Libraries, museums, art galleries	0.4 spaces per 100 square feet of floor area
Private clubs, and/or lodges	1 space for every 3 capacity occupants

d. *Health Facilities.*

Hospitals	2 spaces for each bed
Medical and dental clinics, doctors' and dentists' offices with less than 20 doctors	8 spaces per doctor
Medical and dental clinics, doctors' and dentists' offices containing 20 or more doctors	6 spaces per doctor
Convalescent and nursing homes for the aged	1 space for every 2 beds

e. *Transportation, Communications, and Utilities.*

Rail, bus, air and water passenger terminals	2 spaces per 100 square feet of terminal area
Air, rail, motor and water freight terminals	0.5 space per 100 square feet of floor area
Radio and television stations	1 space per 100 square feet
Public utility operations other than offices	0.1 space per 100 square feet of floor area plus 0.01 space per 100 square feet of site area

f. *Industrial.*

Production or processing of materials, goods, or products	0.1 space per 100 square feet of floor area plus 0.01 space per 100 square feet of site area
Testing, repairing, cleaning or servicing of materials, goods, or products	0.1 space per 100 square feet of floor area plus 0.01 space per 100 square feet of site area
Warehousing and wholesaling	0.1 space per 100 square feet of floor area plus 0.01 space for every 100 square feet of outdoor storage or sales area

g. *Retail Trade.*

Establishments for the consumption of food or beverages on the premises	1 space for every 2 capacity occupants
Establishments for the sale of motor vehicles, trailers, and large equipment of any sort	0.1 space for each 100 square feet of floor area, minimum of 2 spaces
All other retail	0.66 spaces for every 100 square feet of floor area, minimum of 2 spaces

h. *Services.*

Offices, business and professional except as specified in Section 4.	0.5 spaces for every 100 square feet of floor area

Auto service stations and repair garages	0.35 spaces for every 100 square feet of floor area Laundromats 2 spaces for every 100 square feet of floor area.
Personal Service Establishments (Barber and Beauty Shops)	0.66 spaces for every 100 square feet of floor area, minimum of 2 spaces

(2) *Parking regulations.*

a. 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.

b. Where calculation of parking requirements with the foregoing list results in a fraction of a space, a full space shall be provided.

c. Two (2) 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. In the instance of dual function of off-street parking spaces where operating hours of the buildings or uses do not overlap, the board of appeals may grant exception to the number of parking spaces required.

d. Any area once designated as a required off-street parking lot shall not be changed to another use unless and until equal facilities are provided elsewhere subject to the zoning administrator's recommendation and planning board approval.

e. In all residential districts (R-1, R-2, R-3) the required off-street parking shall be located on the same site as the use to which it pertains.

f. In all districts, except the residential districts, parking shall be located in the same district as the use and within four hundred (400) feet of the lot on which the use is located, measured from lot corner along a street or streets. If the use is located in a building the distance shall be measured along streets from the nearest point of the building to the nearest corner of the lot on which the parking is located.

g. Where off-street parking is located on a lot other than the lot occupied by the use which requires it, site plan approval for both lots is required.

h. These parking requirements must be met:

i. At the time of construction of any new building or structure or at the time of commencement of use of any land.

ii. If any alternatives are made in a building or structure which would require additional parking.

iii. If the use of any building, structure or land is altered.

(3) *Parking reduction formula.* After calculating the number of parking spaces necessary to meet the standards in subsection 34-311(1) above, the parking requirements for uses, other than residential, in the C-1, C-2, C-3, and I zoning districts may be modified using the following table:

SPACES CALCULATED	PERCENTAGE ACTUALLY REQUIRED
<5	50%
6 - 10	60%
11 - 20	70%
21 - 30	80%
31 - 40	90%
41 - 50	100%
51 - 60	90%
61 - 70	80%
71 - 80	70%
81+	60%

a. Parking waiver - In the C-2 and I districts the board of zoning appeals may waive the above calculated and/or required parking for any nonresidential use under the following conditions. Said waiver is not a variance and need not meet the statutory and judicial standards for a variance.

   i. The board must hold a public hearing with notice given as required for conditional use permit hearings.

   ii. The board should consider the amount of current use of the lot or lots proposed to meet this requirement, and whether adequate parking will be available for the proposed use. The board may consider that not all uses require parking at the same time in making this decision.

(4) *Parking layout, design, construction, and maintenance.* All off-street parking shall be laid out, constructed, and maintained according to the following standards and regulations:

a. *Residential.* For the purpose of this section, the following definitions shall apply:

Driveway means a private approach giving vehicles access from a public way to a building or parking space(s) on the same site.

Front area means that area located between the edge of the physical street and the nearest point of the dwelling, projected parallel to the street.

Hard surface means, for one- and two-family dwellings, compacted gravel, concrete or asphalt pavement, pavers or other products designed for parking.

Parking space is a defined area of at least nine (9) feet by eighteen (18) feet for the storage or parking of a vehicle. This area is to be exclusive of drives, driveways, aisles or entrances giving access to the space from the public right-of-way.

i. Parking is not permitted in the front area with exception of on a driveway or in a garage. All parking in the front area shall be on parking spaces which are at least two (2) feet from the side lot line, at least two (2) feet from the inside edge of a sidewalk, and at least ten (10) feet from the edge of an established street.

ii. Allowable driveway widths are eighteen (18) feet wide on a lot up to and including fifty (50) feet in width and twenty-four (24) feet wide on a lot one hundred (100) or more feet in width. Driveways on lot widths between fifty (50) and one hundred (100) feet are prorated accordingly.

iii. A maximum of two (2) driveway openings per site are permitted. A driveway may be widened beginning at a point two (2) feet from the inside edge of a sidewalk or ten (10) feet from the edge of an established street provided the hard surfaced areas of the driveway or driveways and parking spaces utilize no more than thirty (30) percent of the front area.

iv. Hard surface residential parking locations approved under previous ordinance language are not subject to above language provided that the minimum safeguards are met for all parking uses where vision hazards and locations impact public safety.

v. The zoning administrator may permit parking in a front area during the winter parking ban period if deemed that the site cannot be reasonably altered to provide parking which is not in the front yard.

vi. All one- and two-family residential parking spaces shall be exempt from the following standards, except that site plans drawn to scale shall be submitted to the zoning administrator for review and approval for creation of driveways or parking spaces. Curb cut permits shall be obtained from the city public works department when curb cuts are made or modified.

b. No off-street parking lot shall be constructed unless and until review has been completed by the zoning administrator and a permit is issued by the city. Permit applications shall be submitted to the city engineer and zoning administrator in such form as may be determined by the city engineer and shall be accompanied with two (2) sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

c. All spaces shall be laid out in the dimensions of nine (9) feet by eighteen (18) feet, exclusive of maneuvering lanes.

d. An area equivalent to twenty (20) percent of the required parking stall area shall be provided for snow storage. The snow storage area shall be landscaped and shall be located within any fence bounding the parking lot.

e. Plans for the layout of the parking lot shall show the dimensions of the total lot, shall show the location and dimensions of all parking spaces, maneuvering lanes, entrances, exits, borders and snow storage areas. Means of limiting ingress and egress to the parking lot shall also be shown. One (1) of the following patterns shall be used for the layout of parking spaces:

STALL LENGTH	ANGLE (IN DEGREES)	STALL WIDTH	MANEUVERING LANE WIDTH

23 ft.	0-15	9 ft.	12 ft.
18 ft.	16-37	9 ft.	12 ft.
18 ft.	38-57	9 ft.	15 ft.
8 ft.	58-74	9 ft.	18 ft.
18 ft.	75-90	9 ft.	24 ft.

f. All spaces shall be provided adequate access by means of maneuvering lane. Backing directly onto a street is prohibited.

g. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. There shall be a minimum of twenty-five (25) feet between curb cuts or cuts and intersections. There shall be a clear vision triangle at each intersection, created by measuring twenty-five (25) feet from the corner along each property line. Said triangle shall be clear from two (2) feet to ten (10) feet above the grade of the street pavement.

h. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. There shall be a minimum of twenty-five (25) feet between curb cuts or cuts and intersections.

i. Each exit and entrance to and from any off-street parking lot located in an area zoned for other than single-family, multifamily residential and rural residential (R-1, R-2 & R-3) shall be at least twenty-five (25) feet distant from any adjacent property located in a single-family or general residential district.

j. The entire parking lot including parking spaces and maneuvering lanes required under this section shall be provided with a paved surface in accordance with specifications approved by the city planning commission. The parking area shall be surfaced within one (1) year of the date the permit is issued. Off-street parking lots shall be drained so as to dispose of all surface water accumulated in the parking areas in such a way as to preclude drainage of water onto adjacent property or toward buildings.

k. All parking spaces shall be clearly defined by use of car wheel or bumper stops and/or painted lines.

l. An off-street parking lot abutting a residential district shall be provided with a continuous six-foot solid or stockade style screening fence. This screening fence shall be provided on all sides where the abutting zoning district is designated as a residential district.

m. All lighting used to illuminate any off-street parking area shall be confined within and directed onto the parking lot only. In no case may the source of light exceed twenty (20) feet in overall height above ground level.

n. Maintenance. The off-street parking lot, required borders and landscaped areas shall be maintained in a litter free condition. All planting shall be in healthy growing condition neat and orderly in appearance. Snow shall be removed as necessary to permit use of all required parking spaces.

o. A two-foot border shall be created between a parking lot, and the adjacent buildings and/or property lines. This border shall be landscaped or paved, and may be included in the required snow storage area.

(5) Limitations on use of all parking lots except for residential uses:

a. Temporary sales areas may be permitted to occupy not more than ten (10) percent of the existing spaces on the

site, for a total of not more than sixty (60) days in any 12-month period. The location of sales merchandise and/or temporary structures shall not interfere with traffic patterns or access to remaining parking spaces. Prior to placement of merchandise or erection of temporary structures, the zoning administrator shall be notified of the date of removal. The location and construction of all temporary structures (including tents) erected in association with the temporary sale of merchandise shall require the approval of the zoning administrator and the fire administrator. It is the responsibility of the business owner to contact the county building code administrator to determine if a building permit is required.

(Ord. No. 468, 5-26-09)

Sec. 34-312. - Off-street loading zones.

On the same site with every neighborhood commercial, downtown commercial and highway commercial and industrial districts (C-1, C-2, C-3, I) there shall be provided and maintained a minimum of one (1) space for standing, loading and unloading of delivery vehicles in order to prevent interference with public use of a dedicated right-of-way.

(1) Two (2) or more adjacent buildings or structures may jointly share off-street loading facilities provided that adequate access to the individual uses is provided.

(2) Loading dock approaches shall be provided with a pavement having an asphalt or cement binder so as to provide a permanent, durable and dust free surface.

(3) All spaces shall be laid out in the dimensions of at least ten (10) feet by fifty (50) feet.

(4) Off-street parking spaces must be provided for all commercial vehicles owned by or customarily used by the business or industry. The zoning administrator may authorize that the off-street loading area be used for this purpose, provided that the parking of commercial vehicles does not interfere with loading activities.

(5) Off-street loading zones shall be designated with appropriate signs and pavement marking which prohibit parking of noncommercial vehicles.

(Ord. No. 468, 5-26-09)

Sec. 34-313. - Appeals

The board of appeals, upon application of the property owner, may modify the requirements of this section where unusual difficulties or unnecessary hardships would result.

(Ord. No. 468, 5-26-09)

Sec. 34-314. - Storage of refuse.

All space required for the accumulation and out-loading of garbage, trash, scrap, waste products and empty containers within residential and commercial districts shall be provided entirely within a building or screened area.

(Ord. No. 468, 5-26-09)

Secs. 34-315—34-390. - Reserved.

ARTICLE VII. - STORAGE OF VEHICLES, EQUIPMENT, REFUSE, ETC.

Sec. 34-391. - Purpose.

It is the intent of this section to protect the public health and safety and to preserve property values through the regulation of abandoned vehicles, equipment, refuse, debris and public nuisances on private property.

(Ord. No. 468, 5-26-09)

Sec. 34-392. - Enforcement.

It shall be the duty of the department of public safety through its proper officials and agents to enforce the provisions of this article.

(Ord. No. 468, 5-26-09)

Sec. 34-393. - Prohibitions.

(1) No inoperable, junk or partially dismantled motor vehicle or part of a motor vehicle, trailer, contractor's equipment or boat hulls shall be parked, stored or permitted to remain on any premises in the city, except for those parked or stored within an enclosed building and except for the following:
   a. Inoperable vehicles be permitted to remain on private property for a period of not more than thirty (30) days if the owner is repairing or about to have the vehicle repaired.
   b. Tires or parts of cars being removed, replaced or installed by the occupant working on the occupant's vehicle on private property may be reasonably stored in an orderly manner on the premises, but for a period not to exceed thirty (30) days. Parts or tires to be discarded shall be removed within one (1) week after removal from the vehicle.

(2) The presence of any inoperable, dismantled or partially dismantled motor vehicle or parts thereof or tires of a motor vehicle on private property contrary to the provisions of this article is hereby declared to be a public nuisance.

(3) No refuse or debris of any kind or nature that might constitute a hazard to health or safety or substantially detract from the appearance of the immediate neighborhood shall be stored on private property.

(4) Refuse and debris will be considered stored when it remains unmoved on private property for more than thirty (30) days and creates a health or safety hazard or substantially detracts from the appearance of the immediate neighborhood.

(5) The presence of refuse or debris that creates a health or safety hazard or substantially detracts from the appearance of the immediate neighborhood contrary to the provisions of this article is hereby declared to be a public nuisance.

(6) No person shall construct upon, excavate or cause another to construct upon or excavate any property without providing adequate safeguards for the general public in the form of signs, barricades, fences, barriers or any other device that will ensure protection of the general public.

(7) No person shall abandon a construction project or excavation in such a manner that it would be likely to endanger the safety of the general public.

(8) The director of public safety or designated agent will determine if an excavation is a safety hazard, but this will in no way exempt the person or agent in charge of construction or excavation from providing adequate protection for the general public without the direction of the director of public safety or designated agent.

(9) The violation of construction or excavation procedures as described in this section is hereby declared to be a public nuisance.

(Ord. No. 468, 5-26-09)

Secs. 34-394—34-425. - Reserved.

ARTICLE VIII. - FENCES AND RETAINING WALLS

Sec. 34-426. - Permits.

No fence shall be erected or altered within a residential district without first obtaining a permit from the building inspector.

(Ord. No. 468, 5-26-09)

Sec. 34-427. - Placement and height.

(1) *Front yard.* No fence shall be erected in the front yard which exceeds thirty-six (36) inches in height when measured from the existing grade, or be placed within a distance of one (1) foot from the inside sidewalk line.

(2) *Side yard.* No fence shall be erected in the side yard which exceeds six (6) feet in height when measured from the existing grade.

(3) *Rear yard.* No fence shall be erected in the rear yard, which exceeds six (6) feet in height when measured from the existing grade.

(4) *Corner lots.* No fence over thirty-six (36) inches in height above the established sidewalk grade shall be permitted within twenty (20) feet of any such street intersection so as to interfere with traffic visibility, and no such fence shall be located nearer than one (1) foot to the inside sidewalk line.

(Ord. No. 468, 5-26-09)

Sec. 34-428. - Position of finished side.

(1) The finished side of any fence shall face away from the house to be fenced in. The finished side shall face the neighbors.

(2) All cyclone fences shall have the finished edge on the top side.

(Ord. No. 468, 5-26-09)

Sec. 34-429. - Nuisances.

(1) Fences must be maintained so as not to endanger life or property.

(2) The use of barbed wire without permission from the zoning board of appeals in any area is expressly prohibited.

(3) Any fence which through lack of repair, type of construction or otherwise imperils life or property shall be deemed a nuisance.

(4) Any failure to comply with the requirements of such notice shall be punishable by city authorities.

(Ord. No. 468, 5-26-09)

Secs. 34-430—34-455. - Reserved.

ARTICLE IX. - SITE PLAN REVIEW

Sec. 34-456. - Purpose.

The purpose of this article is to assure at the time of developmental planning compliance with the comprehensive plan and the city requirements as well as the on- and off-site impacts of the proposed development in relation to storm drainage capacity and design, provision of an adequate water supply and sanitary wastewater disposal systems and other public utilities, accessibility to and circulation upon the site for vehicular and pedestrian traffic, off-street parking and unloading, and other side and structural design elements that would result in use and activity upon the lot or parcel which may have an adverse effect upon the public health, safety and general welfare of the surrounding area if not properly evaluated prior to development or construction.

(Ord. No. 468, 5-26-09)

Sec. 34-457. - Uses requiring site plan review.

The following land, building and structural uses require site plan review and approval:

(1) A building containing three (3) or more dwelling units;

(2) A mobile home park;

(3) Any principal nonresidential building or structure and/or addition thereto permitted in any residential district and any principal building or structure and/or addition thereto except single- or two-family residences located on existing separate lots or parcels and all farm buildings in all the districts where they are permitted;

(4) Public utility buildings and structures;

(5) Any parking lot or addition thereto containing five (5) or more parking spaces when not a part of a development or use for which site plan review and approval is required elsewhere in this chapter;

(6) All permitted principal and special uses in the following districts:

a. R-2 multifamily;

b. R-3 rural residential;

c. C-1 neighborhood commercial;

d. C-2 downtown commercial;

e. C-3 highway commercial;

f. I industrial;

g. PUD planned unit development; and

h. O open land.

(7) All special uses; and

(8) Any mineral or other natural resource extraction operation.

(Ord. No. 468, 5-26-09)

Sec. 34-458. - Prohibitions prior to site plan approval.

No grading, removal of vegetation, filling of land or construction shall commence for any development for which site plan approval is required until a site plan is approved and is in effect. Any violation of this prohibition shall be subject to the legal and administrative procedures and penalties cited in section 34-7.

(Ord. No. 468, 5-26-09)

Sec. 34-459. - Preapplication conference—Staff.

Prior to the submission of an application for site plan review, a preapplication conference shall be held between the applicant and the planning department to discuss the proposed development, submittal requirements and procedures, the requirements of this Code and the comprehensive plan and other applicable matters.

(Ord. No. 468, 5-26-09)

Sec. 34-460. - Same—Planning commission.

A preapplication conference for site plan review may be held with the planning commission for the purpose of establishing general guidelines and eliciting feedback from the members of the planning commission regarding specific questions or problem areas. The preapplication conference, which is a vehicle, intended to provide the applicant with general guidance prior to conferences, shall be scheduled and heard at regular or special planning commission public meetings.

(Ord. No. 468, 5-26-09)

Sec. 34-461. - Application for site plan approval.

Any person having a legal ownership interest in a lot may apply for site plan approval by filing completed forms, paying fees as required and submitting four (4) copies of the site plan to the office of the zoning administrator at least fifteen (15) days prior to the date of the planning commission meeting during which time the site is to receive its first formal review.

(Ord. No. 468, 5-26-09)

Sec. 34-462. - Information required with or on site plan.

Each site plan submitted for review shall provide the following information:

(1) Scale, north arrow, name and date of plan; dates of revisions thereto;

(2) Name and address of property owner and applicant and the name and address of developer;

(3) The applicant's ownership interest in the property and, if the applicant is not the fee simple owner, a signed authorization from the owner for the application;

(4) Name and address of designer. A site plan may be prepared by the applicant. It is recommended, however, that it be prepared by a professional community planner, engineer, architect, landscape architect or land surveyor registered in the state;

(5) A vicinity map, legal description of the property, dimensions and lot area. Where a metes and bounds description is used, lot line angles or bearings shall be based upon a boundary survey prepared by a registered land surveyor and shall correlate with the legal description;

(6) Existing topography with a minimum contour interval of two (2) feet; existing natural features such as trees, wooded areas, streams, marshes, ponds, and other wetlands; clear indication of all natural features to remain and to be removed. Groups of trees shall be shown on an approximate outline of the total vegetational canopy; individual deciduous trees of six-inch diameter or larger and individual evergreen trees of six-inch diameter or larger, where not a part of a group of trees, shall be accurately located on the final site plan. A written report of the areas to be changed shall include their effect on the site and adjacent properties;

(7) Existing buildings, structures and other improvements, including drives, utility poles and towers, easements, pipelines, excavations, ditches with their elevations and drainage directions, bridges, culverts; clear indication of

all improvements to remain and to be removed;

(8) General description of deed restrictions, protective covenants or other legal agreements or encumbrances upon the property;

(9) Owner, use, and zoning classification of adjacent properties; location and outline of buildings; drives, parking lots, and other improvements on adjacent properties;

(10) The method to be used to control any increase in effluent discharge to the air or any increase in noise level emanating from the site. A written description of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lights and how the nuisance shall be controlled;

(11) Existing public utilities on or serving the property; location and size of water lines and hydrants; location, size and inverts of sanitary sewer and storm sewer lines; location of manholes and catchbasins; location and size of wells, septic tanks and drain fields;

(12) Names and rights-of-way of existing streets, private roads and/or recorded easements on or adjacent to the property; surface type and width; spot elevation of street, private road or recorded easement surface, including elevations at intersections with streets and drives of the proposed development;

(13) Zoning classification of the subject property, location of required yards, total ground floor area and percent of lot coverage, floor area ratio. In the case of residential units, the plan shall note dwelling unit density, lot area per dwelling unity and a schedule of the number, size and type of dwelling units;

(14) Grading plan, showing finished contours at a minimum interval of two (2) feet and correlated with existing contours so as to clearly indicate cut and fill required. All finished contour lines are to be connected to existing contour lines at or before the property lines;

(15) Location and exterior dimensions of proposed buildings and structures, with the location to be referenced to property lines or lines to a common base point; distances between buildings; height in feet and number of stories; finished floor elevations; ground grade elevation; and all required setbacks;

(16) Location and alignment of all proposed streets and drives; rights-of-way where applicable (shall meet city standards) and typical cross section of same showing surface, base, and subbase materials and dimensions; location and typical details of curbs; turning lanes, with details; location, width, surface elevations and grades of all entries and exits and curve radii;

(17) Location and dimensions of proposed parking lots; numbers of spaces in each lot; dimensions of spaces and aisles; drainage pattern of lots; typical cross section showing surface, base, and subbase materials, angle of spaces. Include provision of snow storage area representing twenty (20) percent of total parking area;

(18) Location and size of proposed improvements of open space and recreation areas and statement on proposed maintenance provisions for such areas;

(19) Location, width and surface of proposed sidewalks and pedestrian ways;

(20) Location and type of proposed screens and fences; height, typical elevation and vertical section of enclosures, showing materials and dimensions;

(21) Location of proposed outdoor trash container enclosures; size, typical elevation and vertical section of enclosures, showing materials and dimensions;

(22) Location, type, size, area and height of proposed signs;

(23) Layout, size of lines, inverts, hydrants, drainage flow patterns, location of manholes and catchbasins for proposed sanitary sewer, water and storm drainage utilities; location and size of retention ponds and degrees of

slop of sides of ponds; calculations for size of storm drainage facilities; location of electricity and telephone poles and wires; location and size of surface-mounted equipment for electricity and telephone services; location and size of underground tanks where applicable; location and size of outdoor incinerators; location and size of wells, septic tanks and drain fields where applicable. Final engineering drawings for all site improvements such as but not limited to water, sanitary sewer and storm sewer systems; streets, drives and parking lots; retention ponds and other ponds or lakes; retaining walls shall be submitted to and approved by the planning commission prior to approval of the final site plan. If on-site water and sewer facilities are to be used, a letter of approval of the facility or a copy of the permit from the county health department, the state department of natural resources or another appropriate agency shall be submitted to the planning commission prior to the planning commission's approval of the final site plan;

(24) Landscape plan showing location and size and name of plant materials;

(25) Description of measures to be taken to control soil erosion and sedimentation during and after completion of grading and construction operations. Recommendations for such measures may be obtained from the county drain commissioner or soil service district offices or the city sedimentation control official;

(26) Location of proposed retaining walls, including dimensions and materials of same; fill materials; typical vertical sections; restoration of adjacent properties, where applicable;

(27) Location, type, direction and intensity of outside lighting;

(28) Right-of-way expansion where applicable; reservation of dedication of rights-of-way to be clearly noted;

(29) Location of underground transportation pipelines;

(30) There shall be room allotted for an alternate title field on each lot or parcel approved to have a septic tank;

(31) Development and use of the land, buildings or structures shall not in any way increase surface water runoff to adjacent property owners;

(32) The planned number of people to be housed and employed, visitors or patrons, and vehicular and pedestrian traffic flow;

(33) Loading standards:

a. *Purpose.* In order to prevent undue interference with public use of streets and alleys, every manufacturing's storage, warehouse, department store, wholesale store, and retail store, market, hotel, hospital, laundry, dry cleaning, mortuary and other uses similarly and customarily receiving and distributing goods by motor vehicle shall provide space on the average day of full use. Every building housing such a use and having over five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) truck standing, loading and unloading space on the premises not less than twelve (12) feet in width, sixty (60) feet in length and fourteen (14) feet in height, if enclosed.

b. *Storage of refuse.* All space required for the accumulation and out-loading of garbage, trash, scrap, waste products and empty containers within residential and commercial districts shall be provided entirely within a building or screened area.

c. *Access.* Access to a truck standing, loading and unloading space shall be provided directly from a public street or alley or from any right-of-way that will not interfere with public convenience and that will permit orderly and safe movement of truck vehicles.

d. *Additional to parking space.* Loading space as required under this section shall be provided as area additional to any required off-street parking space.

(Ord. No. 468, 5-26-09)

Sec. 34-463. - Public hearing requirement.

Prior to voting on a final site plan, the planning commission shall schedule and hold a public hearing so as to facilitate public review and understanding of the development proposed. Notice of the date, time, location and subject matter of the public hearing shall be published in a newspaper of general circulation in the city not less than fifteen (15) days before the actual hearing date as established by the planning commission.

(Ord. No. 468, 5-26-09)

Sec. 34-464. - Standards for site plan review.

In reviewing the site plan, the planning commission shall determine that the following standards are observed:

(1) All required information has been provided in accordance with the site plan review checklist.

(2) The proposed development conforms to all regulations of the zoning district in which it is located.

(3) The applicant may legally apply for site plan review.

(4) The plan meets the requirements of the city for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.

(5) Soils not suited to development will be protected or altered in an acceptable manner.

(6) The proposed development will not cause erosion or sedimentation problems.

(7) The proposed development does not illegally infringe upon established floodplains located on or near the subject property.

(8) The drainage plan for the proposed development is adequate to handle anticipated stormwater runoff and will not cause undue runoff onto neighboring property or the overloading of watercourses in the area.

(9) The proposed development is coordinated with public improvements serving the subject property and with the other developments in the general vicinity.

(10) Outside lighting will not adversely affect adjacent or neighboring properties or traffic on adjacent streets.

(11) Outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.

(12) Grading or filling will improve the character of the property or the surrounding area and will not adversely affect the adjacent or neighboring properties.

(13) Vehicular and pedestrian traffic within the site as well as to and from the site are both convenient and safe.

(14) Parking layout will not adversely affect the flow of traffic within the site or impede access to and from the adjacent streets and adjacent properties and snow storage area has been provided to equal twenty (20) percent of total parking area or ten (10) percent snow storage area provided if the area is landscaped and planted with vegetation.

(15) The plan meets the required standards of other governmental agencies, where applicable, and the approval of these agencies has been obtained.

(16) The plan provides for the proper continuation and expansion of existing public streets serving the site, where applicable.

(17) All phased developments are to be constructed in a logical sequence so that any individual phase will not depend in any way upon a subsequent phase for adequate access, public utility services, drainage or erosion control.

(18) When required, landscaping, fences and walls shall be installed or constructed in pursuance of these objectives,

and landscaping, fences and walls shall be provided and maintained as a continued maintenance of any use to which they are appurtenant.

(19) The planning commission shall have some latitude in specifying the walls, fences, greenbelts as they apply to a phase development if the particular phase of development and construction work is far enough from adjacent properties so as not to require the screening, etc.

(20) The proposed site must be in accord with the spirit and purpose of this chapter and not be inconsistent with or contrary to the objectives sought to be accomplished by this chapter and principles of sound city and site planning.

(21) Adequate assurances have been received from the applicant so that clearing the site of topsoil, trees and other natural features before the commencement of building operations will occur only in those areas approved for the construction of physical improvements. Areas to be left undisturbed during construction shall be so indicated on the site plan and shall be so identified on the ground so as to be obvious to construction personnel.

(22) The development will not substantially affect the natural retention storage capacity of any water impoundment area or watercourse, thereby possibly increasing the magnitude and volume of flood at other locations or thereby possibly decreasing the volume of natural water supply at other locations.

(23) The soil and subsoil conditions are suitable for excavation and site preparation and the drainage is designed to prevent erosion and environmentally deleterious surface runoff.

(24) The development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, hillsides or wooded areas, but will preserve and incorporate such features into the development's side design.

(25) The location of natural features and the site topography have been considered in the designing and siting of all physical improvements.

(26) All development must be in accordance with the comprehensive plan.

(27) Loading requirements shall be met.

(Ord. No. 468, 5-26-09)

Sec. 34-465. - Planning commission action.

The planning commission shall study the site plan and shall, within sixty (60) days of the filing date upon which it appears on the planning commission agenda (if the submitted application is complete), make its recommendation to approve, approve with conditions, or reject the site plan. This time limit may be extended upon mutual agreement between the applicant and the planning commission. The planning commission may require such changes in the proposed site plan as are needed to gain approval. The planning commission may attach reasonable conditions to its approval. The planning commission shall include in its study of the site plan consultation with the zoning administrator and other government officials, departments and public utility companies that might have an interest in or be affected by the proposed development. Upon planning commission approval of a site plan, the applicant, the owner of record or the legal representative thereof, the planning commission chair and one (1) other member of the planning commission shall each sign four (4) copies of the approved site plan. The planning commission shall transmit one (1) signed copy of the plan and any conditions attached to the zoning administrator and one (1) signed copy each to the office of the city clerk and the applicant. One (1) signed copy shall be retained in the planning commission's files. The planning commission shall notify the applicant in writing of its recommendations and the reasons therefore within ten (10) days following the action.

(Ord. No. 468, 5-26-09)

Sec. 34-466. - Expiration of site plan approval.

(1) Approval of a site plan shall expire and be of no effect unless a zoning permit and a building permit shall have been issued within one hundred eighty (180) days of the date of the planning commission approval of the site plan. Approval of a site plan shall expire and be of no effect one (1) year following the date of planning commission approval unless construction has begun on the property and is diligently pursued to completion in conformance with the approved site plan.

(2) Development shall, in any case, be completed within two (2) years of the date of planning commission approval of a site plan.

(3) In the case of a phased development, i.e., as in a PUD district please see article X.

(4) If any approved site plan has expired as set forth in this section, no permits for development or use of the subject property shall be issued until all applicable requirements of this article have been satisfied.

(Ord. No. 468, 5-26-09)

Sec. 34-467. - Amendment of approved site plan.

(1) A development may request a change in an approved site plan. A change in an approved site plan which results in a major change, as defined in this section, shall require an amendment. All amendments shall follow the procedures and conditions required for original plan submittal and review. A change which results in a minor change as defined in this section shall require a revision by the planning commission to the approved plan.

(2) The planning commission shall have the authority to determine whether a requested change is major or minor in accordance with this section. The burden shall be on the applicant to show good cause for any requested change.

(3) A request for an amendment or a revision shall be made in writing to the planning commission and shall clearly state the reasons therefore. Such reasons may be based upon considerations such as changing social or economic conditions, potential improvements in layout or design features, unforeseen difficulties or advantages mutually affecting the interests of the city and the developer, such as technical causes, site conditions, state or federal projections and installations, and statutory revisions. The planning commission, upon finding such reasons and request reasonable and valid, shall so notify the applicant in writing. Following payment of the appropriate fee, the developer shall submit the required information to the planning commission for review.

(4) Changes to be considered major, i.e., those for which an amendment is required, shall include one (1) or more of the following:

a. A change in the original concept of the development;

b. A change in the original use or character of the development;

c. A change in the type of dwelling unit as identified on the approved Site Plan;

d. An increase in the number of dwelling units planned;

e. An increase in nonresidential floor area of over five (5) percent;

f. Rearrangement of lots, blocks and building tracts;

g. A change in the character or function of any street;

h. A reduction in the amount of land area set aside for common space or the relocation of such area;

i. An increase in building height.

(5) A developer may request planning commission approval of minor changes, as defined in this section, and an approved site plan. The planning commission shall notify other applicable agencies of its approval of such minor

changes. The revised drawings, as approved, shall each be signed by the petitioner and the owner of the property in question.

(6) Minor changes shall include the following and may be approved by the zoning administrator:

a. A change in residential floor area;

b. An increase in nonresidential floor area of five (5) percent or less;

c. Minor variations in layout of the building or site which do not constitute major changes.

(Ord. No. 468, 5-26-09)

Sec. 34-468. - Modification of plan during construction.

All site improvements shall conform to the approved site plan, including engineering drawings approved by the planning commission. If the applicant makes any changes during construction in the development in relation to the approved site plan, such changes shall be made at the applicant's risk without any assurances that the planning commission or any other agency will approve the changes. The applicant may be required to correct the unapproved changes so as to conform to the approved site plan.

(Ord. No. 468, 5-26-09)

Sec. 34-469. - As-built drawings.

The following conditions shall prevail for all required as-built drawings that must be submitted to the city engineer:

(1) The applicant shall provide as-built drawings of all sanitary sewers, water and storm sewer lines and all appurtenances, which were installed on a site for which a final site plan was approved. The drawings shall be submitted to the planning commission and shall be approved after review by the city engineer and prior to the release of any performance guarantee or part thereof covering such installation.

(2) The as-built drawings shall show but shall not be limited to such information as the exact size, type and location of pipes; location and size of manholes and catchbasins; location and size of valves, fire hydrants, tees and crosses; depth and slopes of retention basins; and location and type of other utility installations. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.

(3) The as-built drawings shall show all work completed within a public right-of-way and public utility easement as actually installed and field verified by a professional engineer or a representative thereof. The drawing shall be identified as "as-built drawings" in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative and shall bear the seal of a professional community planner, engineer, architect, landscape architect or land surveyor.

(Ord. No. 468, 5-26-09)

Sec. 34-470. - Phasing of development.

The applicant may divide the proposed development into two (2) or more phases. In such case each phase-specific site plan shall cover only that portion of the property involved. A final site plan shall be submitted for review and approval for each phase.

(Ord. No. 468, 5-26-09)

Sec. 34-471. - Inspection.

The zoning administrator or designee shall be responsible for inspecting all improvements for conformance with the approved final site plan. All subgrade improvements such as utilities, subbase installations for drives and parking lots and similar improvements shall be inspected and approved by appropriate agencies prior to covering. The applicant shall be responsible for requesting the necessary inspections. The zoning administrator shall obtain inspection assistance from the appropriate city official and consulting professional personnel where appropriate. The zoning administrator shall notify the planning commission in writing of any development for which a site plan was approved or which does not pass inspection with respect to the approved site plan and shall advise the planning commission of steps taken to achieve compliance. In such case, the zoning administrator shall periodically notify the planning commission of progress toward compliance with the approved site plan and when compliance is achieved.

(Ord. No. 468, 5-26-09)

Sec. 34-472. - Guarantees.

Guarantees as required by the city shall be provided by the applicant to the office of the city treasurer. The guarantee shall be provided after a final site plan is approved; the guarantee shall cover all aspects of site improvements shown on the approved final site plan, including buildings, streets, drives, parking lots, sidewalks, grading, required landscaping, required screens, storm drainage, exterior lighting and utilities for a period of one (1) year after acceptance by the city.

The applicant shall provide a cost estimate of the improvements to be covered by the guarantee and such estimate shall be verified as to the amount by the city engineer. The form of the guarantee must be approved by the city attorney.

If the applicant shall fail to provide any site improvements according to the approved plans within the time period specified in the guarantee, the planning commission shall have the authority to have such work completed. The city treasurer with the assistance of the planning commission may reimburse the city for cost of such work, including administrative costs, by appropriating funds from the deposited security or may require performance by the building company.

The city treasurer with the assistance of the planning commission shall determine the means by rebating portions of the deposit in proportion to the amount of work completed on the required improvements. All required inspections for improvements for which the cash deposit is to be related shall have been completed before any rebate shall be made.

(Ord. No. 468, 5-26-09)

Sec. 34-473. - Fees.

(1) Fees for the review of site plans as required by this article shall be established and may be amended by resolution of the city commission.

(2) Fees may also be assessed by the planning commission for the review of site plans and construction drawings by a qualified engineering and/or architectural firm. Said fees will be placed in an escrow account with the city treasurer, from which all reasonable and necessary amounts will be deducted (approved by the planning commission). Upon final approval of the site plan, all unused portions of the monies in escrow will be return to the applicant.

(Ord. No. 468, 5-26-09)

Sec. 34-474. - Violations.

The approved site plan shall become part of the record of approval, and subsequent action relative to the site in question shall be consistent with the approved site plan, unless the pertinent administrative body agrees to such changes as are provided for in this article. Any violation of the provisions of this article, including any improvement not in conformance with

the approved final site plan, shall be deemed a violation of this chapter as provided in section 34-7 and subject to all penalties specified therein.

(Ord. No. 468, 5-26-09)

Sec. 34-475. - Amendments to article.

Only the zoning board of appeals may amend, supplement or change any of the regulations and provisions and boundaries stated in this article, and may allow any permitted structure to be built up to within ten (10) feet of any residential zoning district, provided that the contiguous property is being used for nonresidential use.

(Ord. No. 468, 5-26-09)

ARTICLE X. - PLANNED UNIT DEVELOPMENT

Sec. 34-476. - Purpose.

(1) The PUD option is intended to encourage, with city approval, private or public development which is substantially in accord with the goals and objectives of the community master plan.
(2) Development permitted under this section shall be considered as an optional means of development only upon terms agreeable to the city.
(3) Use of the PUD option will permit flexibility in the regulation of land development and benefit the city by:
    a. Encouraging innovation through an overall development plan to provide variety in design and layout;
    b. Achieving economy and efficiency in the use of land, natural resources, energy, and in the provision of public services and utilities;
    c. Encouraging the creation of useful open spaces particularly suited to the needs of the parcel in question; and
    d. Providing appropriate housing, employment, service, and shopping opportunities suited to the needs of residents of Ironwood.
(4) The PUD may be used to:
    a. Permit nonresidential uses of residentially zoned areas;
    b. Permit residential uses of nonresidentially zoned areas; and
    c. Permit densities or lot sizes which are different from the applicable district and to permit the mixing of land uses that would otherwise not be permitted; provided that other objectives are met and the resulting development would promote the public health, safety, and welfare.
(5) Further, it is intended that the PUD shall be laid out so various land uses and building bulk relate to each other and to adjoining existing and planned uses with no material adverse impact of one (1) use on another.

(Ord. No. 468, 5-26-09)

Sec. 34-477. - Definitions.

Pud means a zoning district which shall apply to a specific parcel of land or several contiguous parcels of land, for which a comprehensive physical plan has been recommended by the planning commission, approved by the city commission, and documented in a contract between the city and site owner/developer. Such plan and contracted development will establish

functional use areas and density patterns; will provide a fixed system of streets, public utilities, drainage, and other essential services; and account for similar factors necessary for and incidental to the intended land uses. The planning commission may, but is not required to, consider parcels separated by a public street as eligible for inclusion in a PUD.

Pattern book means a document prepared by the applicant's design firm, which contains specific information on the site master plan, and architectural designs for planned buildings. Information should include specifications on building materials, size, and dimensions, building elevations, and site design elements such as pedestrian walkways, lighting, landscaping, and signage.

(Ord. No. 468, 5-26-09)

Sec. 34-478. - Criteria for qualification.

The PUD option may be permitted anywhere in the city except in the (O) open district. To be considered for the PUD option, it must be demonstrated that all of the following criteria are met:

(1) Use of this option shall not be for the purpose of avoiding applicable zoning requirements. Any permission given for any activity or building or use not normally permitted shall result in an improvement to the public health, safety and welfare in the area affected.

(2) The PUD shall not be utilized in situations where the same land use objectives can be accomplished by application of conventional zoning provisions or standards. Problems or constraints presented by applicable zoning provisions shall be identified in the PUD application.

(3) The PUD option may be effectuated only when proposed land use will not materially add service and facility loads beyond those contemplated in the comprehensive plan unless the proponent can demonstrate to the sole satisfaction of the city that such added loads will be accommodated or mitigated by the proponent as part of the PUD.

(4) The PUD shall not be allowed solely as a means of increasing density or as a substitute for a variance request; such objectives should be pursued through the normal zoning process by requesting a zoning change or variance.

(5) The planned unit development must substantially meet, as a minimum, three (3) or more of the following objectives. The benefits given to the developer through the flexibility of the PUD must be balanced with the benefits to the city:

a. To permanently preserve open space or natural features because of their exceptional characteristics or because they can provide a permanent transition or buffer between land uses.

b. To permanently establish land use patterns which are compatible or which will protect existing or planned uses.

c. To accept dedication or set aside open space areas in perpetuity.

d. To provide alternative uses for parcels, which can provide transition, buffers to residential areas.

e. To guarantee provision of a public improvement which could not otherwise be required that would further the public health, safety, or welfare; protect existing or future uses from the impact of a proposed use; or alleviate an existing or potential problem relating to public facilities.

f. To promote the goals and objectives of the community master plan.

g. To foster the aesthetic appearance of the city through quality building design and site development; the provision of trees and landscaping beyond minimum requirements; the preservation of unique and/or

historic sites or structures; and the provision of open space or other desirable features of a site beyond minimum requirements.

h. To bring about redevelopment of sites where an orderly change of use or requirements is determined to be desirable.

i. To bring about redevelopment of sites which have been identified as environmentally distressed or brownfields.

j. To facilitate appropriate development of environmentally sensitive areas.

(Ord. No. 468, 5-26-09)

Sec. 34-479. - Submittal of concept and request for consideration of project qualifications.

(1) Any person owning or controlling land in the City of Ironwood may make application for consideration of a PUD. Such application shall be made by submitting a request for a preliminary determination as to whether or not a parcel qualifies for the PUD option.

(2) A written and graphic request shall be submitted to the planning commission. The submission shall include information required by subparagraph (3) below.

(3) Based on the documentation submitted, and following a public hearing the planning commission shall make a preliminary determination as to whether or not a parcel qualifies for the PUD option under the provisions of criteria for qualification (section 34-478). The submittal must include the following:

a. Substantiation that the criteria set forth in criteria for qualification (section 34-478) are or will be met.

b. A schematic land use plan containing enough detail to explain the function of open space; the location of land use areas, streets providing access to the site, pedestrian and vehicular circulation within the site; dwelling unit density and types; and buildings or floor areas contemplated, as applicable.

c. A plan for the protection of natural, cultural and historic features and preservation of open space, green space, or public access, as applicable.

d. The proposed phasing of the project.

(4) The planning commission shall review the applicant's request.

(5) To expedite minor PUD projects, of one (1) acre or less, the planning commission, at its discretion, may waive submittal information required in section 34-480.

(Ord. No. 468, 5-26-09)

Sec. 34-480. - Submittal and approval of preliminary PUD plan.

Application may be made for consideration with the submission of the following materials:

(1) *Submittal of proposed PUD plan.* An application shall be made to the community development department for review and recommendation by the planning commission, which complies with section IX site plans, including but not limited to the following graphic and written representations of the project at a scale not to be smaller than one (1) inch equals one hundred (100) feet unless approved by the city.

a. A boundary survey of the PUD boundaries being requested completed by a licensed land surveyor.

b. A topographic map of the entire area at a contour interval of not more than one (1) foot and spot elevations at intervals not to exceed fifty (50) feet, unless waived. This map shall indicate all major stands of trees, bodies of water, wetlands, and unbuildable areas.

c. A proposed land use plan indicating the following:

i. Parcel and lot lines, land use, access points, and zoning of all parcels within one hundred (100) feet of the PUD site.

ii. Vehicular circulation including major drives and location of vehicular access. Proposed project cross-sections including public streets or private roads.

iii. Transition treatment, including minimum building setbacks to land adjoining the PUD and between different land use areas within the PUD.

iv. The location of nonresidential buildings and parking areas, estimated floor areas, building coverage and number of stories and heights for each structure.

v. The location of residential unit types and densities and lot parcel or land units by frontages and areas.

vi. The location of all wetlands, water and watercourses, and proposed water detention areas.

vii. The boundaries of open space areas that are to be preserved or reserved and an indication of the proposed ownership thereof.

viii. A schematic landscape treatment plan for open space areas, streets, and border/transition areas to adjoining properties.

ix. A preliminary grading plan, indicating the extent of grading and delineating any areas which are not to be graded or disturbed.

x. An indication of the contemplated water distribution, storm, and sanitary sewer plan.

xi. A written statement explaining in detail the full intent of the applicant, indicating the type of dwelling units or uses contemplated and resultant population, floor area, parking, and supporting documentation, including the intended schedule of development.

xii. The proposed phasing of the project, tentative development timetables, and future ownership intentions. Each phase of the project should be capable of standing alone.

xiii. Minimum of two (2) site sections, showing major building relationships and building site features.

d. Detailed design guidelines, drawings, and/or pattern book, which depict the design character of the project; the architectural details of proposed buildings; details on various site elements such as lights, furniture, landscaping, signage; and such other information deemed appropriate by the planning commission.

(2) *Planning commission review of proposed PUD plan:*

The planning commission shall give notice as provided in this zoning ordinance and hold a public hearing on the PUD and conduct a site plan review.

a. The planning commission shall review the proposed PUD plan and make a determination as to the proposal's qualification for the PUD option and for adherence to the following objectives and requirements:

i. The proposed PUD adheres to the conditions for qualification of the PUD option and promotes the land use goals and objectives of the city.

ii. All applicable provisions of this section shall be met. Insofar as any provision of this section shall be in conflict with the provisions of any other section of this chapter, the provisions of this section shall apply to the lands embraced within a PUD area.

iii. There is, or will be, at the time of development, an adequate means of disposing of sanitary sewage and of supplying the development with water and, that the road system and stormwater drainage system are or will be adequate.

b. The planning commission can require the applicant to submit a performance guarantee, escrow funds, or other performance-based guarantees to the city as a condition of PUD approval. The amount of the performance guar recommended to the planning commission by the city attorney after discussion with the applicant, city engineer department, and other involved parties.

(Ord. No. 468, 5-26-09)

Sec. 34-481. - Final approval of planned unit development.

(1) Upon receipt of the report and recommendation of the planning commission, the city commission shall hold a public hearing and review all findings. If the city commission grants the PUD, it shall instruct the city attorney to prepare a contract setting forth the conditions upon which such approval is based and which contract, after approval by resolution of the city commission, shall be executed by the city and the applicant. Approval shall be granted only upon the city commission determining that all provisions of this section have been met and that the proposed development will not adversely affect the public health, welfare, and safety.

(2) The agreement shall become effective upon execution after its approval. The agreement shall be recorded with the county register of deeds by the city clerk.

(3) Once an area has been included within a plan for PUD and the city commission has approved such plan, all development must take place in accordance with such plan unless changes have been approved by the city commission.

(4) An approved plan may be terminated by the applicant or the applicant's successors or assigns, prior to any development within the area involved, by filing with the city clerk and community development Department, and recording in the county records an affidavit so stating. The approval of the plan shall terminate upon such recording.

(5) No approved plan shall be terminated after development commences except with the approval of the city commission and of all parties with interest in the land.

(6) Within a period of one (1) year following approval of the PUD contract by the city commission, preliminary plats and/or final site plans for an area embraced within the PUD must be submitted as hereinafter provided. If such plats or plans have not been submitted within the one-year period, the right to develop under the approved plan shall be terminated by the city. Upon the developer's showing of good cause, the planning commission can recommend and the city commission grant an extension of one (1) year for submission of the preliminary plat and/or final site plan.

(Ord. No. 468, 5-26-09)

Sec. 34-482. - Submission of preliminary plat, final site plans; schedule for completion of PUD.

(1) Before any permits are issued for any activity within the area of a PUD, preliminary plats or final site plans and open space plans for a project area shall be submitted to the community development department for review by the planning commission of the following: review and approval of final site plans shall comply with the Ironwood City Zoning Ordinance as well as this section and the terms of the contract and approved plan. Before approving any preliminary plat or final site plan, the planning commission shall determine that:

a. All portions of the project area shown upon the approved plan for the PUD for use by the public or the residents of lands within the PUD have been committed to such uses in accordance with the PUD contract through recording of a deed, deed restrictions, and/or a master deed for creation of a property owner's association with authority to levy assessments.

b. The preliminary plats or final site plans are in substantial conformity with the approved contract and plan for the PUD.

c. Provisions have been made in accordance with the PUD contract to provide for the financing of any improvements shown on the project area plan for open spaces and common areas which are to be provided by the applicant and that maintenance of such improvements is assured in accordance with the PUD contract.

(2) If development of approved preliminary plats or final site plans are not substantially completed in three (3) years after approval, further final submittals under the PUD shall cease until the part in question is completed or cause can be shown for not completing same. When the developer is in default of the PUD timetable, the city commission may, at the recommendation of the planning commission:

a. Withdraw approval of other phases;

b. Require submission of a new PUD application for those phases; and/or

c. Invoke the performance guarantees to complete the project or make necessary repairs.

(3) As-built site plans and final plats must be filed with the city engineering department and the community development department. Performance guarantees shall not be released until these documents have been submitted.

(Ord. No. 468, 5-26-09)

Sec. 34-483. - Fees.

Fees for review of PUD plans under this section shall be established by resolution of the city commission.

(Ord. No. 468, 5-26-09)

Sec. 34-484. - Interpretation of approval.

Approval of a PUD under this section shall be considered an optional method of development and improvement of property subject to the mutual agreement of the city and the applicant.

(Ord. No. 468, 5-26-09)

Sec. 34-485. - Amendments to PUD plan.

Proposed amendments or changes to an approved PUD plan shall be submitted to the planning commission. The planning commission shall determine whether the proposed modification is of such minor nature as not to violate the area and density requirements or to affect the overall character of the plan and in such event may approve or deny the proposed amendment. If the planning commission determines the proposed amendment is material in nature, the planning commission shall review the amendment in accordance with the provisions and procedures of this section as they relate to final approval of the PUD and make a recommendation to the city commission to approve or deny the changes.

(Ord. No. 468, 5-26-09)

ARTICLE XI. - TOWERS

Sec. 34-486. - Purpose.

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

(1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;

(2) Encourage the location of towers in nonresidential areas;

(3) Minimize the total number of towers throughout the community;

(4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

(5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

(6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

(7) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

(8) Consider the public health and safety of communication towers; and

(9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, City of Ironwood shall give due consideration to the city's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(Ord. No. 468, 5-26-09)

Sec. 34-487. - Definitions.

As used in this article, the following terms shall have the meanings set forth below:

Alternative tower structure means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul network means the lines that connect a provider's towers and/or cell sites to one (1) or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means, when referring to a tower or other structure regulated by this section of the zoning ordinance, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Preexisting towers and preexisting antennas means any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers,

cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(Ord. No. 468, 5-26-09)

Sec. 34-488. - Applicability.

(1) *New towers and antennas.* All new towers or antennas in the City of Ironwood shall be subject to these regulations, except as provided in subsections (a) and (b) below, inclusive:

a. *Amateur radio station operators and/or receive only antennas.* This chapter shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

b. *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this chapter, other than the requirements of subsections 34-489(6) and 34-489(7).

(2) *AM array.* For purposes of implementing this chapter, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(Ord. No. 468, 5-26-09)

Sec. 34-489. - General requirements.

(1) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

(2) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to yard or setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

(3) *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the zoning administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of City of Ironwood or within one (1) mile of the border thereof, including specific information about the location, height, and design of each tower. The zoning administrator may share such information with other applicants applying for administrative approvals or conditional use permits under this chapter or other organizations seeking to locate antennas within the jurisdiction of City of Ironwood, provided, however that the zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(4) *Aesthetics.* Towers and antennas shall meet the following requirements:

a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the

supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(5) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(6) *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(7) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the electronic industries association, as amended from time to time. If, upon inspection, the City of Ironwood concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(8) *Measurement.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in City of Ironwood irrespective of municipal and county jurisdictional boundaries.

(9) *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

(10) *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in City of Ironwood have been obtained and shall file a copy of all required franchises with the zoning administrator.

(11) *Public notice.* For purposes of this chapter, any conditional use request, variance request, or appeal of an administratively approved use or conditional use shall require public notice to all abutting property owners and all property owners of properties that are located within three hundred (300) feet of the subject property, in addition to any notice otherwise required by the zoning ordinance.

(12) *Signs.* No signs shall be allowed on an antenna or tower.

(13) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of number (8) above.

(14) *Multiple antenna/tower plan.* City of Ironwood encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

(Ord. No. 468, 5-26-09)

Sec. 34-490. - Administratively approved uses.

(1) *General.* The following provisions shall govern the issuance of administrative approvals for towers and antennas.

a. The zoning administrator may administratively approve the uses listed in this section.

b. Each applicant for administrative approval shall apply to the zoning administrator providing the information set

forth in sections 34-489 of this chapter, any other reasonable information requested by the zoning administrator, and a nonrefundable fee as established by resolution of the city commission to reimburse the city for the costs of reviewing the application.

c. The zoning administrator shall review the application for administrative approval and determine if the proposed use complies with subsection 34-490(2) of this article.

d. The zoning administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the zoning administrator fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.

e. In connection with any such administrative approval, the zoning administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements, setbacks required under subsection 34-491(2)(d) or separation distances between towers in subsection 34-491(2)(e) by up to fifty (50) percent.

f. In connection with any such administrative approval, the zoning administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

g. If an administrative approval is denied, the applicant shall file an application for a conditional use permit pursuant to article IV of this chapter prior to filing any appeal that may be available under the zoning ordinance.

(2) *List of administratively approved uses.* The following uses may be approved by the zoning administrator after conducting an administrative review.

a. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any (I) industrial zoning district.

b. Locating antennas on existing structures or towers consistent with the terms of subsections (i) and (ii) below.

i. *Antennas on existing structures.* Any antenna which is not attached to a tower may be approved by the zoning administrator as an accessory use to any commercial, industrial, professional, or institutional structure, provided:

1. The antenna does not extend more than thirty (30) feet above the highest point of the structure;
2. The antenna complies with all applicable FCC and FAA regulations; and
3. The antenna complies with all applicable building codes.

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

1. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the zoning administrator allows reconstruction as a monopole.
2. Height

* An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna. A height change may only occur one (1) time per communication tower.

* The additional height referred to in the preceding section shall not require an additional distance separation as set forth in subsection 34-491(2)(e). The tower's premodification height shall be used to calculate such distance separations.

3. Onsite location

   * A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

   * After the tower is rebuilt to accommodate collocation, only one (1) tower may remain on the site.

   * A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to subsection 34-491(2)(e). The relocation of a tower hereunder shall in no way be deemed to cause a violation of subsection 34-491(2)(e).

   * The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in subsection 34-491(2)(e) shall only be permitted when approved by the zoning administrator.

4. New towers in nonresidential zoning districts. Locating any new tower in a nonresidential zoning district other than (I) Industrial, if the following conditions are met: a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the zoning administrator concludes the tower is in conformity with the goals set forth in section 34-486 and the requirements of section 34-489; the tower meets the setback requirements setbacks required under subsection 34-491(2)(d) and separation distances in subsection 34-491(2)(e); and the tower meets the following height and usage criteria:

   * For a single user, up to ninety (90) feet in height;

   * For two (2) users, up to one hundred twenty (120) feet in height; and

   * For three (3) or more users, up to one hundred fifty (150) feet in height.

5. Locating any alternative tower structure in a zoning district other than industrial that in the judgment of the zoning administrator is in conformity with the goals set forth in subsection 34-486 of this article.
6. Installing a cable microcell network through the use of multiple low-powered transmitters and/or receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
7. Towers in a PUD district shall be explicitly in the preliminary and final development plans and may not vary from those plans unless the plan is amended.

(Ord. No. 468, 5-26-09)

Sec. 34-491. - Towers requiring conditional use permits.

(1) *General.* The following provisions shall govern the issuance of conditional use permits for towers or antennas by the planning commission:

   a. If the tower or antenna is not permitted to be approved administratively pursuant to section 34-490 of this chapter, then a conditional use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
   b. Applications for conditional use permits under this section shall be subject to the procedures and requirements of section IV of the zoning ordinance, except as modified in this section.
   c. In granting a conditional use permit, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on

adjoining properties. The administrative standards now in the ordinance were not written with towers in mind and could prove to be more limiting than enabling in terms of planning commission decisions.

d. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

e. An applicant for a conditional use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the city commission to reimburse the City of Ironwood for the costs of reviewing the application.

(2) *Towers.*

a. *Information required.* In addition to any information required for applications for conditional use permits pursuant to article IV of the zoning ordinance, applicants for a conditional use permit for a tower shall submit the following information:

i. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in subsection 34-491(2)(e), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the zoning administrator to be necessary to assess compliance with this chapter.

ii. Legal description of the parent tract and leased parcel (if applicable).

iii. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and un-platted residentially zoned properties.

iv. The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection 489(3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner and/or operator of the existing tower(s), if known.

v. A landscape plan showing specific landscape materials.

vi. The method of fencing, finished color and, if applicable, the method of camouflage and illumination.

vii. A description of compliance with section 34-489, subsection 34-491(2)(e), applicable zoning district setbacks, and all applicable federal, state or local laws.

viii. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas.

ix. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

x. A description of the suitability of the use of existing towers, other structures, or alternative technology which does not require the use of towers or structures in order to provide the services which will be provided through the use of the proposed new tower.

xi. A description of the feasible location(s) of future towers or antennas within the City of Ironwood based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

b. *Factors considered in granting conditional use permits for towers.* In addition to any standards for consideration of conditional use permit applications pursuant to section IV of the zoning ordinance, the planning commission shall consider the following factors in determining whether to issue a conditional use permit, although the

planning commission may waive or reduce the burden on the applicant of one (1) or more of these criteria if the planning commission concludes that the goals of this chapter are better served thereby:

i. Height of the proposed tower;

ii. Proximity of the tower to residential structures and residential district boundaries;

iii. Nature of uses on adjacent and nearby properties;

iv. Surrounding topography;

v. Surrounding tree coverage and foliage;

vi. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

vii. Proposed ingress and egress; and

viii. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in subsection 34-489(3) and subsection 34-489(14) of this chapter.

c. *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no existing tower, structure, or alternative technology that does not require the use of towers or structures, can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the planning commission related to the availability of suitable existing towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, structure, or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

i. No existing towers or structures are located within the geographic area which meets the applicant's engineering requirements;

ii. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements;

iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;

iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna(s) on the existing towers or structures, or the antenna(s) on the existing towers or structures would cause interference with the applicant's proposed antenna;

v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable;

vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable;

vii. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters and/or receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

d. *Setbacks.* The following setback requirements shall apply to all towers for which a conditional use permit is required; provided, however, that the planning commission may reduce the standard setback requirements if the goals of this chapter would be better served thereby:

i. Towers must be set back a distance equal to at least seventy-five (75) percent of the height of the tower from any adjoining lot line.

ii. Guys and accessory buildings must satisfy the minimum zoning district setback and yard requirements.

e. *Separation.* The following separation requirements shall apply to all towers and antennas for which a conditional use permit is required; provided, however, that the planning commission may reduce the standard separation requirements if the goals of this chapter would be better served thereby.

i. Separation from off-site uses and/or designated areas.

* Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

* Separation requirements for towers shall comply with the minimum standards established in Table 1.

TABLE 1

Off-site Use of Designated Area	Separation Distance [1]
Existing Residential Zoning Districts	300% height of tower
Nonresidentially zoned lands or nonresidential uses	None, only setbacks apply.

[1] Separation measured from base of tower to closest building setback or yard line.

* Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

TABLE 2

Existing Towers Types	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

f. *Security fencing.* Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be

equipped with an appropriate anti-climbing device, which is consistent with the fence ordinance; provided however, that the planning commission may waive such requirements, as it deems appropriate.

g. *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a conditional use permit is required; provided, however, that the planning commission may waive such requirements if the goals of this chapter would be better served thereby.

i. Tower facilities shall be landscaped with a buffer of plant materials that effectively screen the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

ii. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

iii. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Ord. No. 468, 5-26-09)

Sec. 34-492. - Buildings or other equipment storage.

(1) *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with antennas shall comply with the following:

a. The cabinet or structure shall not contain more than one hundred (100) square feet of gross floor area or be more than eight (8) feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over fifty (50) square feet of gross floor area or six (6) and one-half (½) feet in height, shall be located on the ground and shall not be located on the roof of the structure.

b. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten (10) percent of the roof area.

c. Equipment storage buildings or cabinets shall comply with all applicable building codes.

(2) *Antennas mounted on utility poles or light poles.* The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

a. In residential districts, the equipment cabinet or structure may be located:

i. Behind the required yard or in a side yard provided the cabinet or structure is no greater than eight (8) feet in height or one hundred (100) square feet of gross floor area and the cabinet or structure is located a minimum of five (5) feet from all lot lines. The cabinet or structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least thirty-six (36) inches.

ii. In a rear yard, provided the cabinet or structure is no greater than eight (8) feet in height or one hundred (100) square feet in gross floor area. The cabinet or structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches.

b. In commercial or industrial districts the equipment cabinet or structure shall be no greater than eight (8) feet in height or hundred (100) square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches. In

all other instances, structures or cabinets shall be screened from view of all residential properties, which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least thirty-six (36) inches.

c. Antennas located on towers. The related unmanned equipment structure shall not contain more than four hundred (400) square feet of gross floor area or be more than twelve (12) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

d. Modification of building size requirements. The requirements of subsections 34-492(a) through (c) may be modified by the zoning administrator in the case of administratively approved uses or by the planning commission in the case of uses permitted by conditional use, to encourage collocation.

(Ord. No. 468, 5-26-09)

Sec. 34-493. - Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Ironwood notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. No. 468, 5-26-09)

Sec. 34-494. - Nonconforming uses.

(1) *Expansion of nonconforming use.* Towers that are constructed and antennas that are installed, in accordance with the provisions of this chapter, shall not be deemed to constitute the expansion of a nonconforming use or structure.

(2) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.

(3) *Rebuilding damaged or destroyed nonconforming towers or antennas.* Notwithstanding section 9, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a conditional use permit and without having to meet the setback requirements of subsection 34-491(2)(d) and the separation requirements specified in the subsection 34-491(2)(e). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within one hundred (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in section 34-493.

(Ord. No. 468, 5-26-09)

ARTICLE XII. - OPEN BURNING

Sec. 34-495. - Outdoor burning.

(1) Except as otherwise permitted in this section, and except for bonfires for community activities or special requests

which have been approved by resolution of the city commission pursuant to criteria established by resolution of the city commission, no person shall create open fires out-of-doors for the burning of rubbish, leaves, grass, construction debris, tires, combustibles or any form of waste material for the purpose of disposing of said material.

(2) For purposes of this section, an open fire is deemed to be any fire where the flames are open and visible and are not covered by a hood, spark arrestor or furnace with a suitable chimney to carry away the smoke. All outdoor furnaces utilized for the heating of a dwelling unit or commercial operation must first be approved by the planning commission.

(3) In addition to community bonfires permitted by the city commission under subsection (a) above, burning out-of-doors is permitted under the following circumstances:

a. Burning, which is done for the purpose of cooking food for consumption, is permitted, subject to the restrictions set forth in subparagraph (c) below (excluding (c)(i) and (c)(ii)).

b. Recreational burning is permitted between the hours of noon and midnight, local time, subject to the restrictions set forth in subparagraph (c) below.

c. The following restrictions shall apply to burning under subparagraphs (a) and (b) above.

i. Such burning may only occur on private property and not on any public place.

ii. Burning shall not occur within fifteen (15) feet of any structure or within fifteen (15) feet of adjacent property lines.

iii. Such burning shall be supervised at all times by at least one (1) person over the age of eighteen (18), who shall be in attendance at all times and be in control of and capable of extinguishing any fire.

iv. Burning materials are limited to clean wood products, charcoal, or commercially produced fuels which do not emit fumes that irritate, annoy or constitute a nuisance to others.

v. All fires shall be confined in an area, which is no more than three (3) feet in diameter. The materials used to confine the fire shall be fireproof and be fully confined by a spark arrestor. (The Ironwood Public Safety Department shall determine the adequacy of fireproof materials).

vi. Regardless of any other provision in this section, no person shall create in any manner whatsoever excessive smoke or noxious odors within the city.

(Ord. No. 468, 5-26-09)

Sec. 34-496. - Effective date.

This chapter shall take effect upon the passage of seven (7) days time following its final adoption and publication in a newspaper of general circulation in accordance with city charter and applicable state laws.

(Ord. No. 468, 5-26-09)

ARTICLE XIII. - SHIELDED LIGHTING

Sec. 34-497. - Shielded lighting.

All private lights used for the illumination of dwellings or business establishments, or for the illumination of business buildings or areas surrounding them, or the illumination or display of merchandise or products of business establishments, shall be completely shielded from the view of vehicular traffic using the road or roads abutting the business property. Lighting

which is designed to illuminate the premises shall be installed in a manner which will not cast direct illumination on adjacent properties.

(Ord. No. 468, 5-26-09)

ARTICLE XIV. - SEXUALLY ORIENTED BUSINESSES

DIVISION 1. - PURPOSE AND FINDINGS

Sec 34-498. - In general.

(1) *Purpose.* It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter do not have the purpose or the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(2) *Findings.* The city commission has received substantial evidence concerning the association of negative secondary effects with sexually oriented businesses in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; New York, New York; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington.

(Ord. No. 468, 5-26-09)

DIVISION 2. - OPERATION OF SEXUALLY ORIENTED BUSINESSES

Sec. 34-499. - Definitions.

Adult arcade means any place to which the public is permitted or invited where one (1) or more "video booths" and/or "live viewing booths" are available to patrons where the images shown and/or live entertainment presented are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment that, as a substantial or significant portion of its business, regularly features:

(1) A person or persons who appear in areas of the establishment open to patrons in a "state of nudity" or "state of semi-nudity" so as to expose to view "specified anatomical areas";

(2) Any live entertainment, exhibition, performance, or dance by persons whose entertainment, exhibition, performance, or dance is characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities"; or

(3) "Adult media."

Adult media means magazines, books, photographic reproductions, videotapes, movies, slides, compact discs in any format (e.g., cd-rom, cd-r, cd-rw), digital video discs in any format (e.g., DVD), other devices used to reproduce or record computer images, or other print, video, film, electronic, computer-based, analog, or digital media characterized by an emphasis on matter depicting, describing, or related to "specified sexual activities" or "specified anatomical areas."

Adult media store means an establishment that rents and/or sells adult media and that meets any of the following tests:

(1) More than forty (40) percent of the gross public floor area is devoted to adult media; or

(2) More than forty (40) percent of the stock in trade consists of adult media; or

(3) A media store which advertises or holds itself out in any forum as a sexually oriented business by use of such terms as "X-rated," "XXX," "adult," "sex," "nude," or otherwise advertises or holds itself out as a sexually oriented business.

Adult motion picture theater means a commercial establishment occupying a building or portion of a building (including any portion of a building which contains more than one hundred fifty (150) square feet) where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images are regularly shown, if such establishment as a prevailing practice excludes minors by virtue of age, regardless of whether the minor is accompanied by a parent or guardian, or if, as a prevailing practice, the films, motion pictures, video cassettes, slides, or similar photographic reproductions, or other projected images are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult novelty store means a business offering goods for sale or rent and that meets any of the following tests:

(1) More than five (5) percent of the stock in trade of the business consists of "Sexually oriented novelties or toys" and more than five (5) percent of the gross public floor area of the business is devoted to the display of "sexually-oriented novelties or toys"; or

(2) It offers for sale items from any two (2) of the following categories: "adult media," "sexually-oriented novelties or toys," apparel or other items marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than ten (10) percent in the stock in trade of the business and occupies more than ten (10) of the gross public floor area of the business; or

(3) Which advertises or holds itself out in any forum as a sexually oriented business by use of such terms as "sex toys," "marital aids," "X-rated," "XXX," "adult," "sex," "nude," or otherwise advertises or holds itself out as a sexually oriented business.

Adult novelty store shall not include any establishment which, as a substantial portion of its business, offers for sale or rental to persons employed in the medical, legal or educational professions anatomical models, including representations of human genital organs or female breasts, or other models, displays, and exhibits produced and marketed primarily for use in the practice of medicine or law or for any use by an educational institution.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that as a substantial or significant portion of its business regularly features persons who appear in a state of nudity or semi-nudity, live performances which are characterized by an emphasis on the depiction or description of "specified anatomical areas," "specified sexual activities", or live entertainment of an erotic nature that is characterized by an emphasis on the depiction or description of "specified anatomical areas," or "specified sexual activities."

Establishment means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented busine

(3) The addition of another sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

Gross public floor area means the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind computer areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), areas used for cabarets or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.

Nude model studio means any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include:

(1) A proprietary school licensed by the State of Michigan, or a college, junior college, or university supported entirely or in part by public taxation;

(2) A private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or in part by taxation; or

(3) An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and where no more than one (1) semi-nude model is on the premises at any one (1) time.

Nudity or state of nudity or nude means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or by exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.

Semi-nudity or seminude condition or semi-nude means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

Sexually oriented business means an adult arcade, adult media store, adult novelty store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center. "Sexually oriented business" does not include an adult motel as defined by above.

Sexually oriented novelties or toys means instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed and marketed primarily for use to stimulate human genital organs or for use in connection with "specified sexual activities."

Specified anatomical areas means:

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

Specified sexual activities means any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy;

(3) Excretory functions as part of or in connection with any of the activities set forth in (1) and (2) above.

Substantial enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25) percent, as the floor areas exists on the date this chapter takes effect.

Stock in trade means the individual items displayed in areas open to the public and offered for sale or rental in an establishment.

(Ord. No. 468, 5-26-09)

Sec. 34-500. - Classifications of sexually oriented businesses.

(1) Adult arcades;

(2) Adult cabarets;

(3) Adult media stores;

(4) Adult novelty stores;

(5) Adult motion picture theaters;

(6) Adult theaters;

(7) Any combination of classifications set forth in paragraphs (a) through (f) above.

(Ord. No. 468, 5-26-09)

Sec. 34-501. - Location of sexually oriented businesses.

(1) Sexually oriented businesses may be located in the C-2 (downtown commercial) or C-3 (highway commercial) zoning districts, after a conditional use permit is obtained for that purpose, and so long the regulations contained in (a) through (g) below are adhered to:

(a) No sexually oriented business may be established or operated within five hundred (500) feet of:

i. A church, synagogue, mosque, temple or other building which is used primarily for religious worship and related religious activities;

ii. A public or private educational facility that serves persons younger than eighteen (18) years of age, including but not limited to nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

iii. A cemetery;

iv. Any private property containing a community/recreation center including the YMCA that regularly serves persons younger than eighteen (18) years of age;

v. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city, the board of education, or another public entity; or

vi. A public library or museum that regularly serves persons younger than eighteen (18) years of age.

(b) For the purpose of any part of subsection (1)(a) of this article, measurement shall be made in a straight line from

the nearest portion of the building, or edge of building space, used as the part of the premises where a sexually oriented business is conducted to the nearest property line of the premises to a use listed.

(c) No sexually oriented business may be established or operated on any lot within twenty-five (25) feet of the right-of-way of the following designated economic development areas and major thoroughfares:

i. Business route US-2

(d) Adult cabaret, as defined in section 35-2 of this chapter, may be established or operated within 200 feet of:

(1) A boundary of a residential district as defined in this chapter;

(2) Any structure that contains a permitted or conditionally permitted residential use or a lawful nonconforming residential use as defined in this chapter.

(e) No sexually oriented business may be established, operated or enlarged within five hundred (500) feet of another sexually oriented business, as measured in a straight line from the nearest point of each building in which the sexually oriented businesses are conducted.

(f) Not more than one (1) sexually oriented business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business may not be increased.

(g) No sexually oriented business may be established, operated, or maintained within any PUD district that includes residential uses

(Ord. No. 468, 5-26-09)

Sec. 34-502. - Design guidelines for sexually oriented business.

In addition to the provisions of article IX of this chapter, sexually oriented businesses shall adhere to the following in relation to design guidelines:

a. Parking for a sexually oriented business shall be configured so as to prevent vehicular headlights from shining into adjacent residentially zoned property. Parking areas configured such that vehicular headlights are directed toward public rights-of-way across from residentially zoned and/or used property shall provide continuous screening. Landscaping and screening shall be continuously maintained and promptly restored, if necessary, pursuant to chapter 34, section 34-464.

b. Ingress and egress drives and primary circulation lanes shall be located away from residential areas where practical; to minimize vehicular traffic and noise which may become a nuisance to adjacent residential areas.

c. All building entrances intended to be utilized by patrons shall be located on the side(s) of the building which does not abut residentially zoned and/or used property, whenever possible, to minimize the potential for patrons to congregate and create noise which may become a nuisance to adjacent residential areas.

d. All exterior site and building lighting, which shall be provided, is approved by the planning commission pursuant to chapter 34, article IX of the City of Ironwood Code of Ordinances, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas, especially residential.

e. Any sexually oriented business adjacent to a residential district and/or use shall contain a minimum six (6) foot high solid fence along such abutting property lines and be approved by the planning commission pursuant to chapter 34, article IX of the City of Ironwood Code of Ordinances.

f. Delivery trucks shall only be permitted between the hours of 8:00 a.m. and 9:00 p.m.

g. Loading, unloading, trash removal, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects shall only be permitted between the hours of 8:00 a.m. and 9:00 p.m.

pursuant to chapter 16, section 12 of this chapter.

(Ord. No. 468, 5-26-09)

Sec. 34-503. - Off-street parking.

Off-street parking for a sexually oriented business shall be provided, pursuant to chapter 34, article VI.

(Ord. No. 468, 5-26-09)

Sec. 34-504. - Sign and display regulations for sexually oriented business.

(1) All signs for a sexually oriented business shall be "wall signs" as defined in the building code and shall be constructed and located in conformance with all applicable provisions of the building code.

(2) All signs for a sexually oriented business, if illuminated, shall be in conformance with the building code and meet all applicable provisions.

(3) All signs for a sexually oriented business shall be maintained in accordance with the building code and may be ordered to be removed in accordance with the provisions of that section.

(4) No merchandise or pictures of the products or entertainment on the premises of a sexually oriented business shall be displayed on signs, in window areas or any area made opaque in any way. No signs shall be placed in any window so as to be visible from the street or neighboring property. A one (1) square foot sign shall be placed on the door to state hours of operation and admittance to adults only.

(Ord. No. 468, 5-26-09)

Sec. 34-505. - Licensing.

All businesses described herein shall be licensed pursuant to chapter 8 of the City of Ironwood Code of Ordinances.

(Ord. No. 468, 5-26-09)

Sec. 34-506. - Discontinuity of use.

If a regulated use is discontinued and events cause the areas to not be available for the location of a regulated use, the use may not be reestablished without applying for and receiving a waiver of the board of zoning appeals.

(Ord. No. 468, 5-26-09)

Sec. 34-506. - Severability.

If any section, subsection, or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

(Ord. No. 468, 5-26-09)

Secs. 34-507—34-520. - Reserved.

ARTICLE XV. - OBSOLETE FOR SALE, FOR RENT AND GARAGE SALE SIGNS

Sec. 34-521. - Obsolete for sale, for rent and garage sale signs.

Obsolete "for sale", "for rent", "garage sale" and similar signs, shall be taken down and removed by the owner, agent, or permittee within two (2) days after the conclusion of the event or within twenty-four (24) hours after being notified by the zoning administrator in any district. Failure to comply with such notice within the time specified shall result in the zoning administrator causing the removal of such sign and any expense or penalty fee incidental thereto shall be paid by the owner or agent of the property, as established by resolution of the city commission.

(Ord. No. 468, 5-26-09)

ARTICLE XVI. - NONCONFORMING USES, LOTS AND STRUCTURES

Sec. 34-522. - Intent.

Upon the adoption of this article or future amendments, there may exist lots and structures, and uses of land which were lawful prior to the adoption of the zoning ordinance, or amendment to the ordinance, but which are not in conformance with the current provisions of this article, or any amendments to this article. State law requires that local zoning ordinances provide specific protections to "grandfather-in" existing uses of land that don't conform to the current ordinance. It is the intent of this article to permit these nonconforming lots, structures and uses to continue until they are removed, but not to encourage their survival.

Because nonconforming lots, structures and uses, so long as they exist, prevent the full achievement of the goals and objectives of the City of Ironwood Comprehensive Plan, the intent and spirit of this article is to reduce rather than increase any nonconformance.

(Ord. No. 486, 6-27-11)

Sec. 34-523. - Nonconforming uses of land.

Where, at the effective date of adoption or amendment of this article, lawful use of land exists that is made unlawful under the terms of this article as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) Special land uses and use variances permitted by this article shall not be deemed nonconforming uses.

(2) Changes of tenancy, ownership or management of any existing nonconforming uses of land may be made, provided that there is no change in the nature or character of the nonconforming use.

(3) With the planning commission's approval, one (1) nonconforming use may be replaced by another use that is more compatible with permitted uses in the zoning district, provided that the proposed use:

a. Does not have a detrimental effect, or has a less detrimental effect than the current nonconforming use, on the use and enjoyment of adjacent uses or lots.

b. Complies with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed use.

c. Complies with any reasonable conditions imposed by the planning commission that are necessary to ensure that the proposed use will not prove detrimental to adjacent properties, the neighborhood, or the community, or to enable it to be less detrimental than the current nonconforming use.

(4) 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 the effective date of adoption or amendment of this article.

(5) A nonconforming use of land, which has ceased for a period exceeding twelve (12) months or has been changed to a conforming use, may not again be devoted to a nonconforming use. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use;

a. Utilities, such as water, gas, and electricity to the property, have been discontinued.

b. The property, buildings and grounds have fallen into disrepair.

c. Signs or other indications of the existence of the nonconforming use have been removed.

d. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use.

e. Former commercial activities, in the case of a business use, have ceased.

f. Other actions, which in the opinion of the planning commission constitute an act or omission on the part of the property owner or lessee constituting an intent to abandon the nonconforming use.

(Ord. No. 486, 6-27-11)

Sec. 34-524. - Nonconforming lots.

When an existing nonconforming lot does not adjoin any other lot or lots under common ownership or if the nonconforming lot fails to meet the requirements for minimum lot area, minimum width, or both, of the zoning district in which it is located, such lot may be used for the permitted uses of the zoning district under the following conditions:

(1) It must meet the definition of a properly recorded plat or lot.

(2) In any zoning district, where two (2) or more adjoining nonconforming lots are under common ownership, these lots shall be combined and considered as one (1) lot for the purposes of this article.

(3) The nonconforming lot must still meet setback requirements of its zoning district and is subject to certain limitations provided by other provisions of this article.

(Ord. No. 486, 6-27-11)

Sec. 34-525. - Nonconforming structures.

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

(1) No nonconforming building or structure shall be moved in whole or part to any other location unless such building or structure and the off-street parking spaces, yard and other open spaces provided, are made to conform to all the regulations of the district in which such building or structure is to be located.

(2) Changes of tenancy, ownership or management of any existing nonconforming structures may be made, provided that there is no change in the nature or character of the nonconforming structure.

(3) Repair and maintenance work may be performed as required to keep a nonconforming building or structure in a sound condition.

(4) In the event any nonconforming building or structure is damaged by fire, wind, civil disobedience, or an Act of God or the public enemy, it may be rebuilt or restored, provided the cost of such structural alteration or structural repairs shall not exceed fifty (50) percent of its assessed value. A permit for rebuilding or restoring the

nonconforming building must be secured within six (6) months of the catastrophic event. The buildings or structures shall be built in conformance with the requirements of the zoning district in which they are located.

(5) Once any nonconforming structure is removed from the property, its nonconforming status has expired and it may not be replaced on the property.

(6) With the planning commission's approval, one (1) nonconforming structure may be modified to result in another structure that is more compatible with permitted uses in the zoning district, provided that the proposed structure:

a. Does not have a detrimental effect on the use and enjoyment of adjacent uses or lots, or has a less detrimental effect than the current nonconforming structure.

b. Complies with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed structure.

c. Complies with any reasonable conditions imposed by the planning commission that are necessary to ensure that the proposed structure will not prove detrimental to adjacent properties, the neighborhood, or the community.

d. It is no more than twenty-five (25) percent larger than the current building foot print provided that all lot requirements are met.

(Ord. No. 486, 6-27-11)

Sec. 34-526. - Power of condemnation.

The city may acquire by purchase, by condemnation or otherwise, private property or an interest in private property for the removal of nonconforming uses and structures, except that the property shall not be used for public housing. The city commission may provide that the cost and expense of acquiring private property be paid from general funds, or the cost and expense, or a portion thereof, be assessed as a special assessment district. The elimination of nonconforming uses and structures in a zoned district is declared to be for a public purpose and for a public use.

The city commission may institute and prosecute proceedings for the condemnation of nonconforming uses and structures under the power of eminent domain in accordance with the provisions of the City Charter relative to condemnation or in accordance with Act No. 87 of the Pubic Acts of 1980.

(Ord. No. 486, 6-27-11)

Secs. 34-527—34-545. - Reserved.

ARTICLE XVII. - ACCESS MANAGEMENT

Sec. 34-546. - Fees in escrow for professional reviews.

(a) Any application for rezoning, site plan approval, a special 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 city in the name of the applicant. An escrow fee may be required by either the zoning administrator or the planning commission for any project which requires a traffic impact study under section 34-547 or 34-548, or which has more than twenty (20) dwelling units, or more than twenty thousand (20,000) square feet of enclosed space, or which requires more than twenty (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 article 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 contracted 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. No. 488, § I, 9-26-11)

Sec. 34-547. - Access management generally.

(a) *Findings and intent.* Conditions along the major highways in the county are changing with increasing development and traffic. Continued development along US-2 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 and a series of access management recommendations are embodied in the US-2 highway corridor access management plan. Among those recommendations are the creation of an overlay zone along these highways within the county and the adoption of uniform access management standards by all the jurisdictions along the US-2 corridor, which are based on the state department of transportation access management standards and the Michigan Access Management Guidebook, provided to local governments by the state department of transportation.

The provisions of this section are intended to promote safe and efficient travel on US-2 highways within the 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 city comprehensive plan and the US-2

highway corridor access management plan recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the state department of transportation, the 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. (Communities may wish to map this area on the zoning map or refer to a separate overlay zone map which would be included here. In cities, it may also be pertinent to reduce the area in the overlay zone on intersecting roads to 200 feet, or to expand the scope of the regulations to include other primary arterials that are specifically named in this section, or depicted on a map to this section. See Chapter 8 of the Michigan Access Management Guidebook for more information.)

(2) Identify additional submittal information and review procedures required for parcels that front along US-2.

(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.

(b) *Applicability.* The standards of this section apply to all lots and parcels that abut the highway right-of-way of US-2 and such other lands that front on intersecting streets within three hundred fifty (350) feet of the US-2 right-of-way within the city. This area is referred to as the highway overlay zone.

The standards of this section shall be applied by the zoning administrator and 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 according to the requirements of article IX, Site Plan Review, of this chapter. The city shall coordinate its review of the access elements of a site plan with the appropriate road authority prior to making a decision on an application (see subsection (d) below). The approval of a site plan does not negate the responsibility of an applicant to subsequently secure driveway permits from the appropriate road authority, the city engineer, county road commission, or the state department of transportation. Any driveway permit obtained by an applicant prior to review and approval of a 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 appropriate road authority and the recommendations of the US-2 highway corridor access management 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 appropriate road authority to determine if a new access permit is required. See subsection (k) 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 highway corridor access management plan, and any recommendations from an appropriate road authority. 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.

(c) *One (1) access per parcel.*

(1) 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 ordinance (hereafter referred to as "the parent parcel"), that shares a lot line for less than six hundred (600) feet with right-of-way on US-2 shall be entitled to one (1) driveway or road access per parcel from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.

a. All subsequent land divisions of a parent parcel, shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this amendment.

b. 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.

(2) Parent parcels with more than six hundred (600) feet of frontage on a public road or highway shall also meet the requirements of subsections (c)(1)a. and b. above, except that whether subsequently divided or not, they are entitled to not more than one (1) driveway for each six hundred (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 (r)(2)a.

(d) *Applications.*

(1) Applications for driveway or access approval shall be made on a form prescribed by and available at the state department of transportation and 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.

(2) Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of article IX of this chapter in addition to those of this section 34-547. In addition:

a. Applications are strongly encouraged to rely on the following sources for access designs, the National Access Ma Manual, TRB, 2003; National Cooperative Highway Research Program (NCHRP), "Access Management Guidelines Centers" Report 348, "Impacts of Access Management Techniques" Report 420; and the AASHTO (American Assc Highway and Transportation Officials) "Green Book" A Policy on Geometric Design of Highways and Streets. The techniques are addressed in these guidebooks and are strongly encouraged to be used when designing access:

   1. Not more than one (1) driveway access per abutting road.
   2. Shared driveways.
   3. Service drives: front and/or rear.
   4. Parking lot connections with adjacent property.
   5. Other appropriate designs to limit access points on an arterial or collector.

b. As applicable, applications shall be accompanied by an escrow fee for professional review per the requirements of section 34-546.

c. In addition to the information required in article IX 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 one inch equals twenty (20) feet) showing the following items:

   1. Property lines.
   2. Right-of-way lines and width, and location and width of existing road surface.
   3. Location and size of all structures existing and proposed on the site.
   4. Existing access points. Existing access points within two hundred fifty (250) feet on either side of the US-2 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.
   5. 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.
   6. 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.
   7. Size and arrangement of parking stalls and aisles.
   8. The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the state department of transportation or county road commission are met.
   9. 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).
   10. 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.
   11. 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.
   12. Show all existing and proposed landscaping, signs, and other structures or treatments within and adjacent to the right-of-way.
   13. Dumpsters or other garbage containers.

14. The location of all proposed snow storage from parking lots which must not interfere with clear sight distan into or out of a site, or safely moving within a site.
15. Traffic impact study meeting the requirements of section 34-548 where applicable.

(e) *Review and approval process.* The following process shall be completed to obtain access approval:

(1) An access application meeting the requirements of subsection (d) above shall be submitted to the zoning administrator on the same day it is submitted to the state department of transportation and/or the county road commission, as applicable.

(2) The completed application must be received by the zoning administrator at least fifteen (15) days prior to the planning commission meeting where the application will be reviewed.

(3) The applicant, the zoning administrator and representatives of the county road commission, the state 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 approval of the applicable road authority, or it shall recommend denial based on nonconformance with this article, or if necessary, table action and request additional information. The action of the planning commission shall be immediately transmitted to the applicable road authority.

(5) It is expected that if the state department of transportation and/or the 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 (1) of three (3) actions may result:

a. If the planning commission and the state 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 state department of transportation and the road commission, as applicable, deny the application, the application shall not be approved.

c. If either the planning commission, state 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 state department of transportation and/or the 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.

(f) *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.

(g) *Period of approval.* Approval of an application remains valid for a period of one (1) 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 (1) 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 (1) year.

(h) *Renewal.* An approval may be extended for a period not to exceed one (1) 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 state department of transportation and/or the county road commission, as applicable, for input.

(i) *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 (e)(1).

(j) *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.

(k) *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 may be required to be brought into compliance, with all design standards as required by the appropriate road authority 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.

(l) *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.

(m) *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.

(n) *Inspection.* The zoning administrator may 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.

(o) *Performance bond.* The community may require a performance bond or cash deposit in any sum not to exceed five thousand dollars ($5,000.00) for each such driveway approach or entrance to ensure compliance with an approved application. Such bond shall terminate or the deposit be returned to the applicant, when the terms of the approval have been met or when the authorization is released, cancelled or terminated.

(p) *Reserved.*

(q) *Lot width and setbacks.*

(1) *Minimum lot width.* Except for existing lots of record, all lots fronting on US-2 subject to this section, shall not be less than three hundred (300) feet in width, unless served by shared access or a service drive that meets the requirements of subsection (r)(9), (10) or (11) in which case minimum lot width may be reduced to not less than one hundred (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.

(2) *Structure setback.* No structure other than signs (as allowed in the applicable district described in this chapter) telep poles and other utility structures that are not buildings, transfer stations or substations, shall be permitted within fi of the roadway right-of-way, and shall not encroach upon a clear zone, or potential clear zone area.

(3) *Parking setback and landscaped area.* No parking or display of vehicles, goods or other materials for sale, shall be located within fifty (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 IX, Site Plan Review, of this chapter.

(r) *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 shall be permitted one (1) 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 subsections (b) and (c), 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, and shared access or a service drive are not a viable option, the following progression of alternatives should be used:

a. One (1) standard, two-way driveway;

b. Additional ingress/egress lanes on one (1) standard, two-way driveway;

c. Two (2), one-way driveways;

d. Additional ingress/egress lanes on two (2), 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*	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 the appropriate road authority

(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 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 two hundred fifty (250) feet, centerline to centerline wherever feasible. The planning commission may reduce this to not less than one hundred fifty (150) feet where each of the opposing access points generates less than fifty (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 the appropriate road authority authorizes a lesser spacing:

Signalized Locations*	Distance in Feet	Unsignalized Locations	Distance in Feet
Along US-2	300	Along US-2	300
Along other public streets	200	Intersections with US-2	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 (2) 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 (2)

properties unless a written and recorded easement is provided which allows traffic to travel across one (1) 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, recorded agreement is submitted that the temporary access will be removed by the applicant or successor to 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 thirty (30) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum sixty (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 forty (40) feet wide. A frontage road or service drive shall have a minimum pavement width of twenty-six (26) feet, measured face to face of curb with an approach width of thirty-six (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, 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 fifteen (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 IX, Site Plan

Review, 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 shall have no more than one (1) 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 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, Parking and Loading Zoning Requirements, of this chapter.

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 forty (40) feet for the purposes of establishing setbacks and measured an equal distance from the midpoint of the road surface.

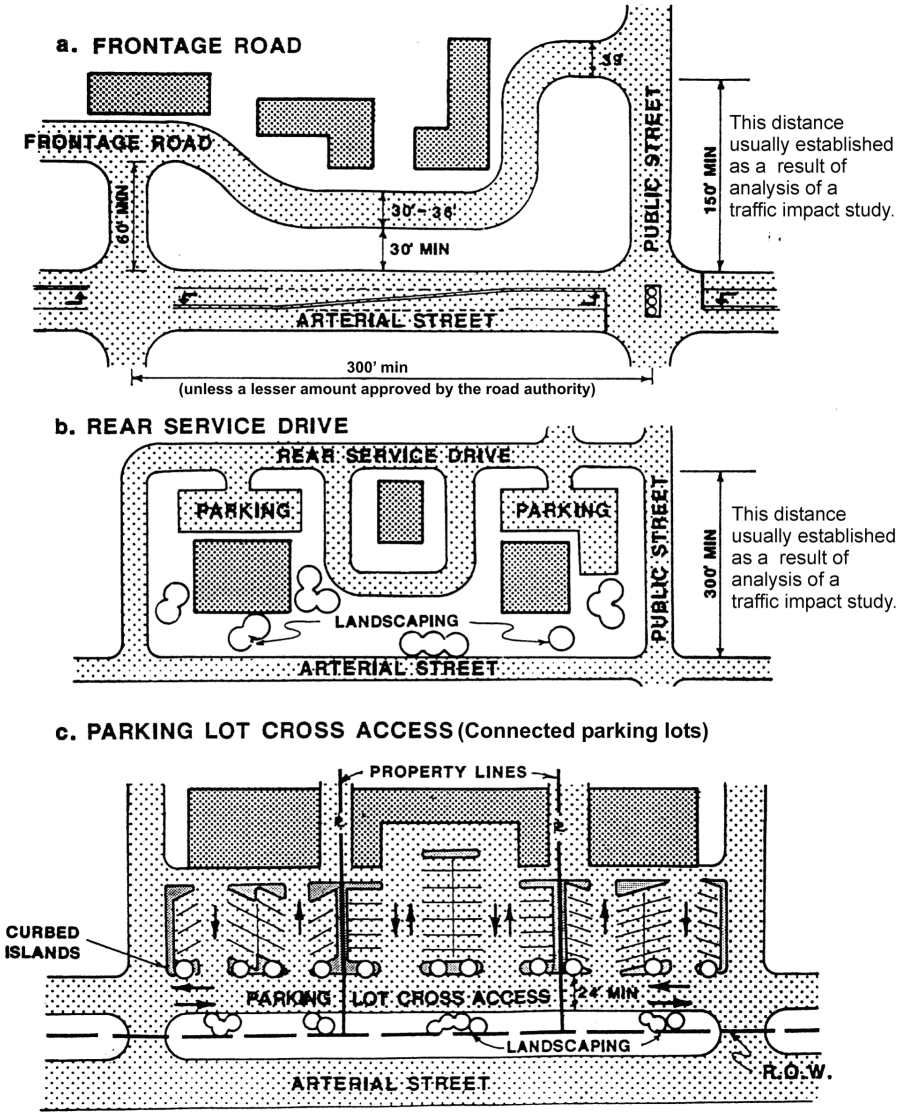
l. *Pedestrian and bicycle access.* Separate, safe access for pedestrians and bicycles shall be provided on a sidewalk or paved path that generally parallels the service drive unless alternate and comparable facilities are approved by the planning commission.

m. *Number of lots or dwellings served.* No more than twenty-five (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 parking lot of a similar use, there shall be a vehicular connection between the two (2) parking lots where physically feasible, as determined by the planning commission. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection.

(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.

(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.

CLEAR VISION AT DRIVEWAYS

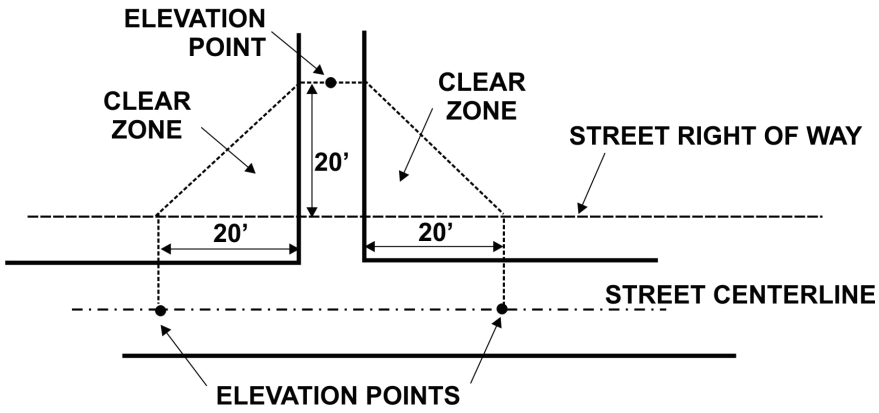


Figure 2

CLEAR VISION ON CORNER

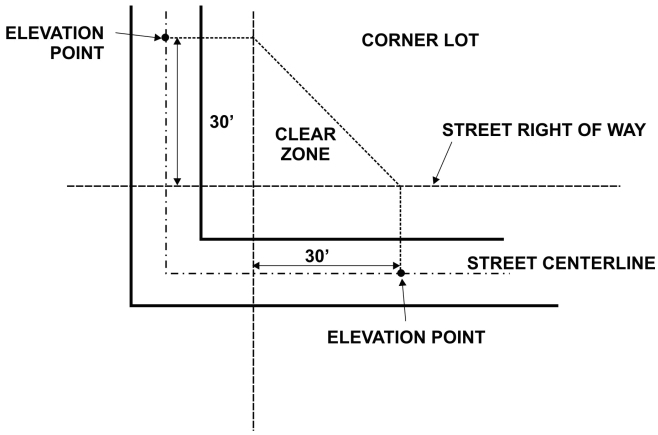


Figure 3

(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 twenty-five (25) feet nearest the pavement edge or shoulder does not exceed one and one-half (1.5) percent (one and one-half (1.5) foot vertical rise in one hundred (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 as part of the site plan review process and approved by the state department of transportation and 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 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.

(s) *Nonconforming driveways.*

(1) 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.

(2) 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 site plan, for a period of twelve (12) months or more. Any reuse of the driveway may only take place after the driveway conforms to all aspects of this article.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(t) *Waivers and variances of requirements in this section.*

(1) Any applicant for access approval under the provisions of this section may apply for a waiver of standards in subsection (r) if the applicant cannot meet one (1) or more of the standards according to the procedures provided below:

a. For waivers on properties involving land uses with less than five hundred (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:

1. The use has insufficient size to meet the dimensional standards.
2. Adjacent development renders adherence to these standards economically unfeasible.
3. There is no other reasonable access due to topographic or other considerations.
4. The standards in this section shall be applied to the maximum extent feasible.
5. The responsible road authority agrees a waiver is warranted.

b. For waivers on properties involving land uses with more than five hundred (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 subsection (r) 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:

1. Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.
2. 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.
3. The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
4. The proposed location and design is supported by the applicable road authority as an acceptable design under the circumstances.

(2) Variance standards. The following standards shall apply when the board of appeals considers a request for a variance from the standards of this section.

a. The granting of a variance shall not be considered until a waiver under subsection (t)(1) or (2) above has been considered and rejected.

b. 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:

1. Indirect or restricted access cannot be obtained; and
2. No reasonable engineering or construction solution can be applied to mitigate the condition; and
3. No reasonable alternative access is available from a road with a lower functional classification than the primary road; and
4. Without the variance, there is no reasonable access to the site and the responsible road authority agrees.

c. 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.

d. 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. No. 488, § I, 9-26-11)

Sec. 34-548. - 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 state department of transportation or county road commission, as applicable:

(1) For any residential development of more than twenty (20) dwelling units, or any office, commercial, industrial or mixed use development, with a building over fifty thousand (50,000) square feet; or

(2) When permitted uses could generate either a thirty (30) percent increase in average daily traffic, or at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (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 state 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 (3) similar uses within similar locations in the state.

(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 (1) driveway location) will improve safety on the site and will be consistent with the US-2 highway corridor access management 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 the state. The preparer shall be either a registered traffic engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in the state. 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 34-546.

(Ord. No. 488, § I, 9-26-11)