

Chapter 40

ZONING

HOW TO USE THIS ORDINANCE

This ordinance contains a comprehensive set of regulations and requirements intended to provide for the optimum development of land and to adequately protect property owners and residents within the City of Ithaca. These regulations are often cross-referenced within the ordinance; therefore, the user is encouraged to be diligent in adhering to all applicable related regulations and requirements. That includes becoming familiar with the various components of Article 4, General Provisions.

Before any construction or expansion of a structure or use regulated by this ordinance, a zoning permit must be applied for and obtained. The procedure for doing so is explained in Article 3. Associated with that procedure is the description of the duties and responsibilities of the Zoning Administrator pertaining to the issuance of zoning permits and certificates of occupancy. No building that is to be constructed under this ordinance can be inhabited without both of these. The applicant must refer to the Official Zoning Map to identify the district in which the development or improvement is to occur, and reference the requirements for the specific proposed use within that district. Each use within any district is classified as permitted by right or permitted by special use. All special permitted uses and identified permitted uses by right must conform to the site development requirements and associated review procedures in Articles 20, 21 and 22. New construction or expansion must also conform to the grading and soil erosion control provisions in Article 30.

Persons proposing property development, particularly larger residential, commercial or industrial developments, have the option of adhering to the specific requirements of the district in which the development is located, utilizing a more flexible design approach based upon site performance criteria (performance zoning) in Article 18, establishing a planned unit development according to Article 23, or developing the project utilizing the concept of site condominium development within the requirements of Article 24.

A quick reference of the dimensional requirements associated with each district can be found in Article 26, Schedule of Regulations. Any questions pertaining to the interpretation of a word or term included in this ordinance can be addressed by referencing the specific word or term in Article 2, Definitions.

The conditions under which a zoning decision may be appealed, and the steps to bring an appeal, are described in Article 31, Board of Appeals. The duties, responsibilities and powers of the Zoning Administrator, including the issuance of zoning permits and certificates of occupancy, are defined in Article 32. Finally, the procedure for amending this ordinance is identified in Article 33.

ARTICLE 1
Title and Purpose

§ 1.01. Short title.

This ordinance shall be known as the Zoning Ordinance of the City of Ithaca.

§ 1.02. Purpose.

Pursuant to the authority conferred by the Public Acts of the State of Michigan, this ordinance has been established for the purpose of:

- (a) Promoting and protecting the public health, safety, and general welfare;
- (b) Protecting the character and the stability of the agricultural, residential and nonresidential areas within the City of Ithaca and promoting the orderly and beneficial development of such areas;
- (c) Providing adequate light, air, privacy and convenience of access to property;
- (d) Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;
- (e) Lessening and avoiding congestion on public highways and streets;
- (f) Providing for the future growth needs of housing, commerce, industry, public and nonpublic institutional facilities;
- (g) Promoting healthful surroundings for family life in residential and public areas;
- (h) Protecting the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration radioactivity and other health and safety hazards;
- (i) Preventing the overcrowding of land and undue concentration of buildings and structures appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
- (j) Enhancing social and economic stability in the City;
- (k) Conserving the taxable value of land, buildings and structures in the City;
- (l) Enhancing the aesthetic desirability of the City's environment;
- (m) Promoting efficient improvements and services to conform with the most advantageous uses of land.

§ 1.03. Legislative intent.

The primary consideration of this ordinance has been to devise technical solutions which minimize or eliminate conflicts between activities and man-made improvements on adjacent and nearby properties. This ordinance has been designed to protect and accommodate the interests of the individual property owner as well as the interests of

the surrounding properties and the public in general. To facilitate equitable solutions to conflicts, this ordinance contains the option of using performance criteria with nondiscretionary, objective, administrative evaluation, thus reducing the number of times that case by case (ad hoc) decisions need to be made. This greatly increases the potential uses or choices available to individual property owners. The ad hoc decisions which conventional zoning ordinances frequently necessitate appear to reduce the certainty of protection to neighbors and to increase the potential for adverse impacts. Distinctions between districts are significant and are based on the Ithaca Sketch Land Use Plan. The districts include areas set aside for future phased development adequate to handle long-term needs yet which must be monitored relative to any necessary changes or updating. Where performance criteria severely limit the use of properties, this ordinance has gone to considerable extremes to provide the landowners with a range of choices, flexibility and options for development.

§ 1.04. District regulations. [Added 11-16-2010]

Each district, as created in this ordinance, shall be subject to the regulations contained in this ordinance. Uses not expressly permitted are prohibited. Uses for enterprises or purposes that are contrary to federal, state, or local laws or ordinances are prohibited. Waiver uses, because of their nature, require special restrictions and some measure of individual attention in order to determine whether or not such uses will be compatible with uses permitted by right in the district and with the purposes of this ordinance. Waiver uses are therefore prohibited unless a waiver of such prohibition is reviewed and findings submitted by the City Planning Commission as provided in this ordinance and approved by the City Council.

ARTICLE 2
Definitions

§ 2.01. General.

When not inconsistent with the context, words in the present tense include the future tense, words used in the singular number include the plural number, and words used in the plural number include the singular. The term "shall" is always mandatory and not merely directory. The term "building" includes the term "structure" and vice versa. Terms not herein defined shall have the meaning customarily assigned to them. Any reference to a local, state or federal law shall include any amendment or any successor law. Any reference to a local, state or federal agency or officer shall include any successor agency or officer.

§ 2.02. Specific terms.

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

ABANDONMENT — The cessation of activity in or use of a dwelling, structure, or lot, other than that which would normally occur on a seasonal basis, for a period of six months or longer.

ABUTTING — Having property or district lines in common (e.g., two lots are abutting if they have property lines in common).

ACCELERATED SOIL EROSION — The increased lay of the land surface that occurs as a result of human activities.

ACCESS — A way of approaching or entering a property. For purposes of this ordinance, all lots of record shall have access to a public street or highway or to a private street meeting public standards.

ACCESSORY STRUCTURE — A subordinate structure on the same premises with a main building and occupied or devoted to an accessory use. Where an accessory building is attached to a main building, such accessory building shall be considered part of the main building.

ACCESSORY USE — A use naturally and normally incidental, subordinate, and devoted exclusively to the main use of the land or building.

ADULT BOOKSTORE —

- (a) A commercial establishment which has, as a significant or substantial portion of its inventory, or which derives a significant or substantial portion of its revenues from or maintains a significant or substantial section of its sales and display space to the sale or rental, for any form of consideration, of any one or more of the following:
 - (1) Books, magazines, periodicals or other printed and/or electronic or digital matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

- (2) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of oneself or of others.
- (b) For purposes of this definition, the term "significant or substantial portion" means 20% or more of the term modified by such phrase.

ADULT FOSTER CARE HOMES — The terms "adult foster care family home," "adult foster care large group home," and "adult foster care small group home" shall have the meanings given to them in Section 3 of Public Act No. 218 of 1979 (MCL § 400.703).

ADULT LIVE ENTERTAINMENT ESTABLISHMENT — An establishment which features topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers.

ADULT THEATER — An establishment regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

AGRICULTURE — The use of land for tilling of the soil, raising of tree or field crops, or animal husbandry, as a source of significant income.

AGRICULTURE BULK STATION — Any commercial facility used for the storage and/or sale of agricultural products in bulk quantities.

AIR RIGHT — The right to the space above a property, from a ground level to infinity, for development.

ALLEY — A public right-of-way not more than 30 feet in width affording a secondary means of access to abutting property but not intended for general traffic circulation.

ALTERATION OF BUILDING — Any structural change, addition or modification in construction or type of occupancy, or any change in the structural members of a building, such as bearing walls, beams, or girders, which may hereinafter be considered as altered or reconstructed.

APARTMENT HOUSE — A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

APPEALS — The process, as prescribed in this ordinance, for contesting a zoning interpretation made by the Zoning Administrator or a decision made by the Planning Commission.

ATTACHED — Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to the same.

AUTOMOBILE REPAIR — Any activity involving the general repair or reconditioning of motor vehicles, engines, or trailers, collision service, such as body, frame, or fender straightening and repair, or overall painting and rustproofing of automobiles.

AUTOMOBILE SALES AREA — An area used for the display, sales, rental and repair of new and used motor vehicles, boats, trailers, farm equipment, construction equipment or mobile homes in operable condition.

AUTOMOBILE SERVICE STATION — A building used for the retail sale of fuel

(stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water, and other commodities designed for motor vehicles, aircraft and boats. Such an operation includes space and facilities for selling, installing, or adjusting tires, batteries, parts and accessories within a building, provided that such repairs and installations are of a minor nature.

AUTOMOBILE STORAGE, DAMAGED — Any storage of inoperable vehicles not incidental to a service garage.

AUTOMOBILE WASHING ESTABLISHMENT — A building or portion thereof where motor vehicles are washed as a commercial enterprise, or where facilities are available for the self-service cleaning of motor vehicles.

BASEMENT — A portion of a building which is partially or wholly below grade, provided that where the vertical distance from the average finished grade to the ceiling of said area is at least one-half of the total height of the area, said area shall not be considered a basement.

BED AND BREAKFAST OPERATIONS — A use which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit, in which transient guests are provided a sleeping room and board in return for payment, and which does not provide separate cooking facilities for such guests.

BERM, OBSCURING — An earthen mound of definite height and location to serve as an obscuring device in carrying out the requirements of this ordinance.

BILLBOARD or SIGNBOARD — Any structure or portion thereof on which lettered, figured or pictorial matter is displayed for advertising purposes not related to the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon. The term "billboard" or "signboard" shall not be held to include any sign used for official notices issued by a court or public body.

BLOCK — A property surrounded by streets or abutting one side of a street and situated between the two nearest intersecting streets, or bounded by a combination of streets, waterways, parks, unplatted acreage, corporate boundary lines, or other natural or man-made, physical or artificial barriers to continual development.

BOARD — The Ithaca Board of Appeals.

BOARD OF APPEALS — The City of Ithaca Board of Appeals.

BOARDINGHOUSE — A dwelling where lodging, meals, or both are furnished for compensation to three or more individuals on a prearranged basis for a definite period of time.

BREEZEWAY — A covered structure connecting an accessory building with the principal dwelling unit. For purposes of determining yard and area requirements, such buildings shall be considered as one integral unit.

BUFFER YARD — A strip of land, including any specified type and amount of plantings or structures which may be required to protect one type of land use from another or to minimize or eliminate conflicts between them.

BUILDABLE AREA — The space remaining on a lot of record after the minimum setback and open space requirements have been complied with.

BUILDING — An independent structure, temporary or permanent, having a roof

supported by columns, walls, or other means of stabilization and used for the enclosure and protection of persons, animals, chattels or for the operation of a business. The term "building" includes tents, awnings, or vehicles situated on a property and used for the above purposes. Structures with interiors not accessible for human use, such as tanks, smokestacks, grain elevators, coal burners, or similar structures shall not be considered buildings.

BUILDING HEIGHT —

- (a) The vertical distance from the established grade of a building to the following rooflines:
- (1) Flat roof: to the highest point;
 - (2) Mansard roof: to the deck;
 - (3) Gable, hip, and mansard roofs: to the mean height between eaves and ridge.
- (b) The ground level is measured at the wall line in the case of sloping terrain.

BUILDING LINE — A line formed by the face of the building, and for the purposes of this ordinance, a minimum building line is the same as a front setback line.

BUILDING, MAIN OR PRINCIPAL — A building which is used for the principal purpose of the lot on which it is situated.

CABIN — Any building, tent or similar structure which is maintained, offered or used for dwelling or sleeping quarters for transients or for temporary residence.

CAMP — A place where temporary tents, huts, etc., are put up for temporary recreational use.

CARPORT — A partially open structure intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to private garages.

CERTIFICATION OF COMPLETION — A signed, written statement by the Zoning Administrator or Building Inspector that specific construction has been inspected and found to comply with all grading plans and specifications.

CERTIFICATION OF ZONING COMPLIANCE — A certificate issued by the Zoning Administrator to a party intending to initiate any work or change any use of property in the City.

CHILD CARE ORGANIZATIONS — The terms "child care organization," "child care center or day care center," "foster family home," "foster family group home," "family child care home," and "group child care home" shall have the meanings given to them in Section 1 of Public Act No. 116 of 1973 (MCL § 722.111).

CHURCH — A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purposes.

CLINIC, DENTAL OR MEDICAL — A building in which a group of physicians, dentists or physicians and dentists and allied professional assistants are associated for the purpose of carrying out their profession. The term "clinic" may include a medical or dental laboratory.

CLUB — A nonprofit organization of persons for special purposes or for the conducting of social, athletic, scientific, artistic, political, or other similar endeavors.

COMMERCIAL — The use of property in connection with the purchase, sale or trading of goods for personal services or maintenance of service offices or recreation or amusement enterprise or garage/basement/porch sales lasting more than 14 days during any twelve-month period.

COMMERCIAL TREE FARM — The land and associated facilities and structures used in the raising, harvesting and selling of trees and shrubs that are intended to be either transported and used for landscaping or sold as Christmas trees.

COMPREHENSIVE DEVELOPMENT (MASTER) PLAN — The statement of policy by the City Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written materials representing, in summary form, the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions.

CONDOMINIUM — The individual ownership of a unit or parcel of real property within a multiunit parcel or structure located as a permitted use within a zoning classification and requirements of this ordinance.

CONVALESCENT OR NURSING HOME — A home, qualified for license under applicable Michigan law, for the care of children, aged, or infirm.

CRITICAL AREA — Land significantly or seriously affected by development.

DECK — A horizontal structure of a single elevation or varying elevations, commonly used as a floor attached or adjacent to the main building. A deck may be open or partially or completely covered by a roof and wall structure.

DENSITY — The intensity of development in any given area, measured in this ordinance by the number of dwelling units per acre.

DEVELOPMENT — The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

DISH — That part of the satellite signal receiving antenna characteristically shaped like a saucer or dish.

DISH-TYPE SATELLITE SIGNAL-RECEIVING ANTENNAS (also referred to as "earth stations" or "ground stations") — One or a combination of two or more of the following:

- (a) A signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial sources.
- (b) A low-noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.
- (c) A coaxial cable the purpose of which is to carry or transmit said signals to a

receiver.

DISTRICT — A portion of the City of Ithaca in which certain buildings and activities are permitted and in which certain regulations, in accordance with this ordinance, are applicable.

DRIVE-IN — A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, or to provide self-service for patrons and food carry-out.

DRIVE-IN RESTAURANT — A restaurant so developed that its retail or service character is primarily dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle or to permit patrons to eat while in the motor vehicle, as well as within a building or structure, or primarily to provide self-service for patrons and food carry-out.

DRIVEWAY — A vehicle access to a lot from a street in which such access shall be located at least five feet from an adjacent lot line.

DWELLING UNIT —

- (a) A building or portion of a building which has sleeping, eating and sanitary facilities and which can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, or other such portable structure be considered a dwelling unit. A dwelling unit shall:
 - (1) Comply with the minimum square footage requirements of this ordinance for the zone in which it is located.
 - (2) Have a minimum width across any section of 20 feet and comply in all respects with the state construction code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction which are less stringent than those imposed by the state construction code, then and in that event the less stringent federal or state construction code or regulation shall apply.
 - (3) Be firmly attached to a permanent foundation that has been constructed on the site in accordance with the state construction code and coextensive with the perimeter of the building, and such attachment shall also meet all applicable building codes and other state and federal regulations.
 - (4) Not have exposed wheels, towing mechanism, undercarriage, or chassis.
 - (5) Be connected to a public sewer and water supply or to such private facilities approved by the local health department.
 - (6) Contain a storage area either in the basement located under the dwelling, in an attic area, in closet areas or in a separate structure being of standard construction similar to or of better quality than the principal dwelling. Such storage shall be in addition to the space for the storage of automobiles and shall be equal to not less than 10% of the minimum square footage requirement

of this ordinance for the zone in which the dwelling is located. In no case, however, shall more than 200 square feet of storage area be required by this provision.

- (7) Be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling, with not less than two exterior doors with one being in the front of the dwelling and the other being either on the rear or side of the dwelling, and shall contain permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the City Building Inspector upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning Board of Appeals within a period of 15 days from the receipt of notice of the Building Inspector's decision. Any determination of compatibility shall be based upon the standards set forth in the definition of "dwelling" as well as the character of residential development outside of mobile home parks within 2,000 feet of the subject dwelling where such area is at least 20% developed with dwellings or, where the area is not so developed, by the character of residential development outside of mobile home parks throughout the City. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
 - (8) Contain no additions or rooms or other areas which are not constructed with similar materials and which are similar in appearance and which have a similar quality of workmanship as the original structure, including the above-described foundation and its permanent attachment to the principal structure.
 - (9) Comply with all pertinent state construction and fire codes, including, in the case of mobile homes, the standards for mobile home construction as contained in the U.S. Department of Housing and Urban Development (HUD) regulations, titled Mobile Home Construction and Safety Standards, effective June 15, 1976.
- (b) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this ordinance.

DWELLING, MULTIPLE-FAMILY — A building containing three or more dwelling units designed for residential use and complying in all other respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of Public Act No. 230 of 1972 (MCL § 125.1501 et seq.).

DWELLING, SINGLE-FAMILY — A building containing not more than one dwelling unit designed for residential use.

DWELLING, TWO-FAMILY — A building containing not more than two separate dwelling units designed for residential use and complying in all respects with the

Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of Public Act No. 230 of 1972 (MCL § 125.1501 et seq.).

EARTH SHELTERED HOME — A dwelling which is partially or entirely below grade and is designed and intended to be used as a single-family dwelling.

EASEMENT — Any private or dedicated public way, other than a street or alley, providing a secondary means of access to a property and having a width of not less than 20 feet.

ECHO (ELDER COTTAGE HOUSING OPPORTUNITY) UNIT — A freestanding mobile unit located on the same zoning lot as the primary residence and serving as a temporary accessory dwelling intended to provide independent or semi-independent living for a relative or acquaintance with a verifiable medical condition warranting such housing. The ECHO unit is intended to be removed from the premises after the unit is vacated by the subject occupant.

EFFICIENCY APARTMENT — A dwelling unit with a bathroom and principal kitchen facilities designed and intended to be used as a single-family dwelling.

ERECTED — Signify the construction, alteration, reconstruction, placement upon, or any physical alteration to a piece of land, including the excavating, moving and filling of earth.

EROSION — The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance by public utilities or commissions of underground or overhead gas, electrical, steam or water transmissions or distribution systems, collections, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles and other similar equipment, and applicable accessories reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health, safety and welfare, but not including buildings other than those which are primarily enclosures or shelters for essential services equipment.

EXCAVATION — The removal of rock, sand, or fill material below the average grade of the surrounding land and/or road grade, whichever is highest. The term "excavation" does not include alterations for farming or gardening purposes.

FABRICATION — Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores or rubber. The term "fabrication" relates to stamping, cutting or otherwise shaping the processed materials into useful objects.

FAMILY — One or more persons customarily living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a hotel, club, boardinghouse or lodging house, fraternity or sorority house or nursing home.

FARM — All of the contiguous neighboring or associated lands operated as a single entity under which bona fide farming takes place directly by an owner/operator, manager, or tenant farmer, by his or her own labor, or with the assistance of household members or hired employees. Farms may be considered as including establishments that operate bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry

farms and apiaries, as well as the growing, harvesting or cultivating of cash crops. Establishments keeping or raising fur-bearing animals, private stables, commercial dog kennels, game fish hatcheries, piggeries, or stockyards may be considered farms only if attached to bona fide farming operations on the same continuous tract of land.

FARM BUILDING — Any building or structure, other than a dwelling unit, built or placed upon land within a bona fide farm and considered essential and standard to the carrying on of farm operations.

FEED LOT, LIVESTOCK — The place of confined keeping of livestock or other animals for food, fur, pleasure, resale or training purposes in yards, lots, pens, buildings or other areas not normally used for pasture or crops and in which abnormal amounts of manure or related other animal wastes may originate by reason of keeping such animals, including chickens, ducks, geese and other fowl.

FENCE — A permanent or temporary partition or structure erected as a divider, barrier, or enclosure and not part of a structure requiring a building permit.

FILLING — The depositing or dumping of any matter onto, or into, the ground (except for common household gardening and ground care) which alters the topography of the land.

FILLING STATION — A building used or designed for the retail sale and underground storage of automobile fuel, lubricants, and other automotive commodities, or for aircraft or watercraft operations, including the customary space and facilities allocated for installation of such commodities.

FLAG LOT — A lot which has minimum frontage on a public or private street and which is reached via a private drive.

FLOODPLAIN — The relatively flat area or low lands adjoining the channel or watercourse or a body of standing water, which has been or may be covered by floodwater. Determination of a floodplain is based upon:

- (a) Contiguous areas paralleling a river stream or other body of water that constitute, at their maximum edge, the highest flood levels experienced in a period of 100 years.
- (b) Principal estuary courses of wetland areas that are part of the river flow system.
- (c) Contiguous area paralleling a river stream or other body of water and that exhibits unstable soil conditions for development.

FLOOR AREA RATIO — An intensity measured as a ratio, derived by dividing the total floor area of a building by the base site area.

FLOOR AREA, RESIDENTIAL (GROSS) — For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building, measured from the exterior faces of the exterior walls or from the center line of walls separating two dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

FLOOR AREA, USABLE — That area of a building used for or intended to be used for the sale of merchandise or services. Such floor area which is used for or intended to be used primarily for the storage or processing of merchandise which may include hallways, breezeways, stairways, and elevator shafts, or for utilities and sanitary facilities, shall be

excluded from the computation of usable floor area.

GARAGE, COMMERCIAL — Any structure, except private, community or storage garages, available to the public and primarily used for the storage of motor vehicles, for remuneration, hire or sale, where any such vehicle or engine may also be repaired, rebuilt, or equipped to operate, or where vehicles may be greased, washed and waxed.

GARAGE, DETACHED — A private or commercial garage physically separated from the main structure (residence or business) on the same lot or on a separate lot.

GARAGE, PRIVATE — A space or structure suitable for the storage of motor vehicles having no public or commercial shop or service in connection therewith, for the use solely of the owner or occupant of the principal building on a lot or of his family or domestic employees, and with a capacity of not more than three motor vehicles. Not more than one commercial vehicle, not exceeding a rated capacity of one ton, shall be stored on any one lot on which such a private facility is located.

GASOLINE SERVICE STATION — A place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

GOVERNING BODY — The City Council of the City of Ithaca.

GRADE — The level of the ground adjacent to the walls. In the case of lots with a sloping terrain, the grade shall be the average elevation of the ground adjacent to the walls.

GRADING — Any stripping, excavating, filling, stockpiling, or any combination thereof, and shall also include the land in its excavated or filled condition.

GRADING PERMIT — The written authority issued by the Zoning Administrator or his agent permitting the grading, excavation or filling of land including drainage and soil erosion control in conformity with the erosion control section of this ordinance and part 91 of Public Act No. 451 of 1994 (MCL § 324.9101 et seq.).

GREENBELT — A designated strip of natural vegetation.

GUESTHOUSE — A separate structure or dwelling on a residential parcel used for sleeping and/or eating purposes by nonpaying friends, relatives or acquaintances of the resident or owner of the main structure.

HIGHWAY — A public thoroughfare or street, excluding alleys, but including federal, state and county roads and those appearing upon plats recorded in the office of the register of deeds and accepted for public maintenance.

HOME OCCUPATION — Any use customarily conducted entirely within the residential dwelling and carried on by the inhabitants thereof, not involving employees other than members of the immediate family that reside on the premises. The following enterprises shall not be considered home occupations: medical clinics, hospitals, barbershops, nurseries, day-care centers, beauty parlors, tearooms, veterinary clinics and offices, animal hospitals, kennels, tourist homes, bed-and-breakfast operations, insurance and real estate offices, millinery shops, marihuana establishments and facilities (as authorized by and defined in the MRTMA, the MMFLA and the MMMA), and other similar enterprises. **[Amended 2-19-2019 by Ord. No. 2019-01]**

HOSPITAL — An institution providing health services primarily for inpatients and

medical or surgical care of the sick and injured, including laboratories, outpatient departments, training facilities, central service facilities, and staff offices. Those institutions whose primary function is the care of the infirm or mentally ill are not considered hospitals.

HOTEL — A building occupied or used predominantly as a temporary abiding place by individuals or groups of individuals, with or without meals, and in which there are more than five sleeping rooms, none which have cooking facilities.

IHRA — The Industrial Hemp Research and Development Act, 2014 PA 547, MCL § 286.841 et seq. **[Added 2-19-2019 by Ord. No. 2019-01]**

INSTITUTIONAL OR PUBLIC USE — Churches, schools teaching academic subjects, hospitals, convalescent or nursing homes, parks, civic centers, libraries and other public or quasi-public uses.

JUNK — Any motor vehicles, machinery, appliances, products, or merchandise with parts missing, or scrap metals or materials that are damaged or deteriorated.

JUNKYARD or SALVAGE YARD — A place, structure, or lot where junk, discarded waste, salvage, or similar materials, including metals, wood, slush, timber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are bought, sold, disassembled, baled, exchanged or handled. The term "junkyard" includes an auto-wrecking yard, used lumberyard, house-wrecking yard, and any place or yard for use of salvaged house-wrecking and structural steel materials and equipment. Pawn shops and establishments which sell, purchase or store used cars, salvaged machinery, used furniture, radios, appliances, or similar household goods and uses for which the processing of used, discarded, or salvaged materials as part of manufacturing operations are not considered junkyards.

KENNEL, COMMERCIAL — Any lot or premises on which dogs, cats or other household pets are housed, groomed, bred, boarded, trained or sold.

KENNEL, PRIVATE — Any lot or premises used for the private maintenance of up to four dogs, cats, or other household pets four months of age or older, not involving any commercial activities. The keeping of more than four animals shall be considered a commercial kennel regardless of ownership or species of animals.

LABORATORY —

(a) **MEDICAL OR DENTAL** — The term "medical or dental laboratory" means a laboratory which provides analytical or diagnostic services to physicians and dentists, provided that no fabrication is conducted on the premises except the custom fabrication of dentures or surgical supports.

(b) **Experimental**. The term "experimental laboratory" means a building or part of a building devoted to the testing and analysis of any product or animal.

LAND USE — A use of land which may result in an earth change, including, but not limited to, subdivision, residential, commercial, industrial, recreational, or other development, private and public highway, road and street construction, drainage construction, logging operations, agricultural practices, and mining.

LOADING/UNLOADING SPACE — An off-street space on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while

loading and unloading merchandise or materials.

LOT — A parcel of land occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this ordinance. A lot may or may not be specifically designated as such on public records.

LOT AREA — The total horizontal area included within lot lines. Where the front lot line is the center line of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street.

LOT COVERAGE — The part or percentage of the lot occupied by buildings, including accessory buildings.

LOT DEPTH — The mean horizontal distance from the front street line to the rear lot line.

LOT LINE — Any of the lines bounding a lot, as defined herein.

- (a) **FRONT LOT LINE** — In the case of an interior lot, the line separating said lot from the street, and in the case of a through lot, the line separating said lot from either street.
- (b) **REAR LOT LINE** — The lot line opposite the front 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 10 feet long and lying farthest from the front lot line and wholly within the lot.
- (c) **SIDE LOT LINE** — Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

LOT OF RECORD — A parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by municipal or county officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

LOT WIDTH — The mean horizontal distance between the side lot lines, measured at right angles to the side lot line. Where side lot lines are not parallel, the lot size shall be considered as the average of the width between such side lot lines.

LOT, CORNER — A lot situated at the intersection of two or more streets.

LOT, INTERIOR — Any lot other than a corner lot.

LOT, THROUGH — A double frontage lot, not a corner lot, having a street for front and rear lot lines.

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

MAJOR STREET or PRIMARY ROAD — A street or highway so designated on the major road plan of the Gratiot County Master Plan which is designed and intended to carry heavy traffic volumes.

MARIHUANA ESTABLISHMENT — That term as defined in the MRTMA. **[Added 2-19-2019 by Ord. No. 2019-01]**

MARIHUANA FACILITY — That term as defined in the MMFLA. **[Added 2-19-2019 by Ord. No. 2019-01]**

MARQUEE — A roof-like structure of a permanent nature projecting from the wall of a building.

MINOR OR LOCAL STREET or SECONDARY ROAD — A dedicated public way or recorded private street which affords access to abutting properties and is designed primarily to serve immediate neighborhood needs.

MMFLA — The Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.¹ **[Added 2-19-2019 by Ord. No. 2019-01]**

MMMA — The Michigan Medical Marihuana Act, 2008 IL 1, as amended.² **[Added 2-19-2019 by Ord. No. 2019-01]**

MOBILE HOME — A single-family dwelling designed for transportation, after fabrication, on street and highways on its own wheels or flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy, except for minor and incidental unpacking for assembly operations, location on permanent foundations, connection to utilities and the like. A mobile home is considered a square foot dwelling unit and must conform to the requirements of a dwelling unit.

MOBILE HOME PAD — That part of the mobile home site specifically designated for the placement of a mobile home.

MOBILE HOME PARK — Any plot of ground upon which three or more mobile homes, occupied for dwelling or sleeping purposes, are located.

MOBILE HOME SITE — A measured parcel of land within a mobile home park which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of such mobile home.

MOBILE HOME SUBDIVISION — A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Public Act No. 288 of 1967 (MCL § 560.101 et seq.), land division act, as amended.

MODULAR AND SECTIONAL HOME — A dwelling unit consisting of two or more transportable factory-fabricated units designed to be assembled as a single residential structure on a foundation as required for a conventional residence.

MOTOR VEHICLE — Any vehicle which is self-propelled.

MOTOR VEHICLE, INOPERABLE OR ABANDONED — Any wheeled vehicle which is self-propelled and/or intended to be self-propelled and which, by reason of dismantling, disrepair or other cause, is incapable of being propelled under its own power. The term "inoperable or abandoned motor vehicle" shall not include farm machinery other than automobiles or trucks.

1. Editor's Note: See Mich Admin Code, R 333E-2.2018 et seq.

2. Editor's Note: See MCL 333.26421 et seq.

MRTMA — The Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended.³[Added 2-19-2019 by Ord. No. 2019-01]

NONCONFORMING STRUCTURE — A structure or portion thereof existing at the time of the adoption of this ordinance which is not in conformance with the standards of this ordinance.

NONCONFORMING USE — An activity existing at the time of the enactment of this ordinance on a lot of record and which is not in conformance with the use regulations for the zoning district in which it is located according to this ordinance.

NUISANCE — An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continual or repeated invasion of a use or activity which invades the property line of another so as to cause harm or discomfort to the owner or resident of that property. The term "nuisance" includes, but is not limited to, excessive or noisy vehicular traffic, dust, glare and smoke.

NURSERY SCHOOL or DAY CARE CENTER — A public or private school, kindergarten or child care facility wherein day care, or day care and education is provided for five or more minors.

NURSERY, PLANT MATERIALS — Any lot or structure used for the growing, harvesting, processing, storing, and/or selling of plants, shrubs, trees and flowers, including products used for gardening and landscaping, but not including fruit and vegetable sales.

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

OFF-STREET PARKING — A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access to the entrance and exit for the parking of more than three vehicles.

OPEN AIR BUSINESS USES — And shall include the following:

- (a) Retail sales of fruits and vegetables.
- (b) Tennis courts, archery courts, shooting ranges, shuffleboard, horseshoe courts, miniature golf courses, children's amusement parks or similar recreational uses.
- (c) Bicycle, trailer, motor vehicle, boat or home equipment sales, service or rental.
- (d) Outdoor display and sale of garages, vacation homes, mobile and modular homes, swimming pools and similar uses.

OPEN SPACE RATIO — The proportion of a site consisting of required open space, as defined and specified in § 18.02, and which shall be calculated using the base site area.

OPEN SPACE REQUIRED — The yard space of a lot which is established by and between the street or the lot lines and required setback lines and which shall be open, unoccupied and unobstructed by any structure or any part thereof, except as otherwise provided in this ordinance. See setbacks in each zoning district and illustration.

PARKING AREA — An area used for the parking of motor vehicles for a fee or as an

3. Editor's Note: See MCL 333.27951 et seq.

accommodation for clients, customers, residents, employees or the general public.

PARKING SPACE — An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, fully accessible for the parking of permitted vehicles.

PATIO, PORCH — Roofed open area that, while it may be glassed or screened, is usually attached to or part of and with direct access to or from a building.

PETROLEUM BULK PLANT — An establishment for the storage of petroleum products in bulk and for distribution.

PLANNED UNIT DEVELOPMENT — A tract of land developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses. See § 23.08.

PLANNING COMMISSION — The City Planning Commission organized under state law for the purposes therein.

POOL, COMMERCIAL SWIMMING — An artificially constructed basin for holding water for use by paying customers or patrons of a commercial facility.

POOL, PRIVATE SWIMMING — An artificially constructed basin for holding water for private family use on a residential lot.

PRINCIPAL USE — The designation given to a legally defined parcel of land and based upon the primary activity occurring on such parcel.

PROCESSING — Any operation changing the nature of materials, such as the chemical composition or physical qualities of such materials. The term "processing" does not include operations described as fabrication.

PUBLIC UTILITY — A person, firm, corporation, or municipal department, board or commission duly authorized to provide and providing, under federal, state or municipal regulations, to the general public any of the following: water, gas, steam, electricity, telephone, telegraphy, waste disposal, communication, or transportation.

RADIO ANTENNA — A signal receiving device the purpose of which is to receive radio signals from radio transmitters in the area.

RECREATION UNIT — And includes the following:

- (a) **TRAVEL TRAILER** — A vehicular structure mounted on wheels and of such a size or weight as not to require special highway movement permits when drawn by vehicle; primarily designed and constructed to provide temporary living quarters for recreational, travel use.
- (b) **CAMPING TRAILER** — A vehicular structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
- (c) **MOTOR HOME** — A vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.

- (d) TRUCK CAMPER — A portable structure designed to be loaded onto or affixed to the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping or travel use.
- (1) SLIDE-IN-CAMPER — A portable structure designed to be loaded onto and unloaded from the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping or travel use.
- (2) CHASSIS-MOUNT CAMPER — A portable structure designed to be affixed to a truck chassis and constructed to provide temporary living quarters for recreational, camping, or travel use.

RESORT — A parcel of land which may contain cabins and/or rooms, with or without kitchen facilities, used primarily for vacation and/or recreational activity, and which may or may not contain a small commercial grocery, sporting goods, or gasoline service outlet.

RESTAURANT, CONVENTIONAL — A business located in a building where, in consideration of the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of goods which may be required for ordinary meals, and deriving the major portion of its receipts from the sale of food and complying with state and federal health regulations.

RESTAURANT, FAST FOOD — An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state, for consumption:

- (a) Within the restaurant building;
- (b) Within a motor vehicle parked on the premises; or
- (c) Off the premises as carry-out orders, and whose principal method of operation includes the following characteristics; food and/or beverages are usually served in edible containers or in paper, plastic or other disposal containers;
- (d) For development standards, see § 27.03.

RIDING ACADEMY OR STABLE — Any establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch, similar establishment or business.

RIGHT-OF-WAY LINE — The boundary of a dedicated street or highway.

ROADSIDE STAND — A structure temporarily operated for the purpose of selling produce primarily raised or produced on the premises where situated, provided its use shall not constitute a commercial district or be deemed a commercial activity.

ROOM — For the purpose of determining lot area requirements and density in a multiple-family district, a living room, dining room or bedroom equal to at least 80 square feet in area. The term "room" does not include the area in kitchens, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing one-, two- or three-bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

ROOMING HOUSE — A building or part of a building, other than a hotel, motel, or motor court, where sleeping facilities are provided and meals may be served regularly

for remuneration.

SCREEN — A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be nonstructured, consisting of shrubs or other growing materials having year round foliage to create a visual barrier. See § 14.05(d).

SEASONAL BUSINESS — A retail business or service business that is not normally used as a business for more than eight months or less during any one calendar year.

SEASONAL RESIDENCE — A dwelling unit not normally the permanent residence of the occupant and not normally used as a dwelling unit for more than six months during any calendar year.

SETBACK — The minimum required horizontal distance measured from the front, side or rear lot line, whichever is applicable, of a lot of record for purposes of determining the minimum amount of open space surrounding the main structure on that lot.

SHOPPING CENTER — A business or group of businesses which provides a variety of merchandise and/or services and which requires a location on a major road and a large parking area to accommodate vehicular traffic. The term "shopping center" includes, but is not limited to, a small neighborhood center, a discount store, or a mall.

SIGN — Any device designed to inform the general public or attract the attention of persons. The following shall not be considered commercial signs for purposes of this ordinance:

- (a) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, or names of occupants of premises.
- (b) Flags and insignia of any government, except when displayed in connection with commercial promotions.
- (c) Legal notices, identification, informational or directional signs erected or required by governmental bodies.
- (d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- (e) Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

SIGN, OFF-SITE — A sign relating to matter which is off the premises in question.

SIGN, ON-SITE — A commercial sign relating in its subject matter to the premises on which it is located or to activities, products, services, or accommodation of the immediate area.

SITE PLAN — A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this ordinance. See Article 20.

SPECIAL USE PERMIT — A permit issued, after a review and hearing, to a person intending to undertake the operation of an activity upon land or within a structure and for those uses not specifically mentioned in this ordinance which possess unique characteristics and are found not to be injurious to the health, safety, convenience and

general welfare of the City's inhabitants and the district in which the use is to be located. Special use permits may be granted when the specified standards for those uses, as stated in this ordinance, have been met.

STABLE, COMMERCIAL — A building in which any horses are kept for hire or sale.

STORY — That portion of a building included between the upper surface of any floor and the upper surface of the floor immediately above, except that the top story shall be that portion of a building included between the upper surface of the uppermost floor and the ceiling or roof immediately above. A basement shall be considered a full story only if 50% or more of the vertical distance between the basement floor and the basement ceiling is above the ground level from which the height of the building is measured.

STORY, HALF — An uppermost story lying between the top part of a full story and a sloping roof, provided said floor area does not exceed one-half of the full story, contains at least 160 square feet and has a minimum floor to ceiling clearance of seven feet, six inches.

STREET — A publicly dedicated right-of-way which affords general traffic circulation and access to abutting property. The term "street" does not include an alley.

STRIPPING — Any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

STRUCTURAL ALTERATION — Any change in the supporting members of a building, such as the bearing walls, beams or girders, or any change in the dimension or configuration of the roof or exterior walls. See § 21.04.

STRUCTURE — Anything constructed or erected on the ground or which is attached to something located on the ground. The term "structure" includes buildings, radio and TV towers, mobile homes, sheds and permanent signs, and excludes vehicles, sidewalks and paving.

SUBDIVISION — The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale or lease of more than one year or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the land division act by Sections 108 and 109 (MCL § 560.108, § 560.109). The terms "subdivide" or "subdivision" do not include a property transfer between two or more adjacent parcels if the property taken from one parcel is added to an adjacent parcel, and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the land division act or the requirements of an applicable local ordinance. See the definitions of "subdivision" and "subdivision, conventional" in § 18.02.

TELEVISION ANTENNA — A signal receiving device the purpose of which is to receive television signals from television transmitters in the area.

TEMPORARY BUILDING OR USE — A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main building or for special events, but not to exceed six months' duration.

TOURIST HOME — Any dwelling used or designed in such a manner that certain rooms in excess of those used by the family and which can be occupied as part of a

dwelling unit are rented for compensation to the traveling public.

USE — The lawful purpose for which land or premises, including the structures thereon, is designed, arranged, or intended or for which it is rented, leased, occupied, or maintained.

USE BY RIGHT — Any use which is listed as a use by right in any given zoning district in this ordinance. Uses by right are not required to show need for their location.

USE, SPECIAL OR CONDITIONAL — A use permitted within certain zoning districts of such a nature that the public has reserved the right to approve its exact location, subject to conditions stated in this ordinance and to any special conditions imposed by the City Planning Commission to protect the use by right of other properties in the City of Ithaca.

USE, TRANSITIONAL — A use of land or structure located or permitted to be located on certain lots abutting a zoning boundary line in the more restricted of the two zoning districts on either side of such a boundary line.

VARIANCE — A modification of the literal provisions of this ordinance granted when strict enforcement of this ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three elements are present in the case. A variance is not an exception.

WALL, OBSCURING — A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.

YARD — An open space on the same lot with a building or building group lying between the front, rear or side wall of a building and the nearest lot line, unoccupied except for projections, such as porches, steps, and the specific minor uses or structures allowed in such open space under the provisions of this ordinance.

YARD, CORNER SIDE — A side yard which faces a public street.

YARD, FRONT — A yard extending the full width of the lot on which a building is located and situated between the front lot line and a line parallel thereto and passing through the nearest point of the building.

YARD, INTERIOR SIDE — A side yard located immediately adjacent to another zoning lot or to an alley or easement separating such side yard from another zoning lot.

YARD, REAR — A yard extending the full width of the lot on which a building is situated and located between the rear lot line and a line parallel thereto and passing through the nearest point of the building.

YARD, SIDE — A yard on the same lot as a building situated between the side lot line and a line parallel thereto and passing through the nearest point of the building, and extending from the front yard to the rear yard.

ARTICLE 3

Procedure for Application and Approval of Zoning Permit**§ 3.01. Procedure of application.**

Before excavation, construction, or expansion of any structure or initiation of any structure or any use regulated by this ordinance can occur, the owner or designated agent shall submit an application for a zoning permit to the City of Ithaca Zoning Administrator. A fee set at the discretion of the City Council to defray the costs of administration and inspections shall accompany any plans or applications.

3.01:1. The applicant shall obtain and complete appropriate application forms and submit the completed forms in triplicate (except as required in § 21.04) to the Zoning Administrator along with a legible site map of the subject property (not necessarily drawn to scale). One copy of the application shall be returned to the applicant by the Zoning Administrator after that copy shall have been marked either as approved or disapproved and signed by the Zoning Administrator. The original shall be retained by the Zoning Administrator, maintained on file and available to the public for inspection upon request during normal business hours, and one copy of the application, similarly marked, shall be given to the Building Inspector and maintained in the Building Inspector's file.

3.01:2. The site map shall include the following:

- (a) A drawing of the lot lines of the property and an outline of the proposed structure and its approximate location on the property.
- (b) The location and names of abutting road rights-of-way.
- (c) The location of existing structures on the property, including detached garages and accessory buildings.
- (d) The location and identification of existing structures within a 100-foot radius of the proposed structure.
- (e) The location of unique or unusual natural resources, such as forested areas or streams within a 100-foot radius of the proposed structure.
- (f) The dimensions of the property boundaries.
- (g) The dimensions of the setback of the proposed structure from the front, side and rear lot lines.
- (h) The approximate size of the proposed structure or the total size of the structure if the proposed improvement is an attached addition to the existing structure (in square feet).
- (i) The signature of the applicant or agent and date of the application submittal.

§ 3.02. Approval of application.

3.02:1. The Zoning Administrator shall review the entire application and site plan. If the proposed use is a permitted use within the district in which it is to be located, and

the use and dimensional requirements of this ordinance have been met, the Zoning Administrator shall issue a permit within three days of receipt of the application. In all cases, when the Zoning Administrator shall refuse to issue a permit, such refusal shall be stated in writing with the cause and reasons for the refusal.

- 3.02:2. All zoning permit applications for uses that require a special approval, planned unit developments, site condominiums, residential subdivisions, and uses and structures permitted by right that require a more formal site plan review, shall conform to the procedures and requirements of Article 21 of this ordinance. Upon approval or approval subject to conditions of the application by the Planning Commission (for special use permits, site condominiums and planned unit developments) or by the Zoning Administrator (for permitted uses), the applicant may apply for a building permit from the City Building Inspector. The zoning permit shall be submitted with other information as required by the Building Inspector for a building permit.

ARTICLE 4
General Provisions

The following general provisions establish miscellaneous regulations that have not been specifically provided for in other portions of this ordinance, yet they are applicable to all zoning districts unless otherwise indicated.

§ 4.01. The effect of zoning.

In order to carry out the intent of this ordinance, hereafter no use or activity on a piece of land shall be allowed or maintained and no building or structure or part thereof shall be allowed to be used, constructed, remodeled, altered, or moved upon any property unless it is in conformance with the provisions and intent of the specific zoning district in which it is located.

4.01:1. If any activity, use, building, structure, or part thereof is placed upon a piece of property in direct conflict with the intent and provisions of this ordinance, that activity, use, building or structure shall be declared a nuisance and may be required to be vacated, dismantled, abated, or cease operations by any legal means necessary, and that use, activity, building or structure shall not be allowed to function until it is brought into conformance with this ordinance.

4.01:2. In the event a use, activity, building or structure is existing or under construction at the time of the effective date of this ordinance or is commenced within 60 days of the effective date of this ordinance and is not in conformance with the provisions of the zoning district in which it is located, that use, activity, building or structure shall be considered a legal nonconforming use and be allowed to remain as such for construction to be completed, provided the construction is not discontinued for a continuous period in excess of 60 days and does not require more than two years from the effective date of this ordinance for completion.

§ 4.02. Restoration of unsafe buildings.

Nothing in this ordinance shall prevent the strengthening of a lawful, conforming building or structure or part thereof which has been declared unsafe by the Zoning Administrator, building official, or public health inspector or the requirement to adhere to the lawful orders of such officials.

§ 4.03. Required area or space.

No lot, yard, parking area or other space shall be so divided, altered or reduced as to make it smaller than the minimum required under this ordinance except as permitted in § 4.09. If already less than the minimum required area or space, it shall not be further divided or reduced except as permitted in § 4.09, and no yard required for a principal building shall be included as part of a yard required under this ordinance for any other building.

§ 4.04. Illegal dwellings.

4.04:1. The use of any portion of a basement not considered a story of a completed or partially completed structure for dwelling purposes shall not be allowed. Garages or accessory buildings shall not be occupied for dwelling purposes.

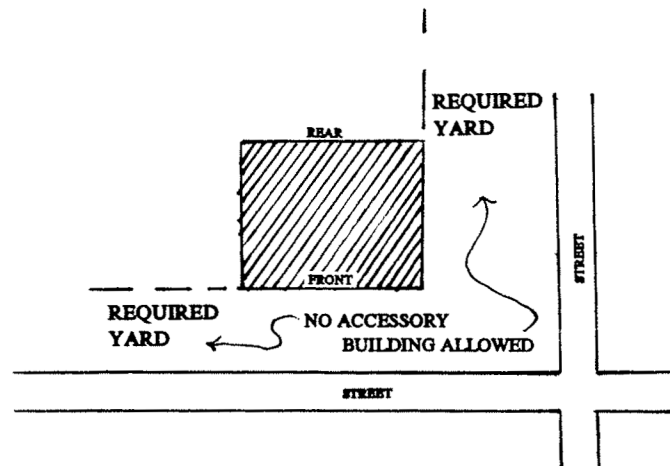
4.04:2. No structure that is without adequate sanitary facilities or that is otherwise structurally incomplete shall be issued a permit of occupancy by the Zoning Administrator.

§ 4.05. Accessory buildings.

Except as otherwise permitted in this ordinance, accessory buildings shall be allowed as permitted uses, subject to the following regulations:

- (a) Where the accessory building is attached to or within 10 feet of a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to such main building.
- (b) No accessory building shall be built upon any lot on which there is no principal building unless the accessory building is located on adjoining lots in single ownership. All exceptions are subject to special use permit approval by the planning and zoning commission.
- (c) Accessory buildings shall not be erected in any required front or side yard.
- (d) In the R-1, R-2, R-3, R-4 and R-O Districts, the maximum allowable size for the total of all accessory buildings on a developed lot shall be 864 square feet. A special use permit shall be required if the total area of all accessory buildings is larger than 864 square feet. In no instance shall the total area of all detached accessory buildings be larger than the area of the ground floor of the main building or occupy more than 10% of a required rear yard (and 25% of a nonrequired rear yard), whichever is less. All farm related accessory buildings in the R-1 District shall require a special use permit but shall not be larger than 10% of the required rear yard or more than 25% of the nonrequired rear yard.
- (e) In nonresidential districts, any accessory buildings in total may occupy not more than 10% of a required rear yard, and, in addition, not more than 25% of any nonrequired rear yard, provided that in no instance shall that total accessory building floor area exceed the ground floor area of the main building. This requirement shall not apply to normal farm buildings existing at the time of adoption of this ordinance.
- (f) In residential districts, any accessory building shall be located in the rear yard of the lot, except when attached to the main building. The rear yard is defined as the space on a lot or parcel lying between the main building or group of main buildings and the rear lot or property line. In the case of row housing or apartment developments, parking garages or covered bays may be exempted from this requirement subject to approval by the Zoning Administrator.
- (g) No detached accessory building shall be located closer than 10 feet to any main building or any street right-of-way line, nor shall it be located closer than five feet to any side or rear lot line.
- (h) No detached accessory building in a residential district shall exceed 20 feet in height.
- (i) When an accessory building is located on a corner lot, the side lot line of which is

substantially a continuation of the front lot line of the lot to its rear, the accessory building shall not project beyond the front yard setback line required on the lot in the rear of such corner lot.



§ 4.06. Regulation of dish-type satellite signal-receiving antennas.

Dish-type satellite signal receiving antennas, television antennas and radio antennas shall be allowed in all districts, subject to the following restrictions:

- (a) No satellite signal-receiving dish antenna, television antenna or radio antenna shall be constructed or located in the front yard of a residential premises unless there is concurrence by the Building Inspector that existing trees or other obstacles existing within the side or rear yards prohibit adequate reception of signals.
- (b) A satellite-receiving antenna, television antenna, or radio antenna shall not be located within five feet of the side, rear or front lot lines (if placed in the front yard in a residential zone due to conditions identified in Subsection (a) of this section).
- (c) A satellite-receiving dish antenna, television antenna or radio antenna may be placed upon the roof of the main building on the property but shall not be mounted upon appurtenances such as chimneys, towers, trees, poles or spires. Such antennas may be placed upon accessory buildings.
- (d) A satellite-receiving antenna in a residential zone shall not exceed a height of five feet above the roof upon which it is mounted, and a roof-mounted receiving antenna dish shall not exceed three feet in diameter.
- (e) A satellite-receiving antenna fastened to the ground shall not exceed a height of 12 feet above grade, and television and radio antennas shall not exceed a height of 65 feet above ground elevation.
- (f) All structural supports shall be of galvanized metal.
- (g) Wiring between a ground-mounted satellite-receiving antenna and a receiver shall be placed at least four inches below the ground within a rigid conduit.
- (h) Aboveground wiring for roof-mounted antennas must be located at least 12 feet

above ground grade.

- (i) Such satellite-receiving antenna, television or radio receiving antenna shall be designed to withstand a wind force of 75 miles per hour without the use of supporting guy wires and 85 miles per hour with the use of supporting guy wires.
- (j) Any driving motor shall be limited to 110V maximum power design and be encased in protective guards.
- (k) A satellite-receiving antenna must be bonded to a grounding rod.

§ 4.07. Dumping of materials.

4.07:1. Storage, dumping of waste, junk, etc. The use of land or water resources for the dumping or disposal of scrap iron, metal, rubber, plastic refuse, junk, slag, ash (except for those properly sealed or adequately concealed materials discharged in the process of industrial manufacturing or in the performance of normal household or farming activities on the same lot or parcel on which the premises are located) shall not be permitted, except in such cases where a temporary permit is obtained from the Zoning Administrator, upon approval of the City Council, after a public hearing and in accordance with Part 115 of Public Act No. 451 of 1994 (MCL § 324.11501 et seq.). Such permit shall not exceed one year from the date of issuance and may be renewed on an annual basis only after a public hearing is held and approval granted by the City Council.

4.07:2. Bond required; certain alterations prohibited. An appropriate bond and agreement shall be required of the applicant to ensure compliance with the directives set forth by the City Council. Such dumping or disposal shall not negatively affect the water table, cause pollution of stagnant or running water in any area of the City, or attract rodents, vectors or other nuisances so as to create health or safety problems to the natural environment and the inhabitants of the City, nor shall the natural terrain be altered in any fashion to create safety or health hazards at the expiration date of the permit or the character of the land substantially altered so as to make it unusable for the uses for which it was originally zoned.

4.07:3. Dumping of soil, sand and clay materials. The extensive dumping of soil, sand, clay or similar materials shall not be allowed on any lot or parcel without approval of the Planning Commission and subject to the requirements set forth by the Planning Commission.

4.07:4. Dumping of hazardous and/or nuclear wastes prohibited. Dumping of hazardous waste materials and/or nuclear wastes shall not be allowed within the City of Ithaca, except as permitted by current federal and state regulations.

§ 4.08. Excavation of holes.

The construction, maintenance, or existence of unprotected or unbarricaded holes, pits, wells, building pads, or similar excavations which cause or are likely to cause a danger to life, health, and safety to the general public shall be prohibited. This section shall not, however, prevent any excavation which is required for the construction, remodeling, or expansion of structures or for industrial or farming operations, including the mining of sand and gravel, provided appropriate precautionary measures, such as the placement

of warning signs, fences, etc., have been approved by the Zoning Administrator and placed on the premises. Nothing in this section shall apply to bodies of water, ditches, streams, or other major natural resources created or existing by the authority of the State of Michigan, Gratiot County, City of Ithaca, or other units of government. Excavation resulting from the extraction of sand, gravel, or other minerals for commercial purposes shall be required, upon termination of such activities and for a period of one year or more, to be refilled by the person, firm or corporation engaging in such excavation. The excavated site shall be graded and returned, as far as possible, to its natural state, including the planting of vegetation indigenous to the area.

§ 4.09. Existing platted lots (smaller than zoning district requirements).

Except as provided for in Article 18, site performance criteria, and § 7.04:7, where an existing platted lot has an area of not less than 80% of its zoning district requirement and where such lot can provide the side and front yard requirements of its zone, the permitted uses of the district shall be allowed. An existing platted lot, in single ownership, of less than 80% of its zoning district requirements may be utilized for such permitted uses, and for such purpose, the required side yards may be reduced by the same percentage the area of such lot bears to its zoning district requirements, provided that no side yard provision may be reduced to less than five feet and that off-street parking requirements are also met. Where two or more adjacent lots are in single ownership and where such lots individually contain less than 80% of the zoning district requirements, such lots shall be utilized only in complete conformance with the zoning district's unreduced minimum requirements. In the event three or fewer adjacent lots are in single ownership and the Planning Commission shall find that there is no practical possibility of obtaining additional land, it may permit their use as separate lots having less than the required lot area if it shall determine that they can be so used without adversely affecting the character of the neighborhood; provided, however, that no side yard provision may be reduced to less than five feet and that off-street parking requirements are also met.

§ 4.10. Basis of determining yard and setback requirements.

The required front yard shall be measured at a right angle from the right-of-way line to the nearest foundation or building wall of the building or structure; provided that where an existing setback line has been established by existing buildings occupying 50% or more of the frontage within the same block or where unplatted within 300 feet of the proposed building, such established setback shall apply. A lot having a side yard line adjacent to any zoning boundary line of a more restricted district shall have a side yard not less than the minimum width required for the adjoining side yard for the more restricted district.

§ 4.11. Fences, walls and hedges.

Notwithstanding other provisions in this ordinance, fences, walls or hedges may be permitted on any property, provided that no fence, wall or hedge exceeds a height of six feet along the side and rear lot lines to the rear of the front building line of the main building and a height of three feet in front of the front building line of the main building, and that no such fence, wall, or hedge shall be closer than three feet from the front property line or road right-of-way.

§ 4.12. Greenbelts and protective screening.

- 4.12:1. On corner lots, no planting shall be established or maintained which obstructs the view of vehicular traffic in any direction. Such unobstructed corner shall mean a triangular area formed by the street property lines of two intersecting streets and a line connecting them 20 feet from the point of intersection. In the case of a rounded street corner, such measurements shall be from the street lines extended to form an intersection. Plantings within this area may attain a height of up to 36 inches.
- 4.12:2. Outdoor storage in commercial and industrial districts (temporary or permanent), when abutting residentially-zoned or developed premises, shall be screened with a six-foot solid fence or wall and/or evergreen planting, the ultimate height of which will reach at least six feet. Where a developed commercial or industrial property abuts a residential property, a six-foot high solid wall or fence or a three-foot wide strip of evergreen plantings (of a minimum height of six feet) shall separate the residential property from the commercial or industrial property. No fence or wall in the designated front yard of a commercial or industrial property abutting the side yard of a residential property shall be higher than three feet from the ground.
- 4.12:3. The plans for required protective screening shall be submitted to the Zoning Administrator for his approval or recommendations as to suitability and arrangement of planting material. Any limbs, shrubs, or bushes which extend into the property of adjoining residential property may be trimmed back by the adjoining residential property owner.

§ 4.13. Demolition permits.

No building shall be razed except by permit from the Zoning Administrator, who is authorized to require a performance bond, the rate of which is to be determined by the City Council. Such bond shall be conditioned upon a reasonable time limit for the demolition, and that the demolition shall meet the health and safety requirements of the Zoning Administrator as stipulated in the permit.

§ 4.14. Water supply, sewage disposal.

All dwelling places, all commercial establishments, all industrial operations, and all places of public assembly shall be provided with a safe and adequate water supply and sewage disposal system. No building hereafter constructed or put to any of such uses shall be used until the owner of the premises has obtained a written approval of the water supply and the sewage disposal system from the City of Ithaca. Connection shall be made to a public water supply and public sewer system when available to premises not having a safe and adequate water supply and sewer system. No structure without adequate sanitary facilities or which is otherwise structurally incomplete shall be issued a permit of occupancy by the Zoning Administrator.

§ 4.15. Use of temporary buildings and structures.

Temporary buildings and structures may be placed on a lot or parcel of record and occupied only under the following conditions:

- 4.15:1. During renovation of a permanent building damaged by fire, the temporary

building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than 90 days.

4.15:2. Temporary buildings and structures incidental to construction work, except single-family residences, shall require a permit issued by the Building Inspector. Said temporary building shall be removed within 15 days after construction is complete, but in no case shall the building or structure be allowed to remain more than 12 months, unless expressly authorized after petition to the zoning Board of Appeals.

4.15:3. Semitrailers or modified wheel vehicles shall not be used for storage of materials of any kind, except as in Subsection 4.15:2 of this section; this provision includes single-wide mobile homes. Such temporary storage shall also require a permit issued by the Building Inspector.

4.15:4. Temporary buildings incidental to a church or school, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector and by relevant state agencies.

§ 4.16. Essential services.

Essential services, as defined in this ordinance, may be carried on in any and all districts, subject to the requirements of § 22.01:36. The Planning Commission may initiate a public hearing or hold a public hearing upon petition. Notice of any such hearing shall be given to all owners and occupants of property within 500 feet in each direction of the proposed site. The Planning Commission shall not approve any application for an essential service building/facility if it determines that such construction is not necessary to the operation or service or that such construction will offend or deteriorate the character of the neighborhood.

§ 4.17. Crops.

Fruits, vegetables, and other crops from the soil may be planted, cared for, and harvested in any residential district for the occupant's own use or for sale.

§ 4.18. Grading permits.

Except as exempted in certain instances by a section of this ordinance (see § 30.04), no grading, stripping, excavating, filling, or earth change shall take place unless a permit has been issued by the City Building Inspector in accordance with Article 30 of this ordinance.

§ 4.19. Reversion of rezoned area.

In the case of land which has been approved for a zoning change, construction on such parcel must begin within a period of one year from approval of such zoning change. If construction does not commence within this period, the Planning Commission may initiate a rezoning for the purpose of returning the land to the previous zoning designation, or to another designation. The process for returning the land to its previous zoning designation must be in compliance with the amendment process as provided in this ordinance (see § 33.02).

§ 4.20. Temporary storage of used materials and vehicles.

4.20:1. The temporary storage, collection, or placing of used or discarded material, such as lumber, scrap iron, slag, ashes or other such matter shall be allowed only after a permit is issued by the Zoning Administrator stating the conditions under which such activity shall be performed. The Zoning Administrator shall require the removal of such material from districts in which said materials are illegally stored or placed. Such removal shall take place within 30 days after written notice is sent by the Zoning Administrator to the person responsible for said storage, notifying the party of the violation and stating the date on which such materials must be removed from the premises.

4.20:2. No person, firm, or corporation shall park, store or place upon any right-of-way or public property or upon any private premises within the City any motor vehicle unless the same is wholly contained within a fully enclosed building, except for the following:

- (a) Vehicles being displayed by licensed car dealers.
- (b) Vehicles covered completely with tarps.
- (c) Duly licensed and operable vehicles with all main components attached.
- (d) Vehicles or trailers that are temporarily inoperable and have all main components attached, which may remain upon such private property for a period not to exceed 14 days.
- (e) Not more than one vehicle in fully operating condition that has been redesigned or reconstructed for a purpose other than it was manufactured (e.g., automobiles modified to be dune buggies), provided that no building or garage is located upon the premises upon which the same could be parked or stored.
- (f) Any operable vehicle intended and actually utilized for agriculture or mining purposes.

4.20:3. No repairing, modifying, or operations shall be allowed upon any vehicle for a period in excess of 24 hours, except within fully enclosed buildings or if it is determined that such repair, modification, or operation will not constitute a nuisance or annoyance to adjoining property owners or occupants. Any such work within any twenty-four-hour period heretofore allowed shall not, however, consist of any major repair, redesigning, modifying, or dismantling work but only such occasional minor work as may infrequently be required to maintain a vehicle in normal operating condition.

4.20:4. In the event the foregoing regulations creates any special or peculiar hardship beyond the control of a particular violator, the Zoning Administrator is hereby given the authority to grant permission to an applicant to operate contrary to the provisions hereof for a limited period of time not to exceed 14 days.

§ 4.21. Voting place.

Nothing in this ordinance shall be so construed as to interfere with the temporary use of any dwelling or property as a voting place in an authorized public election.

§ 4.22. Principal use.

No lot may contain more than one principal (main) structure or use, excepting groups of apartment buildings, offices, retail business buildings, or other groups of buildings the Planning Commission considers to be principal structures or uses.

§ 4.23. Corner lot.

When a lot is bounded by intersecting streets, the front yard requirements shall be met on only one abutting street, provided that no portion of the lot within 25 feet of the side lot line of any adjoining property is utilized for a structure unless the minimum front yard requirements of the adjoining property are met.

§ 4.24. Street access.

4.24:1. Any lot of record created before the effective date of this ordinance without any frontage on a street shall not be occupied without access to a street provided by an easement or other right-of-way not less than 66 feet wide. More than one lot may be served by a single access after application for and receipt of a variance from the zoning Board of Appeals, as provided for in Article 31.

4.24:2. Any lot of record created after the effective date of this ordinance shall have access to a public street right-of-way, except as may be provided for otherwise in a planned unit development designed in accordance with the applicable provisions of the ordinance.

§ 4.25. (Reserved)**§ 4.26. Buildings to be moved.**

Any building or structure which has been wholly or partially erected on any premises located within or outside the City shall not be moved and/or placed upon any premises in the City unless there is full compliance with City ordinances. Any such building or structure shall fully conform to all provisions of this ordinance and applicable housing codes and be compatible with the general character and design of surrounding properties. Such compatibility shall first be determined by the Zoning Administrator upon review of the structure and site. The Zoning Administrator's determination may be appealed to the zoning Board of Appeals within 15 days of receipt of the determination. Compatibility shall be based upon the definition of the term "dwelling" and the character of similar structures located within 2,000 feet in the same zoning district.

§ 4.27. Trash containers.

Outside trash containers except those used for emergency or temporary service shall be permitted in the C-1, C-2 and I Districts and on property occupied by multiple-family housing of four or more units provided they comply with the following requirements. Emergency or temporary containers may be allowed on premises for a period not to exceed one week unless an extension is granted by the Zoning Administrator.

4.27:1. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the

use of off-street parking areas or entrances to or exits from principal buildings nearby.

4.27:2. The area in which trash containers are stored shall be surrounded on three sides by an opaque fence or wall, which shall be a minimum height of six feet.

§ 4.28. Storage area.

All dwellings in the City shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure with standard construction, and such storage area shall be equal to at least 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.

§ 4.29. Mobile home dwellings.

4.29:1. Definition.

- (a) As used herein, the term "mobile home" shall mean a movable or portable dwelling constructed to be towed on its own chassis and designed for permanent year-round living as a single-family dwelling, provided that the term "mobile home" shall not include motor homes, campers, recreational vehicles (whether licensed or not as motor vehicles), or other transportable structures designed for temporary use which are not designed primarily for permanent residence and connection to sanitary sewage, electrical power, potable water and utilities.

4.29:2. General provisions.

- (a) No person shall occupy or permit the use or occupancy of a mobile home as a dwelling within any district within the City not designated as a mobile home park unless:
 - (1) The mobile home, the placement thereof, and the premises upon which it shall be located shall meet all requirements of this ordinance relating to the use, size of premises, floor area, minimum width, setback, side lot and rear lot requirements specified for the particular zoning district in which the premise is situated; and
 - (2) The mobile home shall be connected to potable water and sanitary sewage disposal facilities approved by the health agency having jurisdiction. If public water and sanitary sewage disposal facilities are available to the premises, the mobile home shall be connected to such facilities.

4.29:3. Foundations.

- (a) Mobile homes may be installed upon a basement, provided the foundation complies with state construction code requirements for single-family dwellings and meets the manufacturer's specifications for pillar placement and imposed load capacity. Each mobile home shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission. In the event the manufacturer's recommended installation specifications exceed the minimum specifications

for connections provided herein, the manufacturer's specification shall in all cases be complied with.

- (b) Mobile homes without a basement shall be installed upon a permanent foundation constructed on site in accordance with the state construction code for conventionally constructed single-family dwellings. In addition, a skirting of masonry, brick, or concrete blocks shall be constructed between the foundation and the base of the dwelling and shall be vented. Louvered or similar vents shall be, at a minimum, 600 square inches per 1,000 square feet of living space. A minimum of one vent shall be placed at the front and rear of the mobile home, and two vents shall be placed on each exposed side. An access panel of sufficient size to allow full access to utility hookups located beneath the mobile home shall be installed in the rear section of the skirting. Each mobile home shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission. In the event the manufacturer's recommended installation specifications exceed the minimum specifications in this ordinance for connections, the manufacturer's specifications shall in all cases be complied with.
- (c) All construction herein required shall be commenced only after a building permit has been obtained in accordance with the state construction code.
- (d) Construction of and all plumbing, electrical apparatuses, and insulation within and connected to said mobile home shall be of a type and quality conforming to the current United States Department of Housing and Urban Development mobile home construction and safety standards (24 CFR 3280), as from time to time amended.
- (e) If placed within a flood zone, the mobile home shall meet all requirements for construction of dwellings on site within said zone.
- (f) The mobile home shall meet or exceed all roof snow load and strength requirements imposed by said United States Department of Housing and Urban Development mobile home construction and safety standards.

4.29:4. Aesthetic compatibility.

- (a) The foregoing requirements of § 4.29 or of this section notwithstanding, the placement and use of a mobile home in any zoning district within the City shall be aesthetically compatible in design and appearance with conventionally constructed, on-site, single-family dwellings, including, where appropriate, a roof overhang, a front and rear or front and side exterior door, and permanently attached steps or porch areas where an elevation differential requires the same. At a minimum, the wheels and towing mechanism of any mobile home shall be removed and the underside or chassis of such mobile home completely enclosed and connected to the foundation, and the mobile home shall be placed upon the property in such a way that its appearance shall be compatible with single-family dwellings constructed on site within said districts. Any determination of aesthetic compatibility shall be based upon the standards set forth in this section, as well as the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within 2,000

feet of the subject dwelling, or such areas developed with dwellings to the extent of not less than 20% of lots situated within said area, or where said area is not so developed, by the character, design, and appearance of one or more residential dwellings located outside of mobile home parks in the City. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard design home.

- (b) The compatibility of design and appearance shall be determined in the first instance by the City zoning inspector upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the zoning Board of Appeals within a period of 15 days of the receipt of notice of the zoning inspector's decision.

4.29:5. Additions.

- (a) All premanufactured room or other area additions to a mobile home shall comply with the standards of construction provided for in this ordinance for mobile homes and shall be installed upon a permanent foundation as provided in § 4.29:3 for the principal dwelling. Conventionally constructed additions to mobile homes shall comply in all respects with the applicable building codes.

4.29:6. Certificate of approval.

- (a) No person shall occupy any mobile home as a dwelling within the City outside of a licensed mobile home park until a certificate of approval shall be issued by the building official or Zoning Administrator, and such permit shall indicate satisfactory compliance with all requirements of this ordinance and the state construction code.

§ 4.30. Minimum width of dwellings.

All dwellings erected, constructed, or placed within any zoning district in the City and located outside of a licensed mobile home park shall have a minimum width, across the entirety of any front, side, or rear elevation, of 20 feet.

§ 4.31. Building heights.

4.31:1. All districts. No building within the City shall exceed 40 feet in height. Specific building height limitations for each district are defined in Article 26, schedule of regulations.

4.31:2. Exceptions to height limits. Governmentally owned structures, churches, parapet walls not exceeding three feet in height, belfries, cupolas, domes, chimneys, smokestacks, flagpoles, radio towers, masts and aerials, television antenna, ornamental towers, monuments, transmission towers, cooling towers and necessary mechanical appurtenances, silos and other farm-related structures (except dwellings) are exempted from required height limitations unless otherwise specified in this ordinance.

§ 4.32. Private roads.

4.32:1. A private road which serves more than one separately owned parcel or more than one dwelling unit shall only be constructed under the following conditions as a special use requiring prior approval of the City Planning Commission:

- (a) The owners of property over which such private road is to be constructed shall be required to record an easement having a width of at least 66 feet for roadway purposes, dedicating the use of the same for ingress and egress from a public street for the benefit of the owner and users of the property or properties involved.
- (b) A roadway maintenance agreement, easement agreement, and deed restrictions shall be recorded in the county register of deeds' office for Gratiot County, Michigan, providing for the perpetual private (nonpublic) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the several interests involved. The easement agreement shall include a provision which provides that owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting, or in any manner interfering with the normal ingress and egress and use of the road by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the private road.
- (c) All lots served by a private road must meet this ordinance's requirements for the district in which they exist. Setbacks shall be measured from the edge of the private road right-of-way.
- (d) The private road shall have a name and street sign consistent with the Gratiot County road commission standards. A location map of the private road and street name shall be submitted to the City fire department, City police department, Gratiot County sheriff's department, and any emergency service organization serving the City of Ithaca.
- (e) Prior to the commencement of any such private road development, the developer shall submit in writing to the City Planning Commission all of the foregoing required documents, construction plans, and private road location with respect to nearby public roads and the parcels proposed to be served by such private road for the Planning Commission's review with respect to the granting or denial of the special use application. The Planning Commission shall conduct a special use hearing in accordance with state law and this ordinance. The City Planning Commission shall consider the factors contained in the Michigan Zoning Enabling Act (MCL § 125.3101 et seq.) concerning the issuance of a special use permit for the private road in question.

§ 4.33. Travel trailers (parking, storage, occupancy). [Amended 10-7-2014]

The purpose of these standards is to regulate and control the parking and storage of travel trailers, fifth-wheel trailers and motor homes on private property to promote the health, safety, and welfare of the public and to preserve property values.

- (a) Location standards. (See also Figure 4.33.)⁴
 - (1) Travel trailers, fifth-wheel trailers and motor homes shall be parked or stored

in a side or rear yard of a residentially zoned property only on a lot with a principal dwelling, unless it is an adjacent lot to the dwelling under the same ownership.

- (2) Travel trailers, fifth-wheel trailers and motor homes shall only be parked or stored in a front yard if parked or stored on a hard-surfaced (cement, asphalt or gravel) driveway leading to an attached garage or to a side or rear yard.
- (b) Time limits. Travel trailers, fifth-wheel trailers or motor homes may be occupied on a residential lot for a period of not more than seven days in any three-month period. Adequate solid waste disposal facilities shall be provided during occupancy of the recreational vehicle or travel trailer.
- (c) Corner lots. In the case of corner lots, the regulations of this section shall apply only to the traditional front yard of the house.
- (d) Owner or legal tenant. The owner of any travel trailers, fifth-wheel trailers or motor homes placed or parked on a lot shall be the owner of the lot or the legal tenant.
- (e) Condition and licensing requirements. All travel trailers, fifth-wheel trailers or motor homes stored or parked in any residential district shall be properly licensed and in operable condition, as determined by the Zoning Administrator.
- (f) No travel trailer, fifth-wheel trailer or motor home shall be parked or stored on any roadway or road right-of-way in excess of 24 hours.

§ 4.34. Marihuana establishments and facilities. [Added 2-19-2019 by Ord. No. 2019-01]

- (a) Marihuana establishments, as authorized by and defined in the MRTMA, the MMFLA and the MMMA (the "Acts") are prohibited in all zoning districts and shall not be permitted as home occupations as defined in § 2.02 of this ordinance.
- (b) No use that constitutes or purports to be a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter or any other type of marihuana-related business authorized by the Acts, that was engaged in prior to the enactment of this ordinance, shall be deemed to have been a legally established use under the provisions of the City Code of Ordinances; that use shall not be entitled to claim legal nonconforming status.
- (c) Violations of this section are subject to the violations and penalties pursuant to § 33.05 of this ordinance and may be abated as nuisances pursuant to Subsection 33.05:2.
- (d) Except as specifically provided in § 4.34 above, this section does not supersede the rights, privileges or obligations of any individual or other person preserved under the MRTMA.
- (e) This section does not supersede the rights, privileges or obligations with respect to the transportation of marihuana through the City to the extent provided by the Acts.

4. Editor's Note: Figure 4.33 is on file in the City offices.

- (f) This section does not supersede the rights, privileges or obligations under Michigan law with respect to the establishment and licensing of medical marihuana facilities under the MMMA, the MMFLA or any other federal or State of Michigan law, rule or regulation allowing for or regulating marihuana for medical use.
- (g) This section does not affect the rights, privileges or obligations of any individual or other person under the IHRA.

ARTICLE 5
Zoning Districts

§ 5.01. Zoning districts.

For the purpose of this ordinance, the following zoning districts shall be established in the City of Ithaca.

R-1	Rural Residential
R-2	Suburban Residential
R-3	Community Residential
R-4	Multiple-Family Residential
MH	Mobile Home Park
RO	Restricted Office Commercial
C-1	Central Business
C-2	General Commercial
I-1	Industrial
PIP	Planned Industrial Park

§ 5.02. Definition of boundaries.

5.02:1. The location and boundaries of these zoning districts are established on a map titled the "City of Ithaca Zoning Map," which is hereby adopted as a part of this ordinance. The official zoning map shall be located in the office of the Zoning Administrator and shall be the final authority in any dispute concerning district boundaries. The official map shall be kept up to date and any amendments to this ordinance involving the official map shall become legal only after such changes are noted and portrayed on the official map.

5.02:2. The official zoning map, including legally adopted amendments, is hereby adopted by reference and declared to be a part of this ordinance and shall be designated as such by the signature of the Zoning Administrator and attested to by the City Clerk.

5.02:3. Where uncertainty exists as to the exact district boundaries, the following shall prevail:

- (a) Where boundary lines are indicated as approximately following streets, utility easements, railroads, or highways, the center lines of said streets, alleys, railroads, or highways shall be considered to be exact boundary lines.
- (b) Boundaries indicated as approximately following lot lines shall be considered to follow said lot lines.
- (c) Where the application of the aforementioned rules leave a reasonable doubt as to the exact location of a district boundary, the provisions of the more restrictive district shall govern the entire parcel in question, unless determined otherwise by the Board of Appeals upon recommendation by the Zoning

Administrator.

§ 5.03. Zoning of vacated areas.

Whenever any street, alley, highway, or other public right-of-way within the City shall have been abandoned by official government action and when such right-of-way lands attach to and become part of the land adjoining said right-of-way, the right-of-way property shall automatically acquire and be subject to the provisions of the zoning district of the abutting property. In the case of an abandoned right-of-way which also serves as a district boundary, the center line of the abandoned right-of-way shall remain the boundary line and the lands on either side of the center line shall become attached to their respective adjoining properties.

§ 5.04. Zoning district changes.

When district boundaries change, any nonconforming use may be continued, subject to all other applicable provisions of this ordinance. The requirements and procedures for initiating a change in the zoning designation of a particular property or a change in the text of the zoning ordinance are identified in § 33.02.

§ 5.05. Uses permitted by right.

Permitted uses are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the schedule of regulations and permit and site plan requirements found elsewhere in this ordinance, but otherwise considered to be a lawful use not requiring a public hearing for approval.

§ 5.06. Uses permitted by special approval.

The uses listed in this ordinance as special approval uses are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, public utility needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community. The standards to which each use allowed by special permit must conform before approval for a zoning or building permit can be granted are identified in Article 22, site development requirements. Unless otherwise specified, a special use must conform at least to the minimum height, bulk and setback requirements of the district in which it is located. The requirements for initiating a request for a special use permit are specified in Article 20.

ARTICLE 6
R-1 Rural Residential District

§ 6.01. Purpose.

This district is intended to provide a rural living environment devoted primarily to "large lot," low density single-family dwellings. This district can also serve as a buffer between more concentrated residential areas and agricultural uses in the surrounding township.

§ 6.02. Permitted uses.

The following uses shall be permitted within the R-1 Residential District:

- (a) One-family dwellings.
- (b) Two-family dwellings, but there shall be provided for each family separate kitchen, bathroom, and bedroom facilities.
- (c) Performance subdivisions.
- (d) Adult foster care family homes, foster family homes, and foster family group homes.
- (e) Offices for or the conduct of any customary home occupations in the dwelling used as a private residence, provided such use does not involve any extension or modification of said dwelling which will alter its outward appearance as a dwelling, and provided such use does not involve any outward evidence of such use other than a sign not exceeding four square feet in area placed upon the premises. There shall be at least 720 square feet of actual living quarters for the use of such person and his/her family in the dwelling house, exclusive of the area used in such home occupation, and exclusive of basement, attached garages, attached porches, and accessory buildings, and the actual living quarters shall be not less than the area used in such home occupation. One off-street parking space shall be provided for each 50 square feet of floor area used for the home occupation or business in addition to the required off-street parking space for residential use.
- (f) Educational institutions, including public or private elementary and secondary schools, nursery schools and day care centers.
- (g) Public or private recreational facilities of a noncommercial nature, including parks, trails, playgrounds and similar recreational facilities.
- (h) Temporary dwelling structures used on a parcel of land while a dwelling is being constructed thereon in conformance with the requirements of this ordinance; provided that such use shall not be continued for more than one year. Temporary dwelling structures shall include, but are not limited to, so-called basement houses and mobile homes. In the event the temporary structure utilized is a mobile home, the following requirements must be met:
 - (1) The mobile home must comply with the yard and setback requirements of the zoning district.
 - (2) The area between the outside perimeter of the mobile home and the ground

must be screened by skirting, blocks, or otherwise. Such skirting shall meet standards established by the Michigan Mobile Home Commission.

- (3) The mobile home must be installed according to the minimum standards established by the Michigan Mobile Home Commission.
- (4) Except as herein provided, the remaining provisions of Article 4 of this ordinance regarding mobile homes shall apply to any mobile homes used as temporary dwellings.
- (i) Accessory buildings, structures, and uses customarily incidental to any of the above permitted uses, including swimming pools and pens or enclosures for normal household pets. Any household pet that presents a clear danger to adjacent households and/or the general public shall be kept in a secured enclosure.
- (j) Essential public utility service buildings, or gas or electric regulator stations or buildings, radio and television towers, subject to site development requirements of §§ 22.01:36 and 22.01:37.
- (k) Hunting for wild game in open land; provided that no hunting shall occur within 500 feet of any developed residential, commercial, industrial or recreational property.

§ 6.03. Uses allowed by special permit.

The following uses may be permitted subject to applicable site design standards in Article 22 and subject further to the approval of the City Planning Commission in accordance with processing procedures in Articles 20 and 21:

- (a) Golf courses, country clubs, and golf driving ranges (see §§ 22.01:18 and 22.01:19).
- (b) Private and commercial horse stables, subject to conditions set forth in § 22.01:41.
- (c) Churches and religious institutions, including convents, parsonages and other housing for religious personnel subject to conditions set forth in § 22.01:10.
- (d) Planned unit developments (see Article 23).
- (e) Site condominium developments (see Article 24).
- (f) ECHO accessory housing.
- (g) Cemeteries.
- (h) Temporary buildings or trailers incidental to construction activities (see § 4.15).
- (i) Accessory uses and structures (see § 4.05).

§ 6.04. Regulations.

The composite schedule of regulations for all districts is identified in Article 26.

6.04:1. Minimum lot size for single-family or two-family residential unit, public or private recreational facility: 22,000 square feet.

- 6.04:2. Minimum lot width for single-family or two-family residential units at the front setback line: 120 feet.
- 6.04:3. Maximum lot coverage: not to exceed 15% of the gross lot area for residential dwellings and 40% for all other uses, except cemeteries, golf courses, and golf driving ranges, which may cover 100% of the parcel.
- 6.04:4. Maximum height of structure: 35 feet.
- 6.04:5. Minimum yard setbacks for single-family or two-family residential unit:
- (a) Front yard: 40 feet.
 - (b) Side yard: 20 feet each side.
 - (c) Rear yard: 25 feet.
- 6.04:6. Minimum floor area per dwelling unit:
- (a) Single-family and two-family: 1,400 square feet for dwelling units of two or more stories, provided the minimum floor area of the first floor shall be 960 square feet.
- 6.04:7. For regulations for all other permitted and special uses allowed within the R-1 District, refer to the standards for the specific use in Article 22.

ARTICLE 7
R-2 Suburban Residential District

§ 7.01. Purpose.

The R-2 Suburban District is intended to provide a residential living environment devoted primarily to single-family dwellings within a medium density range while also accommodating certain compatible nonresidential uses which do not overcrowd residential areas, congest local streets, or otherwise adversely affect the character of established residential neighborhoods.

§ 7.02. Permitted uses.

The following uses shall be permitted within the R-2 Suburban Residential District:

- (a) Detached single-family and attached two-family dwellings.
- (b) Performance subdivisions.
- (c) Public and private parks/playgrounds, subject to site development requirements of § 22.01:31.
- (d) Adult foster care family homes, foster family homes, and foster family group homes.
- (e) Reserved.
- (f) Essential public utility service buildings, gas or electric regulator stations or buildings, or radio and television towers, subject to site development requirements of §§ 22.01.36 and 22.01:37.
- (g) Accessory uses and structures.

§ 7.03. Uses allowed by special permit.

The following uses may be permitted subject to applicable site design standards in Article 22 and subject further to the approval of the City Planning Commission in accordance with processing procedures in Articles 20 and 21:

- (a) Home occupations, subject to the requirements of § 22.01:21.
- (b) Child care centers or day care centers, family child care homes, group child care homes, or adult foster care small group homes, subject to the applicable requirements of §§ 22.01:2, 22.01:3, 22.01:13, or 22.01:20.
- (c) ECHO accessory housing, subject to site development requirements of § 22.01:16.
- (d) Religious institutions, including churches, convents, parsonages and other housing for religious personnel.
- (e) Funeral homes, subject to site development requirements of § 22.01:26.
- (f) Hospitals or medical centers, subject to site development requirements of § 22.01:22.

- (g) Planned unit developments (see Article 23).
- (h) Site condominium developments (see Article 24).
- (i) Educational institutions, including public or private elementary and secondary schools, subject to site development requirements of § 22.01:39.
- (j) Private clubs, lodges and meeting places for other organizations, not including any use that is customarily conducted as a gainful business, subject to site development requirements of § 22.01:33.
- (k) Accessory buildings incidental to the main building.
- (l) Temporary building or trailers used during construction.
- (m) Accessory uses and structures (see § 4.05).

§ 7.04. Regulations.

The composite schedule of regulations for all districts is identified in Article 26.

7.04:1. Minimum lot size for single-family or two-family residential unit: 20,000 square feet.

7.04:2. Minimum lot width at the front setback line for single-family or two-family residential unit: 100 feet.

7.04:3. Maximum lot coverage: not to exceed 15% for residential development and 40% for all other uses, except public recreation, which may cover up to 100% of the lot.

7.04:4. Maximum height of structure: 35 feet.

7.04:5. Minimum yard setbacks for single-family and two-family residential unit:

- (a) Front yard: 35 feet.
- (b) Side yard: 15 feet each side; on a corner lot, the minimum side yard setback on the street side shall be 27 feet.
- (c) Rear yard: 25 feet.

7.04:6. Minimum floor area per dwelling unit:

- (a) Single-family and two-family: 1,200 square feet, provided that, for dwelling units of two or more stories, the minimum floor area of the first floor shall be 960 square feet.

7.04:7. Lots of record in the R-2 District that are smaller than the minimum allowable lot size or whose lot width is less than the minimum allowable lot width and which existed prior to the adoption of this ordinance may be developed, provided the setback of the main structure from either side yard shall be at least five feet and the required front and rear yard setbacks shall be maintained.

7.04:8. For regulations for all other permitted and special uses allowed within the R-2 District, refer to the standards for specific use in Article 22.

ARTICLE 8
R-3 Community Residential District

§ 8.01. Purpose.

The R-3 Community Residential District is intended to accommodate a variety of housing types within higher density residential areas in the City of Ithaca. The Community Residential District encompasses the City's existing mature neighborhoods where new large scale residential development is highly unlikely, and where the character of the various neighborhoods will be retained.

§ 8.02. Permitted uses.

The following uses shall be permitted within the R-3 Community Residential District:

- (a) Detached single-family and attached two-family dwellings.
- (b) Accessory uses and structures.
- (c) Performance subdivision.
- (d) Adult foster care family group homes, foster family homes, or foster family group homes.
- (e) Temporary buildings and structures used during construction.
- (f) Essential public utility service buildings, gas or electric regulator stations or buildings, or radio and television towers, subject to site development requirements of §§ 22.01:36 and 22.01:37.

§ 8.03. Uses allowed by special permit.

The following uses may be permitted subject to applicable site design standards in Article 22 and subject further to the approval of the City Planning Commission in accordance with processing procedures in Articles 20 and 22.

- (a) Planned unit developments (see Article 23).
- (b) Home occupation subject to the requirements of § 22.01:21.
- (c) Child care centers or day care centers, family child care homes, group child care homes, or adult foster care small group homes, subject to the applicable requirements of §§ 22.01:2, 22.01:3, 22.01:13, or 22.01:20.
- (d) Religious institutions, including churches, convents, parsonages, and other housing for religious personnel, subject to the requirements of § 22.01:10.
- (e) Funeral homes, subject to site development requirements of § 22.01:26.
- (f) Hospitals, medical centers, subject to site development requirements of § 22.01:22.
- (g) Public or private elementary and secondary schools, subject to site development requirements of § 22.01:39.

- (h) Public and semipublic institutions, subject to site development requirements of § 22.01:39.
- (i) Site condominiums (see Article 24).
- (j) Public and private parks/playgrounds, subject to site development requirements of § 22.01:31.
- (k) Private clubs, lodges and meeting places, subject to site development requirements of § 22.01:32.
- (l) Accessory buildings incidental to the main building.

§ 8.04. Regulations.

The composite schedule of regulations for all districts is identified in Article 24.

8.04:1. Minimum lot size for each single-family dwelling unit: 12,000 square feet.

8.04:2. Minimum average density for single-family and two-family residential units within a planned unit development: four units per acre.

8.04:3. Minimum lot width at the front setback line for single-family and two-family residential unit: 80 feet.

8.04:4. Maximum lot coverage: The maximum lot coverage shall not exceed 20% for residential development and 40% for all other uses, except for public and private parks and playgrounds, which may cover up to 100% of the gross area of a lot.

8.04:5. Maximum height of structure: 35 feet.

8.04:6. Maximum yard setbacks:

(a) Single-family and two-family dwelling units:

(1) Front yard: 30 feet.

(b) Side yard: 15 feet each side; zero lot line development allowed as long as total side yard clearance is minimum of 20 feet.

(c) Rear yard: 30 feet.

8.04:7. Minimum floor area for each dwelling unit:

(a) Single-family and two-family units: 1,000 square feet, provided that for dwelling units of two or more stories, the minimum floor area of the first floor shall be 960 square feet.

8.04:8. For regulations for all other permitted and special uses allowed within the R-1 District, refer to the standards for the specific use in Article 22.

ARTICLE 9
R-4 Multiple-Family Residential District

§ 9.01. Purpose.

The R-4 Multiple-Family Residential District is intended to accommodate housing types within high-density residential areas. It is designed to permit a more intensive residential use of land with various types of multiple dwellings, including high-rise apartment structures and related institutional uses. These districts would be distributed within various planned locations throughout the City, be located adjacent to streets permitting good accessibility, and be compatible with adjoining single-family neighborhoods.

§ 9.02. Permitted uses.

The following uses shall be permitted within the R-4 Multiple-Family Residential District:

- (a) Two-family (duplex) dwellings.
- (b) Multiple-family apartments.
- (c) Condominiums.
- (d) Accessory uses and structures.
- (e) Temporary buildings and structures used during construction.
- (f) Essential public utility service buildings, gas or electric regulator stations or buildings, and radio and television towers, subject to site development requirements of §§ 22.01:36 and 22.01:37.

§ 9.03. Uses allowed by special permit.

The following uses may be permitted subject to applicable site design standards in Article 22 and subject further to the approval of the City Planning Commission in accordance with processing procedures in Articles 20 and 21.

- (a) Planned unit development for duplex and multiple-family development, (see Article 23).
- (b) Religious institutions including churches, convents, parsonages and other housing for religious personnel, subject to the requirements of § 22.01:10.
- (c) Hospitals, medical centers, subject to site development requirements of § 22.01:22.
- (d) Public and semipublic institutions, subject to site development requirements of § 22.01:39.
- (e) Public and private parks/playgrounds, subject to site development requirements of § 22.01:31.
- (f) Retail and service commercial establishments within a planned unit development project, intended to serve the shopping needs of those living within the planned development.

(g) Accessory buildings incidental to the main building.

§ 9.04. Regulations.

The composite schedule of regulations for all districts is identified in Article 26.

9.04:1. Minimum lot size for each duplex building: 7,000 square feet.

9.04:2. Minimum lot size for each multiple-family dwelling unit:

- (a) Efficiency or one-bedroom unit: 3,000 square feet of land area.
- (b) Two-bedroom unit: 4,200 square feet of land area.
- (c) Three-bedroom unit: 5,100 square feet of land area.
- (d) Four-plus-bedroom unit: 5,700 square feet of land area.

9.04:3. Minimum average density for two-family and multiple-family residential units within a planned multiple-family development: 0.5 acres per unit.

9.04:4. Minimum lot size for commercial development: none.

9.04:5. Minimum lot width for each two-family residential building: 80 feet.

9.04:6. Minimum lot width for a multiple-family building: 90 feet.

9.04:7. Minimum lot width for each commercial building: 60 feet.

9.04:8. Maximum height of structure:

- (a) Two-family dwelling: 35 feet.
- (b) Multiple-family dwelling: 40 feet.
- (c) Commercial/institutional building: 25 feet.

9.04:9. Minimum yard setbacks:

- (a) Two-family dwelling units:
 - (1) Front yard: 30 feet.
 - (2) Side yard: There shall be two side yards totaling at least 20 feet at the building line, and no side yard shall be less than 10 feet, provided that where a side yard adjoins a side street, a minimum yard of 20 feet is required.
 - (3) Rear yard: 30 feet.
- (b) Multiple-family building:
 - (1) Front yard: 25 feet.
 - (2) Side yard: 20 feet each side.
 - (3) Rear yard: 30 feet.

(c) Commercial building:

- (1) Front yard: nine feet.
- (2) Side yard: nine feet each side.
- (3) Rear yard: 15 feet.

9.04:10. Minimum floor area for each commercial building: none.

9.04:11. Minimum floor area for each dwelling unit:

- (a) Two-family units: 720 square feet.
- (b) Multiple-family dwelling unit:
 - (1) Efficiency: 350 square feet.
 - (2) One-bedroom apartment: 400 square feet.
 - (3) Two-bedroom apartment: 600 square feet.
 - (4) Three-bedroom apartment: 720 square feet.
 - (5) Four- or more bedroom apartment: 800 square feet for each additional bedroom.

ARTICLE 10
MH Mobile Home Park District

§ 10.01. Purpose.

The MH Mobile Home Park District is intended to preserve the interests of alternate types of residential developments which should be permitted in every community and to protect the residents of any mobile home type development. The regulations applicable to this district are considered as minimum standards to be applied to all mobile home park developments in the district.

§ 10.02. Permitted uses.

The following uses shall be permitted within the MH Mobile Home Park District:

- (a) Mobile homes.
- (b) Prefabricated (modular) housing.
- (c) Central offices, community rooms, or swimming pools/saunas.
- (d) Essential public utility service buildings or gas or electric regulator stations and buildings.

§ 10.03. Regulations.

10.03:1. No mobile home park shall be so located or designed as to be in conflict with the requirements of this ordinance, Michigan Public Act No. 96 of 1987 (MCL § 125.2301 et seq.), or the rules of the Michigan Department of Labor and Economic Growth, Mobile Home Commission, promulgated pursuant to such act.

10.03:2. The minimum size for a mobile home lot shall be 5,000 square feet.

10.03:3. The minimum size of a mobile home park shall be 10 acres.

10.03:4. Minimum width for a mobile home lot shall be 50 feet.

10.03:5. Access to and within mobile home parks shall be as follows:

- (a) All mobile home parks shall have access to a concrete or asphaltic paved collector street as designated by the City of Ithaca official street map.
- (b) Convenient access to each mobile home site apron shall be provided by means of a minimum twenty-foot wide access route reserved to maneuver mobile homes into position and kept free from trees and other immovable obstructions.
- (c) Each mobile home lot shall contain adequate off-street parking for two vehicles.
- (d) All roadways and driveways shall be hard-surfaced, provided with curb and gutters, constructed so as to handle all anticipated peak loads, and adequately drained and lighted for safety and ease of movement of vehicles.

- (e) Public sidewalks meeting the specifications of the Building Inspector shall be provided on the street side of each mobile home site. All public walks shall be at least four feet in width. Shade trees may be planted in any unpaved area so formed, and otherwise, the public unpaved area shall be seeded or sodded and the grass maintained in a healthy condition.

10.03:6. Utilities and other services for mobile home parks shall be as follows:

- (a) All mobile home parks shall be served by an approved central water and sewerage system and shall meet the requirement of the county health department and the Michigan Department of Environmental Quality.
- (b) The plumbing connections to each mobile home site shall be constructed so that all lines are protected from freezing, from accidental bumping or from creating any nuisance or health hazard.
- (c) An adequate amount of running water to individual mobile home sites shall be piped to and meet the requirements of the county health department and the Michigan Department of Environmental Quality and shall be adequately protected from frost.
- (d) Storm drainage facilities shall be so constructed as to protect those that will reside in the mobile home park as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to ensure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.
- (e) All electric, telephone and other lines from supply poles outside the park to each mobile home site shall be underground with a three-wire balanced, 110 to 120 volt supply.
- (f) Any fuel oil and gas storage shall be centrally located at a safe distance from any mobile home site. All fuel lines leading to mobile home sites shall be underground, and the storage facilities and fuel lines shall be so designed as to conform with the state construction code.
- (g) Facilities for the storage and disposal of trash and garbage in a sanitary manner shall be provided in each mobile home park. All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than 150 feet from any mobile home site. Containers shall be provided in sufficient number and capacity to properly store all refuse. Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning.
- (h) Street and yard lights in conformance with standards approved by the City, shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians at night, and shall be effectively related to buildings, trees, walks, steps and ramps. Such lights shall be utilized at least during the period of one hour after sundown to one hour before sunrise.
- (i) All plumbing fixtures shall be connected to a central sanitary sewer or City-approved facilities and shall meet the requirements of the Gratiot County

Health Department and the Michigan Department of Environmental Quality.

- (j) Satellite dish receiving antennas shall be located so as not to be easily visible from any mobile home and shall conform to the requirements of § 4.06.

10.03:7. Pads, mats or platforms. Each mobile home site shall be provided with a 3,000-pound/square-inch concrete pad, mat or platform not less than four inches in thickness. Minimum pad dimensions for single mobile homes shall substantially conform to the length and width of the particular mobile home designated to occupy the site. The pad elevation shall be a minimum of six inches higher than the sidewalk or top-of-curb elevations and should slope towards the street. All mobile homes shall be firmly anchored to the site. No more than one mobile home shall be permitted to be located on a mobile home site. In the case of double-wide units, the concrete pad may be replaced by reinforced concrete piers placed at the proper supporting points, subject to approval regarding strength, construction and location by the Zoning Administrator and the City Building Inspector.

10.03:8. Landscaping. There shall be provided at least one deciduous hardwood tree of a minimum of 1 1/2- to two-inch caliper for each mobile home site. Trees may be planted in a vegetation strip, if one is planned, between the curb and sidewalk or in other open, unpaved areas. Dead trees shall be replaced.

10.03:9. A six-foot greenbelt shall be provided along all exterior mobile home park boundary lines which do not abut a street or any other public right-of-way. A ten-foot greenbelt shall be maintained as a landscaped area unoccupied and unobstructed from the ground upward along all exterior mobile home park boundaries abutting a public right-of-way.

10.03:10. One attached or detached accessory building may be located on a mobile home site. The floor area of the accessory building shall not exceed 100 square feet, nor shall an accessory building exceed 10 feet in height. No accessory building shall be located in a required off-street parking area (as defined in Article 2, building height).

§ 10.04. Permit application.

The construction, alteration or extension of a mobile home park shall be conducted in accordance with all applicable state and local regulations and this ordinance, and only after obtaining a permit for such as provided for in this article. In addition to the requirements set forth in Article 21 (site plan review procedure) of this ordinance, a sketch plan shall accompany each permit application, in four copies, giving the following information plus any other related information requested by the Planning Commission:

10.04:1. Site boundary line locations and dimensions, plus the area of the mobile home park site.

10.04:2. Number, location and size of each mobile home lot and all common open space areas.

10.04:3. For each mobile home lot, the size and type of mobile home permitted or expected to be situated thereon.

10.04:4. Location and dimensions of roadways, walkways, parking areas and outdoor recreation area.

§ 10.05. Public hearing.

The Planning Commission may require a public hearing, in which case notice shall be provided in accordance with normal practice to property owners located within one-half mile of the site.

§ 10.06. Site plan.

After the Planning Commission has approved the sketch plan, and after the public hearing, if any, has been held, the applicant shall submit a site plan as provided in Article 21 of this ordinance. The site plan shall be submitted in four copies and shall also contain detailed sketches of typical roadway, walkway and apron layouts and cross sections. If rezoning is involved, it is at this point that this matter should be acted upon, in accordance with § 33.02.

§ 10.07. Approval.

The permit application for a mobile home park development requires the approval of the Planning Commission and the City Council. In reviewing the proposed development's acceptability, the following questions should be among those considered by both bodies prior to official action being taken, and appropriate state, county and local administrative and legislative personnel may be requested to participate in the review process:

10.07:1. Whether the proposed development is in accordance with the City's land use plan.

10.07:2. Whether the proposed development meets all the design standards of this ordinance and other applicable local codes, regulations or ordinances.

10.07:3. Whether the density characteristics of the proposed development are detrimental to adjacent properties and land uses.

10.07:4. Whether the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate or inadequate sanitation and/or drainage facilities.

10.07:5. Whether the proposed development produces an extreme or undue demand on available fire and police protection services.

10.07:6. Whether the traffic characteristics of the proposed development can be expected to place an extreme or undue burden on the adjacent publicly available vehicular and/or pedestrian circulation facilities.

§ 10.08. Periodic inspection.

The Zoning Administrator and/or his authorized agents are hereby granted the power and authority to enter upon the premises of any mobile home park at any time for the purpose of investigating or enforcing any provisions of this ordinance or related local ordinances applicable to mobile home park operations.

ARTICLE 11
RO Restricted Office Commercial District

§ 11.01. Purpose.

The RO-1 Restricted Office District is intended for multiple-family residential uses and those restricted office and restricted business uses which will provide opportunities for local employment close to residential areas through the transition of existing residential units into offices. This district is located along both sides of East Center Street. Uses in the district are not intended to generate or attract large volumes of traffic.

§ 11.02. Permitted uses.

The following uses shall be permitted within the RO-1 Restricted Office District:

- (a) Dwellings containing four or fewer units.
- (b) Accessory buildings and uses customarily incidental to the above permitted principal uses, subject to the requirements of § 4.05.
- (c) Signs, as provided in Article 28.
- (d) Off-street parking in accordance with the requirements of Article 27.
- (e) Home occupations in accordance with § 22.01:21.
- (f) Temporary buildings and trailers for use incidental to construction work.
- (g) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, municipal pumping stations, and gas regulator stations, but not including storage yards, radio and television towers, subject to site development requirements of §§ 22.01:36 and 22.01:37.
- (h) Adult foster care family group homes, foster family homes, and foster family group homes.

§ 11.03. Uses allowed by special permit.

The following uses may be permitted subject to applicable site design standards in Article 22 and subject further to the approval of the City Planning Commission in accordance with processing procedures in Articles 20 and 21.

- (a) Barbershops and beauty shops.
- (b) Business offices, professional and governmental offices, including executive, administrative, professional, accounting, real estate, clerical, stenographic and drafting.
- (c) The above uses shall not be construed to eliminate offices of recognized manufacturers' agents, provided that no display will be in an exterior show window, and the total area devoted to display shall not exceed 15% of the usable floor area of the establishment; there shall be no outdoor storage of goods or material, irrespective of whether or not they are for sale, and there shall be no warehousing or indoor storage of goods or material.

- (d) Medical or dental centers, clinics, not including veterinary hospitals.
- (e) Professional office of a medical doctor, osteopath, chiropractor, dentists.
- (f) Financial institutions, including banks, saving and loan offices, credit unions, and loan production offices. Drive-through banking facilities and separate freestanding ATM buildings are allowed.
- (g) Veterinary clinics and offices, excluding outside exercise yards and pens.
- (h) Adult foster care small group home, adult foster care large group home, group child care homes.
- (i) Funeral homes/mortuaries.
- (j) Religious institutions, including churches, convents, rectories and other facilities normally incidental thereto.

§ 11.04. Regulations.

The composite schedule of regulations for all districts is identified in Article 26.

11.04:1. Minimum lot size:

- (a) Single-family and two-family dwelling: 7,000 square feet.
- (b) Three- and four-family dwelling:
 - (1) Efficiency or one-bedroom unit: 3,000 square feet of land area per unit.
 - (2) Two-bedroom unit: 4,200 square feet per unit.
 - (3) Three-bedroom unit: 5,100 square feet per unit.
 - (4) Four- plus bedroom unit: 5,700 square feet of land area per unit.

11.04:2. Minimum lot size for a commercial building: 5,000 square feet.

11.04:3. Minimum lot width: 80 feet for commercial, single-family and two-family buildings; 90 feet for multiple-family buildings; conversion of existing buildings into additional residential offices or commercial units is not permitted on lots less than 50 feet wide.

11.04:4. Maximum height of structure: 35 feet.

11.04:5. Minimum yard setbacks:

- (a) Front yard: 25 feet; 10 feet for commercial building.
- (b) Side yard: There shall be two side yards totaling at least 15 feet at the building line, and no side yard shall be less than six feet. On a corner lot where a side yard adjoins, a minimum side yard setback of 20 feet shall be maintained.
- (c) Rear yard: 25 feet.

11.04:6. Minimum floor area:

- (a) Single-family and two-family dwelling: 1,000 square feet, provided that, for dwelling units of two or more stories, the minimum floor area of the first floor shall be 960 square feet.
- (b) Multiple-family (three- and four-unit) dwelling:
 - (1) Efficiency unit: 380 square feet.
 - (2) One-bedroom apartment: 400 square feet.
 - (3) Two-bedroom apartment: 600 square feet.
 - (4) Three-bedroom apartment: 720 square feet.
 - (5) Four- plus bedroom apartment: 800 square feet, plus 80 square feet for each additional bedroom.
- (c) Commercial and office: no minimum floor area required.

ARTICLE 12
C-1 Central Business District

§ 12.01. Purpose. [Amended 9-4-2018 by Ord. No. 2018-01]

The C-1 Central Business District is intended primarily for central shopping and merchandising activities that serve the entire community as well as residents of the larger Ithaca market area and tourists and is so located that the provision of off-street parking facilities cannot reasonably be required. The C-1 District is intended as a diverse, concentrated, historic, pedestrian-oriented environment where residents can live, work, shop and socialize throughout the day and evening. Its purpose is to provide a sense of place for Ithaca residents and to instill a sense of civic pride throughout the region. The ground-floor space along downtown Center Street between Pine River Street and Main Street is intended for pedestrian-oriented retail, personal service and office uses, with office and residential uses above. The permitted uses in the C-1 District are subject to the site development requirements of Article 22.

§ 12.02. Permitted uses. [Amended 9-4-2018 by Ord. No. 2018-01]

The following uses shall be permitted within the C-1 Central Business District:

- (a) Business services, including the following:
 - (1) Business, professional or governmental.
 - (2) Real estate offices.
 - (3) Commercial or public parking lots, typically in the rear of buildings and businesses (but not fronting on Center Street between Main Street and Maple Street).
 - (4) Financial institutions, including banks, savings and loan association offices, credit unions and loan production offices.
- (b) Clothing services, including the following:
 - (1) Dressmaking shops.
 - (2) Dry-cleaning establishments occupying a total floor area not to exceed 2,000 square feet and using not more than two clothes-cleaning units, neither of which shall have a rated capacity of more than 40 pounds, using cleaning fluid which is nonexplosive and nonflammable.
 - (3) Millinery shops.
 - (4) Tailor and pressing shops.
- (c) Equipment services, including the following:
 - (1) Electric and appliance repair shops.
 - (2) Radio and electronic repair and television shops.
 - (3) Shoe repair shops.

- (4) Watch repair shops.
- (d) Food services (excluding drive-in type businesses), the business of which shall be conducted entirely within an enclosed building, or by permit on adjacent sidewalks, including, but not limited to, the following:
 - (1) Bake shops.
 - (2) Dairy stores.
 - (3) Delicatessens.
 - (4) Grocery stores.
 - (5) Meat, fish and poultry markets.
 - (6) Restaurants.
 - (7) Taverns.
 - (8) Coffee shops.
- (e) Medical offices for:
 - (1) Doctor, dentist or chiropractic practices.
- (f) Personal services, including the following:
 - (1) Barbershops.
 - (2) Beauty shops.
 - (3) Funeral homes.
 - (4) Health/fitness salons and facilities.
 - (5) Photographic studios.
- (g) Retail services and retail stores, generally including the following:
 - (1) Antique shops.
 - (2) Apparel shops.
 - (3) Bicycle sales and service establishments.
 - (4) Bookstores.
 - (5) Camera shops.
 - (6) Drugstores.
 - (7) Flower shops.
 - (8) Gift shops.
 - (9) Hardware, paint and wallpaper stores.

- (10) Hobby shops.
- (11) Household appliance stores.
- (12) Jewelry stores.
- (13) News dealers.
- (14) Radio, television and music shops.
- (15) Picture framing stores.
- (16) Stationery shops.
- (17) Variety stores.
- (18) Catalog stores.
- (19) Theaters.
- (h) Places of assembly (membership, fraternal and service clubs, religious facilities or recreational buildings), but not on ground floors.
- (i) Dwelling units within commercial structures, which meet State of Michigan minimum housing code standards, including, but not limited to, safety, ingress/egress, and electrical, plumbing and mechanical codes. If units are rentals, then they must meet rental code standards adopted by the City (currently the International Property Maintenance Code). Units are permitted only on upper floors of structures and may not occupy basements. Those on the ground floor are subject to the special use permit process in § 12.03 below. **[Amended 6-18-2019 by Ord. No. 2019-03]**
- (j) Attached dwelling structures, including apartments, townhouses and terrace or row houses, except on those lots fronting:
 - (1) Center Street between Jeffrey Street and Maple Street;
 - (2) South Main Street between Center Street and Newark Street; and
 - (3) Pine River Street between Emerson Street and Newark Street.
- (k) Single-family detached dwelling units, but only on those lots fronting:
 - (1) Emerson Street between Main Street and Jeffrey Street; and
 - (2) Newark Street between Elm Street and Maple Street.
- (l) Uses similar to the above.
- (m) Accessory buildings and uses customarily incidental to the above principal permitted uses, subject to requirements of § 4.05.
- (n) Signs, as provided in Article 28.
- (o) Off-street parking and loading facilities, in accordance with the requirements of Article 27.

- (p) Temporary buildings and trailers for use incidental to construction work.
- (q) Public parks, plazas and other public facilities such as farmers markets, libraries, emergency services facilities and community centers.

§ 12.03. Uses allowed by special use permit. [Amended 9-4-2018 by Ord. No. 2018-01; 6-18-2019 by Ord. No. 2019-03]

The following uses may be permitted subject to applicable site development requirements in Article 22 and subject further to the approval of the City Planning Commission in accordance with processing procedures in Articles 20 and 21:

- (a) Automobile service stations, subject to site development standards in Subsection 22.01:7.
- (b) Retail and wholesale lumberyards and associated showrooms/business offices, subject to the requirements of Subsection 22.01:25.
- (c) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including the storage yards or radio, television, cellular, wireless or other similar communication towers, subject to site development requirements of Subsections 22.01:36 and 22.01:37. Public emergency services and public works communications towers shall be exempt from this limitation.
- (d) Use of a portion of the ground floor for residential purposes, subject to the requirements of Subsection 22.01:46.

§ 12.04. Required conditions. [Amended 9-4-2018 by Ord. No. 2018-01]

The following conditions are required for all uses in the C-1 District:

- (a) All business, service or processing uses, with the exception of lumberyard operations, commercial parking lots and automobile service stations, shall be conducted wholly within a completely enclosed building, provided that all lighting in connection with permitted business uses shall be so arranged as to reflect the light away from all adjoining residential buildings or residentially zoned property.
- (b) All business or service establishments shall be mainly for the purpose of dealing directly with consumers. All goods produced or processed on the premises shall be principally sold at retail on the premises where produced and/or processed.
- (c) The loading and unloading requirements of all uses in the C-1 District shall occur at the rear of the building and conform to the requirements of § 27.04.

§ 12.05. Site plan review. [Amended 9-4-2018 by Ord. No. 2018-01]

For all new or expanded uses in a C-1 District (except single-family detached dwelling units), a site plan shall be submitted for review and approval in accordance with Article 21.

§ 12.06. Regulations. [Amended 9-4-2018 by Ord. No. 2018-01]

- (a) Minimum lot sizes for business, commercial and attached residential structures in the C-1 District: Lot sizes for single-family detached parcels shall be as required for similar structures in the R-2 Suburban Residential District.
- (b) Minimum lot width: No minimum lot width is required for business, commercial and attached residential structures in the C-1 District. Lot widths for single-family detached parcels shall be as required for similar structures in the R-2 Suburban Residential District.
- (c) Maximum height of structure: 40 feet for business, commercial and attached residential structures in the C-1 District. The maximum height of a structure for single-family detached parcels shall be as required for similar structures in the R-2 Suburban Residential District.
- (d) Yard setbacks:
 - (1) Front yard for lots fronting: Center Street between Pine River Street and Main Street; Main Street between Newark Street and Emerson Street; and South Pine River Street between Center Street and Newark Street: No front yard setback is permitted. All structures shall be built to the front lot line adjacent to the sidewalk.
 - (2) Front yard for all other business, commercial and attached residential structures: to be determined on a site-by-site basis by the Planning Commission.
 - (3) Front yard for all single-family detached dwelling units: equal to average setbacks of adjacent parcels on one block in each direction from the unit.
 - (4) Side yard for parcels in Subsections (d)(1) and (2) of this section: No side yard setback is required.
 - (5) Side yard for parcels in Subsection (d)(3) of this section: 15 feet on each side; if on a corner, the secondary street side yard shall be 27 feet.
 - (6) Rear yard for parcels in Subsections (d)(1) and (2) of this section: a minimum setback of 10 feet is required for loading and unloading purposes, provided access is provided through an alleyway or parking lot.
 - (7) Rear yard for parcels in Subsection (d)(3) of this section: 25 feet.
- (e) Minimum floor area:
 - (1) For parcels in Subsection (d)(1) of this section: No minimum floor area is required
 - (2) For parcels in Subsection (d)(2) of this section: minimums as required for similar structures in the R-4 Multiple-Family Residential District.
 - (3) For parcels in Subsection (d)(3) of this section: minimums as required for similar structures in the R-2 Suburban Residential District.
- (f) Maximum lot coverage: **[Added 6-18-2019 by Ord. No. 2019-03]**

- (1) For parcels in Subsection (d)(1) above: No maximum lot coverage limitation.
- (2) For parcels in Subsection (d)(2) above: maximum lot coverage to be determined on a site-by-site basis by the Planning Commission.
- (3) For parcels in Subsection (d)(3) above: maximum lot coverage not to exceed 30%.

ARTICLE 13
C-2 General Commercial District

§ 13.01. Purpose.

The C-2 General Commercial District is intended to permit retail business and service uses which are oriented to automobile traffic. This district encourages commercial uses that can accommodate larger off-street parking facilities and complement pedestrian-oriented businesses in the C-1 District. Permitted uses allowed in the C-2 General Business District not subject to specific site development requirements in § 13.02 shall be subject to the site development requirements of § 22.01:5.

§ 13.02. Permitted uses.

The following uses shall be permitted within the C-1 General Commercial District:

- (a) Business services, including the following:
 - (1) Business, professional or government offices.
 - (2) Financial institutions, including banks, savings and loan association offices, credit unions and loan production offices and associated drive-through facilities, subject to the site development requirements of § 22.01:8.
- (b) Clothing services, including the following:
 - (1) Dry cleaning establishments occupying a total floor area not to exceed 2,000 square feet, using not more than two clothes-cleaning units, neither of which shall have a rated capacity of more than 40 pounds, using cleaning fluid which is nonexplosive and nonflammable, and subject to the off-street waiting requirements of § 27.03.
 - (2) Laundry agencies.
 - (3) Self-service laundry and dry cleaning establishments.
- (c) Food services, including the following:
 - (1) Supermarkets/grocery stores.
 - (2) Wholesale food distributors.
 - (3) Drive-in restaurants or other drive-in or drive-up establishments serving food and/or beverages, subject to site development requirements in § 22.01:15.
 - (4) Restaurants.
- (d) Medical offices, including the following:
 - (1) Medical centers or industrial health clinics, subject to the site development requirements of § 22.01:22.
 - (2) Medical laboratories, testing, research establishments, subject to the site development requirements of § 22.01:24.

- (3) Veterinary hospitals and clinics, kennels, subject to the applicable site development requirements of § 22.01:6 or § 22.01:23.
- (e) Personal services, including the following:
- (1) Barbershops.
 - (2) Beauty shops.
 - (3) Health salons, exercise/body building facilities.
 - (4) Motels, motor courts, subject to site development requirements of § 22.01:27.
- (f) Recreation/amusement businesses, including the following:
- (1) Bowling alleys.
 - (2) Golf driving ranges, subject to site development requirements of § 22.01:19.
 - (3) Movie theaters.
 - (4) Archery/pistol ranges (indoors).
 - (5) Arcades.
 - (6) Drive-in theaters, subject to site development requirements of § 22.01:14.
- (g) Vehicle sales and service:
- (1) Automobile service stations, quick oil change shops, subject to applicable site development requirements in § 22.01:7.
 - (2) Automobile car washes subject to site development requirements of § 22.01:44.
 - (3) New and used car/truck dealerships.
 - (4) Farm implement sales and service establishments.
 - (5) Recreation vehicle sales and service establishments.
 - (6) Truck repair establishments.
 - (7) Truck terminals.
- (h) Retail and wholesale distributorship, including the following:
- (1) Warehousing of wholesale and retail merchandise, subject to the site development requirements of § 22.01:45.
 - (2) Auto parts sales establishments.
 - (3) Drug stores/pharmacies.
 - (4) Plumbing and heating equipment establishments, including woodburning stoves.

- (5) Home improvement stores/lumberyards, subject to applicable site development requirements in §§ 22.01:25 or 22.01:5.
- (6) Equipment rental/sales, subject to applicable site development requirements in § 22.01:17.
- (7) Nurseries for plants and flowers, subject to applicable site development requirements in § 22.01:28.
- (i) Uses similar to the above, as determined by the City Planning Commission.
- (j) Accessory buildings and uses customarily incidental to the above permitted uses, subject to the requirements of § 4.05.
- (k) Signs, as provided in Article 28.
- (l) Off-street parking and loading facilities in accordance with the requirements of Article 27.
- (m) Temporary buildings and trailers for use incidental to construction.
- (n) Public utility buildings, telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including storage yards or radio and television towers, subject to site development requirements in §§ 22.01:36 and 22.01:37.

§ 13.03. Uses allowed by special permit.

The following uses may be permitted subject to applicable site design standards in Article 22 and subject further to the approval of the City Planning Commission in accordance with processing procedures in Articles 20 and 21.

- (a) Adult bookstores, subject to the requirements in § 22.01:1.
- (b) Adult live entertainment establishments, subject to the requirements of § 22.01:1.
- (c) Adult theaters, subject to the requirements of § 22.01:1.

§ 13.04. Required conditions.

The following conditions are required for all uses in the C-2 District.

- (a) All lighting in connection with permitted business uses shall be so arranged as to reflect the light away from all adjoining residential buildings or residentially zoned property.
- (b) Outside storage shall be allowed provided adequate screening is provided in accordance with the requirements of § 4.12.
- (c) Where a new or expanded land use occurs in a C-2 District, after the effective date of this ordinance, that abuts directly upon a residentially zoned district, protective screening shall be provided in accordance with § 18.06.

§ 13.05. Site plan review.

For all uses in the C-2 District, a site plan shall be submitted for review and approval in accordance with Article 21.

§ 13.06. Regulations.

The composite schedule of regulations for all districts is identified in Article 26.

13.06:1. Minimum lot size: 10,000 square feet.

13.06:2. Minimum lot width: 100 feet.

13.06:3. Maximum height of structure: 30 feet.

13.06:4. Minimum yard setback:

- (a) Front yard: 40 feet. If any portion of the front yard is used for parking, the front 10 feet closest to the street shall be planted and landscaped except for necessary entrance drives.
- (b) Side yard: 20 feet on each side. Parking may be allowed in the side yard, provided adequate lane and parking space widths are maintained and no parking area is closer than five feet to any zoning district boundary line. Where a building abuts a residential zone, a minimum side yard setback of 50 feet shall be maintained and a screened fence or wall shall be provided between the commercial building and adjacent residential property in accordance with § 4.12.
- (c) Rear yard: 25 feet, with the same parking and screening provisions as for a side yard.

13.06:5. Minimum floor area: none.

ARTICLE 14
I-1 Industrial District

§ 14.01. Purpose.

The intent of the I-1 Industrial District is to encourage those industries that are of a light manufacturing, warehousing and wholesaling nature to locate within a planned industrial environment. Such industrial and warehousing activities should be of a character as to minimize any negative environmental and social impacts upon surrounding land uses.

§ 14.02. Prohibited uses.

Within any area which is zoned as a I-1 Industrial District, no building, structure, or premises shall be used and no building or structure shall be constructed or altered which is intended or designed to be used in whole or in part for any of the following types of uses:

- (a) Residential construction, conversion or use of any kind, including hotels, motels, or the use of trailers as dwelling units.
- (b) Schools, hospitals and other institutions for educational purposes or for human care, except when incidental to a permitted or principal use.
- (c) Every use which, by reason of odor, fumes, dust, smoke, air pollution, vibration, noise, waste disposal, electrical interference, disturbance or glare, or the hazard of fire, explosion, or atomic or other form of radioactivity, is or would be dangerous, injurious, noxious, annoying or otherwise deleterious to other lawful uses of property.
- (d) Every use which does not or would not conform to the performance standards of this ordinance. It is not intended that the following types of industrial uses should be permitted in the City of Ithaca, provided that the Planning Commission may permit such uses under such bond as may be determined by the Planning Commission as sufficient to ensure full compliance with the performance standards in actual operation:
 - (1) The manufacture of glue or gelatin, acids, acetylene gas, celluloid or cellulose, pyroxilin plastics, chlorine or bleaching powder, creosote, explosives, fireworks or matches, fertilizer or paint.
 - (2) The processing of fish or animal offal or the processing of pulp into paper or cardboard.
 - (3) The refining of potash or petroleum.
 - (4) The storage of bulk petroleum products not approved by the Building Inspector and the Fire Chief, or the storage, dismantling, fabricating or converting of junk, including used automobiles and other automotive equipment not to be sold entirely as power units in running order.
 - (5) Cement packaging, metal reduction or smelting.
 - (6) Steel furnace, blooming or rolling mill.

- (7) The incineration or reduction of dead animals, offal or garbage.
- (8) Crematory, except in connection with a cemetery.

§ 14.03. Essential public facilities.

Essential public utility service buildings/facilities, subject to the site development requirements of § 22.01:36.

§ 14.04. Site plan review.

For all new or expanded uses in an I-1 District, a site plan shall be submitted for review and approval in accordance with Article 21.

§ 14.05. Required conditions.

The following conditions are required:

- (a) Off-street parking and loading shall be provided in accordance with Article 27.
- (b) Signs and billboards shall meet the provisions of Article 28.
- (c) Garages and service stations shall meet the provisions of § 22.01:7.
- (d) All operation or servicing shall be conducted wholly within the confines of a building, with the exception that the storage of coal and material may utilize required side yard and rear yard space if surrounded by a six-foot, uniformly painted or colored solid fence or wall kept in good condition.
- (e) Signboards or billboards may be erected in accordance with Article 28.
- (f) If fencing is placed around the perimeter of the property, it shall be of nonopaque construction, such as chain-link or split rail, and shall not exceed a height of six feet.

§ 14.06. Performance standards.

Before the issuance of any building or occupancy permit in this zone district, the applicant shall sign an agreement that the use of property will meet the performance standards in § 18.07:5, or that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts for compliance to be borne by the applicant.

§ 14.07. Regulations.

14.07:1. Minimum lot size: one acre.

14.07:2. Minimum lot width: 150 feet.

14.07:3. Maximum building height: 30 feet.

14.07:4. Minimum yard setbacks:

- (a) Front yard. There shall be a front yard of not less than 20 feet. If any portion

of the front yard is used for parking, the off-street parking requirements of Article 27 shall be met, and the front 10 feet shall be planted and landscaped except for necessary entrance drives.

- (b) Side yard. There shall be two side yards, and no side yard shall be less than 20 feet, provided that if the lot has an average width of less than 200 feet, each side yard shall not be less than 10% of such average width, and further provided that no side yard under this condition is less than 12 feet. Parking, as required, may be permitted in the side yard provided the off-street parking requirements of Article 27 are met and that no parking area is closer than five feet to any zone district boundary line. Where the side yard is on the side street, the front yard provisions shall apply.
- (c) Rear yard. There shall be a rear yard of at least 25 feet. The rear yard may be used for off-street parking provided that off-street parking requirements of Article 27 are met and that no parking area shall be nearer than five feet to any zone district boundary line.
- (d) Boundary yard. No building shall be closer than three times its height to any residential zone boundary line.

14.07:8. Minimum floor area: no minimum floor area requirements for structures within the I-1 district.

ARTICLE 15
PIP Planned Industrial Park District

§ 15.01. Purpose. [Amended 3-18-2014]

- (a) The PIP Planned Industrial Park District is intended and designed to encourage large-scale and quality development of the vacant tracts of land in an area in the southern part of the City, approximately 160 acres and located at the southwest corner of Fillmore Road and State Road, pursuant to a unified building and site development plan incorporating a comprehensive design based on a thorough application of professional standards of excellence.
- (b) The PIP Planned Industrial Park District is defined as an area for accommodating the management, environmental, research, design, marketing and production needs of light industrial commerce enterprises which comply with the performance standards in this article for the abatement of all obnoxious, detrimental or other generally unacceptable characteristics, including ugliness of physical and natural properties, and for the encouraged use of those contemporary, modern and futuristic design techniques which yield compatibility of one area to another as well as special beauty.
- (c) It is further the intent of this article to allow greater flexibility of standards and diversification of land uses than provided in the regulations of other zoning districts, except Article 23, Planned Unit Development, in order to comply with the performance standards of this article.

§ 15.02. Principal permitted uses.

- (a) For the purpose of this section, it shall be recognized that the type of use is not as important as the manner in which the use is accomplished. Further, in the interest of general community welfare, it is recognized that the community should be beautiful as well as financially prosperous, spacious as well as efficient, physically balanced as well as regulated. Therefore, it is considered impractical, if not impossible, to accurately enumerate those uses which would be beneficial or detrimental to the community, and that it is intended only that this district shall not be used indiscriminately to permit any use which might violate the general welfare of the community, but that it shall be restricted and confined to only those integrated light industrial commerce uses which produce net gains to the community in both aesthetic and material quality.
- (b) Residential uses shall not be permitted. The following use categories shall generally be permitted in the PIP Planned Industrial Park District as long as they meet the general intent of this section:
 - (1) Light manufacturing and assembly.
 - (2) Warehousing.
 - (3) Wholesaling.
 - (4) Offices.

- (5) Research, educational and development facilities.
- (6) Renewable energy facilities.
- (7) Agricultural processing facilities.

§ 15.03. Permitted support uses.

A maximum of 6% of the gross land area of the planned industrial park may be allocated for support commercial uses that will enhance the utilization of the industrial park. Supporting commercial uses shall be permitted only as part of an approved site development plan. The development plan for any such support commercial use shall be approved only in conjunction with a development plan that includes principal uses permitted under the categories set forth in § 15.02. Supporting commercial uses similar in nature to the following shall be permitted:

- (a) Blueprinting services.
- (b) Day care centers.
- (c) Health clubs.
- (d) Postal and shipping services/supplies.

§ 15.04. Access. [Amended 3-18-2014]

In order to minimize detrimental impact on the adjoining properties due to vehicular traffic, vehicular access to the industrial parks shall be permitted from no more than one access each from Fillmore Road and State Road, hereafter referred to as "perimeter roads." Access to individual lots in the industrial park shall be permitted from only the "interior roads." The general location of the interior roads shall be established by the City.

§ 15.05. Performance standards.

All uses to be permitted within the PIP District shall comply in total with the following performance standards:

- 15.05:1. The general manner in which any use is accomplished shall demonstrate good faith in the doctrines endorsing responsible recognition of neighbors' rights, coordination of neighborhood efforts and compatibility of neighborhood elements.
- 15.05:2. The principle of spacious separation and adaptation of the man-made elements to be harmonious with the natural environment shall dominate the central design theme of the site and structural planning. To accomplish this objective, the total ground area devoted to open space for natural landscape and landscape beautification shall not be less than 35% of the total PIP District as well as each development site. No less than 20% of such open spaces shall be free of all drives, parking areas, structures, buildings, etc., except for those walkways, monuments, ornamental structures, etc., considered to be necessary and essential to the central landscape theme.
- 15.05:3. Off-street parking and loading shall be provided as appropriate to the size and

character of the proposed development. Parking areas, loading ramps, utility areas, trash receptacles, etc., shall be effectively screened from observation and visibility from the perimeter roads. Screening shall be accomplished through a unified landscape design incorporating a combination of berms, planting screens using substantially mature trees and shrubs which have year-round effectiveness, structural additions such as permanent walls, or other equally permanent and effective screening if the site or the use thereof so warrant, to protect the welfare of the adjoining properties or the surrounding neighborhoods. All parking areas shall have a setback of at least 50 feet from the perimeter road right-of-way and 25 feet from the interior road right-of-way. All parking areas shall have a fifteen-foot setback from adjacent property lines. All parking lots shall have interior landscaping of no less than 5% of the total parking lot area with all interior parking lot islands to be sodded and landscaped.

15.05:4. While it is not the purpose of this ordinance to dictate or specify building materials and structural standards, the importance of material strength and permanency in their proportional relationship to the central aesthetic character shall be recognized, and the principle of structural strength and permanency shall dominate the structural materials and components. This principle shall not be construed to prevent the use of material innovation nor progressive structural design; however, it shall recognize the strength and permanency of stone and brick as compared to the frailty and constant maintenance of wood veneer and metal sidings.

15.05:5. Complete abatement or elimination of all generally offensive or obnoxious characteristics such as odors, gases, noise, vibration, pollution of air or water or soil, excessive lighting intensity, hazardous activity, etc., which may be detrimental to the general welfare of this community, shall be accomplished. The standards for compliance with this subsection shall be as follows:

- (a) Fire hazard. The use shall exclude any activity involving the use or storage of flammable or explosive material unless protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- (b) Noise. The following maximum permissible sound levels (as measured in decibels, dB, on a sound level meter using the A-weighting network, dBA) that shall be allowed at PIP District boundary line:

Hours	Sound Level Limit
7:00 a.m. to 10:00 p.m.	65 dBA
10:00 p.m. to 7:00 a.m.	60 dBA

- (c) Air pollution. The use shall not emit any smoke, dust, odorous gases or other matter in such quantities as to be readily detectable at any point beyond the perimeter of the site area.
- (d) Vibration. The use shall not include vibration which is discernible without instruments on any adjoining lot or property.
- (e) Glare. The use shall not involve any direct or reflected glare which is visible

from any adjoining property or from any public street, road, or highway.

- (f) Traffic hazard. The use shall not involve any activity substantially increasing the movement of traffic on public streets to a point that capacity or safety limitations are exceeded unless procedures are instituted to limit traffic hazards and congestion.
- (g) Overtax public utilities and facilities. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities, unless provision is made for any necessary adjustments.
- (h) Character of neighborhood. The use shall not involve any activity not in character with the majority of the uses in the neighborhood unless by design, setback, nature of operation, and other devices the character of the neighborhood will be maintained.
- (i) Signs.
 - (1) The need for private enterprise to visually pronounce their presence through the use of nameplates, placards, monuments or signs is herein acknowledged. However, such signing shall be in good taste and in keeping with the central aesthetic theme; sign materials shall be permanent or long-lasting in quality with the use of two dimensional all painted signs prohibited; lighting of signs shall be nonobtrusive with back lighting or other method of indirect lighting encouraged; and profusion of conflicting or contracting signs shall be prohibited.
 - (2) The size and shape of signs shall not prevent the use of registered trademarks. However, in no instance shall a sign of such size, shape or design be permitted which overwhelms the central scene.
 - (3) All signs shall be restricted by the following regulations:
 - a. One freestanding industrial park identification sign shall be permitted for each major entrance to the PIP District from the perimeter road. A signage plan regarding location, square footage, size, height, and design of major entrance-exit and subarea signs shall be submitted with the PIP preliminary site development plan.
 - b. All building, wall, and freestanding lot signs shall comply with the bulk requirements set forth in § 28.05:5 of this ordinance unless a signage plan including standards for signage is approved as part of the PIP site development plan.
 - c. No portion of a freestanding sign shall be within 20 feet of the property line. No sign shall be located within the required vision clearance triangle.

§ 15.06. Bulk regulations.

15.06:1. Lot area. The minimum lot area shall be 2 1/2 acres.

15.06:2. Lot frontage. All lots shall be at least 200 feet in width.

15.06:3. Yard requirements. All buildings shall be set back a minimum of 50 feet from both the perimeter and the interior roads' rights-of-way. All building setbacks from adjacent property lines shall be a minimum of 20 feet, with the minimum setback increased by one foot for every foot of building height above 20 feet, to a maximum setback requirement of 50 feet.

15.06:4. Height. There shall be no height regulations in the PIP District.

§ 15.07. Review procedure.

The planned industrial park shall be recognized as a special use and controlled by the procedure and requirements of this section. The procedure for application and approval of a site development plan under a PIP District shall include one or more preapplication conferences, submission of a concept plan, submission and approval of a preliminary site development plan, and submission and approval of a final site development plan.

15.07:1. Preapplication conference. The owner of a contiguous tract of land shall apply to the Planning Commission for approval of a site development plan under the PIP District. Said tract shall be no less than 2 1/2 acres. Before submitting such application, the applicant shall confer with the Zoning Administrator, the Planning Commission, and other relevant City departments. The purpose of the conference shall be to discuss the feasibility of the proposal and to provide the applicant with information and guidance regarding applicable City ordinances, specifications, standards and procedures, before the applicant enters into binding commitments or incur substantial expenses. The applicant is also encouraged to contact neighborhood groups and organizations as soon as possible and to conduct at least one neighborhood meeting.

15.07:2. Concept plan requirement. The applicant shall submit, during the preapplication conference, a concept plan showing the location of the site in relation to the PIP District, placement and use of structures, parking, pedestrian and auto circulation, utilities, environmental treatment, and landscaping. The applicant shall also submit any and all information the Planning Commission and the Zoning Administrator may require to gain a satisfactory understanding of the proposed development. Such additional information may include, but shall not be limited to, conformity of the proposed development with the surrounded uses, financing of the development, and time schedule for the start and completion of the development.

15.07:3. Preliminary site development plan. Following the presentation of, and any deliberation pertinent to, the concept plan, the applicant shall submit a preliminary site development plan. The procedures for submission and approval of the preliminary plan shall follow those outlined in § 21.04 of this ordinance. The preliminary plan is specifically intended to include enough detail for administrative and legislative analysis for approval or denial of a special use permit. The preliminary plan must be more detailed than the concept plan and contain the information required of a site plan in § 21.03 of this ordinance. It should also include:

- (a) A written document giving the legal description of the property as indicated in the deed of ownership, a statement describing how the proposed development meets the intent of the PIP District and how the proposed development will

meet all of the performance standards contained in this article, a schedule of development, and future selling and/or leasing intentions and accompanying management techniques.

- (b) Plans for the exterior design, dimensions, floor areas, number of stories and usage of all proposed buildings and an estimate of the number of employees for each, where applicable.

15.07:4. Final site development plan. The procedures for submittal and approval of the final development plan shall be governed by § 23.06 of this ordinance.

15.07:5. Bond requirements. Bond requirements shall be governed either by § 23.07 of this ordinance or through the submission of other evidence of financial ability to complete the project as approved and on time. Such evidence of financial ability shall be approved by the Planning Commission.

15.07:6. Amendment of site development plan. The procedure for amending the approved site development plan shall be governed by § 23.10 of this ordinance.

ARTICLE 16

Agricultural, Industrial and Intermodal Transportation Park**§ 16.01. Industries; purpose and location. [Added 3-18-2014]**

The heavy industries associated with an industrial park footer an environment favorable to agricultural uses not otherwise provided for in the other industrial parks. This article will outline intensity of the uses permitted in this Agricultural, Industrial and Intermodal Transportation Park. The intensity of uses permitted in this location makes it desirable that they be located away from and separate from residential and commercial uses whenever possible.

§ 16.02. Location. [Added 3-18-2014]

The Agricultural, Industrial and Intermodal Transportation Park contains approximately 425 acres contained within the boundaries of Washington Road (north), Bagley Road (east) and the railroad tracks (west).

§ 16.03. Permitted uses. [Added 3-18-2014]

The following uses shall be permitted in the Agricultural, Industrial and Intermodal Transportation Park, provided that the location and site plan have been approved by the Planning Commission, as described in this ordinance.

- (a) Permitted:
 - (1) Dairy processing plant.
 - (2) Dehydration plant.
 - (3) Terminal operations.
 - (4) Fertilizer manufacturing.
 - (5) Grain elevator and grain storage.
 - (6) Soybean processing plant.
 - (7) Wholesale or bulk storage.
 - (8) Railroad storage yards or shops.
 - (9) Multimode logistics.
 - (10) Biofuels.

§ 16.04. Prohibited uses. [Added 3-18-2014]

- (a) Not Permitted:
 - (1) Any retail business use.
 - (2) Distillation of bones.
 - (3) Fat rendering.

- (4) Stockyards.
- (5) Slaughtering and dressing of horses, cattle, swine, sheep, poultry, and goats, and disposal of waste from such processing.
- (6) Any use inconsistent with or expressly prohibited by the ordinances of the City.

§ 16.05. Front, side and rear setbacks. [Added 3-18-2014]

There are no preestablished setback standards. Setbacks for front, side and rear yards will be determined with each site plan approval. Each new development must be designed with reference to the master plan for the industrial park.

§ 16.06. Noise. [Added 3-18-2014]

Noise limits are set at 70 dB.

ARTICLE 17
Conditional Rezoning

§ 17.01. Offer by owner — contents of written submission.

An owner of land may voluntarily offer, in writing, certain use and development of land as a condition to rezoning of the land or an amendment to the zoning map by submitting the written offer to the City Building Inspector with:

- (a) Evidence of record title ownership.
- (b) A legal description and boundary sketch of the parcels proposed to be rezoned.
- (c) A description of the certain use and development proposed for the land, with phases or a timeline in which the use and development will occur.
- (d) A site plan depicting any particular proposed development that would be constructed as a condition of the rezoning.
- (e) A description of the purpose for which the rezoning is sought.
- (f) The reasons for seeking conditional rezoning rather than rezoning without a condition.
- (g) A proposed agreement, in recordable form, outlining the certain use and development of land offered as a condition to rezoning, and a provision declaring that the zoning will revert if the proposed use and development is not completed as described.

§ 17.02. Submission.

The offer and supporting information shall be submitted to the Planning Commission, along with a written City staff report for the purpose of conducting a public hearing on the proposed rezoning or amendment to the zoning map, and the Planning Commission shall review the offer and recommend approval or disapproval of it to the City Council.

§ 17.03. Review by Planning Commission.

In conducting its review and making its recommendation on the offer, the Planning Commission shall consider whether:

- (a) The proposed rezoning or map amendment will interfere with the orderly development of nearby properties according to the existing zoning districts.
- (b) The proposed certain use and development of the land will interfere with existing permitted uses of nearby properties.
- (c) Any proposed condition on the use and development of the land will protect existing permitted uses on nearby properties from significant negative impacts of the rezoning.
- (d) The requested rezoning with certain use and development of the land as a condition to the rezoning is consistent with the master plan for the area.

§ 17.04. Terms of conditional rezoning.

Conditional rezoning shall comply with all of the following terms:

- (a) If the proposed conditions of rezoning are acceptable to the City of Ithaca, the City may establish a time period during which the conditions apply to the property and must be met. If the conditions are not met to the satisfaction of the City within the time specified the property shall revert to its former zoning classification.
- (b) The approved conditional rezoning shall be binding upon the subject property owner and the owner's heirs, successors, assigns and transferees.
- (c) Upon approval of a conditional rezoning, the written agreement between the property owner and the City shall be recorded with the Gratiot County Register of Deeds.
- (d) Time limits approved by the City may be extended upon application by the owner and approval by the City.
- (e) An application for a conditional rezoning request that has been denied shall not be reconsidered for one year unless the applicant demonstrates a change in circumstances affecting the subject property.

§ 17.05. Review by City Council.

The offer and supporting information shall be submitted to the City Council for approval or disapproval, along with the recommendation of the Planning Commission, complete with minutes of the meeting at which a public hearing was conducted on the offer. The City Attorney and City Building Inspector shall prepare and present written recommendations for approval or disapproval of the offer. The City Attorney shall review and approve the proposed agreement or recommend modifications.

§ 17.06. Approval; adoption by ordinance.

Approval of the offer by the City Council shall not be effective until an ordinance accomplishing the proposed rezoning or map amendment is adopted by the City Council.

ARTICLE 18
Site Performance Criteria

§ 18.01. Purpose.

Within each zoning district is contained a section entitled "regulations" which provides the framework for regulating the spatial characteristics of building sites, (i.e., yard setbacks, building heights, lot sizes, etc.) to ensure adequate light, open space, access and aesthetics. Further criteria that are contained within this article provide detailed regulations and restrictions in order to protect neighboring uses from possible adverse impacts associated with a given use. These criteria are intended to protect the general health, safety and welfare by limiting where uses may be established, ensuring that traffic congestion is minimized, controlling the intensity of use and prescribing other such performance criteria as may be necessary to meet the defined purposes of this ordinance. Because flexibility in applying the basic zoning regulations is a primary focus of this ordinance, a comprehensive performance evaluation process is incorporated as an alternative to more standard regulations to review proposed uses on the basis of performance. It is also intended to ensure compatibility between neighboring, and perhaps dissimilar land uses. The City Manager may direct the developer in the application of site performance criteria to a new development to provide for greater creativity and flexibility in the design and layout of the proposed development.

§ 18.02. Definitions.

Several terms are used within the text or tables of this article that warrant clarification. In addition to the definitions set forth in Article 2, the following words shall have the meanings hereinafter set forth.

BASE SITE AREA — A land area determination derived by simple calculation of gross site area excluding certain specified variables (see table in § 18.04:1).

BUFFER YARD — A strip of land, including any specified type and amount of planting or structures which may be required to protect one type of land use from another, or minimize or eliminate conflicts between them.

FLOOR AREA RATIO — An intensity of use measured as a ratio, derived by dividing the total floor area of the building by the base site area.

IMPERVIOUS SURFACE RATIO — A measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces (those that do not absorb water) by the base site area.

LAND USE CLASSES — A hierarchy of certain land use types that require compliance with specific performance standards as a criteria of their approval in a given zoning district (see table in § 18.05:1).

OPEN SPACE RATIO — The proportion of a site consisting of required open space as defined and specified in § 18.04:4 and which shall be calculated using the base site area. Roads and drives may be located within the required open space; provided, however, open space land shall not be occupied by required parking areas.

SUBDIVISION — The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of

building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act by Sections 108 and 109 (MCL § 560.108, § 560.109). The terms "subdivide" or "subdivision" do not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the land division act or the requirements of an applicable local ordinance.

SUBDIVISION, CONVENTIONAL — A subdivision consisting of single-family dwellings on individual lots with no provisions for clustering of dwelling units, reduction of lot sizes below the specified lot area, or required community or neighborhood open space. A conventional subdivision is characterized by division of the entire subject parcel into individual lots.

SUBDIVISION, PERFORMANCE OR OPEN SPACE — A subdivision that permits the residential builder considerable freedom in design. It allows adjustments in lot sizes and clustering of dwelling units to better adjust to the constraints of a site or of adjoining uses. Further, it ensures adequate open space for the residents of each such subdivision.

§ 18.03. Open space.

18.03:1. Land which is required by this ordinance to remain as open space may be used for recreation, resource protection, visual amenity and other purposes specified in this section. Open space land shall be freely accessible to all residents of a development. Open space land shall not be occupied by nonrecreational buildings, roads, or road rights-of-way except as permitted by the definition of "open space ratio" in § 18.02, nor shall it include the yards or lots of single-family or multifamily dwelling units required to meet the minimum standards or parking areas.

18.03:2. All developments required by this ordinance to provide open space shall meet the following requirements:

- (a) Land designated as open space shall be maintained as open space and may not be separately sold, subdivided, or developed except as provided below.
- (b) For performance subdivisions, planned unit developments and site condominiums, an open space plan shall be submitted as part of the application for a zoning certificate (see Article 3). This plan shall designate and indicate the boundaries of all open space areas required by this ordinance. The plan shall:
 - (1) Designate areas to be reserved as open space. The specific design of open space areas shall be sensitive to the physical and design characteristics of the site.
 - (2) Designate the type of open space which will be provided.
 - (3) Specify the manner in which the open space shall be perpetuated, maintained and administered.
- (c) The types of open space which may be provided to satisfy the requirements of

this ordinance, together with the maintenance required for each type, are as follows:

- (1) Natural areas are areas of undisturbed vegetation or areas replanted with vegetation after construction. Woodlands, woodland swamps (hydric soils) and wetlands (hydric prairies) are specific types of natural areas. Maintenance is limited to removal of litter, dead trees and plant materials and brush. Natural watercourses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.
 - (2) Garden plots are the division of open space into plots for cultivation as gardens by residents. Maintenance may be limited to weeding and fallowing.
 - (3) Recreational areas are areas designed for specific, active recreational uses such as totlots, tennis courts, swimming pools, ball fields and similar uses. Recreational areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances, or unhealthy conditions.
 - (4) Greenways are linear greenbelts linking residential areas with other open space areas. These greenways may contain bicycle paths, footpaths and bridle paths. Connecting greenways between residences and recreational areas is encouraged.
 - (5) Lawns consist of grass with or without trees. Maintenance is limited to mowing to ensure neatness.
 - (6) Interim open space. Land intended for future development may be designated as a holding zone and thus remain vacant until such time as this land is annexed or rezoned as a development district.
- (d) All designated open space shall be large enough to be usable open space. The minimum width/length dimension for usable open space shall be 10 feet and the minimum area shall be 100 square feet.

18.03:3. Preservation of open space. Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved and maintained as required by this section by any of the following mechanisms or combinations thereof:

- (a) Dedication of open space to the City of Ithaca or an appropriate public agency, if there is a public agency willing to accept the dedication.
- (b) Common ownership of the open space by a homeowner's association which assumes full responsibility for its maintenance.
- (c) Dedication of development rights of open space made to an appropriate public agency with ownership remaining with the developer or homeowner's association. Maintenance responsibility shall remain with the property owner.
- (d) Deed-restricted private ownership which shall prevent development and/or

subsequent subdivision of the open space land and provide for the maintenance responsibility. In the event that any private owner of open space fails to maintain the open space according to the standards of this ordinance, the City of Ithaca may, following reasonable notice and demand that the deficiency of maintenance be corrected, enter the open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space.

§ 18.04. District performance standards.

This section contains those basic standards applicable to the districts' varied uses permitted within this ordinance. The standards as contained in § 18.04:4 are minimum standards and must be met by each use as specified. The minimum development/lot area specifies the minimum lot size for which development may be proposed. The floor area ratio controls the amount of building floor area permitted per unit of lot area. Finally, the open space ratio regulates the undeveloped open space that must be provided per use type in a given district.

18.04:1. Base site area (how to determine).

(a)	Gross site area as determined by legal description, survey or assessor's records.		_____ acres
(b)	Subtract land within rights-of-way of existing roads or utilities and easements.	(-)	_____ acres
(c)	In those instances where mixed uses might be proposed:		
(1)	Subtract land used or proposed for residential use in determining base site area for nonresidential purposes; or	(-)	_____ acres
(2)	Subtract land used or proposed for nonresidential use in determining base site area for residential purposes.		
(d)	Subtract land required for buffer yard (see § 18.06:2).	(-)	_____ acres
(e)	Equals base site area.	=	_____ acres
Example - how to determine base site area of retail business in the General Commercial District:			
(a)	Gross site area (100 feet x 100 feet).		10,000 square feet
(b)	Subtract rights-of-way, roads or easements.		0
(c)	Subtract noncontiguous area.		0
(d)	Subtract any land proposed for residential purpose.		0
(e)	Subtract buffer yard (see diagrams).	-	2,000 square feet
(f)	Equals base site area.		8,000 square feet

18.04:2. Determination of site capacity for all nonresidential uses. Individual site capacity for institutional, office, commercial and other nonresidential uses, as denoted in various zoning districts, is determined as follows:

Example - Retail business in General Commercial District:		
(a)	Take base site area.	8,000 square feet
(b)	Multiply by floor area ratio.	x 0.30
(c)	Equals permitted floor area.	= 2,400 square feet
(d)	Then take base site area.	8,000 square feet
(e)	Multiply by open space ratio.	x 0.30
(f)	Equals required open space.	= 2,400 square feet
Summary:		
(a)	Gross site area.	10,000 square feet
(b)	Buffer yards.	(-) 2,000 square feet
(c)	Permitted floor area.	(-) 2,400 square feet
(d)	Required open space.	(-) 2,400 square feet
(e)	Parking.	(-) 2,880 square feet*
	Balance (for drives, parking or other)	= 320 square feet
*2,400 square feet of permitted floor area divided by 150 square feet = 16 spaces x 180 square feet = 2,880 square feet. (See Article 27, off-street parking)		

18.04:3. Determination of site capacity for other residential uses in R-1, R-2, R-3 and R-4 Districts. The individual site capacity and total density for two-family residential uses, as permitted in the R-3 District, and two-family and multifamily residential uses as permitted in the R-4 District are determined as follows:

Example - Two-bedroom townhouses in the R-4 District:		
(a)	Base site area	30,000 square feet
(b)	Multiply by open space ratio	x 0.30
(c)	Equals required open space	= 9,000 square feet
(d)	Base site area	30,000 square feet
(e)	Multiply by floor area ratio	x 0.50
(f)	Equals permitted floor area	= 15,000 square feet
(g)	Divided by minimum floor area	720 square feet
(h)	Maximum density dwelling units	= 20.80

18.04:4. Table of district performance standards.

Zoning District and Use	Minimum Developable Lot Area	Maximum Floor Area Ratio	Minimum Open Space Ratio
R-1 District			
Performance subd.	14,700 square feet	0.25	0.60
Other residential	22,000 square feet	0.25	0.60
Institutional	1 acre	0.20	0.80
Recreational	1 acre	0.05	0.80
Other	1 acre	0.05	0.80
R-2 District			
Performance subd.	13,300 square feet	0.25	0.50
Other residential	20,000 square feet	0.25	0.50
Institutional	1 acre	0.25	0.60
Recreational	1 acre	0.05	0.80
Other	1 acre	0.10	0.80
R-3 District			
Performance subd.	8,000 square feet	0.25	0.30
Other residential	12,000 square feet	0.25	0.30
Institutional	12,000 square feet	0.30	0.30
Recreational	12,000 square feet	0.30	0.40
Other	12,000 square feet	0.40	0.40

§ 18.05. Land use intensity classes.

This section classifies all land uses permitted by this ordinance according to their degree of intensity or impact they are likely to impose on adjacent land uses. All uses within a specific class (§ 18.05:1) are considered to have equal impact relative to neighboring uses. Greater intensity impacts may include increased vehicular or pedestrian traffic and associated noise and congestion, larger signs, exterior lighting, more dominating buildings, increased stormwater runoff associated with larger roof surfaces and parking areas and other similar factors. The individual zoning district controls whether or not a specific use can develop on a lot in that district, while the land use classes are fundamental in determining the level of protection required. The range of land use classes open to a use does not affect whether it can locate on its lot, but only how it can develop on that lot.

Performance standards are specified for each land use class. A use that exceeds any single standard in a land use class moves that use to the next higher land use class. In the event that a specified use does not appear in the next higher land use class, it may not exceed any single criteria in the land use class in which it is listed.

18.05:1. Land Use Class Number and General Use Category.

Class I.

- Single-family detached residences

- Two-family dwelling

- ECHO housing

- Open space/conservation use

Class II.

- Performance subdivision

- Public/private recreational facilities

- Cemeteries

- Prefabricated housing development

- Mobile home park

Class III.

- Religious institutions

- Educational institutions, nursery schools

- Child care, group care facilities

- Multifamily dwellings

- Convalescent homes

- Funeral homes

Class IV.

- Offices

- Private clubs, lodges

- Convenience retail establishments

- Hospitals, medical centers

Class V.

- General retail establishments

- Service commercial uses

- Research and development uses

- Wholesale and warehousing

- Other industrial uses

- Recreation/amusement businesses

18.05:2. Land use intensity class standards.⁵

§ 18.06. Buffer yards.

The buffer yard is a designated unit of yard or open area together with any plant materials, barriers or fences required thereon. Both the amount of land and the type and amount of landscaping specified are designated to lessen impacts between adjoining land

5. Editor's Note: The land use intensity class standards are included as an attachment to this chapter.

uses. By using both distance and landscaping, potential nuisances such as noise, glare, activity, dirt, unsightly parking areas, and so forth, will be minimized.

The buffer yard requirements must be flexible. A single standard applied to all circumstances may not function well or might impose unnecessary hardship (cost) on a developer as well as promote monotony. As expressed in the following diagram in § 18.06:3, differing buffer yard requirements are warranted depending upon the characteristics of the uses involved. It is a further intent of the following provisions to provide flexibility to the developer or property owner through the combination of four basic elements: distance, plant material type, plant material density and structural or land forms.

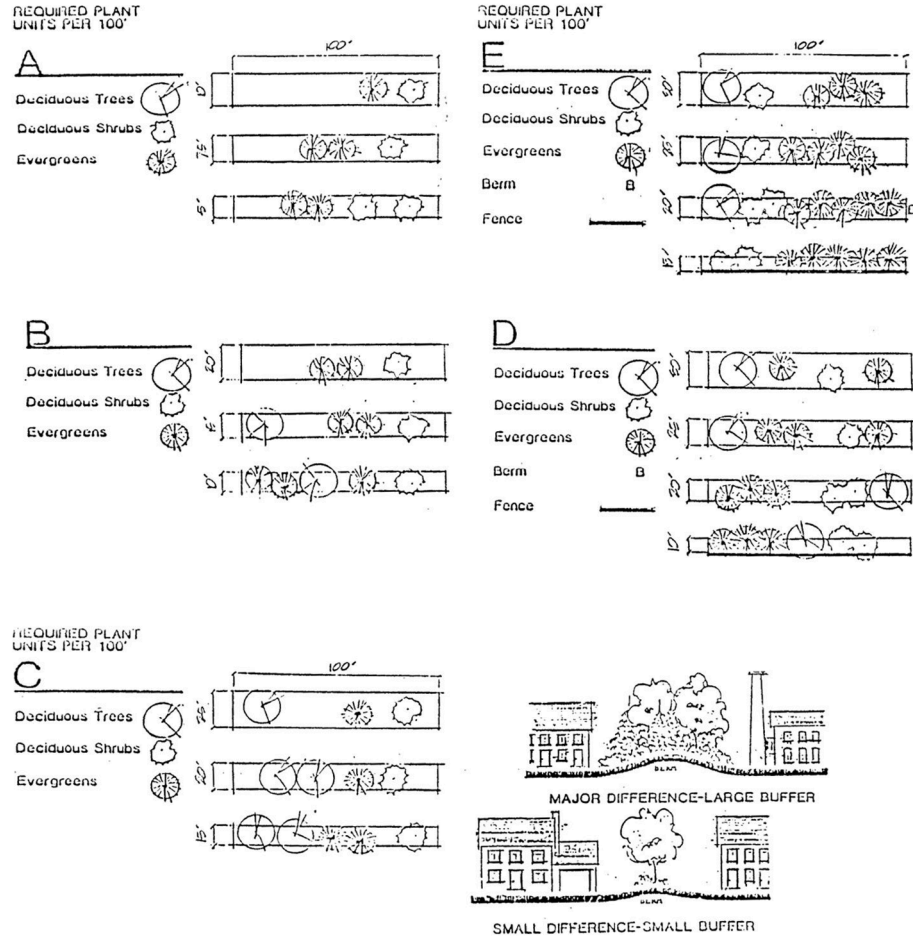
18.06:1. Location of buffer yards. Buffer yards shall be located on the side and rear lot lines of a parcel extending to the lot or parcel boundary line. Buffer yards shall not extend into or be located within any portion of an existing street right-of-way (front lot line, or side lot line on corner lots).

18.06:2. Determination of buffer yard requirements. To determine the type of buffer yard required between two adjacent parcels, the following procedure shall be followed:

- (a) Identify the land use class of the proposed use by referring to § 18.05:1.
- (b) Identify the land use class of each adjoining use by referring to § 18.05:1.
- (c) Determine the buffer yard requirements for those side and rear lot lines or portion thereof, on the subject parcel, by referring to the table "Buffer yard requirements for adjacent land," in § 18.06:4. Existing plant material or fences may be counted as contributing to the total buffer yard requirement. The buffer yards specified are to be provided on each lot or parcel independent of adjoining uses or adjoining buffer yards.
- (d) When a developed use is proposed adjacent to vacant land, the owners of the affected properties may submit a contractual agreement whereby the buffer yard for the developed use is reduced or waived, provided that the owner of said use agrees to develop at no greater intensity than the specified land use class, and if additional buffer is needed at a future point, it will be provided on the vacant land.
- (e) Should a developed use increase in intensity from a given land use class to a higher one (e.g., Class III to Class IV), the Planning Commission shall, during the site plan review process determine if additional buffer yard is needed and, if so, to what extent and type.
- (f) As indicated in sketches, an elevated buffer yard may be required by construction of a berm. The height, width and length of berm will be a determination of the Planning Commission on a site plan by site plan basis.

18.06:3. Plant materials.

- (a) All plant materials required within the specified buffer yard shall be planted to completion within six months from date of approval of the site plan and shall thereafter be properly maintained.



(b) The following landscape/plant materials are suggested for inclusion in the required buffer yards:

Type	Minimum Allowable Size
<i>Deciduous trees</i> Maple, Oak, Birch, Birch, Linden, Honeylocust, Ash, Ginkgo	Minimum eight feet in height or not less than 1 1/2 inches in caliper
<i>Deciduous shrubs</i> (shrublike trees) Russian Olive, Dogwood, Redbud, Flowering Crab, Hawthorn, Magnolia, Fruit (Pear, Cherry, Plum, Peach)	Minimum six feet in height or not less than one inch in caliper
<i>Deciduous shrubs</i> Honeysuckle, Lilac, Cotoneaster, Forsythia, Euonymous, Hydrangea, Privet, Sumac	

Type	Minimum Allowable Size
<i>Evergreen</i> Pine, Fir, Spruce, Hemlock, Juniper, Yew, Arbor-Vitae	Minimum four feet in height

18.06:4. Buffer yard requirements for adjacent land.

Land Use Class	Adjacent Existing Land Use Class					Adjacent Vacant Land Zoning Districts				
	I	II	III	IV	V	R	D	L	M/H	P
I	*	E	E	E	E	A	E	B	E	A
II	E	A	B	C	D	B	E	C	E	A
III	E	D	A	B	C	D	D	C	E	D
IV	E	D	C	A	B	E	A	D	A	E
V	E	D	C	B	A	E	A	E	A	E

Notes:

* No buffer yard required.

18.06:5. Buffer yard type. Illustrations A through E in § 18.06:3 graphically indicate the specifications of each buffer yard. Buffer yard requirements are stated in terms of the width of the buffer yard and the number of plant units required per 100 linear feet of buffer yard. The requirements of a buffer yard may be satisfied by any of the options indicated (see buffer yard diagrams A, B, C, D, and E). NOTE: Buffer yard requirements are stated in terms of the width of the buffer yard and the number of plant units required per 100 linear feet of buffer yard. The requirements may be satisfied by any of the options indicated in § 18.06:3 (buffer yard types A — E).

§ 18.07. Detailed performance requirements.

Within this section are specified detailed regulations applicable to specific land uses. It is felt that standards, above and beyond those imposed by other sections of this ordinance, are necessary for certain uses.

18.07:1. Performance subdivision. A performance subdivision may contain one or more of the housing development types as specified in this subsection. All dwelling types shall be single-family or duplex residences, having approved public sanitary sewer and/or water unless waived by the Planning Commission and City Council. By complying with stipulated performance criteria, flexibility in design is encouraged, thereby promoting lower land development costs, increased open space within subdivisions and protection of certain natural features. However, where a conflict arises between the requirements of yard setbacks and maximum lot coverage, yard setback requirements shall prevail.

(a) Requirements for performance subdivisions include the following:

- (1) Under the provisions of this section for a performance subdivision, for each square foot of land gained through the reduction of the lot size below the minimum requirements for the zoning district in which it is located, equal amounts of land shall be dedicated to the common use of lot owners of the subdivision in a manner approved by the Planning Commission. Such dedicated area shall be retained as undeveloped open space.
 - (2) Where land proposed for usage as a performance subdivision is immediately contiguous on one or more sides to an existing single-family detached subdivision of 15 acres or larger in size, the net density per acre of the performance subdivision shall not exceed the net density per acre of the contiguous existing subdivision. Contiguity shall mean having immediate contact along a property line. Properties separated by public road rights-of-way shall not be considered contiguous.
- (b) In a performance subdivision, the following housing types shall be allowed:
- (1) Single-family house. This dwelling type consists of a single-family residence located on a privately owned lot having yard area on all four sides of the house. The following table specifies the minimum standards for single-family housing within a performance subdivision in each zoning district where performance subdivisions are allowed:

	Zoning Districts (Performance Subdivisions Only)*		
	R-1 District	R-2 District	R-3 District
Minimum lot area	14,700	13,300	8,000
Minimum lot width	100	100	80
Maximum lot coverage (%)	25	25	30
Minimum yards			
Front	30	25	20
Side	15	10	10
Rear	20	15	15

Notes:

* In the event of condominium development, acreage net densities shall be maintained in respective zoning districts, as inferred from this table.

- (2) Lot line house. This dwelling type consists of a single-family residence located on an individual lot. The dwelling, however, may be situated on a side lot line provided that:
 - a. Exterior windows are prohibited for that portion of the structure that abuts the lot line;

- b. A five-foot maintenance easement for painting, repair, etc., shall be provided for the property owner;
- c. The minimum standards for the single-family house listed above shall apply except for one side yard; and
- d. The opposite side yard shall be increased by the same number of feet that is reduced on the side yard in which the dwelling is located.

(3) Duplex.

- a. This dwelling type consists of a semidetached single-family residence located on an individual lot. The dwelling may be attached to another single-family dwelling at a side lot line through the use of one or more of the following characteristics:
 1. A common party wall through the garage portion of adjacent structures;
 2. An architectural wall detail which does not form interior room space between any two units; and
 3. A common party wall that meets all fire resistance and sound transmission requirements of the state construction code.
- b. The duplex dwelling shall be typified insofar as possible by characteristics commonly associated with single-family dwellings in the City, including the expression of individuality of each dwelling unit, privacy, and a sense of spaciousness. In addition, the minimum site standards for the single-family house listed above shall apply.

18.07:2. Institutional (public or quasi-public) uses or structures. Inasmuch as the institutional uses (schools, churches, public buildings) permitted in residential districts may have an adverse effect on residential properties if not properly located and designed, the following performance standards must be met prior to development of such uses:

- (a) Hazardous areas must be adequately fenced to avoid accidents; such areas include public utility substations.
- (b) Any permitted institutional structure with the R-1, R-2 and R-3 Districts should be located at the edge of the district, preferably abutting a nonresidential district, or a public open space.
- (c) All permitted institutional uses shall front on a major street (minor arterial or collector).
- (d) Motor vehicle entrance and exit shall be made on a major street to avoid the impact of traffic generated by the institutional use upon the residential area.
- (e) Site locations should be chosen which offer natural or man-made barriers that would lessen the effect of the intrusion of an institutional use into an established residential area.

- (f) Institutional uses should not be located so as to cause costly public improvements.
- (g) Institutional structures shall be located no closer than 50 feet to adjacent property lines.
- (h) Institutional uses and structures shall meet the performance requirements in §§ 18.04, 18.05 and 18.06.

18.07:3. Two-family and multifamily dwellings. In addition to the site requirements for two-family or multifamily uses in the R-4 Multiple-Family Residential District, the following standards shall be met prior to development of such uses:

- (a) No multiple-family building designed, erected or used for 10 or more families shall be located closer than 50 feet to any R-1 Rural Residential, R-2 Suburban Residential, or R-3 Community Residential Zone. Where Planning Commission studies indicate, adjoining property will eventually assume similar development as the property in question, the commission may waive the fifty-foot minimum.
- (b) No single building or connected buildings may exceed 200 feet in any one dimension. All buildings shall be so arranged as to permit emergency vehicle access, by some practical means, to all sides.
- (c) Grouped buildings shall be separated by a minimum distance of 25 feet.
- (d) No entrance to a multiple-family structure shall be located closer than 30 feet to any street intersection, access road, driveway, or parking area.

18.07:4. Office, service or convenience commercial structures or uses. In addition to the site requirements and performance criteria (see §§ 18.04, 18.05 and 18.06) for office, service or convenience commercial uses in a specific zoning district, the following standards shall be met prior to development of such uses:

- (a) Where one or more lot lines abut an existing single-family residential use, an elevational drawing of the proposed structure shall be submitted for Planning Commission review and approval. The Planning Commission may stipulate that such office or commercial structures be constructed with a residential facade and/or be of a residential scale (mass) and character.

18.07:5. Industrial uses. In addition to the site requirements and performance criteria (see §§ 18.04, 18.05 and 18.06) required for industrial (manufacturing, warehousing, etc.) uses in the I-1 District, the following standards of operation shall be met:

- (a) Noise. The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

In Decibels	Adjacent Use	Where Measured
55 db	Residential dwellings	Common lot line
65 db	Commercial	Common lot line
70 db	Industrial and other	Common lot line

- (b) Vibration. All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 of one inch, as measured at the property line.
- (c) Odor/fumes. The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines when diluted in the ratio of one volume of odorous air to four or more volumes of clean air or as to produce a public nuisance or hazard beyond the lot lines of the property on which the odor emanates is prohibited.
- (d) Gases. The escape of or emission of any gas from a building or appurtenance which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
- (e) Glare and heat. Any operation producing intense glare or heat shall be performed within an enclosure. There shall be no direct or sky-reflected glare exceeding 1.5 footcandles measured at the property line of the lot occupied by the use generating the glare. This regulation shall not apply to lights used at the entrances or exits of service drives leading to a parking lot.
- (f) Light. Exterior lighting shall be so installed that the surface of the source of light shall be so arranged as far as practical to reflect light away from any residential use.
- (g) Electromagnetic radiation. Applicable rules and regulations of the Federal Communication Commission in regard to propagation of electromagnetic radiation are hereby made a part of this ordinance.
- (h) Smoke. It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than four minutes in any one half-hour which is:
 - (1) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart. The Ringelmann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this ordinance, shall be the standard. However, Umbrascopes readings of smoke densities may be used when correlated with the Ringelmann Chart. A Ringelmann Chart shall be on file in the office of the Zoning Administrator.
 - (2) Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in Subsection (h)(1) above, except when the emission consists only of water vapor.
- (i) Drifted and blown materials. The drifting or airborne transmission to areas beyond the lot line of dust, particles, or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.
- (j) Radioactive materials. Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.
- (k) Liquid or solid waste.

- (1) No industrial operations shall directly discharge industrial waste of any kind into any existing reservoir, pond or lake. The discharge of untreated industrial waste into a stream is prohibited. All methods of sewage and industrial waste treatment and disposal shall be approved by the county health department and Michigan Department of Environmental Quality. Effluent from a treatment plant shall at all times comply with the following standards:
 - a. Maximum five-day biochemical oxygen demand (BOD) based on the maximum biochemical oxygen demand: 15%.
 - b. Maximum quantity of effluent: 10% of minimum daily stream flow which prevails 90% of the time.
 - c. Maximum five-day biochemical oxygen demand after dilution (BOD of effluent multiplied by quantity of effluent divided by quantity of stream flow): four parts per million.
 - d. Maximum total solids: 5,000 parts per million.
 - e. Maximum phenol: five parts per billion.
 - (2) No effluent shall contain any other acids, oils, dust, toxic metals, corrosives or other toxic substance in solution or suspension which would create odors, or discolor, poison or otherwise pollute the stream in any way.
- (1) Fire and explosion hazards. All activities shall be carried on only in the buildings classified as fireproof by the state construction code, and the operation shall be carried on in such a manner and with such precaution against fire and explosion hazards as to produce no explosion hazards, as determined by the Michigan Department of Labor and Economic Growth, to a use on an adjacent property. All raw materials, fuels and finished products shall be stored within an entirely enclosed building. Flammable liquids other than fuels used for heating shall be stored in an entirely enclosed building, which shall be used for no other purposes, or in underground tanks, provided:
 - (1) The storage building is not closer than 100 feet to any building occupied by one or more person.
 - (2) The storage of more than 250 gallons of flammable liquid in said storage building is prohibited. Every factory or manufacturing building or other buildings permitted only in the industrial area shall be equipped with automatic sprinklers or other automatic fire extinguishers approved by the Building Inspector and the chief of the fire department as being sufficient in view of the nature and extent of the fire risks.

**ARTICLE 19
Nonconforming Uses and Structures**

§ 19.01. Purpose.

- (a) It is the purpose of this article to permit the continuation of a lawful use of any building or land existing at the effective date of this ordinance even though such use of land or structure may not conform with the provisions of this ordinance. However, those nonconformities which adversely affect orderly development and the value of nearby property are not permitted to continue without restriction.
- (b) The zoning regulations established by this ordinance are designed to guide the future uses of land by encouraging appropriate groupings of compatible and related uses and thus promoting and protecting the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which this ordinance is established, and therefore, the gradual elimination of the nonconformities is generally desirable. Although the regulations of this article permit existing nonconformities to continue without specific limitation of time they are generally intended to restrict further investments which would make those nonconformities more permanent.
- (c) This article distinguishes between major nonconforming uses or structures and minor nonconformities and different regulations are established for each. The extent of the restrictions in each category is a function of the degree to which that category of nonconformity is a nuisance or is incompatible with the surrounding uses of land and the purposes and regulations of this ordinance.

§ 19.02. Major nonconforming use or structure.

19.02:1. List of major nonconforming uses. A major nonconforming use is any use listed in the table below for the district in which it is listed.

Zoning District	Major Nonconforming Use
R-1 Rural Residential District	Industrial use Commercial use, except for golf courses and golf driving ranges
R-2 Suburban Residential District	Industrial use Commercial use, except for funeral homes
R-3 Community Residential District	Industrial use commercial use, except for funeral homes
R-4 Multiple-Family Residential District	Industrial use Commercial use, except within a planned unit development
RO Restricted Office Commercial District	Industrial use
C-1 Central Business District	Industrial use
C-2 General Commercial District	Industrial use
I-1 Industrial District	Residential use

19.02:2. Change of use. A major nonconforming use or structure shall not be changed to

any use other than a use permitted in the zoning district in which it is located.

19.02:3. Restoration and repairs. Major nonconforming uses or structures shall not be reestablished in their nonconforming condition in any zoning district after damage or destruction if the estimated expense of reconstruction exceeds 50% of the appraised replacement cost of the use or structure.

19.02:4. Discontinuance. If a major nonconforming use ceases, for any reason, for a period of more than 180 consecutive days, such discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. At the end of this period of abandonment, the nonconforming use shall not be reestablished and any future use on all or a portion of the premises shall be in conformity with the provisions of this ordinance.

§ 19.03. Minor nonconforming use or structure.

A minor nonconforming use or structure is any nonconforming use or structure which is not a major nonconforming use or structure.

§ 19.04. Minor nonconforming uses of land.

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

- (a) Enlargement. No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
- (b) Moving of nonconforming use. 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 ordinance.
- (c) Change of use. A nonconforming use shall not be changed to another nonconforming use except after approval of the Planning Commission. Before granting such approval, the Planning Commission shall determine that the change in use will have a less deleterious effect on neighboring properties than the existing nonconforming use.
- (d) Discontinuance. If the nonconforming use of land ceases for any reason for a period of more than 180 consecutive days, the discontinuance shall be considered conclusive evidence of an intention to abandon the nonconforming use. The time limit of discontinuance may be extended beyond the 180 days, for a period of time not to exceed one year upon proper application to the Planning Commission within the 180-day period and upon presentation of evidence that an unnecessary hardship or practical difficulty would exist should the 180-day limitation be strictly enforced. At the end of this period of abandonment, the nonconforming use shall not be reestablished, and any future use shall be in conformity with the provision of this ordinance. Seasonal nonconforming uses currently found in the City and which, by their nature, operate habitually or customarily during a given period of the year not exceeding eight consecutive months, shall be exempted from this requirement.

- (e) Expansion. No nonconforming use shall be physically extended or expanded to displace a permitted conforming use.

§ 19.05. Nonconforming uses eliminated.

Notwithstanding the provisions of § 19.04, such nonconforming uses as signs, billboards, open storage or similar uses shall be discontinued by December 31, 1999. In addition, and in accordance with Public Act No. 110 of 2006 (MCL § 125.3101 et seq.), as amended, the Council may from time to time acquire real property on which nonconforming uses or structures are located by purchase or condemnation, and may remove such uses or structures and resell the property for a conforming use or develop it for a public use. The net cost of such acquisition may be made a special assessment against a benefit district or may be paid from other sources of revenue.

§ 19.06. Minor nonconforming structures.

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

- (a) Nonconforming structures shall not be altered or expanded without the prior approval of the Planning Commission, except that the following structural alterations may be permitted without prior approval of the Planning Commission:
 - (1) Structural alterations or extensions adding to the bulk of a structure which is nonconforming only by reason of lot size or lot width, provided that the alteration or extension of the structure shall not increase the extent of nonconformity and shall satisfy all other applicable site development regulations.
 - (2) Structural alterations which do not add to the bulk of the structure or increase the intensity of use of the structure.
- (b) Nonconforming buildings or structures may be structurally altered, but not expanded, so as to prolong the life of the building or structure.
- (c) After damage or destruction of a nonconforming structure, it may be reestablished in its nonconforming condition if the building or structure is nonconforming only because it has an insufficient setback or because of its location on a site having a size, width, or both less than prescribed in the applicable sections of this ordinance.

§ 19.07. Repairs and maintenance.

Repairs and maintenance may be performed on any building devoted in whole or in part to a nonconforming use, including ordinary repairs or repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 50% of the assessed value (25% of true cash value) of the building during any period of 12 consecutive months. However, the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of

any building or part of a building declared to be unsafe by any official charged with protecting the public safety and upon order of the official.

§ 19.08. Prior construction approval.

Nothing in this article shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been issued prior to the effective date of this ordinance, provided that construction is commenced within 90 days after the date of issuance of the permit, that construction is carried on diligently and without interruption for a continuous period in excess of 30 days, and that the entire building shall have been completed according to the plans filed with the permit application within two years after the issuance of the building permit.

§ 19.09. Change of tenancy or ownership.

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

§ 19.10. Nonconforming due to reclassification.

The foregoing provisions of this article shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of districts under this ordinance or any subsequent change in the regulations of this ordinance.

ARTICLE 20

Special Use Permit Procedure and Standards**§ 20.01. Purpose.**

- (a) In order to make this ordinance a flexible zoning tool and still afford orderly and compatible development of property within the City, as well as protect property values, the Planning Commission, in addition to its other functions, is authorized to approve the establishment of certain uses (designated as special approval uses) within the various zoning districts set forth in this ordinance.
- (b) Such special approval uses have been established because of the unique characteristic of a specific use which, in the particular zone involved, under certain physical circumstances and without proper control and limitations, might cause it to be incompatible with the other uses permitted in the zoning district and therefore detrimental to those uses.
- (c) With this in mind, a special approval use is not permitted within the particular zone in which it is listed unless and until the Planning Commission, at its absolute discretion, is satisfied that the use under the conditions, controls, limitations, circumstances and safeguards imposed by the Planning Commission will be compatible with the other uses expressly permitted within the particular district and with the natural environment, that the capacities of public services and facilities affected by the proposed land use, that the proposed use would not, in any manner, be detrimental or injurious to the use or development of adjacent properties, to the occupants of those properties, or to the general neighborhood, that the use would promote the public health, safety, morals and general welfare of the community, that the use would encourage the utilization of the property in accordance with the land character and adaptability, and that the standards required by the Planning Commission for the allowance of the special approval use can and will, in the Planning Commission's judgment, be met at all times by the applicant.

§ 20.02. Special approval procedure.

The following steps shall be taken by the applicant, the zoning official and, when considering a proposed special approval use, the Planning Commission:

- 20.02:1. All applications for special approval use permits shall be filed with the City of Ithaca Zoning Administrator and shall include the required site plan, fee and any other pertinent information upon which the applicant intends to rely for a special use permit.
- 20.02:2. The Zoning Administrator shall, after preliminary review, forward the complete application for a special use permit to the Planning Commission for review.
- 20.02:3. Public hearing. At its regular meeting following the filing, the Planning Commission shall review the site plan according to the site development requirements in Article 22, or, if the project is submitted as a site performance project, the requirements of Article 18 and Article 22 shall apply. In such instance, where a conflict or discrepancy appears between the applicable standards of Article 22 and Article 18, the requirements of Article 18 shall take precedence.

- (a) Upon completion of its review, the Planning Commission shall set a date for a public hearing to be held within 30 days. Notice of the public hearing shall be given as required by Public Act No. 110 of 2006 (MCL § 125.3101 et seq.).

20.02:4. Following such hearing, the commission shall either grant or deny a permit for such special approval use and shall state its reasons for its decision in the matter. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by the commission in its decision and shall be filed with the Zoning Administrator. In addition to the requirements for each special land use (see Article 22, or, in the case of a site performance development, Articles 22 and 18), any discretionary conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect natural resources and the health, safety and welfare and the social and economic well-being of the owners and occupants of the land in question, of the adjacent properties, and of the community as a whole, in accordance with § 20.03, basis for determinations.

- (a) The commission shall have the right to limit the duration of a special approval use where the use is of a temporary nature and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with those conditions and limitations may be terminated by action of the Planning Commission after a hearing upon application of any aggrieved party.
- (b) The plot plan and specifications and all conditions, limitations and requirements imposed by the commission shall be recorded with the City and shall be incorporated as a part of the special land use permit. Violations of any of these at any time shall cause revocation of the special land use permit and the special land use shall cease to be a lawful use.
- (c) Any property which is the subject of a special use permit which has not been used for a period of six months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission) for the purposes for which the special use was granted shall thereafter be required to be used for only permitted uses set forth in the particular zoning classification, and the permit for the special use shall thereupon terminate.
- (d) Compliance with this ordinance and any conditions, limitations or requirements imposed by the Planning Commission is necessary to protect the natural resources or the health, safety and welfare of the residents of the City and future users or inhabitants of the proposed project or project area. To ensure such compliance, the Planning Commission may require a cash deposit, certified check or irrevocable bank letter of credit or security bond covering the estimated cost of furnishing such conditions, limitations or requirements conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the City Clerk at the time the permit is issued, authorizing the commencement of the construction or activity. Where the improvement required will take more than six months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

§ 20.03. Basis for determinations.

Before making a recommendation on a special use permit application, the Planning Commission shall determine that the following general standards, as well as the specific standards outlined in Article 22, site development requirements:

20.03:1. General standards. The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on its proposed location will:

- (a) Be harmonious with and in accordance with the general principles and objectives of the sketch land use plan of the City of Ithaca.
- (b) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
- (c) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (d) Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal water and sewage facilities and schools.
- (e) Not involve uses, activities, processes, materials, and equipment or conditions of operating that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors.
- (f) Be necessary to meet the intent and purpose of the zoning regulations, be related to the standards established in the ordinance for the land use or activities under consideration, and be necessary to ensure compliance with these standards.
- (g) Be related to the valid exercise of police power and purpose which are affected by the proposed use or activity.

20.03:2. Conditions and safeguards. The Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for ensuring that the intent and objectives of this ordinance will be observed. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the City Council and landowner. The City Clerk shall maintain a record of changes granted in conditions. The breach of any conditions, safeguard, or requirement shall automatically invalidate the permit granted.

§ 20.04. Appeal.

The decision of the Planning Commission may be appealed to the zoning Board of Appeals as permitted by Public Act No. 110 of 2006 (MCL § 125.3101 et seq.).

ARTICLE 21
Site Plan Review Procedure

§ 21.01. Purpose.

The proper development of a community requires that various uses within any district be as compatible as possible. There are, however, certain types of activities and structures which, because of size and the amount of traffic generated or attracted under normal use, lend themselves to potential conflict with surrounding uses. It is the responsibility of the Ithaca Planning Commission to provide procedures to ensure the City develops in accordance with the general intent of this ordinance.

§ 21.02. Circumstances requiring a site plan.

21.02:1. Site plans are subject to review for the following uses:

- (a) All uses permitted by special approval in all zoning districts listed in this ordinance.
- (b) All planned unit developments.
- (c) All site plan condominiums.
- (d) Uses and structures permitted by right in certain zoning districts, when such development is comprised of special characteristics that local officials feel necessitate a site plan.
- (e) All construction occurring within the Ithaca Industrial Park.
- (f) All site plans associated with a special use permit application must be reviewed by the Ithaca Planning Commission, in accordance with the standards defined in Article 22 in addition to Article 18, if site performance criteria are used. All site plans required in conjunction with permitted uses shall be reviewed by the Zoning Administrator to ensure conformance with the standards defined in Articles 22 and, if applicable, Article 18.

§ 21.03. Site plan data required.

21.03:1. Each site plan submitted shall contain the following information, unless specifically waived, in whole or in part, by the Planning Commission:

- (a) The date, north arrow, scale and name of the individual or firm responsible for preparing said plan. The scale must be at least one inch equals 20 feet for parcels under three acres and not less than one inch equals 50 feet for parcels of three acres or more.
- (b) The boundary lines of the property, to include all dimensions and legal descriptions.
- (c) The location of all structures on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas and recreational areas and facilities.

- (d) The location and widths of all abutting rights-of-way.
- (e) The location of unusual environmental features, such as streams, wetlands, shorelands, etc.
- (f) The location and identification of all existing structures within a 200-foot radius of the site.
- (g) The name and address of the property owner.
- (h) The existing zoning district in which the site is located and, in the case of a request for a zoning change, the classification of the proposed new district.
- (i) The location of all existing and proposed landscaping as well as all existing and proposed fences or walls.
- (j) A locational sketch of the proposed use or structure.
- (k) The type, location and size of all utilities existing and proposed for the site.
- (l) The location, size and slope of all subsurface drainage facilities.
- (m) A summary schedule and views should be affixed to site plans for proposed structures in applicable residential and commercial districts, giving the following information:
 - (1) The number of dwelling units proposed, by type, including a typical floor plan for each type of unit.
 - (2) The residential area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.
 - (3) Typical elevation drawings of the front and rear of each building.
- (n) For multiple-family and mobile home developments, the contour intervals of the topography of the existing and finished site shall be shown wherever the existing slope on any part of the building site is 10% or greater. Such contour shall be shown at height intervals of two feet.

§ 21.04. Submittal and approval.

21.04:1. All site plans required as stated with this ordinance shall be submitted by the petitioner (property owner or designated agent) to the office of the Zoning Administrator. A request for site plan approval for special uses identified in Article 20, or a site performance development as identified in Article 18 shall require three copies of the site plan, while a request for site plan approval for permitted uses identified in Article 22 shall require two copies of the site plan. The Zoning Administrator shall cause the request for approval to be put on the agenda of the next regularly scheduled Planning Commission meeting, provided that such meeting is scheduled to be held at least 48 hours after the applicant has submitted the site plan to the Zoning Administrator's office. If the regularly scheduled Planning Commission meeting is to be held within 48 hours of such submittal by the applicant, the Zoning Administrator shall schedule the applicant's request for the next following regularly scheduled Planning Commission meeting.

- 21.04:2. In the case of a request for a special use permit approval and for a site performance development, the Planning Commission shall, after review of the special use request and site plan, hold a public hearing in accordance with § 20.02:3 and make a final decision in accordance with §§ 20.02:4, 20.03 and Article 22. Where a site plan is required in conjunction with a permitted use (except a site performance development) that must conform to the standards in Article 22, the Zoning Administrator shall have the responsibility to approve, approve with specified changes and/or conditions, or disapprove the applicant's request, using the site development requirements in Article 22 and the general standards in § 20.03:1.
- 21.04:3. Any conditions or changes stipulated by the Planning Commission in review of a special use permit request shall be recorded in the minutes of the meeting and incorporated as part of the special land use permit, and a copy each of said conditions or changes given to the applicant and Zoning Administrator. An approved site plan request shall contain the signatures of the chairman of the Planning Commission and the Zoning Administrator. Any conditions or changes stipulated by the Zoning Administrator in review of a site plan associated with a permitted use shall be recorded by the Zoning Administrator and a copy of such conditions or changes given to the applicant. An approved site plan request for a permitted use shall contain the signature of the Zoning Administrator.
- 21.04:4. Of the three copies of the site plan submitted by the applicant for a special use permit, one copy/copies shall be kept on file by the Planning Commission secretary, one copy retained in the Zoning Administrator's office and one copy retained by the applicant. For a permitted use subject to the requirements in Article 22, one copy shall be retained by the Zoning Administrator and one copy shall be retained by the applicant.

§ 21.05. Fees.

Accompanying the request for approval of a site plan, a fee (to be determined by the Ithaca City Council), shall be submitted. Said fee is for the purpose of defraying administrative costs in processing the request for approval. Such fee may be used for reimbursing another party retained by the City of Ithaca for expert consultation relative to the application.

§ 21.06. Revocation.

- 21.06:1. If the Zoning Administrator shall find that the conditions and stipulations of an approved site plan are not being adhered to, the Planning Commission shall give notice to the applicant of its intent to revoke the prior approval given to the site plan. Intent to revoke shall be made known to the applicant by a registered letter sent to the applicant and signed by the chairperson of the Planning Commission. Said letter shall be received by the applicant 30 days prior to the stated date of revocation and shall contain the reasons for revoking the site plan approval.
- 21.06:2. If the applicant notifies the Planning Commission within 10 days of the receipt of the above letter of his or her intent to rectify the violation, the Planning Commission, through official act, may defer the revocation.

§ 21.07. Appeal.

The decision of the Planning Commission may be appealed by the property owner or his or her designated agent to the Ithaca Zoning Board of Appeals. Request for appeal may be made by written letter from the applicant to the chairperson of the Board of Appeals within 10 days of disapproval, approvals by modification, or revocation of the site plan by the Planning Commission.

ARTICLE 22
Site Development Requirements

§ 22.01. Scope.

These permitted uses and uses allowed by special permit enumerated in any zoning district, if included below, shall be subject to all the conditions and requirements of this article, § 20.03, the definitions in Article 4, as well as applicable provisions in Article 27, off-street parking and loading and unloading requirements and Article 28, signs.

22.01:1. Adult uses.

(a) Purpose.

- (1) In the development and execution of this article, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this article. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities, which are prohibited in other sections of this Code.
- (2) In regulating sexually oriented businesses, it is the purpose of this article to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance 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 ordinance to condone or legitimize the distribution of obscene material.
- (3) Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City commission, and on findings incorporated in the cases of *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002), *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *East Brooks Books, Inc. v. City of Memphis*, 48 F.3d 220 (6th Cir.

1995); *Broadway Books v. Roberts*, 642 F.Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F.Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Dj vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 7923 F.2d 470 (6th Cir. 1991); *Threesome Entertainment v. Strittmather*, 4 F.Supp.2d 710 (N.D. Ohio 1998); *J.L. Spoons, Inc. v. City of Brunswick*, 49 F.Supp.2d 1032 (N.D. Ohio 1999); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *Nightclubs, Inc. v. City of Paducah*, 202 F.3d 884 (6th Cir. 2000); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Dj vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 2001 U.S. App. LEXIS 26007 (6th Cir. Dec. 6, 2001); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *Connection Distrib. Co. v. Reno*, 154 F.3d 281 (6th Cir. 1998); *Sundance Assocs. v. Reno*, 139 F.3d 804 (10th Cir. 1998); *American Library Association v. Reno*, 33 F.3d 78 (D.C. Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241 (10th Cir. 2000); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 2002 U.S. Dist. LEXIS 1896 (D. Md., Feb. 6, 2002); *Currence v. Cincinnati*, 2002 U.S. App. LEXIS 1258 (6th Cir., Jan. 24, 2002); and other cases; and on testimony to Congress in 136 Cong. Rec. S 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S 5636; 134 Cong. Rec. E 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995-98; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney General's Working Group On The Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City commission finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the problems that Ithaca is seeking to abate and prevent in the future.

(b) Uses subject to these controls are as follows:

(1) Adult book stores, adult novelty stores, or adult video stores;

- (2) Adult cabarets;
 - (3) Adult motion picture theaters;
 - (4) Nude or seminude model studios; and
 - (5) Sexually oriented businesses.
- (c) Definitions. As used in this article, the following terms shall have the indicated meanings:

ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE —

- (1) A commercial establishment which has significant or substantial portion of its inventory, or derives a significant or substantial portion of its revenues, or maintains a significant or substantial section of its sales and display space, to the sale or rental, for any form of consideration, of any one or more of the following:
 - a. Books, magazines, periodicals or other printed and/or electronic or digital matter, or photographs, films, motion pictures, videocassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.
 - b. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- (2) For purposes of this definition, the term "significant or substantial portion" means 20% or more of the term modified by such phrase.

ADULT CABARET — A nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- (1) Persons who appear nude or seminude;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities; or
- (3) Films, motion pictures, videocassettes, slides, electronic, digital or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER — An establishment regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.

NUDE OR SEMINUDE MODEL STUDIO — Any building, structure,

premises or part thereof regularly used solely or primarily as a place which offers as its principal activity the providing of models to display any specified anatomical areas, as defined here for patrons for a fee or charge.

REGULARLY FEATURES or REGULARLY SHOWN — A consistent and substantial course of conduct such that the films or performances exhibited on the premises constitute a substantial or significant portion of the films or performances consistently offered as a part of the ongoing business of the adult entertainment business.

SEXUALLY ORIENTED BUSINESS — An adult bookstore, video store, or novelty store, adult cabaret, adult motion picture theater, or a commercial establishment that regularly features the sale, rental, or exhibition for any form of consideration, of books, films, videos, DVDs, magazines, or other visual representation of live performances which are characterized by an emphasis on the exposure of display of specified sexual activities or specified anatomical areas.

SPECIFIED ANATOMICAL AREAS —

- (1) Less than completely and opaquely covered:
 - a. Human genitals, pubic region;
 - b. Buttock; and
 - c. The nipple and/or areola of the female breast; and
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

- (1) Human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of human masturbation, sexual intercourse or sodomy;
 - (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.
- (d) Permitted uses. Any of the regulated uses listed in § 22.01:1(b) are permitted if:
- (1) The use is located within a zone district where the use is permitted by special use.
 - (2) The use is located more than 500 feet from any residential zone district, measured to the nearest lot line of the proposed use.
 - (3) The use is not located within 1,000 feet of one other regulated use, measured from the nearest lot line to the nearest lot line on a straight-line basis.
 - a. If the proposed use is within 500 feet of a residential zone, or within 1,000 feet of one other regulated use, the zoning Board of Appeals may grant a variance pursuant to the standards provided in Article

31 of this ordinance and pursuant to the following procedures:

1. The zoning inspections department will serve notice on all owners and occupiers of all property within 500 feet of the proposed use.
 2. Said notice will give a minimum of 30 days from the mailing of the notice until the zoning Board of Appeals hearing on the matter.
 3. Said notice will include a postcard addressed to the City, containing spaces for stating approval or disapproval of the proposed regulated use and including space for commentary.
 4. The total number of postcards returned prior to the hearing will be tallied. The votes yea and nay will also be tallied. These votes will be considered as evidence, in the zoning Board of Appeals' decision.
- b. In addition, the following requirements must be met:
1. No person shall reside in or permit a person to reside in the premises of a sexually oriented business.
 2. No person shall operate a sexually oriented business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
 3. The owner, operator, or person in charge of a sexually oriented business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL § 722.51 et seq., as amended.
 4. No person shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL § 752.361 et seq., as amended.
 5. No person shall operate an adult personal service business without obtaining a license from the City of Ithaca for the same. Such licenses shall be issued in compliance with the Ithaca Code of Ordinances.
 6. No person shall become the lessee or sublessee of any property for the purposes of using the property for an adult entertainment business without the express written permission of the owner of the property for such use.
- c. In addition to the site development standards and requirements specified elsewhere in this ordinance, the following shall be complied with for all sexually oriented businesses:

1. The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.
 2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this ordinance and shall be approved by the Planning Commission prior to their use.
 3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semipublic area.
 4. No loudspeakers or sound equipment shall be used by a sexually oriented business that projects sound outside of the sexually oriented business so that sound can be discerned by the public from any public or semipublic areas.
 5. A sexually oriented business shall clearly post at the entrance of the business, or that portion utilized for adult only purposes, that minors are excluded.
- (e) Limit on reapplication. No application for a regulated use which has been denied, wholly or in part, shall be resubmitted for a period of 90 days from the date of said order of denial, except on the grounds of new evidence found valid by the Board of Zoning Appeals.
- (f) Expansion and discontinuance of use. Establishments where uses subject to the control of this article are located shall not be expanded in any manner without first applying for and receiving the approval of the zoning Board of Appeals as provided in § 22.01:1(d). Further, if a use subject to the control of this article is discontinued for more than 30 days, the use may not be reestablished without applying for and receiving the approval of the zoning Board of Appeals as provided in § 22.01:1(d). Nothing in this article shall prevent the reconstruction, repairing, or rebuilding and continued use of any building or structure the uses of which make it subject to the controls of this article which is damaged by fire, collapse, explosion or act of God.

22.01:2. Adult foster care small group homes (12 or fewer adults).

- (a) A state licensed adult foster care small group home shall not be located within 1,500 feet of another similar state licensed facility.
- (b) One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit. The driveway may be used for this purpose.
- (c) The property (architecture and landscaping) shall be maintained in a manner that is consistent with the character of the neighborhood.
- (d) Notice to neighbors and/or neighborhood associations is highly recommended, though not required, to promote the integration of adult foster care residents

into the neighborhood.

- (e) If the proposal does not meet the above criteria, a variance may be sought according to the procedures outlined in this ordinance.

22.01:3. Adult foster care large group homes (13 to 20 adults).

- (a) A state licensed adult foster care large group home shall not be located within 1,500 feet of another similar state licensed facility.
- (b) One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit or other accessory uses.
- (c) A designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier-free entrance to the facility.
- (d) A loading/unloading area of adequate dimensions shall be provided for delivery vehicles servicing the facility.
- (e) A landscaped buffer shall be provided along all property lines that abut a less intense land use and around the visible perimeters of all parking and loading/unloading areas.
- (f) All exterior lighting of entryways, parking spaces, or loading/unloading areas shall not reflect onto adjacent properties and, preferably, should be motion activated.
- (g) Notice to neighbors and/or neighborhood associations is highly recommended, though not required, to promote the integration of adult foster care residents into the neighborhood.
- (h) If the proposal does not meet all of the above criteria, a variance may be sought according to the procedures outlined in this ordinance.

22.01:4. Agriculture bulk collection, storage, distribution.

- (a) Each principal agribusiness use shall have frontage upon a thoroughfare having a primary or greater classification and access thereto.
- (b) The minimum lot area shall be 87,120 square feet (two acres) and the minimum lot width shall be 300 feet.
- (c) A bulk collection, storage, distribution, and similar structure shall be located not less than 50 feet from any right-of-way line and not less than 50 feet from any side or rear property line.
- (d) The total coverage of all main and accessory buildings shall not exceed 30% of the lot on which they are located.
- (e) Noise or similar objectionable characteristics incidental to the activity shall not be discernible beyond 500 feet of the boundaries of the lot or premises.
- (f) Adequate off-street parking and loading/unloading facilities shall be provided in accordance with Article 27.

22.01:5. All other permitted uses in the C-1 and C-2 Commercial Districts not specified in this article.

- (a) Adequate off-street parking shall be provided in accordance with Article 27.
- (b) Signage requirements of Article 28 shall be adhered to.
- (c) Not more than three commercial establishments, separated by common walls, or separated by a maximum distance of 20 feet between each building, may retain one common dumpster for solid waste. Such dumpster is to be located within the rear yard of one of the establishments.

22.01:6. Animal (veterinary) hospitals/clinics.

- (a) The minimum lot area shall be one acre.
- (b) Outdoor kennels or similar holding areas shall be at least 50 feet from any adjacent dwelling or any adjacent property used by the public and shall not be located in any required front, rear or side yard setback area. Animals must be housed within an enclosed building between the hours of 6:00 p.m. and 8:00 a.m.
- (c) Appropriate off-street parking and sign requirements as identified in Articles 27 and 28 shall be met.
- (d) All used material shall be properly disposed of in appropriate on-site containers for transport to a licensed waste facility. Provisions must be made for disposal of animal wastes in conformance with local health department regulations.
- (e) Facilities and operational procedures must meet necessary licensing requirements.
- (f) All medical and surgical procedures must occur within a completely enclosed building.

22.01:7. Automobile service stations.

- (a) The minimum lot area shall be 10,000 square feet for an automobile service station or repair garage.
- (b) The minimum lot width shall be not less than 100 feet.
- (c) An automobile service station building shall be located not less than 50 feet from any right-of-way line and not less than 30 from any side or rear lot line abutting residentially zoned property.
- (d) The ingress and egress drives shall not be less than 15 feet in width.
- (e) No more than one curb opening shall be permitted for every 50 feet of frontage (or major fraction thereof) along any street.
- (f) No drive or curb opening shall be located nearer than 30 feet to any intersection or adjacent residential property line. No drive shall be located nearer than 30 feet, as measured along the property line, to any other drive on

the premises. Curb cuts shall not be permitted where, in the opinion of the zoning officer, they may produce a safety hazard to adjacent pedestrian or vehicular traffic.

- (g) The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or a plant-mixed bituminous material except desirable landscaped areas which shall be separated from all paved areas by a low barrier or curb.
- (h) Underground storage tanks shall be in compliance with all applicable state laws, regulations and requirements.
- (i) All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 30 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.
- (j) When adjoining residentially zoned property, a six-foot masonry wall shall be erected and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line. All masonry walls shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls may be eliminated or gradually stepped down in height within 20 feet of any right-of-way line, subject to approval by the Zoning Administrator (when a permitted use in the C-2 District).
- (k) All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by an eight-foot high masonry wall and shall comply with requirements for location of accessory buildings. Outside storage or parking of each disabled, wrecked, or partially dismantled vehicle shall not be permitted for a period exceeding three days.
- (l) All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.
- (m) Only one freestanding sign per street frontage shall be permitted, not exceeding 50 square feet in area, which shall display only the name of the user or occupant of the premises.
- (n) On a corner lot, both street frontage sides shall be subject to all applicable front yard provisions of this ordinance.
- (o) Quick oil change shops shall comply with the applicable off-street waiting area requirements of § 27.03.

22.01:8. Banks, savings and loans, credit unions (drive-through).

- (a) Banks, savings and loan, credit unions, and other financial institutions with drive-through facilities shall have a minimum lot size of 20,000 square feet, with a minimum lot width of 100 feet abutting the street right-of-way.
- (b) The minimum setback of the main and accessory building from any street right-of-way from which ingress and egress to and from the facility is located

shall be 30 feet.

- (c) A drive-through facility shall be located on the site to accommodate the applicable requirements of § 27.03.
- (d) The right-of-way for vehicles using the drive-through facility shall be separate from the required parking aisle.
- (e) The area used for access to and from the drive-through facility and for required off-street parking shall be paved with concrete or bituminous asphalt.

22.01:9. Campgrounds, travel trailer parks.

- (a) Campgrounds, travel trailer parks and similar activities shall be located only in areas which contain soils that are not considered prime for agricultural production and which are otherwise suitable for recreational use.
- (b) All campgrounds publicly or privately owned and operated shall comply with Public Act No. 368 of 1978 (MCL § 333.1101 et seq.).
- (c) The minimum lot size shall be five acres. The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean the entire campground or travel trailer park. Each lot shall be provided with at least one public telephone.
- (d) The minimum distance between designated campsites shall be 20 feet; minimum distance between travel trailers/recreational vehicles shall be 15 feet.
- (e) Appropriate vegetation and screening around the perimeter of the site shall be provided in accordance with § 18.06.

22.01:10. Churches.

- (a) The minimum lot width shall be 100 feet.
- (b) The minimum lot area shall be 1.5 acres.
- (c) Off-street parking shall be provided in accordance with Article 27.
- (d) The main building or space used for church functions shall be separate from the living quarters of the person or persons that function as minister and/or caretaker of the facility.

22.01:11. Commercial cleaning plants (as distinguished from dry cleaning service establishment).

- (a) The minimum lot size shall be 1.0 acre, and the minimum side yard setback shall be 20 feet.
- (b) Off-street parking and signage shall be in accordance with the requirements in Article 27 and Article 28.
- (c) All storage and disposal of chemicals used on site in the process of commercial cleaning and laundering shall be in accordance with applicable local, state and

federal regulations and requirements.

- (d) All storage, processing and cleaning activities shall occur within an enclosed building.
- (e) A fence or year-round landscape buffer of a minimum height of six feet shall separate the cleaning establishment from adjacent residential properties.
- (f) Outdoor lighting shall be of a type and location so as not to infringe upon adjacent residential properties.

22.01:12. Convalescent homes.

- (a) The minimum lot size shall be two acres.
- (b) The lot location shall be such that at least 50% of the property line abuts a paved major street. The ingress and egress for off-street parking areas for guests and patients shall be directly from said major street.
- (c) The main and accessory buildings shall be set back at least 30 feet from all property lines.
- (d) The facility shall be designed to provide a minimum of 1,500 square feet of open space for every bed used or intended to be used. This open space shall include landscaping and may include off-street parking areas, driveways, required yard setbacks and accessory uses.

22.01:13. Child care centers, day care centers.

- (a) Such uses shall be duly licensed by the state department of human services.
- (b) Buildings and lots so used shall conform to all state and local code requirements, except that such uses or structures shall not be permitted in buildings and lots which are nonconforming uses or structures as defined in this ordinance.
- (c) A minimum of 35 square feet of indoor play area shall be provided for each child. Play areas shall be computed exclusive of hallways, bathrooms, reception and office areas, kitchens, storage areas and closets, and areas used exclusively for rest or sleep.
- (d) All outdoor play areas shall be enclosed by a nonclimbable fence that is at least 48 inches high.
- (e) The proposed use shall be served adequately by essential public facilities and services.
- (f) The proposed building shall not be out of harmony with the predominate type of building in the particular zone by reason of its size, character or location.
- (g) The proposed building shall be of a sustained desirability and stability so that the property contiguous to the development will not be unreasonably affected.
- (h) The proposed use shall conform to the building height, areas and yard requirements of the district in which it is located.

- (i) The proposed use shall not cause significant damage to the natural environment within the immediate neighborhood or the community as a whole.
- (j) One off-street parking space shall be provided for each nonfamily employee of the child care/day care center in addition to the parking normally required for the residence. A driveway may be used to fulfill this requirement.
- (k) Hours of operation shall not exceed 16 hours in a twenty-four-hour period, and activity shall be limited between the hours of 6:00 a.m. and 10:00 p.m.
- (l) Churches. The following additional standard shall apply only to church developments:
 - (1) The minimum yard requirements of the use district in which the church is located shall apply except that in no event shall the yard requirement be less than 0.5 feet of the yard to each foot of building height (excluding steeples), as applied to rear or side yard depth.

22.01:14. Drive-in theaters.

- (a) The minimum lot size shall be five acres.
- (b) The lot location shall be such that at least 10% of the property line abuts a major street or state primary road and shall be at least 500 feet from any residential district. All ingress and egress to the lot shall be directly onto said primary road.
- (c) All points of entrance or exit shall be located no closer than 60 feet to any street or road intersection (as measured to the nearest intersection right-of-way line).
- (d) Space shall be provided, on premises, for five waiting vehicles to stand at the entrance to the facility.
- (e) The theater screen shall not be visible to a state or county primary road, major street or any residential district.
- (f) Applicable off-street waiting areas shall be provided in accordance with § 27.03.

22.01:15. Drive-through (drive-in) restaurants/fast food establishments.

- (a) The main and accessory buildings shall be set back a minimum of 30 feet from any adjacent right-of-way line or residential property line.
- (b) A six-foot high masonry obscuring wall shall be provided adjacent to any residential district.
- (c) Applicable off-street waiting areas shall be provided in accordance with § 27.03.

22.01:16. ECHO housing.

- (a) Application for an occupancy permit for an ECHO unit on a single-family lot

of record shall be made to the Zoning Administrator.

- (b) Notification of adjacent residences of the proposed placement of the ECHO unit shall be required in accordance with the procedure for special use permits identified in Article 20.
- (c) The permit shall only be issued to the person with the medical condition and is not transferable to anyone else. Occupancy shall be limited to the person with the medical condition and the person caring for the individual with the medical condition.
- (d) The occupant's medical condition must be verified by a qualified physician.
- (e) ECHO housing units may be located in the R-1, R-2 and R-3 Districts only.
- (f) All provisions of the zoning district shall apply (except the provision establishing the number of dwelling units permitted on a zoning lot).
- (g) ECHO units shall not be allowed within a cluster residential development, duplex, or multiple-family dwelling lots.
- (h) Public sanitary sewer and water service shall be provided to the ECHO unit.
- (i) Approval must be obtained from the Ithaca Fire Department.
- (j) The lot on which the ECHO unit is located must have direct access to a paved street.
- (k) The ECHO unit must conform to the HUD mobile home construction safety standards and with Public Act. No. 133 of 1974, as amended.
- (l) The unit must be vacated (removed) within 90 days after the intended occupancy ceases.

22.01:17. Equipment rental/sales.

- (a) The minimum lot size shall be one acre.
- (b) The area used for outdoor storage of equipment/materials shall be surrounded by a fence or wall of a minimum height of six feet.
- (c) Required off-street parking areas shall be paved with concrete or asphalt.
- (d) All main and accessory structures shall be located no closer than 50 feet from a residential district.
- (e) Adequate vehicular turning radius in the interior of the site (to accommodate a pickup truck or car and trailer) shall be provided.

22.01:18. Golf courses, country clubs.

- (a) The minimum lot size shall be 50 acres.
- (b) The main and accessory buildings shall be set back at least 50 feet from all property lines.

- (c) Appropriate planting and screening shall be provided where the golf course abuts a residential lot.
- (d) Required off-street parking shall be paved with concrete or asphalt.

22.01:19. Golf driving range.

- (a) The minimum lot size shall be five acres.
- (b) The main and accessory buildings shall be set back at least 50 feet from all adjacent property lines.
- (c) The perimeter of the driving range shall be enclosed with a chain-link fence of a minimum height of six feet.
- (d) All outdoor lighting shall be designed and located so that the surface of the source of light will reflect the light away from any residential use.

22.01:20. Group child care homes.

- (a) A group child care home shall not be located closer than 1,500 feet to any of the following facilities as measured along a street, road or other public thoroughfare, excluding an alley:
 - (1) Another licensed group child care home.
 - (2) An adult foster care small or large group home licensed by the State of Michigan.
 - (3) A facility offering substance abuse treatment and rehabilitation services to seven or more people which is licensed by the State of Michigan.
 - (4) A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.

22.01:21. Home occupation.

- (a) No more than 25% of the gross floor area of the dwelling unit shall be utilized.
- (b) The activities and facilities associated with the home occupation shall not change the residential character of the property or the immediate neighborhood and shall not endanger the health, safety and welfare of any other person or household living in the general or immediate area by reason of noise, glare, noxious odors, electrical interference, unsanitary conditions, excessive traffic, fire hazards and/or other such negative impacts.
- (c) Only those articles produced on the premises by such occupation may be sold or offered for sale.
- (d) No home occupation shall require outdoor storage of equipment, machinery or signs not customary in a residential location.
- (e) No more than one nonilluminated nameplate, attached to the building and not larger than two square feet in area, containing the name and occupation of the

resident, will be allowed.

- (f) A home occupation that will attract an average of more than two customer vehicles at all times during operating hours shall provide off-street parking facilities in accordance with Article 27. The parking requirements associated with the use or activity in Article 27 most similar to the home occupation shall be applied.

22.01:22. Hospitals/medical centers.

- (a) The minimum lot area shall be three acres.
- (b) The lot location shall be such that at least 50% of the property line abuts a paved major street. The ingress and egress for off-street parking facilities for guests and patients shall be directly from said major street.
- (c) The minimum main and accessory building setback shall be 50 feet.
- (d) No power plant or laundry shall be located nearer than 200 feet to any adjacent residential district.
- (e) When adjacent to a residential district, a masonry wall six feet in height, shall be erected on the perimeter of the lot upon which the hospital/medical center is located.

22.01:23. Commercial kennels.

- (a) All commercial kennels shall be operated in conformance with all county and state regulations, permits being valid no longer than one year.
- (b) For dog kennels, the minimum lot size shall be one-half acre for the first three dogs and an additional one-half acre for each five additional animals.
- (c) Buildings wherein animals are kept, animal runs, and/or exercise areas shall not be located nearer than 30 feet to any adjacent occupied dwelling or any adjacent building used by the public, and shall not be located in any required front, rear or side yard setback area.
- (d) All applicable off-street parking and sign regulations identified in Article 27 and Article 28 shall apply.

22.01:24. Laboratories.

- (a) All operations shall be within an enclosed building.
- (b) Solid and liquid wastes shall be contained and disposed of according to applicable state and federal requirements.
- (c) Off-street parking requirements of Article 27 shall be met.
- (d) All applicable federal, state and local health requirements shall be adhered to.
- (e) Applicable performance standards identified in § 18.07:5 shall be met.

22.01:25. Lumberyards.

- (a) The minimum lot size shall be two acres.
- (b) The perimeter of the site used for storage, fabrication or assembly of materials shall be bounded by a chain link, wire or wood fence, concrete block or brick wall of a minimum height of five feet.
- (c) All required off-street parking spaces shall be paved with concrete or asphalt.
- (d) Loading and unloading facilities shall be located at the rear or side of the main building or at other sites behind the main building.

22.01:26. Mortuaries/funeral homes.

- (a) The minimum lot area shall be 1.0 acre.
- (b) Off-street parking shall be provided in accordance with Article 27.
- (c) The space in the main building used for mortuary functions shall be separate from the living quarters of the person or persons owning, managing, or maintaining the mortuary.
- (d) Outdoor signage shall conform to the requirements Article 28.
- (e) A fence or natural year-round landscape barrier of a minimum height of six feet shall be located between the mortuary and adjacent residential dwellings.
- (f) Outdoor lighting shall be of a type and location so as not to infringe upon adjacent residential properties.

22.01:27. Motel or motor court.

- (a) Each unit of commercial occupancy shall contain a minimum of 200 square feet of gross floor area.
- (b) When adjacent to a residential district, a masonry wall, six feet in height, shall be erected on the common property line.
- (c) Outdoor lighting shall be designed and located so that the surface of the source of light will reflect the light away from any residential use.
- (d) Off-street parking and loading shall be provided in accordance with Article 27.

22.01:28. Nurseries for plants and flowers.

- (a) The minimum lot size shall be one acre.
- (b) Storage or material display areas shall meet all the yard setback requirements applicable to any building in the district.
- (c) All loading/unloading activities and parking areas shall be off-street in conformance with Article 27.
- (d) The storage of soil, fertilizer or similarly loosely packaged materials shall be sufficiently contained to prevent any adverse affect upon adjacent properties.

22.01:29. Open-air business (for requirements for outdoor amusement facilities, refer to

§ 22.01:30).

- (a) The minimum lot area shall be 10,000 square feet.
- (b) The minimum lot width shall be 100 feet.
- (c) Lighting shall be installed in such a manner which will not create a traffic hazard on abutting streets or which will cause a glare or direct illumination to be cast onto adjacent properties, residential or otherwise.
- (d) Storage or material display areas shall meet all the yard setback requirements applicable to any buildings in this district.
- (e) In the case of car sales lots:
 - (1) All areas subject to vehicular use shall be paved with durable dust-free surfacing, with appropriate bumper guards where needed.
 - (2) Lighted parking areas shall not create a nuisance for nearby properties, including, but not limited to: agricultural machinery sales and service, new and used car sales, lawn and garden sales and service.

22.01:30. Outdoor amusement facilities.

- (a) The minimum lot size shall be one acre.
- (b) A front yard setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
- (c) Adequate off-street parking in accordance with Article 27 shall be provided.
- (d) Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
- (e) All lighting shall be shielded from adjacent residential districts.
- (f) A four-foot, six-inch obscuring wall or fence must be provided around the perimeter of the site.

22.01:31. Parks, recreational facilities.

- (a) The minimum area for a park shall be one-half acre.
- (b) Adequate parking as required in Article 27 shall be provided.
- (c) A natural vegetation strip at least 10 feet wide shall be maintained between the park area and all other adjacent land uses.
- (d) Any outdoor lighting shall be designed and located so that the surface of the source of light will reflect the light away from any residential use.

22.01:32. Permitted uses in the I-1 General Industrial District.

- (a) All uses and activities in the I-1 General Industrial District shall conform to the performance standards of operation identified in § 18.07:5(a) through (i).

22.01:33. Private fraternal clubs and lodges.

- (a) The minimum lot size shall be one acre.
- (b) The main and accessory buildings shall be set back at least 30 feet from all property lines.
- (c) Adequate off-street parking, as identified in Article 27, shall be provided.
- (d) All outdoor lighting shall be designed and located so that the surface of the source of light will reflect the light away from any residential use.
- (e) When adjacent to a residential use, a masonry or brick wall, or fence six feet in height shall be erected on the common lot line between the two properties.

22.01:34. Private outdoor recreation camps.

- (a) The minimum lot size shall be 10 acres.
- (b) Outdoor cooking facilities shall be constructed of appropriate fireproof material and be adequately vented and located an adequate distance from trees, vegetation and other structures to ensure appropriate fire protection.
- (c) Adequate off-street parking shall be provided to accommodate the expected number of vehicles that will use the site at any one time.
- (d) Main and accessory buildings shall meet the minimum yard setback requirements of the district in which the camp is located.
- (e) Adequate screening and vegetation shall be required where the camp abuts a residential, commercial or industrially zoned property (refer to buffer yard performance requirements, § 4.12:2 or, if site performance development, § 18.06).
- (f) Outdoor lighting shall be located so as not to create a glare or other visual nuisance upon adjoining property.

22.01:35. Private swimming pools.

- (a) For permanent above or below ground swimming pools, and for portable pools with a diameter exceeding 24 feet or an area exceeding 200 square feet, a permit must be obtained for its alteration, erection and construction. The application for such permit shall include the name of the owner, the manner of supervision of the pool, a plot plan showing the dimensions and site location of the pool plus nearby buildings, fences, gates, septic tanks, tile fields, public utilities and easements. The application for a below ground pool shall be accompanied by plans and specifications to scale of the pool walls, slope, bottom, walkway, diving boards, type and rating of auxiliary equipment, piping and valve layout. Any other information affecting construction and safety features deemed necessary by the City or the county health department shall also be submitted.
- (b) No portion of the swimming pool or associated structures shall be permitted to encroach upon any easement or right-of-way which has been granted for

public utility use.

- (c) Minimum side yard setback shall comply with required side yard spaces specified for the zoning district wherein the pool is located. Furthermore, the pool fence must not be built within the required front yard of a required corner lot side yard. Rear or side yard setback shall not be less than 10 feet between the pool outside wall and the side or rear property line, or less than five feet between pool wall and any building on the lot.
- (d) All swimming pools shall be completely enclosed by a chain-link fence or a fence of comparable safety not less than six feet nor more than eight feet in height, and set at a distance of not less than six feet from the outside perimeter of the pool wall, except for swimming pools above grade (i.e., portable) which have a side wall with a smooth surface of not less than four feet in height and with all means of access being secured, raised and/or locked to prevent unauthorized use. Except, that if a building is located on a lot not leaving any means of public access, a fence shall not be required on any such side. All openings in any such fence or building shall be equipped with a self-closing, self-latching gate or door which shall be securely locked with a tamper-proof lock when the pool is not in use, provided that, if the entire premises is enclosed by fence or wall, the fence requirement may be waived by zoning officer, after due inspection and approval.
- (e) All electrical installations or wiring in connection with below ground swimming pools shall conform to the provisions of the National Electrical Code or equivalent. If service drop conductors or other utility wires cross under or over the proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of the swimming pool.

22.01:36. Public utility service buildings/stations (essential). Buildings and facilities associated with essential services, as defined in Article 2, shall be permitted as authorized by law and other ordinances in any use district. The construction, erection, alteration and maintenance of essential public utilities service buildings/stations shall be exempt from the application of this ordinance. Fees will be charged for substations, regulator buildings and auxiliary buildings, but not for those elements directly associated with distribution or transmission systems.

22.01:37. Radio and television towers.

- (a) The setbacks for each tower from adjacent rights-of-way and/or property lines shall be not less than 1 1/2 times the height of each tower above the ground.
- (b) Unless specifically waived by the Planning Commission, an open weave wire fence eight feet in height shall be constructed on the boundary property line.

22.01:38. Salvage yards.

- (a) The minimum lot size shall be three acres.
- (b) The setback from the front property line to the area upon which junk materials are stored shall be not less than 60 feet and said area shall be screened from

the roadway and from any adjoining residential or business uses by an obscuring fence 10 feet in height. Said fence shall be kept uniformly painted, neat in appearance and shall not have any signs or symbols painted on it.

- (c) All structures and fencing and used material storage yards shall be set back not less than 50 feet from any street or highway right-of-way.
- (d) All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, watered or chemically treated so as to limit, for adjoining lots and public roads, the nuisance caused by wind-borne dust.

22.01:39. Schools, civic buildings, post offices, fire stations and other similar public structure facilities.

- (a) Adequate off-street parking must be provided in accordance with the standards in Article 27.
- (b) Schools must provide adequate space for loading/unloading of students and temporary or permanent parking of buses.
- (c) The minimum setbacks for main and accessory school structures shall be 50 feet.
- (d) The minimum distance between main and accessory school structures and residential property or residential districts shall be 300 feet.
- (e) Main and accessory structures associated with fire stations shall be located no closer than 100 feet from a residential district or residential property.
- (f) Adequate warning signs shall be provided at appropriate locations on both sides of the street on which emergency vehicles enter and exit.

22.01:40. Shops for building contractors.

- (a) The minimum lot size shall be 30,000 square feet.
- (b) Areas used for storage, milling and/or fabrication shall be surrounded by a fence or wall of a minimum height of six feet and shall be located at the rear of the main building.
- (c) Vehicles and equipment used in construction shall be parked or stored in the rear, or on the side, of the main building.
- (d) The minimum distance between any structure or area on the premises in which construction or fabrication activity occurs as a function of the business shall be located no closer than 75 feet from a residential district.

22.01:41. Stables.

- (a) For breeding, rearing and housing of horses, mules and similar domestic animals, the minimum lot size shall be 5.1 acres, except that up to three saddle horses or ponies may be housed and reared on lots of two to five acres.
- (b) An accessory building used as a stable shall not be located nearer than 50 feet to any property line and not nearer than 100 feet to any dwelling.

- (c) Animals shall be confined in a suitable fenced area, or paddock, to preclude their approaching nearer than 30 feet to any dwelling on adjacent premises.
- (d) The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.
- (e) Appropriate off-street parking, as identified in Article 27 shall be provided.
- (f) Outdoor lighting shall be located so as not to create a glare or other visual nuisance upon adjoining property.

22.01:42. Tire shops.

- (a) All processing, fabrication, retreading and similar activity shall occur within an enclosed building.
- (b) New, used and retread tires shall be stored in an enclosed building.
- (c) Off-street parking for customers shall be paved with concrete or asphalt.

22.01:43. Trailer sales yards.

- (a) Trailer sales yards shall adhere to the requirements of § 22.01:29, open-air business.

22.01:44. Vehicle wash establishments.

- (a) The minimum lot size shall be 12,000 square feet, minimum lot width shall be 100 feet.
- (b) All washing activities must be carried on within a building.
- (c) The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking space for vehicles to be serviced by the subject facility.
- (d) A six-foot high concrete block or brick wall or solid wood fence shall be located on the perimeter of the property on three sides.
- (e) Outdoor lighting shall be designed and located so that the surface of the source of light will reflect the light away from any residential use.
- (f) No more than one curb opening shall be permitted for every 50 feet of frontage (or fraction thereof) along any adjacent street.
- (g) Ingress and egress drives shall not be less than 15 feet wide.
- (h) No drive or curb opening shall be located nearer than 30 feet to any intersection or adjacent residential property line. No drive shall be located nearer than 30 feet, as measured along the property line, to any other drive on the premises. Curb cuts shall not be permitted where, in the opinion of the Zoning Administrator, they may produce a safety hazard to adjacent pedestrians or vehicular traffic.

- (i) The entire lot, excluding the area occupied by a building, shall be hard surfaced with concrete or a plant-mixed bituminous material except desirable landscaped areas which shall be separated from all paved areas by a low barrier or curb.
- (j) Adequate holding space shall be provided as required in § 27.03.

22.01:45. Warehousing of wholesale and retail merchandise.

- (a) Adequate ingress and egress to the site shall be provided.
- (b) Outdoor lighting shall be provided for parking and security and shall be designed and located so that the surface of the source of light will reflect the light away from any residential use.
- (c) Where a parcel on which a warehouse is located is adjacent to a residential use, a solid wall or fence six feet in height shall be located on the common property line.
- (d) Outdoor storage areas shall be surrounded by a chain-link fence, solid fence, or wall of a minimum height of eight feet and a maximum height of 10 feet.
- (e) All parking, loading and unloading areas shall be paved with concrete or asphalt and designed and constructed with appropriate stormwater runoff facilities.

22.01:46. Ground-floor residential in mixed-use buildings in C-1 Zoning District.
[Added 6-18-2019 by Ord. No. 2019-03]

- (a) Residential use on the ground floor of a mixed-use building in the C-1 District shall not exceed 60% of the gross square footage of the ground floor of the building.
- (b) Any residential use shall be restricted to the rear portion of the ground floor. The remaining front of the building shall be retained for commercial/retail/office or other similar use with a main entrance off of the frontage street.
- (c) If an existing commercial/retail/office or other similar use has a rear public entrance to the building off of an alley or parking lot, then reasonable efforts shall be made to retain a rear entrance to the resulting commercial/retail/office use in the front of the building.

ARTICLE 23
Planned Unit Development

§ 23.01. Purpose.

The purpose of a PUD is to permit and encourage design flexibility within the R-1 Rural Residential District, R-2 Suburban Residential District, R-3 Community Residential District, and R-4 Multiple-Family Residential District (for duplex and multiple-family development only). It has the potential of promoting a diversity of types and locations of dwelling units, allowing a more efficient use of land for circulation, open space and utilities. It also is intended to minimize adverse environmental impacts by providing greater harmony with the existing physical characteristics of the area.

§ 23.02. Special use permit.

A planned unit development shall be recognized as a special use and controlled by the procedures and requirements identified in §§ 23.03 through 23.07 for acquiring approval as a special use. Control of such development shall be the responsibility of the City Planning Commission.

§ 23.03. Procedures for application approval.

The procedures for application and approval of a PUD permit shall include one or more informal preapplication conferences between the applicant and the Zoning Administrator and the Planning Commission in which the applicant informs the Zoning Administrator and the Planning Commission of his or her general intentions. After presentation and discussion of the concept plan, a preliminary development plan shall be filed with the Planning Commission for purposes of obtaining a special use permit during which time a public hearing will be scheduled commensurate with the criteria set forth in Article 20. Following the public hearing the Planning Commission will submit its recommendations to the City Council which will approve, disapprove or approve with modification these recommendations during its next public meeting. The applicant must also follow the agency review and certification requirements under the land division act, Public Act No. 288 of 1967 (MCL § 560.101 et seq.).

§ 23.04. Concept plan requirement.

The applicant shall submit, during the preapplication conference, a concept plan including types and placement of residential structures; utilities and public facilities, such as schools, fire departments, recreational facilities; minimum lot sizes; densities; environmental treatment; pedestrian and auto circulation, commercial and industrial areas, if applicable; the conformity of the proposed development with surrounding uses; financing of the project; and all other information the Planning Commission and Zoning Administrator may require to gain a satisfactory understanding of the proposed development. The applicant shall declare whether the proposed development will be based upon the performance standards in Article 18 or the PUD design requirements in § 23.08.

§ 23.05. Preliminary plan requirements.

Following the presentation of, and any deliberation pertinent to, the concept plan, the

applicant shall submit a preliminary plan. The procedures for submission and approval of the preliminary plan shall follow those outlined in Article 21 of this ordinance. The preliminary plan is specifically intended to include enough detail for administrative and legislative analysis for approval or denial of a special use permit. The preliminary plan must be more detailed than the concept plan and contain the information required of a site plan in Article 21. It should also include:

- 23.05:1. A written document giving the legal description of the property as indicated in the deed of ownership; a statement of the objectives of the planned development, including physical, social and economic concepts; a schedule of development, including phasing of residential, public and commercial areas; and future selling and/or leasing intentions and accompanying management techniques.
- 23.05:2. Graphic presentation including a base map with topographic identification (using five feet contour intervals) and important environmental features including water bodies, vegetation (type and size) and soils. Additional maps shall contain proposed lot lines, location and floor area, dimensions of buildings, areas to be dedicated for public use, existing and proposed pedestrian and vehicular circulation, off-street parking, layout of proposed and existing utility systems, general landscape plans, information pertinent to the identification of areas adjacent to the proposed development, and general description of the architectural and landscape elements within 300 feet of the planned development.
- 23.05:3. Additional written information shall be contained in the preliminary plan, including tabulation of land area ratios, a comprehensive market analysis, environmental impact statements, and any contract and deeds of indenture between the developer and home buyer.

§ 23.06. Procedures for final plan.

Once the preliminary plan has been submitted to the Planning Commission and the special use permit approved, with or without recommended modifications and stipulations, the applicant must, within a period of six months to one year, present a final development plan to the Planning Commission, which shall review it within 30 days of receipt. The final plan shall not contain any modification which would substantially alter the character of the development from that approved in the preliminary plan.

- 23.06:1. The final plan shall not deviate substantially from the approved preliminary plan if the following conditions have been met:
 - (a) The final plan does not violate the contents of this ordinance;
 - (b) Land reserved for open space (common and usable) has not been reduced by more than 10%;
 - (c) The total building coverage has not increased by more than 10%.
- 23.06:2. The final plan shall include site plans applicable to legal recording criteria and engineering drawings. Drawings and plans presented in general fashion in the preliminary stage shall be presented in detailed character in the final plan.
- 23.06:3. Any modifications not included in the preliminary plan must be reviewed by the

Planning Commission and legal documents, such as easement agreements, the final draft of articles of incorporation, and any indentures, as well as dedications, shall be submitted by the applicant.

23.06:4. The final development plan shall be reviewed by the Planning Commission which shall then approve the final plan, disapprove it, or approve it with modifications. No public hearing is necessary, and if approval is given by the Planning Commission, the City Council shall accept and record site maps and plans, dedicated streets, properties, and open spaces, rights-of-ways, and any additional dedications within the development.

23.06:5. If the plan is disapproved by the Planning Commission, reasons for the denial shall become part of the public record as well as presented to the developer in written form.

§ 23.07. Bond requirement.

A performance bond or bank letter of credit conditioned upon construction and development in accordance with the approved plans shall be required by the Planning Commission to be filed with the City Clerk at the time of application for a building permit where the development is to be completed in phases over a period of years. The Planning Commission shall ensure that the amounts and period of development in the description of said bond or letter of credit are adequate to ensure compliance with the approved plans. Such a bond or letter of credit may also be required as security for the completion of any particular improvements upon which commission approval is conditioned for the protection of natural resources or the health, safety and welfare of the residents of the City and future users or inhabitants of the proposed project area, including roadways, lighting, utilities, sidewalk, screening and drainage. Where a cash deposit is made in lieu of a bond or letter of credit, the commission shall provide for a rebate of the same in reasonable proportion to the ratio of the work completed and for which the deposit has been required, provided that the amount remaining on deposit still provides reasonable security for the completion of the unfinished improvements germane to the deposit.

§ 23.08. Design requirements.

To ensure the desired performance, the PUD shall be designed and constructed in accordance with the performance standards identified in Article 18 or, in the alternative, the following standards shall be adhered to:

23.08:1. Density. Density increases may be allowed for PUDs over and above those allowed in the original residential zones in which the PUD is located in accordance with the methodology described below. The development shall be allowed on any buildable site of 10 acres or more and it shall be controlled by one owner or group of owners, and be planned and developed as a single unit.

23.08:2. Lot size variations. Lot sizes shall be computed using gross acreage computation. Land utilization for public utilities such as easements and floodplain areas shall not be included in determining computations for gross development areas. A fixed percentage of streets within the proposed development shall be subtracted from the computed gross area figure. The result shall be divided by the

minimum lot requirements (after density bonuses have been arrived at by the methods described below) of the appropriate residential district. The result will define the maximum residential units allowed. Density increases are to be permitted for the following amenities:

- (a) Improved and unimproved common open space:
 - (1) The first acre of common open space per 10 acres of gross area, if improved, permits a maximum building density increase of 10%; if the first acre of common open space is unimproved, a 5% building density increase is allowed;
 - (2) The second acre of common open space per 10 acres of gross area, if improved, permits an additional maximum building density increase of 5%; if unimproved, a 2% increase in building density is allowed;
 - (3) Each additional acre of common open space per 10 acres of gross area, if improved, permits an additional maximum building density increase of 3%; if unimproved, 1% increase if allowed.
- (b) Character, identity, and architectural and siting variations incorporated in a development shall be considered cause for density increase not to exceed 15%, provided these factors make a substantial contribution to the objectives of a planned unit development. The degree of distinctiveness and the desirable variation achieved shall govern the amount of density increase which the Planning Commission shall approve. Such variations may include, but are not limited to, the following:
 - (1) Landscaping: a maximum increase of 3%;
 - (2) Visual focal points, use of existing physical features such as topography; view; sun and wind orientation; circulation patterns; physical environment; variation in building setbacks; and building groups, such as clustering: maximum increase of 7%;
 - (3) Design features, street sections, architectural styles, harmonious use of materials, parking areas broken by landscape features, and varied use of housing types: maximum increase of 5%.

23.08:3. Open space. The PUD approach is an efficient tool in preserving and enhancing open spaces, particularly recreational areas, within residential developments. Open space shall be distinguished as private (for personal or family use) common (for use by all homeowners in the PUD) and public (open to all members of the general public).

- (a) The following open space requirements shall be adhered to in all PUDs, to provide for the integration of efficient and extensive areas into the existing open space system of the City. These areas should be easily accessible to all residents of the PUD. Required open space shall comprise at least 60% of the total gross area. Not less than 80% of the net area of the property shall be open space devoted to planting, patios, walkways, and recreational areas, but excluding areas covered by dwelling units, garages, carports, parking areas, or

driveways. Net area is defined as the site area less all land covered by buildings, streets, parking lots or stalls, driveways, and all other paved vehicular ways and facilities. At least 50% of the total area shall be devoted to such properly planned permanent usable open space. Common open space shall comprise at least 10% of the gross area of the planned unit development to be used for recreational, park, or environmental amenity for collective enjoyment by occupants of the development but shall not include public or private streets, driveways, or utility easements.

- (b) Active open spaces for recreational purposes should not be less than 22,000 square feet in area.
- (c) Any portions of the PUD site, if deemed environmentally significant may, upon review by the Planning Commission, be preserved in their natural state.

23.08:4. Environmental design requirements. The Planning Commission shall require the following: reasonable preservation of existing trees, predominant shrubbery, waterways, scenic viewing areas, historic points, floodplain preservation, and the planting of vegetation or placement of protective cover to minimize erosion resulting from residential development and consequent street and walkways.

23.08:5. Traffic circulation. Internal circulation systems and points of ingress and egress with external traffic flow must be coordinated within the PUD and in relation to the community as a whole. These systems should promote safety, convenience, easy access, separation of vehicles from pedestrians, and enhance the overall physical design of the PUD. Vehicular circulation systems in PUDs shall not be connected with external streets to encourage through traffic. Emergency access and safety standards shall be adhered to.

23.08:6. Private streets. Private streets shall be designed to accommodate anticipated traffic loads including volume, vehicle weight and size, speed, emergency vehicles and turning radii. All private streets can deviate from existing public street standards, if upon recommendation by the Fire Chief and City engineer, the Planning Commission authorizes such modifications within the PUD and health, safety and welfare requirements are met. For purposes of utility easements, all private streets in the PUD with underground utilities shall be dedicated to the City which will maintain these streets. All local streets shall have a minimum dedicated right-of-way width of 66 feet.

23.08:7. Parking standards. The following minimum parking requirements shall be adhered to:

- (a) For each dwelling unit, there shall be off-street parking spaces consisting of not less than 300 square feet each;
- (b) Parking areas shall be arranged so as to prevent through traffic to other areas;
- (c) Off-street parking areas shall be screened from adjacent roads, structures, and traffic arteries with hedges, dense planting, earth berms, changes in grade or walls;
- (d) No more than 12 off-street parking spaces shall be permitted in a continuous

row without being interrupted by landscaping;

- (e) No more than 120 parking spaces shall be accommodated in any single parking area;
- (f) All streets and any off-street loading area shall be paved, and the design thereof shall be approved by the Planning Commission; all areas shall be marked so as to provide for orderly and safe loading, parking and storage;
- (g) All parking shall adequately be graded and drained to dispose of all surface water without erosion, flooding, or other inconveniences.

23.08:8. Perimeter treatment. To provide adequate separation between the PUD and the surrounding community, a minimum fifteen-foot buffer zone shall be established on the perimeter of the development, in which no structures are to be located and adequate screening and landscaping or protection by natural features will be established. In those cases where, because of natural topography, these screening and landscaping requirements cannot be met, and adequate privacy and separation is not possible, the Planning Commission may require structures on the perimeter to be set back in accordance with the requirements established for the zoning district in which the PUD is located. Those structures within this category shall be adequately screened or landscaped.

§ 23.09. General standards.

The following general building and site standards shall be used in the determination of structural siting on lots to allow flexibility in design. Reduction of space requirements is based upon standards set forth in the appropriate existing residential zones.

23.09:1. Building spacing. When the building is designed to provide adequate privacy to its residents, including adequate window space, there may be a reduction in the spacing of buildings. Those residences which have no windows or windows at higher levels and have adequate light and ventilation from other areas of the room, may decrease building space. Residences incorporating effective utility space in side yards shall be eligible for reduced separation between houses. Where building configurations incorporate the above criteria, and have unusual shapes, the spacing of structures may be reduced. Zero lot line configurations may be allowed if these requirements are met (unusual building shapes are not a prerequisite for zero lot line spacing).

23.09:2. Front yard requirements. In those areas where street design reduces traffic flow, adequate screening or landscaping is provided, the residence is facing onto a common open space, or interior room design minimizes use of the front yard, the front yard requirements may be reduced.

23.09:3. Lot width requirements. Those lots which have an awkward configuration, yet allow adequate light and ventilation between structures, may reduce their lot width requirements while maintaining adequate light, ventilation and access.

23.09:4. Building heights. The maximum building height of a structure in the PUD shall conform to the requirements of the zone in which the PUD is located.

§ 23.10. Amendment of PUD plan.

- 23.10:1. A developer may request an amendment to an approved PUD plan. All amendments shall follow the procedures and conditions herein required for original submittal and review in full.
- 23.10:2. A request for amendment shall be made in writing to the Planning Commission and shall clearly state the reasons therefor. Such reasons may be based upon changing social or economic conditions or potential improvements in layout mutually affecting the interest of the City and developer such as technical causes, site conditions, state or federal projects and installations, and statutory revisions.
- 23.10:3. The Planning Commission, after the duly noticed public hearing, shall recommend whether the requested change is to be approved, modified, or denied. The burden shall be on the applicant to show good cause for any requested change.
- 23.10:4. The Planning Commission shall notify the City Council and any other applicable agency of its recommendation for approval, modification, or denial of such changes. If the amendment is recommended for approval, the revised drawings as approved shall each be signed by the applicant and the owner of record or the legal representative of said owner.
- 23.10:5. The Planning Commission shall then transmit the recommended revised drawings to the City Council for its approval.
- 23.10:6. Following official adoption of the amendment and enactment of the amending ordinance by the City Council, the designated change shall become an amendment to the PUD plan.

§ 23.11. Violations.

- 23.11:1. Any violation of such approved plan shall be grounds for the Zoning Administrator to order that all construction be stopped and to order that building permits and certificates of occupancy be withheld until the violation is removed or adequate guarantee of such removal is provided.
- 23.11:2. Violations of any plan approved under this article, or failure to comply with any requirement of this article, including any agreements and conditions attached to any approved plan, shall be considered a violation of this ordinance as provided in Article 33.

ARTICLE 24
Site Condominium Development

§ 24.01. Condominium subdivision approval.

Pursuant to authority conferred by Section 141 of the Condominium Act, Public Act No. 59 of 1978 (MCL § 559.241), as amended, all condominium subdivision plans must be approved by the Planning Commission. The proposed condominium project shall undergo site plan review and approval pursuant to Article 21 of this ordinance.

§ 24.02. Definitions.

The following terms are defined both in the context of the condominium act and in a manner intended to make comparison possible between the terms of this ordinance and the subdivision and utility ordinance with the condominium act:

CONDOMINIUM ACT — Public Act No. 59 of 1978 (MCL § 559.101 et seq.), as amended.

CONDOMINIUM SUBDIVISION — Shall be equivalent to the term "subdivision" as used in this ordinance and the subdivision and utility ordinance.

CONDOMINIUM UNIT — That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.

CONDOMINIUMS SUBDIVISION PLAN — The site, survey and utility plans, floor plans, and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location and approximate size of common elements.

CONSOLIDATING MASTER DEED — The final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

CONTRACTIBLE CONDOMINIUM — A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium documents and in accordance with this ordinance and the condominium act.

CONVERSION CONDOMINIUM — A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

CONVERTIBLE AREA — A unit or a portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to express provision in the condominium documents and in accordance with this ordinance and the condominium act.

EXPANDABLE CONDOMINIUM — A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in

accordance with this ordinance and the condominium act.

FRONT YARD SETBACK — Shall be equal to the distance between the front yard area line and the condominium dwelling.

LOT — The same as the terms "homesite" and "condominium unit."

MASTER DEED — The condominium document recording the condominium project as approved by the Zoning Administrator to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

REAR YARD SETBACK — Shall be equal to the distance between the rear yard area line and the condominium dwelling.

SIDE YARD SETBACK — Shall be equal to the distance between the side yard area line and the condominium dwelling.

§ 24.03. Condominium projects.

The following regulations shall apply to all condominium projects within the City of Ithaca:

24.03:1. Initial information. Concurrently with notice required to be given the City of Ithaca pursuant to Section 71 of Public Act No. 59 of 1978, as amended, (MCL § 559.171) a person, firm or corporation intending to develop a condominium project shall provide the following information with respect to the project:

- (a) The name, address and telephone number of:
 - (1) All persons, firms or corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
 - (2) All engineers, attorneys, architects or registered land surveyors associated with the project.
 - (3) The developer or proprietor of the condominium project.
- (b) The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.
- (c) The acreage content of the land on which the condominium project will be developed.
- (d) The purpose of the project (for example, residential, commercial, industrial, etc.).
- (e) Approximate number of condominium units to be developed on the subject parcel.

24.03:2. Information to be kept current. The information shall be furnished to the Zoning Administrator and shall be kept updated until such time as a certificate of occupancy has been issued pursuant to § 32.05.

24.03:3. Site plans; new projects master deed and engineering and inspections.

- (a) Prior to recording to the master deed required by Section 72 of Public Act No. 59 of 1978 (MCL § 559.172), as amended, the condominium project shall undergo site plan review and approval pursuant to Article 21 of this ordinance.
- (b) In determining whether to approve a condominium subdivision plan, the Planning Commission shall consult with the Zoning Administrator, City Attorney and City engineer, regarding the adequacy of the master deed, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirement of the condominium act.

§ 24.04. Condominium subdivision plan; required content.

24.04:1. All condominium subdivisions plans shall include the information required by Section 66 of the Condominium Act and the following:

- (a) A survey plan of the condominium subdivision.
- (b) A floodplain plan, when appropriate.
- (c) A site plan showing the location, size, shape, area and width of all condominium units.
- (d) A utility plan showing all sanitary sewer, water, and storm sewer lines and easements granted to the City for installation, repair and maintenance of all utilities.
- (e) A street construction, paving and maintenance plan for all private streets within the proposed condominium subdivision.
- (f) A storm drainage and stormwater management plan, including all lines, swales, drains, basins and other facilities.

§ 24.05. Site plans; expandable or convertible projects.

Prior to expansion or conversion of a condominium project to additional land the new phase of the project shall undergo site plan review and approval pursuant to Article 21 of this ordinance.

24.05:1. Master deed, restrictive covenants and the "as built" survey to be furnished:

- (a) The condominium project developer or proprietor shall furnish the Zoning Administrator with the following: one copy of the recorded master deed, one copy of all restrictive covenants and two copies of an "as-built" survey. The "as-built" survey shall be reviewed by the City engineer for compliance with City ordinances. Fees for this review shall be established by resolution of the City Council.

§ 24.06. Monuments required; site condominium projects.

24.06:1. All condominium projects which consist in whole or in part of condominium units which are building sites, or recreational sites shall be marked with monuments

as provided in this section:

- (a) Monuments shall be located in the ground and made according to the following requirements, but is not intended or required that monuments be placed within the travelled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily reestablished by reference to monuments along the side lines of the streets.
- (b) All monuments used shall be made of solid iron or steel bars at least one-half inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
- (c) Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project and at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.
- (d) If the required location of a monument is an inaccessible place, or, where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
- (e) If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
- (f) All required monuments shall be placed flush with the ground where practicable.
- (g) All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and one-half inch in diameter, or other approved markers.
- (h) The City Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on the condition that the proprietor deposits with the City Clerk cash or a certified check, or irrevocable bank letter of credit running to the City of Ithaca, whichever the proprietor selects, in an amount not less than \$25 per monument and not less than \$100 in total. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

§ 24.07. Monuments required for all condominium projects.

All condominium projects shall be marked at their boundaries with monuments meeting the requirements of § 24.06:1(b) above.

§ 24.08. Easement of utilities.

The condominium subdivision plan shall include all necessary easements granted to the City of Ithaca for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits and other installations of a similar character (hereinafter collectively called "public structures") for the purpose of providing public utilities, including conveyance of sewage, water and stormwater runoff across, through and under the property subject to such easement, and excavating and refilling ditches and trenches necessary for the location of such public structures.

§ 24.09. Private streets.

If a condominium subdivision is proposed to have private streets, they shall be developed to the minimum design, construction, inspection, approval, and maintenance requirements of Section 7.7 of the Subdivision and Utility Ordinance. In addition, all private streets in a condominium subdivision shall have a paved driving surface of asphalt or concrete.

§ 24.10. Encroachment prohibited.

Encroachment of one condominium unit upon another, as described in Section 40 of the Condominium Act (MCL § 559.140), shall be prohibited by the condominium bylaws and recorded as part of the master deed.

§ 24.11. Relocation of boundaries.

The relocation of boundaries, as described in Section 48 of the Condominium Act (MCL § 559.148), shall conform to all setback requirements of this ordinance for the district in which the project is located, shall be approved by the Zoning Administrator, and this requirement shall be made part of the bylaws and recorded as part of the master deed.

§ 24.12. Subdivision of condominium units.

All subdivisions of individual condominium units shall conform to the requirements of this ordinance for minimum lot width, lot area, and building setback requirements, for the district in which the site condominium project is located, and these requirements shall be made part of the bylaws and recorded as part of the master deed. The applicant may, at the City's discretion, apply the performance criteria in Article 18 in the design and layout of sites in the condominium subdivision.

§ 24.13. Compliance with federal, state and local law.

All condominium projects shall comply with federal and state statutes and local ordinances.

24.13:1. State and county approval. The developer or proprietor of the condominium project shall establish that appropriate state and county approvals have been received with regard to the freshwater system for the proposed project and with regard to the wastewater disposal system for the proposed project.

§ 24.14. Temporary occupancy.

The Zoning Administrator may allow occupancy of the condominium project before all improvements required by this ordinance are installed provided that a bond is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the City.

§ 24.15. Condominium subdivision layout, design and approval.

All condominium subdivision plans shall conform to the design, layout and improvement standards of Articles 7 and 8 of the City of Ithaca subdivision and utility ordinance, as amended. The requirements of final plat approval in Section 4.3 of the Subdivision and Utility Ordinance shall not apply to condominium subdivision plans, except that a deposit in the form of cash, certified check, or irrevocable bank letter of credit shall be made with the City Clerk to guarantee the installation and completion of any required public sanitary sewer, water supply, and drainage facilities, within a length of time agreed upon from the date of final approval of the condominium subdivision plan by the Planning Commission. Nothing in this section shall be construed as requiring a condominium subdivision to obtain plat approval under the City subdivision and utility ordinance or the Land Division Act (MCL § 560.101 et seq.).

ARTICLE 25
Wellhead Protection Overlay District

§ 25.01. Purpose.

The intent of the wellhead protection overlay zone is to provide supplemental development regulation in the designated wellhead protection area so as to permanently protect the City of Ithaca's drinking water source from long-term contamination originating from land use activities on the earth's surface. Due to the vulnerability of groundwater to contamination, the need for public health protection, and the significant public investment in the municipal water supply system, these regulations contain protective measures which do not apply to other areas of the community. The requirement and restrictions defined in this article shall be applied as additional requirements and restrictions to the standards identified in this ordinance for the applicable underlying zoning districts within the designated wellhead protection area.

§ 25.02. Definitions.

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

DISCHARGE — But is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying or dumping of any pollutants prohibited by lawful statute or regulation which occurs and which affects surface water and groundwater.

OVERLAY ZONE — That area of the City in which special requirements and restrictions are applied to land uses and activities to eliminate or minimize contamination of the aquifers supplying the City's municipal water wells. The overlay zone is described by an opaque map representing the wellhead protection area superimposed on the City's official zoning map.

WELLHEAD PROTECTION AREA — The surface and subsurface area surrounding a public water supply well through which contaminants, if spilled or deposited, will most likely pass and eventually reach the well or wellfield. This area is also known as the zone of contribution (ZOC).

§ 25.03. Location of wellhead protection areas.

The City of Ithaca wellhead protection area is that area whose boundaries are defined by a hydrogeologic investigation delineating the characteristics of the aquifers supplying the City's municipal water wells. The wellhead protection area shall be visually identified by an overlay zone on the City's official zoning map.

§ 25.04. Application to land use activities.

The requirements of this article apply to any person, firm, or corporation within the wellhead protection overlay zone when new or expanded land uses are proposed.

§ 25.05. Special land use permit required.

No land uses within the wellhead protection overlay zone subject to regulation under this

ordinance shall be constructed or expanded unless a special use permit has been granted by the Planning Commission.

§ 25.06. Wellhead protection area map.

The wellhead protection overlay zone shall be mapped and the land area where water infiltrates into the soils and reaches groundwater used by the public water supply wells shall be delineated. The wellhead protection overlay zone map shall indicate the criteria and methods used to prepare the map and shall be periodically reviewed. The wellhead protection overlay zone map shall be incorporated into this ordinance upon completion of the hydrogeologic investigation by a professional hydrogeologist delineating the area, flow, depth and characteristics of the aquifers supplying the City's municipal water wells.

§ 25.07. Wastewater treatment system connections.

All residential, commercial, industrial and public uses within the wellhead protection overlay zone shall be connected to available public wastewater treatment facilities.

§ 25.08. Site plan review requirements.

All land uses proposed or expanded within the wellhead protection area shall conform to the permitted uses or uses allowed by special permit for the applicable underlying zone, and shall meet the special land use site plan review standards specified in Article 22. All land uses and activities existing within the wellhead protection area prior to the approval of the City's wellhead protection plan by the appropriate state agency must conform to the special land use site plan review standards in this article within 180 days after approval of the wellhead protection plan.

§ 25.09. Data submission requirements.

Data required for special land use review purposes for all proposed uses in the wellhead protection area includes the following:

- (a) Listing of types and quantities of hazardous substances which will be used or stored on site at the facility in quantities greater than 25 gallons per month.
- (b) Completion of the hazardous substances reporting form, as provided by the Zoning Administrator.
- (c) Location of existing and proposed service facilities and structures, above and below ground, including:
 - (1) General location of the site within the wellhead protection area.
 - (2) Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances, including interior and exterior areas.
 - (3) Underground storage tank locations.
 - (4) Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified

on the site plan.

- (d) Location of existing wetlands and watercourses, including ponds and streams on or within one-quarter mile of the site.
- (e) Soil characteristics of the site, at least to the detail provided by the U.S. Soil Conservation Service.
- (f) Existing topography, with a maximum contour interval of two feet indicated.
- (g) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site cleanup.
- (h) An affidavit stating that any existing commercial, industrial, or public utility facility is in compliance with county, state and federal regulations.
- (i) A county/state environmental permits checklist, indicating the types of environmental permits and approvals which may be needed for the proposed project.

§ 25.10. Standards for special land uses.

All projects proposed for special land use approval within the wellhead protection area shall meet the following minimum standards, in addition to the applicable standards in Article 22 and the general standards of § 20.03:1.

- (a) Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, streams, or wetlands.
- (b) Secondary containment of hazardous substances shall be provided for areas where such substances are stored or used. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- (c) General purpose floor drains shall be approved for connection to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
- (d) State and federal agency requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances shall be met, including, but not limited to, the following:
 - (1) A Michigan Groundwater Discharge Permit shall be required for any discharge to groundwater.
 - (2) A pollution incident prevention plan shall be prepared for facilities which store any quantity of materials listed on the Michigan Critical Materials List.
- (e) Commercial or industrial land uses shall have specially designed stormwater facilities in areas where hazardous substance spills may occur. Such facilities shall be designed to:
 - (1) Prevent the commingling of stormwater runoff and hazardous substances;

- (2) Enhance spill cleanup; and
- (3) Meet all county, state and federal agency requirements.
- (f) Runoff collection systems for roads and parking lots shall be able to control at least the first inch of rainwater.
- (g) All guidelines and requirements of federal, state, the county and local agencies specified in the state approved wellhead protection plan for the City of Ithaca.

§ 25.11. Maintenance plan required.

All special land uses proposed for the wellhead protection area shall have an approved maintenance plan recorded with the county register of deeds. The maintenance plan may include standards and operational requirements related to:

- (a) The application rate and timing of lawn fertilizers.
- (b) The repair and reconstruction of secondary containment dikes and other spill protection measures.
- (c) The application of de-icing chemicals to road surfaces and parking lots.
- (d) Maintenance of stormwater management facilities located on site.
- (e) Other topics identified in the City of Ithaca Wellhead Protection Plan.

§ 25.12. Administrative review fees.

All applicants for special use permits in the Wellhead Protection Overlay District shall pay an administrative fee sufficient to cover the expense of reviewing and approving the proposal, including, but not limited to, the cost of planning and engineering site reviews. Such fee shall be set by City Council.

ARTICLE 26
Schedule of Regulations

§ 26.01. Schedule of Regulations.

The following table presents the minimum and maximum area, height, and distance requirements for each district within the City of Ithaca Zoning Ordinance.⁶

6. Editor's Note: The Schedule of Regulations is included as an attachment to this chapter.

ARTICLE 27

Off-Street Parking and Loading Requirements**§ 27.01. Off-street parking requirements.**

In all zoning districts, off-street parking requirements for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings erected, altered or extended after the effective date of this ordinance, shall be provided as prescribed in this article. Such space shall be under the direct control, either by ownership or long-term lease, of the owner of the building or use served, be maintained and shall not be encroached upon by buildings, structures, open air businesses or outdoor commercial recreation uses so long as the main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this ordinance.

27.01:1. Number of spaces. When units or measurements determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including 0.5 shall be disregarded, and fractions over 0.51 shall require one parking space.

27.01:2. Double count. Loading space as required elsewhere in this ordinance dealing with off-street loading requirements shall not be construed as also supplying off-street parking spaces.

27.01:3. Parking locations.

(a) The off-street parking facilities required for residential dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, behind the front setback line; and shall consist of a parking strip, parking apron and/or garage. Parking in residential zones is permitted only as an accessory use.

(b) The off-street parking facilities required for all other uses shall be located on the lot or other lots within 500 feet for industrial districts and 300 feet for all other districts. Such distance is to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served.

27.01:4. General condition. In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use which is so mentioned and which is similar shall apply.

27.01:5. Parking duration. Except when land is used as storage space in direct connection with the business of a repair or service garage, a twenty-four-hour time limit for parking in nonresidential off-street parking areas shall prevail, and it shall be unlawful to permit the storage on any parking area, in any district, of wrecked or junked cars.

27.01:6. Parking restriction. It shall be unlawful to park or store any motor vehicle on any private property without the expressed or implied consent of the owner, holder, occupant, lessee, agent or trustee of said private property.

27.01:7. Existing parking lots. Off-street parking existing at the effective date of this ordinance which serves an existing building or use shall not be reduced in size less than that required under the terms of this ordinance.

27.01:8. Joint use.

- (a) Nothing in this section shall be construed to prevent collective provision of off-street parking facilities, for two or more buildings or uses, provided collectively such facilities shall not be less than the parking requirements of the layout building or use plus 50% of the sum of the individual requirements of the remaining buildings or uses (as determined by the table of parking requirements).
- (b) Parking spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums, and other places of public assembly, stores, office buildings and industrial establishments lying within 500 feet of a church, as measured along lines of public access, and that are not normally used between the hours of 7:00 a.m. and 6:00 p.m. on Sundays, and that are made available for other parking, may be used to meet not more than 60% of the off-street parking requirements of a church.

§ 27.02. General standards.

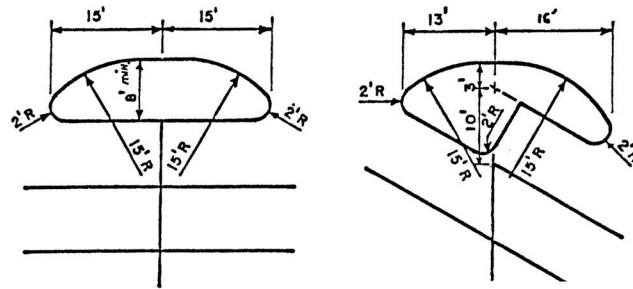
All off-street parking lots providing space for more than four vehicles located in commercial or industrial districts or for multiple-family residential units shall comply with the following development regulations prior to the issuance of any certificate of occupancy, except as specifically stated otherwise:

27.02:1. Plans for the development of any parking lot shall be submitted as part of the site plan to the City Zoning Administrator and must be approved by the Zoning Administrator prior to the start of construction. The construction must also be approved by a registered professional engineer. The construction of the entire parking lot shall be completed to the satisfaction of the Zoning Administrator before a certificate of occupancy may be issued. In the event that, owing to inclement or cold weather conditions, the parking lot cannot be improved, a six-month temporary certificate of occupancy can be issued by the Zoning Administrator provided a cash deposit or performance bond in an amount sufficient to cover the cost of construction of the parking lot, as determined by the Zoning Administrator, is presented to the City. The forfeit of a deposit or bond shall be mandatory if the parking lot is not fully completed within the six-month period.

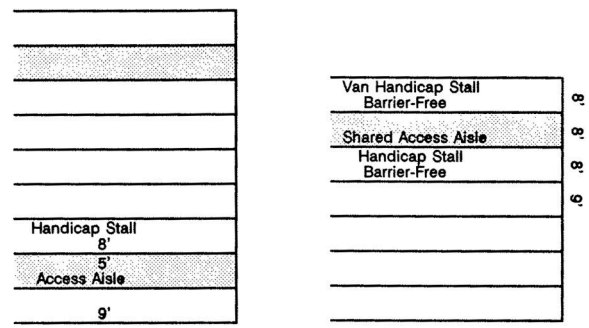
27.02:2. Adequate points or means of ingress and egress shall be provided and shown in the plan submitted.

27.02:3. Such parking lots shall be hard-surfaced with concrete or plant-mixed bituminous material as identified in § 22.01 and maintained in a usable dustproof condition, and shall be graded and drained to dispose of surface water in accordance and conformance with the requirements of the City engineer; provided, however, that where access to the parking area is from an unpaved roadway, a durable, dustless surface may be permitted. No surface water shall be allowed to drain onto adjoining private property.

- 27.02:4. Off-street parking and loading areas, including access drives, for all uses except single-family dwelling units shall be surfaced with either:
- (a) Six inches of concrete;
 - (b) Two inches of asphaltic concrete laid over a base of crushed stone with a compacted thickness of six inches; or
 - (c) Five inches of full depth asphaltic concrete.
- 27.02:5. Curbing/bumper blocks. Concrete curbing or concrete or treated wood tire bumper blocks of a minimum height of six inches and a maximum width of 12 inches shall be located around the perimeter of the parking facility, excluding areas of ingress and egress.
- 27.02:6. Entrance to such areas shall be only from the adjoining street or alley right-of-way.
- 27.02:7. All illumination for or on such parking lots shall be deflected away from residential areas and shall be installed in such a manner as to allow the reduction of the amount of light after normal parking hours each day (either through the use of intermittent lighting fixtures or rheostat-controlled fixtures).
- 27.02:8. Where a parking area with a capacity of five or more vehicles adjoins a residential district, a buffer at least five feet in width shall be provided between the parking area and the adjoining property and a vertical screen shall be erected consisting of structural (fence) or plant materials no less than five feet in height.
- 27.02:9. Where a parking area with a capacity of five or more vehicles adjoins a public street, a buffer at least 10 feet wide shall be provided between the parking area and the adjacent street right-of-way. Plantings or a berm shall be provided to screen the parking area from view along the entire length of this buffer strip. Plantings in this buffer area shall be maintained in a healthy condition. No more than two driveway approaches may be permitted to break this buffer from a major street or no more than one driveway from a minor street. When parking lots are larger than 50 vehicles, the required buffer shall be 10 feet between the parking area and the public street.
- 27.02:10. In addition to the landscaping required in any particular district, all parking areas of 10 or more vehicles shall be landscaped. Such landscaping shall be accomplished throughout, including the interior, of the parking area on the basis of 200 square feet of grass and planted area (including trees) for each 10 parking spaces. All landscaping shall be adequately maintained in a healthy condition.
- 27.02:11. In order to delineate on-site circulation; ensure adequate sight distance at the intersection of parking aisles, ring roads, and private roads; protect vehicles at the end of parking bays; and define the geometry of internal intersections, end islands (painted or landscaped/curbed) shall be required at the end of all off-street parking spaces adjacent to an aisle or road. At a minimum, one landscaped island shall be provided for every two painted islands. End island design shall generally conform to concept shown below.



27.02:12. Handicap accessible spaces shall be provided in accordance with ADA regulations and the state construction code.



27.02:13. Lot space requirements for the layout of the parking at various angles shall be in accordance with the following minimum regulations (see ADA regulations, § 27.02:12):

Parking Angle	Maneuvering Aisle Width (feet)	Parking Stall Width (feet)	Parking Stall Height (feet)	Total Width of Two Stalls of Parking Plus Maneuvering Aisle (feet)
0° (parallel parking)	12.0	8.5	24.0	29.0 (one-way) 32.0 (two-way)
Up to 53°	13.0	9.0	21.0	55.0 (one-way)
54° to 74°	18.0	9.0	22.0	62.0 (one-way)
75° to 90°	24.0	9.0	20.0	44.0 (one-way)

27.02:14. The minimum parking space dimension for any development not provided for in the preceding paragraph shall be: (1) 9.0 feet in width; (2) 20.0 feet in length; and (3) 180.0 square feet in area, excluding ADA requirements for handicap parking.

§ 27.03. Off-street waiting area for drive-through facilities.

27.03:1. An off-street waiting space is defined as an area with a minimum width of 10 feet and a minimum length of 20 feet and shall not include the use of any public space, street, alley or side-walk and shall be located entirely within any C-1, C-2, or RO District.

27.03:2. On the same premises with every building structure or part thereof, erected and occupied for the purpose of serving customers in their automobile by means of a service window or similar arrangements where the automobile engine is not turned off, there shall be provided off-street waiting spaces as follows:

Use Served by Drive-Through Land		Minimum Stacking Requirements (per lane)
(a)	Restaurant	The distance between the order board and the pickup window shall store four vehicles, and storage shall be provided for four vehicles in advance of the menu board (not including the vehicles at the pickup window and menu board).
(b)	Financial institution	Six vehicles per lane inclusive of the vehicle at the window.
(c)	Car wash (coin-operated)	Three vehicles in advance of the washing bay and storage for 1 1/2 vehicles beyond the washing bay as a drying and vacuum area.
(d)	Car wash (tunnel wash)	Four times the maximum capacity of the autowash in advance of the tunnel and three vehicles beyond the tunnel for drying areas.
(e)	Child care centers	One vehicle per 15 children inclusive of the vehicle at the dropoff point. No parking area or maneuvering lanes shall be permitted between the dropoff point and the principal entrance to the building.
(f)	Dry cleaners	Four vehicles per lane inclusive of the vehicle at the window.
(g)	Quick oil change	Four vehicles per lane inclusive of vehicle being served.
(h)	Convenience market	Three vehicles per lane inclusive of the vehicle at the window.
(i)	Other uses	For uses not listed above, the Planning Commission shall make a determination of minimum required vehicle stacking at the time of site plan review, based upon analysis by the City traffic engineer and City planner.

27.03:3. Drive-through lanes shall not utilize any space which is necessary for adequate access to parking spaces from internal maneuvering lanes.

27.03:4. Drive-through lanes shall have a minimum center-line radius of 25 feet.

27.03:5. Drive-through lanes shall be striped, marked, or otherwise distinctively

delineated.

27.03:6. No space shall be located closer than 50 feet to any lot in any residential district, unless wholly within a completely enclosed building or enclosed on all sides facing residential zones, by a wall or uniformly painted solid board or masonry fence of uniform appearance which is not less than six feet in height, and lights used to illuminate loading areas shall be arranged so as to reflect away from adjacent areas.

§ 27.04. Off-street loading and unloading.

On the same premises with every building, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, hotel, nursing home, department store, wholesale store, market, laundry, dry cleaning, or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interferences with public use of the streets, alleys, or any required access aisles for off-street parking areas.

27.04:1. Such loading and unloading space, unless adequately provided for within or as part of a building, shall be an area 10 feet by 25 feet, with a fifteen-foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area (square feet)	Loading and Unloading Spaces Required (square feet of gross floor area)
0 to 1,999	None
2,000 to 19,999	One space
20,000 to 99,999	Two spaces
50,000 to 100,000	Three spaces, plus one space for each 100,000 additional square feet

27.04:2. All loading and unloading in the C-1 Central Business District shall occur at the rear of the building. A maximum of three stores may have the same loading/unloading space provided the total combined gross floor area of all stores sharing the space does not exceed the requirements of the table in 27.04:1 above and that all three stores are contiguous.

Table of Parking Requirements

Where a proposed use is not specially identified in this table, the requirements of any of the following uses most similar to the proposed use, by determination of the Zoning Administrator, shall apply.

Use		Required No. of Parking Spaces	Per Each Unit of Measure as Follows
(a)	Amusement establishments	1	50 square feet of gross floor area
(b)	Animal hospital and kennels	1	400 square feet of usable floor area, plus 2 employees
(c)	Auditorium, theaters, and assembly halls	1	3 seats based on maximum seating capacity in the main place of assembly therein, plus 2 employees
(d)	Auto repair garages, bump shops, service garages	2	Service stall, plus
		1	800 square feet of usable floor area, plus
		1	2 employees
(e)	Auto salesrooms, wholesale stores, machinery sales, showrooms of a plumber, electrical, or other similar trade	1	1,000 square feet of usable floor area, plus
		1	1 employee
(f)	Banks and post offices	1	200 square feet of usable floor area, plus
		1	1 employee
(g)	Barbershop	2	Barber
(h)	Beauty parlor	3	Beauty shop operator
(i)	Bowling alleys	6	Bowling lane
(j)	Business and professional offices	1	200 square feet of gross floor area
(k)	Carry-out restaurant	1	125 square feet gross floor area with a minimum total of 8 parking spaces
(l)	Child care center, day care centers, nursery schools	1	400 square feet of usable floor area, plus
		1	Employee
(m)	Churches	1	3 seats or 6 feet of pews, based on maximum seating capacity in main unit of worship

Use		Required No. of Parking Spaces	Per Each Unit of Measure as Follows
(n)	Dance halls, exhibition halls, pool halls, and billiard parlors, and assembly halls without fixed seats	1	2 persons allowed within the maximum occupancy load as established by local, county or state fire, health, or building codes
(o)	Drive-in bank	4	Teller window
(p)	Drive-in establishments (other than drive-in and carry-out restaurants)	1	2 employees
(q)	Elementary schools, junior high schools, trade schools	1	Teacher, employee and administrator in addition to the requirements of the auditorium or assembly hall exits, then 1 space per classroom is required in addition to that for each teacher, employee or administrator in the school
(r)	Establishments (other than drive-in and carry-out restaurants) for sale and consumption on the premises of beverages, food or refreshments (e.g., standard restaurants)	1	75 square feet of gross floor area
(s)	Fast food, drive-in restaurants	1	40 square feet gross floor area
(t)	Filling station, automobile service station	2	Service stall, plus
		1	Employee
(u)	Furniture and appliance, household equipment repair shops, hardware stores, and similar stores	1	800 square feet of usable floor area, plus
		1	2 employees
(v)	Golf course open to the public	5	Hole, plus
		1	Employee, plus the amount required for accessory uses
(w)	High schools	1	Teacher, plus

Use		Required No. of Parking Spaces	Per Each Unit of Measure as Follows
		1	Employee or administrator, plus requirements of the auditorium or assembly hall therein, plus
		1	10 students
(x)	Hospitals	1	2 beds, plus
		1	Staff doctor, plus
		1	1,000 square feet of patient surgery or treatment area, plus
		1	2 employees
(y)	Industrial establishments	1	1 1/2 employees computed on the basis of the greatest number of persons employed at any 1 period during the day or night, or
		1	550 square feet of usable floor area (whichever is greater)
(aa)	Laundromat, coin-operated dry cleaning establishments	1	Washing and/or dry cleaning machine
(bb)	Libraries and museums	1	500 square feet gross floor area
(cc)	Medical clinic or dental clinic	1	200 square feet of gross floor area
(dd)	Miniature or par 3 golf course	2	Hole, plus
		1	Employee
(ee)	Mobile home site	2	Mobile home site
(ff)	Mortuary establishments, funeral homes, and undertaking parlor	1	50 square feet of floor area in the parlor area
(gg)	Motels, hotels and tourist homes	1	Guest bedroom, plus
		1	1 employee, plus parking space as may be required for accessory uses

Use		Required No. of Parking Spaces	Per Each Unit of Measure as Follows
(hh)	Motor vehicle wash establishment (self-service)	4	Wash stall
(ii)	Motor vehicle wash establishment (other than self-service)	4	Maximum capacity as computed by dividing the linear dimension of the mechanical wash/dry operation by 20 feet, plus
		1	1 employee
(jj)	Multiple-family dwelling	2	Dwelling unit
(kk)	Open air business uses including mobile home sales and used car sales lot	1	Each 800 square feet of gross lot area used for open air sales or display, plus additional parking space for any structure utilized for retail sales computed in accordance with the requirements for retail stores (item nn, below)
(ll)	Private clubs, fraternities, dormitories	1	3 members or lodgers allowed within the maximum occupancy load as established by local, state or county fire, health or building codes
(mm)	Private tennis club, swim club, golf club, or similar use	1	2 member families or individual members, plus the amount required for accessory uses
(nn)	Retail stores except as otherwise provided herein	1	150 square feet of gross floor area, plus
		1	2 employees
(oo)	Roadside stands	6	Establishment
(pp)	Parks, open to public use	1	Each 3,000 square feet of designated park area
(qq)	Single-family and two-family (duplex) dwelling	1	2 for each dwelling unit

Use		Required No. of Parking Spaces	Per Each Unit of Measure as Follows
(rr)	Vehicle wash establishment	1	Each employee and manager plus a minimum of 5 spaces for vehicles waiting to be washed for each conveyor system. For coin-operated wash establishment, a minimum of 3 spaces for cars waiting to be washed for each car wash bay
(ss)	Wholesale establishments/ warehouses	1	1,700 square feet of gross floor area or 1 for each employee, computed on the basis of the greatest number of persons employed at any 1 shift

ARTICLE 28

Signs**§ 28.01. Scope.**

This article is intended to regulate and limit the construction or reconstruction of signs and billboards to protect the public peace, morals, health, safety and general welfare. Such signs will not, by reason of their size, location, construction, or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for vehicular and pedestrian traffic safety, or otherwise endanger public welfare, shall be permitted except as may be otherwise provided herein.

§ 28.02. Definitions.

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

IDENTIFICATION SIGN — A sign that identifies the business, owner or resident and/or the street address and which sets forth no other advertisement.

ILLUMINATED SIGNS — A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.

INSTITUTIONAL BULLETIN BOARD — A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution and the announcement of its institutional services or activities.

MARQUEE SIGNS — An identification sign attached to a marquee, canopy or awning projecting from and supported by the building.

OFF-SITE SIGN — A sign advertising a business, activity or event, and located on a parcel of land different from the parcel on which the business, activity or event is located.

POLE SIGN — A sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building and having a sign area not more than 100 square feet.

PORTABLE SIGN — A freestanding sign not permanently anchored or secured to either a building or the ground.

PROJECTING SIGN — A sign which is generally perpendicular to and is supported by a wall of a building.

PYLON SIGNS — A sign supported by one post placed in the ground, not attached to any building. A pylon sign is of a height and dimension that can be seen from a substantial distance, primarily by freeway traffic, with the bottom of the sign at a higher elevation than the highest point of any building on the lot on which the sign is located.

REAL ESTATE SIGNS — A sign located on premises containing land or buildings for sale, rent or lease, or buildings under construction and intended for sale, rent or lease.

ROOF SIGN — Any sign erected, constructed and maintained wholly upon or over the

roof of any building with the principal support on the roof structure.

SUBDIVISION SIGN — A sign placed at the primary entrance to a subdivision, containing information only about the subdivision. The term "subdivision sign" also refers to signs at the primary entrance to a mobile home park. Such signs being without moving part, not higher than 10 feet from the ground and no closer than 20 feet to any public right-of-way line.

TEMPORARY SIGN — A display, information sign, banner or other advertising device with or without a structural frame and intended for period of display limited to two weeks, including seasonal produce sales, decorative displays for holidays or public demonstrations.

WALL SIGNS — A sign which is attached directly to or painted upon a building wall and which does not extend more than 13 inches therefrom nor more than five feet above the roof line, with the exposed face of the sign in a plane parallel to the building wall.

§ 28.03. Permit procedure.

28.03:1. Application for a permit to construct or locate a permanent sign, except real estate signs, shall be obtained from the City Zoning Administrator. The application shall include the following information:

- (a) Name, address, telephone number of the landowner, developer, or petitioner.
- (b) A map of the property at a scale of one inch equals 25 feet, showing the location and type of existing structures on the site, property boundaries, location and type of structures or adjacent properties, road rights-of-way, entrances and exits onto the subject property and approximate location of the proposed sign.
- (c) An elevation drawing of the proposed sign depicting its design, lettering, method of illumination and other relevant information. The dimensions of the height and length, and width of the sign and height between ground elevation and the bottom of the sign shall be noted.
- (d) In the case of a wall sign, an elevation of the wall of the building on which the sign is to be placed, including a depiction of the wall sign at scale, shall be shown. The dimension of the building wall and the sign shall be depicted.
- (e) The proposed date of construction of the sign.
- (f) Other information or data as may be required by the Zoning Administrator.

28.03:2. In the case of a temporary sign, the length of time the proposed sign will be on the site.

28.03:3. The Zoning Administrator shall approve, disapprove, or approve subject to specified conditions, the request for a permit, based upon the standards for this article.

§ 28.04. Measurement of area of a sign.

The entire area within a circle, triangle, or parallelogram enclosing the extreme limits

of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed but including any sign tower. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area. In the case of a sphere, the total area of the sphere is divided by four for purposes of determining the maximum permitted sign area.

§ 28.05. Signs permitted.

Signs are permitted according to the district in which they are located or intended to be located. Certain types of signs are permitted in certain districts according to the following regulations:

28.05:1. R-1, R-2, and R-3 Residential Districts. In the R-1, R-2 and R-3 Residential Districts, no more than one sign at any one time shall be permitted. No sign shall be illuminated by other than continuous indirect white light, nor shall it contain any visible moving parts. The following types of signs are permitted:

- (a) On-premises advertising sign: for principal uses other than dwellings, not exceeding 10 square feet in area and not located nearer to the front lot line than one-half the distance of the required front yard setback, and such sign shall not be located in the required side yard setback.
- (b) Identification sign: one per dwelling unit, not exceeding 144 square inches in area; and one per business, not exceeding eight square feet in area.
- (c) Institutional bulletin board: one per public or semipublic institution, located on-premises, not exceeding 40 square feet in area, and set back at least 15 feet from the front lot line.
- (d) Real estate sign, one per premises or building and located on the same premises or building only while said real estate is actually on the market for sale, rent or lease; not exceeding 10 square feet in area and set back at least five feet from the front lot line.
- (e) Subdivision sign, one per subdivision or mobile home park, continuously and properly maintained; not exceeding 30 square feet in area and set back at least 15 feet from any property or right-of-way line.
- (f) Temporary sign, on-premises or off-premises sign advertising real estate in a subdivision being for sale, rent or lease, not exceeding 16 square feet in area and subject to approval by the Zoning Administrator for periods of up to six months subject to removal as long as the sign conforms to the conditions of approval and said real estate is actively on the market for sale, rent or lease. The number of off-premises signs shall be limited to that reasonably necessary to direct the public to the location of the development.

28.05:2. Mobile home parks and multifamily dwellings. No sign shall be illuminated by

other continuous indirect white light, nor shall it contain any visible moving parts. The following types of signs are permitted:

- (a) Same as for single-family and two-family residential.
- (b) Wall sign: one per housing development, indicating only the name of the housing development; not exceeding 16 square feet in area.

28.05:3. RO Districts.

- (a) In the RO District only the following on-site signs may be displayed either flatly against the surface of the associated building, as a projecting sign, on the wall of a building, or at least 10 feet from any street lot line:
 - (1) Any sign permitted in R-1, R-2, R-3 or R-4 Districts.
 - (2) One identification sign for each membership club, charitable or welfare institution, private museum, or special approval office use not to exceed one-half square foot in area for each lineal foot of building frontage or one-fourth square foot in area for each lineal foot of lot frontage, whichever is greater. However, no sign shall exceed a maximum of 25 square feet in area.
- (b) Unless otherwise provided any sign permitted may be illuminated in accordance with § 28.08.
- (c) The height restriction on signs in the RO District shall be the same as specified for residential districts.

28.05:4. C-1 and C-2 Commercial Districts. The following types of signs are permitted:

- (a) Same as for those signs allowed in the residential districts.
- (b) Advertising sign, wall sign, roof sign, portable sign (less than 20 square feet in area), pole sign (less than 20 feet in height) or marquee sign. No business establishment shall have a total of more than three signs facing upon any one street, provided the total sign area for all signs permitted shall not exceed 15% of the area of the face of the building to which they are attached or stand in front of and set back from the front lot line at least 10 feet, except as provided for elsewhere in this ordinance. Any signs attached to the building and project away from the face of any building wall shall not exceed nine square feet in area; provided, however, that where a sign extends more than three inches from the face of said wall, the bottom of said sign shall not be closer than 10 feet from ground level below said sign. In no case shall the sign project away from any building wall more than four feet.
- (c) Billboard. Where the erection or maintenance of same will not unreasonably affect the proper use of adjoining property, at least 20 feet from any right-of-way line; not exceeding a sign area of 10 feet in height and 15 feet in length, and subject to Board of Appeals' approval for periods of up to 36 months.
- (d) Marquee or canopy. Where a building has a canopy or marquee constructed as an integral part of said building for the purpose of administering this section,

the front line of said canopy or marquee shall be construed as being the face of the building.

- (e) Gasoline service stations, used car lots and public garages, where permitted, only may display, in addition to the foregoing signs, the following signs which are deemed customary and necessary to their respective business:
 - (1) One freestanding or pylon sign advertising the name of the station or garage and for the principal products sold on the premises, including any special company or brand name, insignia or emblem, provided that each such sign shall not exceed three square feet in area on a side and shall be hung within five feet of the property line and not less than 10 or more than 20 feet above the ground.
 - (2) One temporary sign located inside the property line and specifically advertising special seasonal servicing of automobiles, provided that said sign does not exceed seven square feet in area.
 - (3) Directional signs or lettering displayed over individual entrance doors or bays, consisting only of the words, "washing," "lubrication," "repairs," "mechanic on duty," or other words closely similar in import, provided that there shall be not more than one such sign over each entrance or bay, the letters thereof shall not exceed 15 inches in height, and the total of each such sign shall not exceed six square feet.
 - (4) Customary lettering on or other insignia which are a structural part of a gasoline pump, consisting only of the brand name of gasoline sold, lead warning sign, a price indicator, and any other sign required by law and not exceeding a total of three square feet on each pump; and if illuminated, such signs shall be nonflashing and shall not in any manner constitute a traffic hazard with respect to adjacent streets or intersections.
 - (5) A nonilluminated credit card sign not exceeding two square feet in area, and may be placed on or near the gasoline pump.

28.05:5. I-1 District.

- (a) In any I-1 District, only the following on-site signs are permitted, provided no portion of such sign is located closer to the street lot line than the required front yard setback as specified in Article 26 for the I-1 District:
 - (1) Any sign permitted in R-1, R-2, R-3, RO, MH, C-1 and C-2 Districts as permitted in the I-1 District except as modified in this section with regard to setback.
 - (2) One on-site sign per use facing each lot line, subject to the following size limitations.
 - a. The on-site sign facing the front lot line shall not exceed three square feet in area for each lineal foot of lot frontage, or one square foot in area for each lineal foot of lot frontage, whichever is greater.
 - b. The on-site signs facing other than the front lot line shall not exceed

50% of three square feet in area for each lineal foot of building length along the respective lot line or 50% of one square foot in area for each lineal foot of lot length along the respective lot line, whichever is greater.

- (b) Any sign permitted may be illuminated in accordance with § 28.08.
- (c) There is no maximum height for signs in I-1 Districts.
- (d) The total area of all on-site signs permitted for any property use, including corner lots, shall not exceed 750 square feet.
- (e) Off-site signs area permitted in accordance with § 28.07.
- (f) Signs may be attached to or project from the surface or roof of the building involved or may be erected separately.

§ 28.06. Signs prohibited.

Signs are prohibited which:

- (a) Contain statements, words, or pictures of an obscene, indecent, or immoral character such as will offend public morals or decency.
- (b) Contain or are an imitation of an official traffic sign or signal or contain the words "stop," "go slow," "caution," "danger," "warning," or similar words. Traffic directional signs in a private parking area are exempted from this provision.
- (c) Are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or emergency vehicle.
- (d) Obstruct a motorist's view of any traffic signs, street sign, or traffic signal.
- (e) Contain or consist of banners, pennants, pinwheels, ribbons, streamers, strings of light bulbs other than holiday decorations, or similar devices. Upon site plan review, the City Planning Commission may approve specific modifications of this provision.
- (f) Have a moving part, except for the conveyance of a noncommercial information.
- (g) Are freestanding exterior signs and are not anchored or secured to a building or the ground.
- (h) Are a part of a structure designed to be moved from one location to another with a change in message.

§ 28.07. Off-site signs.

- (a) Off-site signs shall be allowed only in the C-2 and I-1 Districts.
- (b) The maximum area per sign face of an off-site sign shall not exceed:
 - (1) If the sign is located within a C-2 District, 350 square feet.

- (2) If the sign is located in an I-1 District, 750 square feet.
- (c) Off-site signs shall not be located in any required yard area.
- (d) No off-site sign structure shall be closer than 300 feet to another off-site sign structure.
- (e) Off-site signs shall comply with the height limitations of this article for the respective zoning districts in which the signs are located.

§ 28.08. Illumination.

There shall be no flashing, oscillating, or intermittent, red, blue, or green illumination of any sign located in the line of vision of a traffic control device or interfering with safe vision along any roadway, especially at intersections. All illuminated signs shall be designed and located to prevent the light therefrom from being cast upon adjoining residences and shall be located at least 150 feet from any residential use. The illumination of any sign shall not be detrimental or annoying to surrounding property nor constitute a safety hazard, as determined by the Zoning Administrator.

§ 28.09. Freestanding pylon signs.

In the C-1, C-2 and I-1 Districts any permitted use may erect one freestanding pylon sign provided all of the following conditions are met:

- (a) The principal building sets back at least 25 feet more than the district setback requirement and is located on a lot of 90 feet or more in width.
- (b) The total area of one side of such pylon or freestanding sign shall be at a ratio of two square feet for each linear foot of setback of the building beyond the district setback requirement, in no case exceeding 150 feet.
- (c) The sign structure shall be located not closer than seven feet to the front street right-of-way and at least 40 feet from any adjacent property, except for uses regulated under 28.05:4e.
- (d) The sign background shall not be higher than the principal building nor closer than 10 feet to grade level.
- (e) Any use located within 1,000 feet of a limited access highway interchange may erect a pylon sign of such height as to be visible from the travel lanes of said highway, provided that such sign shall set back from any street or property line a distance equal to its height. The area of such sign shall not exceed 300 square feet on each side.

§ 28.10. Nonconforming signs.

- (a) Signs lawfully erected prior to the effective date of this article which do not meet the standards thereof may be maintained except as hereafter provided.
- (b) No nonconforming signs:
 - (1) Shall be changed to another nonconforming sign.

- (2) Shall have any changes made in the message displayed unless the sign is specifically designed for periodic change of message.
 - (3) Shall be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, or design of the sign unless such change renders the sign conforming.
- (c) If the owner of a sign or the premises on which a sign is located changes the location of a building, property line or sign or changes the use of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this article.

§ 28.11. Signs for nonconforming uses.

- (a) On-site signs for any building or land use not conforming to the zoning provisions for the district in which it is located shall not exceed the following size limitations, whichever results in the larger sign area:
- (1) One-half square foot of sign area for each lineal foot of building frontage or one-fourth square foot of sign area for each lineal foot of lot frontage whichever is greater, not to exceed a maximum of 25 square feet in area; or
 - (2) The maximum sign area permitted for the zoning district in which the sign is located.
- (b) Off-site signs shall comply with all the provisions of the district in which the nonconforming use is located.

§ 28.12. Construction and maintenance.

The construction of any sign shall be such that it will withstand all wind and vibration forces which can be normally expected to occur in the vicinity. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements. No advertising sign or billboard permit shall be issued until the building and zoning inspectors are satisfied the sign to be constructed complies with the provisions of this ordinance and will be constructed in a safe, sturdy and durable manner with proper bracing anchorage and foundation. A sign shall not be erected or installed until a permit is first obtained from the City Zoning Administrator and from the Building Inspector.

§ 28.13. Height and overhang.

No sign otherwise permitted shall exceed the maximum height limitations of the zoning district in which it is located.

§ 28.14. Violations and removal thereof.

- (a) Any sign erected, altered, or converted subsequent to the passage of this article and in violation of any of the provisions thereof is hereby declared to be a nuisance per se.
- (b) Upon discovery of a violation of this article the Zoning Administrator shall provide

written notice to the person in possession of the premises upon which the sign is erected as is reasonably available and to the owner of the premises upon which the sign is erected as shown by the records of the City assessor. Such notice shall state the defects found upon inspection of the sign and order the sign to be brought into compliance with this article or removed.

- (c) The Zoning Administrator or his representative shall also post a copy of such notice upon the violative sign or upon the premises upon which the sign is erected. Such notice shall be sufficiently weatherproof to withstand normal exposure to the elements and shall be readily visible from the nearest public thoroughfare.
- (d) If the violative sign has not been removed or brought into compliance with this article within 30 days from the issuance of the order specified in Subsection (b) above, the Zoning Administrator or his deputies shall provide notice to the person in possession of the premises upon which the violative sign is erected and to the owner of premises upon which the sign is erected to appear at a hearing before a hearing officer and to show cause why the sign should not be considered to be in violation of this article. Notice shall be provided in the same manner as in Subsections (b) and (c) above. The hearing shall not be less than 10 days from the posting of the notice.
- (e) The hearing officer shall determine whether the sign involved is in violation of the ordinance based on competent evidence and testimony. The state construction code, as amended, shall govern the appointment of the hearing officer and the conduct of the hearing except as modified herein.
- (f) If the hearing officer determines that the sign involved is in violation of this article he shall order the action necessary to bring the sign into compliance. Based upon competent evidence and testimony the hearing officer shall also establish a reasonable time by which the requirements of the order shall commence and shall be completed.
- (g) If the decision and order provided for in Subsection (f) above are not complied with in the specified time, the hearing officer may cause the violative sign to be removed and destroyed. The cost of removal, destruction, and disposal of the sign may be charged against the premises.
- (h) Nothing in this section shall prevent the Zoning Administrator or Building Inspector from ordering the summary removal of any sign presenting an immediate threat to the safety of the public.

§ 28.15. Board of Appeals.

The Board of Appeals may, upon application by a property owner, modify the specifications of this article where no good purpose would be served by strict compliance with same.

§ 28.16. Directional signs.

All directional signs for orientation of the general public, when erected by the township, county or state, shall be permitted in all districts.

ARTICLE 29

Dangerous or Abandoned Buildings**§ 29.01. Unlawful conduct.**

It is unlawful for any owner or owner's agent to keep or maintain any dwelling or structure or part of a dwelling or structure which is a dangerous building as defined in § 29.02.

§ 29.02. Definition.

As used herein, the term "dangerous building" means any building or structure which has any of the following defects or is in any of the following conditions:

- (a) A door, aisle, passageway, stairway, or other means of exit does not conform to the approved fire code of the City.
- (b) A portion of the building or structure is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the damage and does not meet the minimum requirements of this article or the state construction code for a new building or structure, purpose, or location.
- (c) A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
- (d) A portion of the building or structure has settled to an extent that walls or other structural portions of the building or structure have materially less resistance to wind than is required in the case of new construction by this article or the state construction code.
- (e) The building or structure, or a part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.
- (f) The building, structure, or a part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (g) The building or structure is damaged by fire, wind, or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.
- (h) A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason, is unsanitary or unfit for human habitation, is in a condition that the health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

- (i) A building or structure is vacant, dilapidated, and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
- (j) A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease, or rent with a real estate broker licensed under Article 25 of the occupational code, Public Act No. 299 of 1980 (MCL § 339.2401 et seq.). For purposes of this subdivision, the term "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:
 - (1) A building or structure if the owner or agent does both of the following:
 - a. Notifies the police department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the police department by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
 - b. Maintains the exterior of the building or structure and adjoining grounds in accordance with this article or the state construction code.
 - (2) A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the police department that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the police department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subsection, the term "secondary dwelling" means a dwelling, including, but not limited to, a vacation home, hunting cabin, or summer home, that is occupied by the owner or a member of the owner's family during part of a year.

§ 29.03. Notice; contents; hearing officer; filing of notice with officer; service.

- 29.03:1. Whenever the City Zoning Administrator determines that the whole or any part of any building or structure is a dangerous building, as defined in § 29.02, the City Zoning Administrator shall issue a notice of the dangerous and unsafe condition.
- 29.03:2. Such notice shall be directed to each owner or party in interest in the building in whose name the property appears on the last local tax assessment records.
- 29.03:3. All notices shall be in writing and shall be served upon the owner or party in interest directly and personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, and addressed to the owner or party in interest at the address shown on the tax records, at least 10 days before the date of the hearing described in the notice. A copy of the notice shall be posted upon a conspicuous part of the building or structure.
- 29.03:4. The City Zoning Administrator shall file with the Planning Commission a copy of the notice of the dangerous and unsafe condition.
- 29.03:5. The notice shall specify the time and place of a hearing to be held before the Planning Commission on the condition of the building or structure, at which time

and place the person or persons to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

§ 29.04. Hearing; testimony; decision; order; nonappearance or noncompliance; review; order to show cause; costs.

29.04:1. The Planning Commission shall take testimony from the City Zoning Administrator, the owner of the property, and any interested party or other witness. The Planning Commission shall render its decision either closing the proceedings or ordering the building to be demolished or otherwise made safe.

29.04:2. If it is determined by the Planning Commission that the building or structure should be demolished or otherwise made safe, it shall so order, fixing a time in the order for the owner or party in interest to comply.

29.04:3. If the owner or party in interest fails to appear or neglects or refuses to comply with the order, the Planning Commission shall file a report of its findings and a copy of its order with the City Council and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the Planning Commission shall be served on the owner or party in interest in the manner prescribed in § 29.03.

29.04:4. The City Council shall fix a date for the hearing, reviewing the findings and order of the Planning Commission, and shall give notice to the owner or party in interest in the manner prescribed in § 29.03 of the time and place of the hearing. At the hearing the owner or party in interest shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe and the City Council shall either approve, disapprove or modify the order for the demolition or the making safe of the building or structure.

29.04:5. The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the City who shall assess the cost against the property on which the building or structure is located.

29.04:6. The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If the owner or party in interest fails to pay within 30 days after mailing by the assessor of the notice of the amount due, the assessor shall add the cost to the next tax roll of the City and the amount due shall be collected in the same manner as provided by law for the collection of taxes by the City.

§ 29.05. Judicial review.

An owner or party in interest aggrieved by any final decision or order of the City Council may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

ARTICLE 30
Grading and Soil Erosion Control

§ 30.01. Purpose.

The purpose of this article is to prevent soil erosion and sedimentation from occurring as a result of nonagricultural development within the City by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health and general welfare of the community.

§ 30.02. Compliance with article requiring site plan.

No site plan shall be approved under Article 21 of this ordinance unless the site plan shall include soil erosion and sediment control measures consistent with the requirements of this article.

§ 30.03. Compliance with article requiring certificate of occupancy.

No certificate of occupancy for any building shall be issued under Article 3 of this ordinance unless the applicant for the certificate shall have obtained a certification of compliance indicating compliance with all grading plans and specifications and completion of permanent soil erosion control measures from the City Building Inspector.

§ 30.04. Permit.

A separate application shall be required for each grading permit. Single-family or two-family dwellings and mobile homes except for planned unit development, residential subdivisions, residential site condominiums and mobile modular home development where three or more dwellings are constructed at any one time, shall be exempt from acquiring a grading permit, except as required under the soil erosion and sedimentation control provisions of Part 91 of Public Act No. 451 of 1994 (MCL § 324.9101 et seq.), as amended and other appropriate state and federal requirements. Plans, specifications and timing schedules shall be submitted with each application for a grading permit. The plans and specifications accompanying the grading permit application shall contain the following data:

30.04:1. A vicinity sketch at the scale of one inch equals 200 feet indicating the site location as well as the adjacent properties within 1,000 feet of the site boundaries.

30.04:2. A boundary line survey of the site on which the work is to be performed.

30.04:3. A plan of the site at a scale of one inch equals 20 feet showing:

- (a) Name, address, and telephone number of the land owner, developer and petitioner.
- (b) A timing schedule indicating the anticipated starting and completion dates of the development's construction sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.
- (c) A verified statement of the quantity of excavation and fill involved.
- (d) Existing and proposed topography at contour intervals of five feet.

- (e) The location of any structure or natural feature on the site, on the land adjacent to the site, and within 500 feet of the site boundary line.
- (f) Location of any proposed additional structures or development on the site.
- (g) Elevations, dimensions, location, extent and the slope of all proposed grading.
- (h) Plans of all drainage provisions, retaining walls, cribbing, planting, erosion control measures, or other temporary or permanent soil erosion control measures to be constructed in connection with the proposed work together with a map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains.
- (i) Other information or data as may be required by the Zoning Administrator.

§ 30.05. Fees.

At the time of filing an application for a grading permit, a filing fee to be set by the City Council shall be paid to the City Treasurer.

§ 30.06. Denial of permit.

Grading permits shall not be issued where:

30.06:1. The proposed work would cause hazards to the public safety and welfare.

30.06:2. The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property.

30.06:3. The land area for which the grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability, or any other such hazard.

§ 30.07. General requirements.

30.07:1. Any earth changes shall be conducted in such a manner so as to effectively reduce accelerated soil erosion and resulting sedimentation.

30.07:2. All persons engaged in earth changes shall design, implement, and maintain acceptable soil erosion and sedimentation control measures, in conformance with Part 91 of Public Act No. 451 of 1994 (MCL § 324.9101 et seq.) and all official rules of the Michigan Department of Environmental Quality promulgated pursuant thereto, which effectively reduce accelerated soil erosion.

30.07:3. All earth changes shall be designed, constructed and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest possible period of time.

30.07:4. Measures shall be taken to minimize sediment from runoff water that will impact any stream or tributary on or adjacent to the site where earth changes are

occurring.

30.07:5. Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the earth change area shall be designed to limit the water flow to a nonerosive velocity.

30.07:6. Temporary soil erosion control facilities shall be removed and earth change areas graded and stabilized with permanent soil erosion control measures pursuant to approved standards and specifications as prescribed by the Michigan Department of Environmental Quality rules.

30.07:7. Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within 30 calendar days after final grading of the final earth change has been completed. When it is not possible to permanently stabilize a disturbed area after an earth change has been completed or where significant earth change activity ceases, temporary soil erosion control measures shall be implemented within 10 calendar days. All temporary soil erosion control measures shall be maintained until permanent soil erosion control measures are implemented.

§ 30.08. Maintenance requirements.

Persons carrying out soil erosion and sediment control measures under this section, and all subsequent owners of property concerning which such measures have been taken, shall maintain all permanent erosion control measures, retaining walls, structures, planting and other protective devices.

§ 30.09. Minimum design standards for erosion and sediment control.

All grading plans and specifications including extensions of previously approved plans shall include provisions for erosion and sediment control in accordance with, but not limited to, the standards contained in the Standards and Specifications for Soil Erosion and Sediment Control, published by the Capital Area Association of Soil Conservation Districts. Copies of said standards shall be available for inspection in the office of the City Clerk and the Zoning Administrator.

ARTICLE 31
Board of Appeals

§ 31.01. Authority. [Amended 10-3-2017]

There is hereby established a Board of Appeals, the membership, powers and duties of which are described in Public Act No. 110 of 2006 (MCL § 125.3101 et seq.), as amended. The Board of Appeals shall perform its duties and exercise its powers as provided in the above Act in such a way that the objectives of this ordinance shall be observed, the public health, safety and welfare assured and justice served.

§ 31.02. Board membership. [Amended 10-3-2017]

The City of Ithaca Zoning Board of Appeals shall consist of three regular and two alternate members:

- (a) The first member of the Board of Appeals shall be a member of the Planning Commission as appointed by majority vote of the members of the City Council then serving.
- (b) The second member of the Board of Appeals shall be a member of the City Council as appointed by majority vote of the members of the City Council then serving.
- (c) The remaining regular member of the Board of Appeals shall be appointed by majority vote of the members of the City Council then serving from among the electors residing in the incorporated area of the City.
- (d) The City Council may appoint not more than two alternate members to the Board. The alternate members shall have the same term as regular members of the Board and be subject to the same qualifications and other provisions contained in this article applicable to regular members of the Board.
- (e) When regular and alternate members are first appointed, appointments may be for less than three years to provide for staggered terms. A successor shall be appointed not more than one month after the term of the preceding member has expired.
- (f) The Chair, or the Vice Chair of the Board in the absence of the Chair, may call upon either of the alternate members as needed to sit as a regular member of the Board in the absence of a regular member if a regular member is absent from or unable to attend two or more consecutive meetings of the Board or for a period of more than 30 consecutive days, or where the regular member has abstained for reasons of conflict of interest.
- (g) Once appointed to hear a case, an alternate member shall serve in the case until a final decision has been made and shall have the same voting rights as a regular member of the Board.
- (h) A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the City Council shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or the City Council. However, the member may consider and vote on other unrelated matters involving the same property.

§ 31.03. Expenses. [Amended 10-3-2017]

The total amount allowed the Board of Appeals in one year as per diem or as expenses actually incurred in the discharge of its duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the City Council.

§ 31.04. Terms of office; vacancies; removal, conflict of interest. [Amended 10-3-2017]

Terms shall be for three years, except for members serving because of their membership on the Planning Commission or City Council, whose terms shall be limited to the time they are members of the Planning Commission or City Council, respectively, and the period stated in the resolution appointing them. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. Members of the Board of Appeals may be removed by the City Council for nonperformance of duty or misconduct in office, upon written charges and after a public hearing. A member shall disqualify himself from any vote in which he has a conflict of interest. Failure to do so shall constitute misconduct in office. A member of the Zoning Board of Appeals may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

§ 31.05. Employees. [Amended 10-3-2017]

The Board may employ such clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount of the appropriation made and then available for that purpose.

§ 31.06. Required hearings. [Amended 10-3-2017]

The Board of Appeals shall hear and decide all matters properly referred to the Board, or upon which the Board is required to act, under any ordinance adopted pursuant to Public Act No. 110 of 2006 (MCL § 125.3101 et seq.), as amended.

§ 31.07. Majority vote. [Amended 10-3-2017]

The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which they are required to pass under this ordinance, or to effect any variation in this ordinance. If a member of the Board is absent, the appellant shall be given the option of postponing the hearing until a full Board is present.

§ 31.08. Board meetings. [Amended 10-3-2017]

The Board of Appeals shall not conduct business unless a majority of regular members are present. A meeting of the Board of Appeals shall be held at the call of the Chairperson, and at other such times and places as the Board of Appeals may determine.

All meetings shall be open to the public. The Board of Appeals shall keep minutes of all its proceedings and shall keep records of its findings, proceedings at hearings and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record. The Board of Appeals shall adopt its own rules of procedure for meetings.

§ 31.09. Appeals. [Amended 10-3-2017]

The Board of Appeals shall, when called upon, act upon all questions as they arise in the administration of this ordinance, including interpretation of the City of Ithaca Zoning Map. Such an appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the county or state. It shall hear and decide appeals from and review any order, requirements, decisions or determination made by the administrative official and/or Planning Commission charged with enforcement of any ordinance adopted pursuant to the provisions of Public Act No. 110 of 2006 (MCL § 125.3101 et seq.), as amended.

31.09:1. Grounds for appeal. The grounds for any such determination shall be stated in the records of the Board's proceedings.

31.09:2. Time of appeals. An appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeals specifying the grounds thereof. The Zoning Administrator from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

31.09:3. Stays. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals, after the notice of appeal shall have been filed with the Zoning Administrator, that, by reason of facts stated in the certificate, a stay would cause imminent peril of life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by the Circuit Court on application, on notice to the Zoning Administrator and on due cause shown.

31.09:4. Time; notices; appearance. Upon the filing of any appeal or other matter for which the Board has jurisdiction, the Board shall hold a public hearing on such matters as required by Section 604 of Public Act No. 110 of 2006 (MCL § 125.3604).

§ 31.10. Powers of Board. [Amended 10-3-2017]

In deciding upon matters referred to it, or upon which it is required to act under this ordinance, the Board of Appeals, after public notice (which shall be posted at the City Administration Building and with the City Clerk) and hearing, shall take into consideration the public health, safety and general welfare and apply appropriate conditions and safeguards in conformity with the general purpose and intent of this ordinance. The Board of Appeals may revise or affirm, wholly or in part, or may modify the order, requirement, decision or determination as, in its opinion, ought to be made in a particular case, and to that end shall have all the powers of the Zoning Administrator

from whom the appeal is taken and may issue, or direct the issuance of, a permit.

§ 31.11. Granting of variances. [Amended 10-3-2017]

31.11:1. Where there are practical difficulties or unnecessary hardships deterring the carrying out of strict interpretation of this ordinance, the Board of Appeals shall have the power, in passing on appeals, to vary or modify any of the rules, regulations or provisions of this ordinance, by granting variances, provided that any variation granted from this ordinance

- (a) Will not be contrary to public interest.
- (b) Will not permit the establishment within a district of any use which is not permitted by right within that district.
- (c) Will not cause a substantially adverse effect upon property values.
- (d) Will relate only to the property under the control of the appellant.
- (e) Will not jeopardize the preservation of a substantial right, so that the spirit of this ordinance shall be observed, public safety secured and substantial justice done.
- (f) Will not adversely affect the intent of this ordinance.
- (g) Will not impair the adequate supply of air and light to any adjacent property.
- (h) Will not increase the hazards from fire, flood or other natural or man-made dangers.
- (i) Will not increase traffic congestion.
- (j) Will not produce nuisance conditions to occupants of nearby premises, whether by reason of dust, noise, fumes, odors, vibration, smoke or excessive light.
- (k) Will not otherwise impair the public health, safety and general welfare of the residents of the City of Ithaca.
- (l) Will not set a precedent that would be contrary to this ordinance.'

31.11:2. The Board of Appeals, in hearing and deciding appeals, shall have the authority to grant nonuse variances relating to the construction, structural changes, or alterations of buildings or structures related to dimensional requirements of the Zoning Ordinance or to any other non-use-related standard in the ordinance. The Board may:

- (a) Permit the erection and use of a building or an addition to an existing building, or a public service corporation or for public utility purposes, in any zoning district to a greater height or of a larger area than the district requirements herein established.
- (b) Permit the modification of the off-street motor vehicle parking space and loading space requirements where, in the particular instance, such

modification will not be inconsistent with the purpose and intent of such requirements, after recommendation from the Planning Commission.

- (c) Permit such modification of the height, lot area, yard setback, floor area and lot width regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape and size, or so located with relation to surrounding development or other physical characteristics, that it cannot otherwise be appropriately improved without modification, provided that the modification of lot area regulations shall be permitted only in instances where the nature of the soils and drainage is such that there is sufficient area for safe water supply and sanitary disposal of waste.
- (d) Permit the modification of site plan review standards, as may be established in this ordinance, where physical hardship and unusual circumstances peculiar to the property in question exist.

31.11:3. The Board of Appeals shall not have the authority to grant variances from the uses of land.

§ 31.12. Approval periods. [Amended 10-3-2017]

No order of the Board of Appeals permitting the erection of a building shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within the one-year period and the erection or alteration is started and proceeds to completion in accordance with the terms of the permit. No order of the Board of Appeals permitting a requested use of a building or premises shall be valid for a period longer than one year unless the use is established within the one-year period; provided, however, that the order of the Board of Appeals shall continue in force and effect, and a permit for the erection or alteration has been obtained (if erection or alteration is necessary), and the work is started and proceeds to completion in accordance with the permit.

§ 31.13. Decision as final; appeal to Circuit Court. [Amended 10-3-2017]

The decision of the Zoning Board of Appeals shall be final. However, a party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Circuit Court for the county in which the property is located. The Circuit Court shall review the record and decision to ensure that the decision meets all of the following requirements:

- (a) Complies with the Constitution and laws of the state.
- (b) Is based upon proper procedure.
- (c) Is supported by competent, material, and substantial evidence on the record.
- (d) Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

§ 31.14. Fees. [Amended 10-3-2017]

The City Council may, from time to time, prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board

of Appeals. At the time the notice for appeal is filed, said fee shall be paid to the City Clerk to be credited to the General Revenue Fund.

ARTICLE 32
Administration and Enforcement

§ 32.01. Enforcement.

The provisions of this ordinance shall be administered by the City of Ithaca Zoning Administrator, who shall be appointed by the City Council, subject to conditions and at such rate of compensation as the Council shall determine. The Zoning Administrator may be assisted by any other City employees and officials as the City Manager may delegate to enforce the provisions of this ordinance. The duty of enforcement shall rest with such administrative officials as shall be authorized by law, and such administrative officials shall for the purpose of the ordinance have the power of public officers.

32.01:1. If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with, or to prevent violation of, its provisions.

32.01:2. The notice sent to the owner and operator of the violation will state he has 30 days to diligently correct the violation.

32.01:3. If the violation continues after 30 days, the Zoning Administrator will send a notice of show-cause hearing to the violator. The show-cause notice advises the person maintaining the violation that he/she will be given an opportunity at a hearing of the Board of Appeals to "show-cause" why the zoning ordinance should not be enforced with respect to the alleged violation. The decision of the Board of Appeals is presumed to be final, except a person having an interest affected by the zoning ordinance may appeal to circuit court.

32.01:4. If the violation is not corrected, an appearance ticket will be issued to the person maintaining the zoning violation to appear in district court.

§ 32.02. Zoning permits.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Zoning Administrator. No permit shall be issued except in strict conformity with the provisions of this ordinance, unless the Zoning Administrator receives a written order from the zoning Board of Appeals (see Article 3 for the procedure for application and approval of a zoning permit).

32.02:1. The Zoning Administrator shall have the power to issue permits and to make inspections of buildings or premises necessary to carry out the administrator's duties in the enforcement of this ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or any permits for any excavation or construction until such plans have been inspected in detail and found to be in conformity with this ordinance.

32.02:2. In all cases when the Zoning Administrator shall refuse to issue a permit, he

shall state such refusal in writing with the cause and reasons for refusal.

§ 32.03. Expiration of zoning permit.

32.03:1. If the work described in any permit has not begun within 180 days from the date of issuance of the permit, this permit shall expire; it shall be canceled by the Zoning Administrator and written notice thereof shall be given to the persons affected.

32.03:2. If the work described in any permit has not been substantially completed within one year of the date of issuance, the permit shall expire and be canceled by the Zoning Administrator, and written notice shall be given to the persons affected, together with notice that future work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

§ 32.04. Conformance with approved plans.

Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in the approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance, and punishable as provided by § 33.05.

§ 32.05. Certificates of occupancy.

It shall be unlawful to use or permit the use of any land, building, or structure for which a permit is required, and to use or permit to be used any building or structure hereafter altered, extended, erected, repaired, or moved, until a certificate of occupancy signed by the Zoning Administrator and Building Inspector shall have been issued to the applicant for the permit in effect stating that the provisions of this ordinance and of the building requirements of the City have been complied with.

32.05:1. Temporary certificates. Certificates of temporary occupancy may be issued for a part of a building or structure prior to the occupancy of the entire building or structure, provided that Such certificate of temporary occupancy shall not remain in force more than 180 days, nor more than 90 days after the building or structure is fully completed and ready for occupancy; and provided further, that such portions of the building or structure are in conformity with the provisions of this ordinance.

32.05:2. Records of certificates. A record of all certificates of occupancy shall be kept in the office of the Zoning Administrator (or Building Inspector) and copies of such certificates of occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.

32.05:3. Certificates for accessory buildings to dwellings. Accessory buildings or structures to dwellings shall not require a separate certificate of occupancy, but rather, may be included in the certificate of occupancy for the principal dwelling, building or structure on the same lot when such accessory buildings or structures are completed at the same time as the principal use.

32.05:4. Application for certificates. Certificates of occupancy shall be issued by the Building Inspector and signed by the Zoning Administrator within three days after notification of completion of the building, if it is found that the building or

structure, or part thereof, and the use of the land is in accordance with the provisions of this ordinance. If such certificate of occupancy is refused for cause, the applicant shall be notified of the refusal and the cause thereof within the aforementioned three-day period.

§ 32.06. Final inspection.

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

ARTICLE 33

Amendments, Interpretation, Severability, Penalties**§ 33.01. Amendment to this ordinance.**

The Ithaca City Council is authorized and empowered to cause this ordinance to be amended, supplemented or changed, pursuant to the authority and according to the procedures set forth in Public Act No. 110 of 2006 (MCL § 125.3101 et seq.), as amended. Proposals for amendments may be initiated by the City Council, the Planning Commission or by petition of one or more property owners in the City of Ithaca affected by the proposed amendment.

§ 33.02. Processing of amendment.

The procedure for amending this ordinance shall be as follows:

- 33.02:1. Each petition shall be submitted to the Zoning Administrator accompanied by the proper fee, and then referred to the Planning Commission at the next regularly scheduled meeting or at a special meeting called for such purpose.
- 33.02:2. The Planning Commission shall conduct a public hearing, the notice of which shall be given by two publications in a newspaper of general local circulation. The newspaper notice shall be published the first time not more than 30 days nor less than 20 days prior to the proposed hearing, and the second newspaper notice not more than eight days prior to the hearing.
- 33.02:3. If the property involved adjoins another unit of government, the proper officials are to be given notice of the public hearing at a reasonable time before the public hearing date and shall also be given an opportunity to comment on any coordinated action or review deemed necessary.
- 33.02:4. In rezoning matters, notices of the public hearing shall be given as required by Public Act No. 110 of 2006 (MCL § 125.3101 et seq.), as amended.
- 33.02:5. Following the public hearing, the Planning Commission shall transmit its recommendations to the City Council. The City Council shall grant a hearing on the proposed amendment to any property owner who has filed a written request for a hearing prior to the regular meeting at which the proposed amendment is to be scheduled.
- 33.02:6. No petition for rezoning, which has been disapproved by the City Council, shall be submitted for a period of one year from the date of disapproval except as permitted by the City Council after becoming aware of new evidence which may result in approval upon resubmittal.

§ 33.03. Interpretation.

In interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. Where this ordinance imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits, the provisions of this ordinance shall control. Nothing in this ordinance shall be interpreted

or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein, and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of the public health, safety and welfare.

§ 33.04. Severability.

This ordinance and its various parts, sections, subsections, phrases and clauses are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this ordinance shall not be affected.

§ 33.05. Violation; penalty.

33.05:1. Any person, firm or corporation, including, but not by way of limitation, builders and contractors who shall violate, neglect, or refuse to comply with or who resist the enforcement of any of the provisions of this ordinance or conditions of the Board of Appeals or City Council adopted pursuant to the provisions of this ordinance, or conviction thereof, shall be punished by a fine to be determined by the City Council, but not to exceed \$500 and costs of prosecution, or by being imprisoned in the county jail for not more than 90 days, or both such fine and imprisonment, at the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate offense.

33.05:2. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this ordinance. Uses of land, and dwellings, buildings, or structures, including tents, trailer coaches and mobile homes, used, erected, altered, razed, or converted in violation of any provision of this ordinance, are hereby declared to be a nuisance per se. The court may order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer coach, mobile home, or land may be adjudged guilty of maintaining a nuisance per se, and the same may be abated by order of any court of competent jurisdiction.

§ 33.06. Rights and remedies.

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

§ 33.07. General responsibility.

The City Council or its duly authorized representative is hereby charged with the duty of enforcing this ordinance, and the Council is hereby empowered to begin and pursue any and all necessary and appropriate actions and/or proceedings in the circuit court, or any other court having jurisdiction to restrain and/or prevent any noncompliance with, or violation of, any of the provisions of this ordinance, and to correct, remedy and/or abate such noncompliance or violation, and it is further provided that any person aggrieved or adversely affected by such a noncompliance or violation, may institute suit and/or join the City Council in such a suit to abate the same.

§ 33.08. Enactment and effective date.

The foregoing zoning ordinance, zoning maps were adopted at a meeting of the Ithaca City Council on _____, 2009 after approval of the same by the Ithaca Planning Commission following a public hearing on _____, 2009. Notice of said ordinance was ordered published in the _____, which has general circulation in the City of Ithaca, Gratiot County, Michigan, and shall become effective immediately upon the date of such publication.

