

## Chapter 94

### ZONING\*

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\***Cross references**—Administration, ch. 2; buildings and building regulations, ch. 6; businesses, ch. 10; floods, ch. 30; natural resources, ch. 38; planning, ch. 50; signs, ch. 58; streets, sidewalks and other public places, ch. 70; subdivisions and other divisions of land, ch. 74; traffic and vehicles, ch. 78; utilities, ch. 82; vegetation, ch. 86.

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## **ARTICLE I. PURPOSE, SCOPE AND LEGISLATIVE INTENT**

### **Sec. 94-1. Short title.**

This chapter shall be known and may be cited as the “Zoning Code for the City of Mason.”

(Ord. No. 152, 5-1-2006)

### **Sec. 94-2. Purpose.**

Pursuant to the authority granted to the City of Mason by the statutes of the State of Michigan and Charter of the City of Mason, the purpose of this zoning chapter is to:

- (1) Promote and protect the public health, safety and general welfare of city inhabitants.
- (2) Provide for development within the city consistent with the master plan of the city.
- (3) Protect and enhance the character and the stability of agricultural and open space areas, public recreation areas, residential areas, and nonresidential areas and promote the orderly and beneficial development of such areas.
- (4) Provide adequate light, air, privacy, and convenience of access to all individual property.
- (5) Regulate the intensity of land use and determine the area of open space surrounding buildings and structures necessary to protect the public health and provide adequate light and air.
- (6) Provide safe and improved public highways and streets within the city.
- (7) Promote healthful surroundings for favorable living conditions and family life in residential areas.
- (8) Protect public and private land uses from fire, explosion, noxious fumes, odors, excessive heat, dust, smoke, noise, glare, vibration, and other health and safety hazards.
- (9) Prevent the overcrowding of land and undue concentration of structures so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them.
- (10) Enhance the social, economic, and environmental stability of the city to include stabilizing and preserving property and civic values.
- (11) Provide for compact development of the city through infill of property along existing utility and transportation systems and for compact development along new utility and transportation systems as a means of conserving the expenditure of funds for public improvements and services.
- (12) Provide for the administration, amendment and enforcement of this chapter, including the collection of fees in furtherance of, and the sanctions for violations of this chapter.
- (13) Provide for the establishment of zoning districts, the regulation of the use of land within zoning districts and the adoption of a zoning district map.
- (14) Prescribe the duties and powers of the planning commission.
- (15) Establish the zoning board of appeals and prescribe the duties and powers of the zoning board of appeals.
- (16) Provide for appeals and procedures to be followed in the consideration of appeals.

(Ord. No. 152, 5-1-2006)

### **Sec. 94-3. Legislative intent.**

Zoning districts contained in this chapter each have a defined purpose and are based upon the master plan for future development, improvement, and redevelopment. The districts are sized to be adequate to accommodate long-term needs, and yet must be monitored relative to any necessary changes or updating in the future. While the various regulations limit the use of properties, the chapter provides land owners with a range of choices, flexibility, and options for development and improvement.

(Ord. No. 152, 5-1-2006)

### **Sec. 94-4. Ordinance enactment or amendment and existing uses, structures, or lots.**

The use of a building, structure, land, or premise as existing and lawful at the time of enactment of this chapter, may be continued subject to provisions of article X of this chapter.

(Ord. No. 152, 5-1-2006)

**Secs. 94-5—94-60. Reserved.**

## **ARTICLE II. ZONING DISTRICT MAP AND GENERAL ZONING REGULATIONS**

### **Sec. 94-61. Establishment of districts.**

The following zoning districts are hereby established for the city:

AG district: Single-family agriculture district

RS-1 district: Low density single-family residential district

RS-2 district: Medium density single-family residential district

RS-3 district: High density single-family residential district

R2F district: Two-family residential district

RM district: Multiple-family residential district

MH district: Manufactured home park residential district

O-1 district: General office district

O-2 district: Specialized office district

C-1 district: Central business district

C-2 district: General commercial district

C-3 district: Local commercial district

—1 district: Light manufacturing district

M-2 district: General manufacturing district

PUD district: Planned unit development district

(Ord. No. 152, 5-1-2006)

### **Sec. 94-62. Zoning district map.**

The boundaries of the respective districts are defined and established as depicted on the map entitled "Zoning Map of the City of Mason, Michigan," which is an integral part of this chapter, and which, with the explanatory matter thereon, shall be the official zoning map of the city and shall be published as part of this chapter and is hereby incorporated by reference.

(1) The official zoning map of the city and subsequent amendments to the map shall be dated, certified, and bear the signature of the city manager. The map shall be attested to by the city clerk, and shall bear the following words: "This is to certify that the above map is the Official Zoning Map of the City of Mason".

(2) If amendments are made in district boundaries or other matters depicted on the official zoning map, such changes shall not be considered final, and a building permit shall not be issued, until the appropriate amendments have been made on the official zoning map. Such amendments shall be made within ten working days after the effective date of the ordinance amendment. Each amendment shall be accompanied by a reference number on the map which shall refer to the official ordinance amendment adopted by the city council. One copy of the official zoning map shall be maintained and kept up-to-date in the office of the city clerk.

(3) In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the city council may, by ordinance, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions on the prior official zoning map, but no such corrections shall have the effect of amending the zoning ordinance or the prior official zoning map. The new official zoning map shall comply with subsection (1) of this section. Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts which remain, shall be preserved together with all available records pertaining to its adoption or amendment.

(4) If because of the scale, lack of details, or illegibility of the official zoning map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, the following shall govern:

a. Where boundaries follow streets or highways, the centerline of the street or highway shall be the boundary line or lines.

b. Where a zoning district is bounded by a stream, lake or other body of water, and in the event of change in the shoreline, the boundary of said district shall be the thread of a stream or the actual shoreline of a lake or other body of

water.

- c. A boundary indicated as approximately following a recorded lot line or the line bounding a tax parcel shall be construed as following such line.
- d. A boundary indicated as following the municipal boundary line of the city shall be construed as following such line.
- e. A boundary indicated as following a railroad line shall be construed as following the railroad right-of-way.
- f. A distance not specifically indicated in the official zoning map shall be determined by the scale of the map to the nearest foot.
- g. Should the above not fully explain a question of boundaries, the zoning board of appeals shall have the authority to make an interpretation based upon the aforementioned standards and after receiving a recommendation from the planning commission.

(Ord. No. 152, 5-1-2006; Ord. 222, § 60, 12-3-2018)

#### **Sec. 94-63. General regulations.**

- (a) Every building or structure erected, any use of land, building or structure, any structural alteration or relocation of an existing building or structure, and any enlargement of, addition to or resumption of an existing use of land, building or structure shall be subject to all regulations of this chapter which are applicable within the zoning district in which such land use, building or structure shall be located.
- (b) Uses are permitted by right only if specifically listed as uses permitted by right in the various zoning districts. Accessory uses are permitted as indicated in the various zoning districts, and if such uses are clearly incidental to the permitted principal uses. Special uses are permitted as listed, or where provided for, and if the required conditions are met.
- (c) No part of a setback area, or other open space, or off-street parking or loading space required in connection with any use of land, building or structure, for the purpose of complying with this chapter shall be included as part of a setback area, open space, or off-street parking lot or loading space similarly required for any other use, building or structure.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-64. Zoning of vacated areas.**

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

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-65. Zoning of filled land and use of waters.**

If earthen fill is placed in any lake or stream, the created land shall automatically and without further government action acquire and be subject to the same zoning regulations applicable to the lands to which the created land attaches or is adjacent.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-66. Zoning of annexed areas.**

- (a) When property is annexed into the city, said property shall continue to be regulated under the township zoning ordinance for two years after becoming a part of the city and then shall automatically and without further government action become zoned as an AG district, unless the city council shall have rezoned the property under the city zoning chapter within said two years.
- (b) When property is transferred to the city by agreement pursuant to Public Act No. 425 of 1984 (MCL 124.21 et seq.), zoning of said property shall be as designated in the agreement. If zoning of the property is not designated in the agreement, said property shall be zoned in accordance with section 94-67(a).

(Ord. No. 152, 5-1-2006)

#### **Secs. 94-67—94-90. Reserved.**

### **ARTICLE III. GENERAL ADMINISTRATIVE PROVISIONS**

#### **Sec. 94-91. Administration.**

The city shall employ or contract a person to act as the zoning official responsible for the administration and enforcement of this chapter in accordance with division 2, article IV of chapter 2.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-92. Relief from personal responsibility.**

The zoning official shall not be rendered personally liable and is hereby relieved to the fullest extent permitted by law from all personal liability for any damage to persons or property as a result of any required or permitted act or omission in the lawful discharge of official duties under the provisions of this chapter. Any suit instituted against the zoning official because of any required or permitted act or omission in the lawful discharge of official duties under the provisions of this chapter shall be defended by the legal representative of the city until the termination of all proceedings and in no case shall the zoning official be liable for any costs resulting from the defense of such suit.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-93. Duties of the zoning official.**

It shall be the responsibility of the zoning official to enforce the provisions of this chapter and in so doing perform the following duties:

- (1) The zoning official shall maintain one official copy of this chapter and the official zoning map including amendments.
- (2) The zoning official shall make inspections of buildings or premises in order to properly carry out the enforcement of this chapter.
- (3) The zoning official shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter including the action taken in response to each complaint.
- (4) The zoning official is authorized to issue and serve municipal ordinance violation notices, and municipal civil infraction citations for violations of this chapter designated as a civil infraction.
- (5) The zoning official is authorized to issue appearance tickets, as defined by section 9f of the Code of Criminal Procedure (MCL 764.9f), for all other violations of this chapter or to seek a complaint and warrant from the appropriate prosecuting official.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-94. Duties of the planning commission.**

The following are some specific duties of the planning commission relating to the administration of this chapter:

- (1) Adopt rules and guidelines for the proper administration and enforcement of the chapter.
- (2) Act as a policy board on matters of enforcement and administration of this chapter not covered by adopted rules or guidelines.
- (3) Conduct public hearings as required by state law or this chapter.
- (4) Review this chapter and master plan periodically as deemed appropriate and recommend changes to the city council. This review should be conducted at least once every five years.
- (5) Review and approve the location, character, and extent of public streets, squares, parks, or other public ways, grounds, or open spaces or public buildings or structures to be constructed in the municipality and prepare and annually update a capital improvement plan for public structures and improvements for the ensuing five years.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-95. Building permits.**

The following provisions shall apply in the issuance of any building permit in addition to any other requirements for a particular use contained in this chapter or the building code.

(1) *Commencement.* No excavation for, erection of, addition to, alteration of, demolition of, or moving of a building or structure shall commence and no use or change in use of land shall occur until the building official has issued a building permit as required by the building code. A building permit shall not be issued for those uses requiring a special use permit as provided for in this chapter, until a special use permit has been approved. A building permit shall not be issued for those uses requiring site plan review and approval until a final site plan has been reviewed and approved, as provided in division 1 of article VII of this chapter.

(2) *Application for building permit.* An application for building permit shall be submitted prior to issuance of the permit and shall include all information deemed necessary by the building official to demonstrate compliance with applicable provisions of this chapter and the building code. An application for building permit shall include the information described in this section, however, the building official may determine that less or more information is required based upon the type, scope, and/or complexity of the project. Generally, an application for building permit should include the following:

a. All applicable information required under the Michigan Residential Code, Michigan Construction Code, and other applicable codes promulgated pursuant to MCL 125.1504.

b. Site layout including:

1. An accurate boundary line survey showing the location, shape, area, dimensions, north arrow, and legal descriptions of the parcel, location of easements and centerline of all roads.
  2. The location, setbacks, dimensions, and height of the existing and/or proposed structures to be erected, altered, demolished, or moved on the parcel shown to scale.
  3. The existing or intended uses.
  4. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
  5. The location to scale of utility lines, wells and septic drain fields.
  6. The yard, open space and parking area dimensions.
  7. The established street grades, proposed finished grades, any change to the contour of the parcel involved and surface runoff and drainage patterns.
  8. The location of regulated waterways.
- c. Evidence of compliance with this chapter, the building code, and all other local, county, state and federal requirements that are applicable to the proposed building, structure or land use.
- d. Proof of legal or equitable title in order to assure compliance with dimensional requirements of this chapter and to protect public easements from encroachment.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-96. Administrative provisions.**

(a) *Building permit deemed invalid.*

(1) Any building permit shall become invalid if the authorized work does not commence within 180 days after issuance of the permit or if the authorized work is abandoned for a period of 180 days after commencement. The building official may grant, in writing, one or more extensions of time for not more than 180 days each upon justifiable cause.

(2) Any building permit shall become invalid one year after the date of issuance. The building official may grant, in writing, one extension of time for up to one year upon justifiable cause.

(b) *Previous approvals.* No amendment of this chapter shall require changes in the plans, construction or designated use of a building for which a lawful building permit has been issued or otherwise lawfully authorized if the permitted activity has been physically commenced within 90 days after the date of issuance of the building permit.

(c) *Revocation of permits.* The building official may revoke a permit or approval issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

(d) *Inspection.* The building official shall cause the appropriate inspections to be made as required under this chapter and the building code. The building official shall either approve that portion of the construction as completed or shall notify the permit holder or an authorized agent that the construction fails to comply with this chapter or the building code. These inspections shall include:

(1) *Periodic inspections.* Periodic inspections required under the Michigan Residential Code, Michigan Construction Code, and other applicable codes promulgated pursuant to MCL 125.1504.

(2) *Special inspections.* Nothing in this chapter shall be construed as limiting inspections during regular business hours or whenever work is being pursued and as may be considered appropriate by the respective official, provided the inspector announces himself and presents his credentials if requested. Any of the above inspections may be combined with other inspections if all work necessary for these inspections has been completed and has not been concealed.

(e) *Building permit and inspection fees.* All fees for inspection and the issuance of permits required under this chapter shall be collected in advance by the city. The amount of such fees shall be established in accordance with section 94-100 of this chapter.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-97. Certificate of occupancy.**

(a) *Certificate of occupancy required.* No land or building shall be used or occupied until a certificate of occupancy has been issued by the building official stating that the use and building comply with the provisions of this chapter and the building code.

(b) *Certificate of occupancy for an existing building and use.* A certificate of occupancy may be issued upon request for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, such buildings, structures, or parts thereof, or such uses of land are found to be in conformity with the provisions of this chapter and the building code.

(Ord. No. 152, 5-1-2006)



#### **Sec. 94-98. Enforcement, violations, penalties.**

(a) *Enforcement.* The zoning official shall enforce the provisions of this chapter unless otherwise specified by this code or required by law. It shall be unlawful for any owner or occupant to allow or permit or fail to correct a violation of the terms of this chapter or for any person to commence operations of any kind that are in violation of the terms of this chapter. Any violations shall be subject to the penalties herein prescribed.

(b) *Report of violation.* Any building or land use activities considered possible violations of the provisions of this chapter observed by or communicated to the city police agency or to any city official shall be reported to the zoning official.

(c) *Inspection of violation.* The zoning official shall inspect each alleged violation of this chapter within seven days of notification of the alleged violation. Failure to comply with this section in a timely manner shall not be a defense to any violation.

(d) *Correction period, notice requirements, violations.* Whenever a violation has been confirmed by the zoning official, the zoning official shall give notice in writing by hand delivery or first class mail addressed to the owner and occupant of the property where the violation exists and to any person(s) otherwise responsible for said violation. The notice shall specify the location and nature of the violation and shall indicate that the owner, occupant or person otherwise responsible, is required to abate the violation or file the necessary appeal forms with the zoning board of appeals. The notice shall specify that the violation be abated or an appeal to the zoning board of appeals be properly filed within no less than seven days or more than 30 days of receipt of the notice. The time allowed in the notice for abatement or appeal shall be determined at the discretion of the zoning official upon consideration of the nature and severity of the violation and the risk of harm to the public health, safety, and welfare of any continuing violation. If the occupant or owner of the premises is unknown or cannot be located, notices shall be given by posting a copy of said notice upon a conspicuous part of the property where the violation is located and by mailing a copy of said notice by first class mail, addressed to the owner or party in interest at the address shown on the current tax records. It is unlawful for any person given notice pursuant to this section to fail to either correct the violation or appeal to the zoning board of appeals within the time prescribed by this chapter. If appealed to the zoning board of appeals, the violation must be corrected within 30 days of a denial of an appeal.

(e) *Penalty provisions, costs of prosecution, daily violations.* Unless a provision of this chapter is expressly designated as a civil infraction, any conviction for a violation of this chapter shall constitute a misdemeanor violation punishable by imprisonment in the county jail for not more than 90 days and/or by a fine of not more than \$500.00, plus the costs of prosecution. Where the violation is designated as a municipal civil infraction a person found responsible shall be fined not more than \$500.00 plus the direct and indirect costs of the action not to exceed \$500.00 pursuant to section 8727(3) of the Revised Judicature Act of 1961 (MCL 600.8727(3)). Each day that a violation is permitted to exist shall constitute a separate punishable offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this chapter. Violation of this chapter is hereby declared a nuisance per se and conviction of the penal provisions, or finding of responsibility shall not preclude proceedings to abate such a nuisance.

(f) *Cumulative rights and remedies.* The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(g) *Building permit refusal.* The building official may refuse to issue a new building permit to a person who has failed to correct pending violations of this chapter or the building code.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-99. Interpretation and application.**

In the interpretation, application and enforcement of this chapter, whenever any of the provisions or limitations imposed or required herein are more stringent than any other law or ordinance, then the provisions of this chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such other law or ordinance shall govern.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-100. Fees and performance guarantee.**

(a) *Purpose.* The purpose of this section is to allow for the establishment of fees and performance guarantees the city deems necessary to implement the provisions of this zoning chapter.

(b) *Fees.*

(1) The city council shall, by resolution, establish and set fees for making application for building permits, site plan review, certificates of occupancy, zoning appeals, and sale of copies of the zoning chapter and official zoning map.

(2) The city council shall, by resolution, establish a fee schedule to cover the cost of inspections required for the implementation of this zoning chapter. Before considering any application submitted in accordance with the requirements of this chapter, the established fee shall be collected by the city.

(c) *Performance guarantee.* The city, as a condition of approval for any building permit, special use permit, or site plan, may require the provision of a financial guarantee of performance in the form of a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the city to insure the proper and timely implementation and installation of required improvements. The form, terms, and conditions of said performance guarantee shall be the same as prescribed

under section 74-163.

(d) *Fees for professional analysis.* The city council may require the applicant, upon the recommendation of the zoning official or the planning commission, to pay a fee to cover the costs of a professional planning or professional engineering analysis of an application for rezoning, a building permit, a special use permit, a planned unit development or a site plan review. Such action by the city council shall occur only if the action applied for is of a complex nature that is determined by the city council to be beyond the capability of the zoning official and/or the planning commission to formulate a decision on the merits of the application without professional assistance.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006)

#### **Sec. 94-101. Notice of hearing.**

The following shall be the minimum standards for notice of any hearing required by this chapter or the Michigan Zoning Act except when said standards are in conflict with other applicable requirements.

(1) Notice of the hearing shall be published in a newspaper of general circulation in the city no less than 15 days before the date of the hearing.

(2) Notice of the hearing shall be given to the following persons:

- a. The applicant or person who has otherwise caused the required hearing to be scheduled.
- b. The owners, at the address given in the last assessment role, and occupants of the property for which approval is being considered.
- c. The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner or property is located in the zoning jurisdiction.
- d. The occupants of any structure within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner or property is located in the zoning jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
- e. Members of the planning commission, or city council and planning commission, if the hearing is being held by the city council.
- f. For any group of adjacent properties numbering 11 or more that is proposed for rezoning, the notice requirements of subsection (2) and the requirements of subsection (5)b that street addresses be listed do not apply to that group of adjacent properties.

(3) Notice of the hearing shall be given not less than 15 days before the date of the public hearing. Notice under subsection (2) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service.

(4) If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one unit owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit shall receive notice.

(5) The notice of a hearing shall:

- a. Describe the nature of the request.
- b. Indicate the property which is the subject of the request and a listing of all street addresses within the property(ies) which is (are) the subject of the existing request. Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses, another means of identification may be used.
- c. State when, where and at what time the request will be received concerning the request.
- d. Indicate when and the address where written comments will be received concerning the request.
- e. The location where the application documents can be viewed and copied prior to the date of the hearing.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006; Ord. No. 176, 5-4-2009)

#### **Secs. 94-102—94-120. Reserved.**

### **ARTICLE IV. ZONING DISTRICT REGULATIONS**

#### **Sec. 94-121. General intent and purpose, permitted uses, and dimensional regulations.**

(a) *General intent and purpose.* It is the purpose of every district defined in this article to protect sensitive environmental

resources and to ensure that all uses are adequately served by public facilities and services including sewage disposal, potable water, fire protection, streets, and sidewalks. Each district is intended to accommodate permitted uses and structures in a manner that minimizes negative impacts on abutting properties and complements the unique character and identity of the city through appropriate architectural design including building size, building height, building materials, building location, signage, landscaping, buffering, safe circulation of vehicular and pedestrian traffic, and other pertinent development features.

(b) *Permitted uses.* The use regulations established in this article are uniform throughout this chapter for each zoning district and shall be applied consistently to each class of land, building or structure within each district in order to promote the public health, safety, and general welfare of the residents of the city. A use of land or structures not specifically mentioned in the provisions of this chapter shall, upon application, be classified by the zoning official who may seek the recommendation of the planning commission prior to making a final determination. Uses that are contrary to federal, state or local laws or ordinances are prohibited. Within each zoning district there are three permitted categories of use defined as follows:

(1) *Uses permitted by right.* No structure or land shall be used and no structure constructed except for one or more of the uses specified as uses permitted by right unless otherwise provided for in this chapter.

(2) *Accessory uses.* A use of land or of a structure, or portion thereof, which is customarily and naturally incidental to, subordinate to, and devoted exclusively to the principal use of the land or structure and located on the same lot with the principal use.

(3) *Uses authorized by special use permit.* A use of land or of a structure, or portion thereof, which may be permitted through the application and approval of a special use permit as provided for in article VI of this chapter.

(c) *General development standards.* This subsection defines general development standards for each zoning district. Any use of land or structures shall comply with these development standards unless otherwise provided for in this chapter in addition to all applicable federal, state, and local requirements.

(1) *Dimensional regulations.*

a. Lot dimensional regulations.

1. See table 100-1 in chapter 100 and related footnotes.

2. See section 74-133(a) in chapter 74.

b. Building dimensional regulations. See table 100-2 in chapter 100 and related footnotes.

(2) *Site plan review.* Refer to division 1 of article VII of this chapter.

(3) *Signage requirements.* Refer to chapter 58.

(4) *Parking requirements.* Refer to article IX of this chapter.

(5) *Supplemental regulations.* Refer to article V of this chapter.

(Ord. No. 152, 5-1-2006; Ord. No. 188, 4-2-2012)

#### **Sec. 94-122. AG: Single-family agriculture district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for the continuation of agricultural activities while also providing opportunities for single-family residential development patterns and lifestyles of a more rural and suburban character than provided elsewhere in the city. It is also expected that property within this district may transition to other more intensive uses. It is the intent of this district that development ensure a stable and healthy residential environment with suitable open spaces. The lot area requirements contained herein are minimum requirements but larger lot areas may be required where natural site conditions dictate and/or public sewer or water is not available. Persons considering residing within this district should be aware that the traditional odors, noises, dust, pesticide applications, and other generally recognized agricultural activities associated with farming may continue on a long term basis in this district. However, in light of the comparatively high-density character of the city and the associated concentration of persons and families, including school and religious facilities, intensive agricultural activities such as large concentrated livestock operations are not considered appropriate uses in this district.

(b) *Uses permitted by right.*

(1) Single-family dwelling.

(2) Farm as defined in chapter 1 that does not include farm animals except as specified in section 122(c).

(3) Public and private conservation areas and structures for the conservation of water, soils, open space, forest, and wildlife resources (refer to section 94-192(8)).

(4) Public areas, such as forest preserves, game refuges, forest type recreation areas, and similar public uses of low intensity residential recreational character (refer to section 94-192(8)).

(5) A state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(c) *Permitted accessory uses.*

(1) Accessory uses and structures as defined by this chapter.

(2) Home occupations (refer to section 94-173(a)).

(3) The keeping of customary farm animals, with the exception of hogs and poultry, on a parcel used wholly or in part as a single-family residence located outside of a platted or condominium subdivision, which is operated for non-commercial or hobby purposes involving five or less animal units, and which is sited and operated in accordance with generally accepted agricultural and management practices and regulations issued by the Michigan Department of Agriculture. No accumulation of refuse from animals is permitted within 150 feet of any public right-of-way or 75 feet of any property line.

(4) Roadside stands selling products grown or produced in Ingham County provided that contiguous space for off-street parking of customer vehicles is furnished.

(5) Rooming houses but not to exceed two rooming units.

(6) A family day care home licensed under the provisions of MCL 722.111 in which one but fewer than seven minor children are received for care and supervision in a private home for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

(d) *Uses authorized by special use permit.*

(1) Religious institutions and structures for religious worship (refer to section 94-192(8)).

(2) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(3) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).

(4) Public or private educational structures or uses (refer to section 94-192(8)).

(5) Cemeteries, public or private.

(6) Kennels, veterinary hospitals, veterinary clinics.

(7) Public event facilities and fair grounds (refer to section 94-192(8)).

(8) Public or private recreation facilities including parks, playgrounds, ball fields, athletic fields, swimming pools, community centers, golf courses, and country clubs (refer to section 94-192(8)).

(9) Planned residential developments (PRD) (refer to section 94-192(1)).

(10) Agricultural land uses, including farms with farm animals, livestock feeding operations and livestock production facilities, which are sited and operated in accordance with generally accepted agricultural and management practices and regulations issued by the Michigan Department of Agriculture. No accumulation of refuse from animals is permitted within 150 feet of any public right-of-way or 75 feet of any property line.

(11) Stables, riding stables and equestrian centers.

(12) Drilling and exploring operations for oil, gas, or other hydrocarbon materials.

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter. In addition, the following standards shall also apply to any use of land or structures in this district.

(1) The roof pitch ratio of the principle structure shall be a minimum of four foot vertical rise to 12 foot horizontal run.

(2) The principle structure shall be attached to a solid foundation.

(3) A principle residential structure shall provide a minimum of 15% of the total living space area as non-living space available for storage.

(4) A principle residential structure shall be constructed to be compatible in design and appearance with conventional onsite constructed structures.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006)

**Sec. 94-123. RS-1, RS-2, RS-3: Single-family residential districts.**

(a) *Intent and purpose.* It is the primary purpose of these districts to provide opportunities for single-family residential development patterns and lifestyles of a more suburban and urban character than available in the AG district. The RS districts provide for varying lot sizes and development densities to allow for variation in housing preferences and market conditions and to provide the city with reasonable discretion in determining the most appropriate district under specific conditions including on-site and surrounding conditions. It is the intent of these districts that development ensure a stable and healthy residential environment with suitable open spaces and to prohibit uses that undermine this intent.

(b) *Uses permitted by right.*

(1) Single-family dwelling.

(2) Public or private park land of a non-commercial nature composed primarily of vegetated open space where the principal mode of travel to the site is non-motorized and the principal activities at the site are low-intensity uses such as nature conservation and interpretive areas, children's playgrounds, sled hills, and open lawn areas for non-structured play. Such park land is not to be interpreted to include skateboard parks, motorized activities, team sports including sports fields, and activities that are generally accompanied by public gatherings and spectators (refer to section 94-192(8)).

(3) A state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(c) *Permitted accessory uses.*

(1) Accessory uses and structures as defined by this chapter.

(2) Home occupations (refer to section 94-173(a)).

(3) A family day care home licensed under the provisions of MCL 722.111 in which one but fewer than seven minor children are received for care and supervision in a private home for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

(d) *Uses authorized by special use permit.*

(1) Religious institutions and structures for religious worship (refer to section 94-192(8)).

(2) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(3) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).

(4) Public or private educational structures or uses (refer to section 94-192(8)).

(5) Planned residential developments (PRD) (refer to section 94-192(1)).

(6) Bed and breakfast (refer to section 94-192(7)).

(7) Public or private recreation facilities including parks, playgrounds, ball fields, athletic fields, swimming pools, community centers, golf courses, and country clubs (refer to section 94-192(8)).

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter. In addition, the following standards shall also apply to any use of land or structures in this district.

(1) The roof pitch ratio of the principle structure shall be a minimum of four foot vertical rise to 12 foot horizontal run.

(2) The principle structure shall be attached to a solid foundation.

(3) A principle residential structure shall provide a minimum of 15% of the total living space area as non-living space available for storage.

(4) A principle residential structure shall be constructed to be compatible in design and appearance with conventional onsite constructed structures.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006)

**Sec. 94-124. R2F: Two-family residential district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for one-family and two-family residential development patterns and lifestyles and to provide opportunities for small multiple-family housing options with appropriate limitations. It is the intent of this district that development ensure a stable and healthy residential environment with suitable open spaces and to prohibit uses that undermine this intent.

(b) *Uses permitted by right.*

(1) Single-family dwelling.

(2) Public or private park land of a non-commercial nature composed primarily of vegetated open space where the principal mode of travel to the site is non-motorized and the principal activities at the site are low-intensity uses such as nature conservation and interpretive areas, children's playgrounds, sled hills, and open lawn areas for non-structured play. Such park land is not to be interpreted to include skateboard parks, motorized activities, team sports including sports fields, and activities that are generally accompanied by public gatherings and spectators (refer to section 94-192(8)).

(3) A state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).



(4) Two-family dwelling.

(5) Multiple-family dwelling, not to exceed three dwelling units and two stories, provided no such dwelling is located within less than 750 feet from another such dwelling within the R2F district as measured by a straight line between the closest points of the subject lots.

(c) *Permitted accessory uses.*

(1) Accessory uses and structures as defined by this chapter.

(2) Home occupations (refer to section 94-173(a)).

(3) Rooming houses but not to exceed two rooming units.

(4) A family day care home licensed under the provisions of MCL 722.111 in which one but fewer than seven minor children are received for care and supervision in a private home for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

(d) *Uses authorized by special use permit.*

(1) Religious institutions and structures for religious worship (refer to section 94-192(8)).

(2) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(3) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).

(4) Public or private educational structures or uses (refer to section 94-192(8)).

(5) Planned residential developments (PRD) (refer to section 94-192(1)).

(6) Bed and breakfast (refer to section 94-192(7)).

(7) Public or private recreation facilities including parks, playgrounds, ball fields, athletic fields, swimming pools, community centers, golf courses, and country clubs (refer to section 94-192(8)).

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter. In addition, the following standards shall also apply to any use of land or structures in this district.

(1) The roof pitch ratio of the principle structure shall be a minimum of four foot vertical rise to 12 foot horizontal run.

(2) The principle structure shall be attached to a solid foundation.

(3) A principle residential structure shall provide a minimum of 15% of the total living space area as non-living space available for storage.

(4) A principle residential structure shall be constructed to be compatible in design and appearance with conventional onsite constructed structures.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006; Ord. No. 230, 9-28-2020)

**Sec. 94-125. RM: Multiple-family residential district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide housing opportunities and lifestyles in the form of multiple family dwellings, such as apartments and townhouses. It is the intent of this district that development ensure a stable and healthy residential environment with suitable open spaces and to prohibit uses that undermine this intent.

(b) *Uses permitted by right.*

(1) Single-family dwelling.

(2) Public or private park land of a non-commercial nature composed primarily of vegetated open space where the principal mode of travel to the site is non-motorized and the principal activities at the site are low-intensity uses such as nature conservation and interpretive areas, children's playgrounds, sled hills, and open lawn areas for non-structured play. Such park land is not to be interpreted to include skateboard parks, motorized activities, team sports including sports fields, and activities that are generally accompanied by public gatherings and spectators (refer to section 94-192(8)).

(3) A state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(4) Two-family dwelling.

(5) Multiple-family dwellings, not to exceed eight dwelling units per building and not to exceed two stories per building.

(c) *Permitted accessory uses.*

(1) Accessory uses and structures as defined by this chapter.

(2) Home occupations (refer to section 94-173(a)).

(3) Rooming houses but not to exceed four rooming units.

(4) A family day care home licensed under the provisions of MCL 722.111 in which one but fewer than seven minor children are received for care and supervision in a private home for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

(d) *Uses authorized by special use permit.*

(1) Religious institutions and structures for religious worship (refer to section 94-192(8)).

(2) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(3) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).

(4) Public or private educational structures or uses (refer to section 94-192(8)).

(5) Planned residential developments (PRD) (refer to section 94-192(1)).

(6) Bed and breakfast (refer to section 94-192(7)).

(7) Multiple-family dwellings containing more than eight dwelling units per building or more than two stories per building.

(8) Public or private recreation facilities including parks, playgrounds, ball fields, athletic fields, swimming pools, community centers, golf courses, and country clubs (refer to section 94-192(8)).

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter. In addition, the following standards shall also apply to any use of land or structures in this district.

(1) The roof pitch ratio of the principle structure shall be a minimum of four foot vertical rise to 12 foot horizontal run.

(2) The principle structure shall be attached to a solid foundation.

(3) A principle residential structure shall provide a minimum of 15% of the total living space area as non-living space available for storage.

(4) A principle residential structure shall be constructed to be compatible in design and appearance with conventional onsite constructed structures.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006)

#### **Sec. 94-126. MH: Manufactured home park residential district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide housing opportunities and lifestyles in the form of manufactured housing communities as regulated under the Mobile Home Commission Act (MCL 125.2301 et seq.) and the Mobile Home Commission rules promulgated there under. It is the purpose of this district that, because of the comparative speed at which a manufactured housing community can be constructed and because of the potential for a rapid increase in demand upon public infrastructure and services, the district be established only where development will not outpace the ability of the city to effectively manage and accommodate demands upon public infrastructure and services and maintain the quality of life, local character, and identity of the city. It is the intent of this district that development ensure a stable and healthy residential environment with suitable open spaces and to prohibit uses that undermine this intent.

(b) *Uses permitted by right.*

(1) Manufactured home park in compliance with the state Mobile Home Commission Act (MCL 125.2301 et seq.).

(2) Public or private park land of a non-commercial nature composed primarily of vegetated open space where the principal mode of travel to the site is non-motorized and the principal activities at the site are low-intensity uses such as nature conservation and interpretive areas, children's playgrounds, sled hills, and open lawn areas for non-structured play. Such park land is not to be interpreted to include skateboard parks, motorized activities, team sports including sports fields, and activities that are generally accompanied by public gatherings and spectators (refer to section 94-192(8)).

(3) Day care or foster care providing care for six or less individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(c) *Permitted accessory uses.*

(1) Accessory uses and structures as defined by this chapter.

(2) Home occupations (refer to section 94-173(a)).

(d) *Uses authorized by special use permit.*

(1) Religious institutions and structures for religious worship (refer to section 94-192(8)).

(2) Day care facilities or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(3) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).

(4) Public or private educational structures or uses (refer to section 94-192(8)).

(5) Multiple-family dwellings.

(6) Public or private recreation facilities including parks, playgrounds, ball fields, athletic fields, swimming pools, community centers, golf courses, and country clubs (refer to section 94-192(8)).

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter. In addition, the following standards shall also apply to any use of land or structures in this district.

(1) *Parking requirements.* Paved parking spaces for two vehicles are required for each home site. The location of parking spaces on corner sites shall not obstruct traffic visibility. Visitor parking spaces shall be provided within 500 feet of each site at a ratio of one visitor space per three sites. Refer to article IX of this chapter for additional requirements.

(2) *Access.* Ingress and egress shall be to a major public street which shall be paved to a minimum width of 33 feet. Entrances and exits shall be provided with adequate acceleration and deceleration lanes as required by the city.

(3) *Internal street width.*

a. *Two-way streets.* A minimum width of 21 feet where no parallel parking is permitted, 31 feet where parking is permitted on one side, and 41 feet where parking is permitted on both sides.

b. *One-way streets.* A minimum width of 13 feet where no parallel parking is permitted, 23 feet where parking is permitted on one side, and 33 feet where parallel parking is permitted on both sides.

c. *Dead-end streets.* The vehicular turn-around for dead end streets shall comply with the standards for a cul-de-sac in chapter 74.

(4) *Utilities.* All public utilities shall be provided by the park developer and furnished to each site underground only. Fire hydrants shall be provided with sufficient water supply pipe sizing as determined by the fire chief and so spaced that no site is farther than 400 feet from a hydrant.

(5) *Sidewalks.* Sidewalks not less than four-feet wide shall be provided to each manufactured home park site.

(6) *Common open space.* Each manufactured home park shall provide at least eight percent of the total site area for common open space. The planning commission may approve a common open space system for the manufactured home park which is evenly distributed throughout the site and represents not less than eight percent of the total site area.

(7) *Landscaping.* The manufactured home park shall meet the landscape requirements as outlined in division 2 of article VII of this chapter. In addition, trees of one-inch caliper minimum shall be installed and maintained on both sides of the street at a maximum spacing of 50 feet. A perimeter green belt of not less than 15 feet shall be provided which shall include fencing, landscaping, or screening for adjacent land uses.

(8) *Building permits.* A building permit shall be issued before a manufactured unit is placed on a site in a manufactured home park. A manufactured unit may not be occupied until a certificate of occupancy has been issued by the building official.

(9) *Design and operating standards.* The design, development, operation and business practices of manufactured home parks shall be subject to all current rules promulgated by the state Mobile Home Commission under the Mobile Home Commission Act (MCL 125.2301 et seq.), which are hereby incorporated by reference as part of this chapter.

(Ord. No. 152, 5-1-2006)

**Secs. 94-127--94-130. Reserved.**

**Sec. 94-131. O-1: General office district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments that are predominantly comprised of professional offices, medical offices, administrative offices, and other businesses of a similar office character.

(b) *Uses permitted by right.*

(1) Offices for attorneys, accountants, architects, engineers, and similar professions.



(2) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.

(3) Photographic studios.

(4) Professional services establishments providing human health care on an outpatient basis.

(5) Medical, optical and dental offices and laboratories.

(6) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.

(7) Music, dance, or performing arts studios.

(8) Personal service establishments.

(9) Single family residences (refer to section 94-123).

(c) *Permitted accessory uses.*

(1) Accessory uses and structures as defined in this chapter.

(2) Automatic teller machines (walk-up only).

(d) *Uses authorized by special use permit.*

(1) Religious institutions and structures for religious worship (refer to section 94-192(8)).

(2) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(3) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).

(4) Public or private educational structures or uses (refer to section 94-192(8)).

(5) Mortuaries and funeral homes (not including crematories).

(6) Research, development, and prototype manufacturing.

(7) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.

(8) Two family.

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

(Ord. No. 152, 5-1-2006; Ord. 211, 9-5-2017; Ord. 218, 5-21-2018)

### **Sec. 94-132. O-2: Specialized office district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide in areas of a predominantly residential character, opportunities for office establishments which, because of the uses authorized and the required site development standards, are deemed compatible with such residential areas and which may be a benefit to such areas as a result of the services provided.

(b) *Uses permitted by right.*

(1) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.

(2) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities, and the operation of professional associations, societies, and institutes.

(3) Single family residence (refer to section 94-123).

(c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.

(d) *Uses authorized by special use permit.*

(1) Day care facility or foster care facility providing care for more than six but not more than 12 individuals in a state licensed residential facility, except adult foster care

facilities for care and treatment of persons released from or assigned to or at adult correctional facilities (refer to section 94-192(8)).

(2) Two-family residences (refer to section 94-124).

(3) Bed and breakfast (refer to section 94-192(7)).

(4) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

(f) *Uses specifically prohibited.* Consistent with the specialized purpose of this district, the following uses are specifically prohibited.

(1) Veterinary clinics.

(2) Hospitals, sanitariums, nursing homes, adult foster care large group home (13 to 20 individuals), and adult foster care congregate facility (more than 20 individuals).

(3) Retail sales and services.

(4) Personal services such as hair, cosmetic, and body care.

(5) Materials processing such as photo labs, chemical and testing labs.

(6) Mortuaries and funeral homes.

(7) Any land use which produces noise, glare, vibration, or odor at the property line.

(8) Any land use which generates vehicular and/or pedestrian movement in excess of that which is normally prevailing in the district or adjoining districts.

(Ord. No. 152, 5-1-2006; Ord. 218, 5-21-2018)

**Secs. 94-133—94-140. Reserved.**

**Sec. 94-141. C-1: Central business district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments in the area generally referred to as the Downtown Center in the city master plan that address the local day-to-day office, retail, and service needs of residents of, and visitors to, the city. It is the intent of this district to prohibit uses that draw from a regional population causing excessive traffic levels or that may otherwise undermine the intended function and character of the historic business area of the city.

(b) *Uses permitted by right.*

(1) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.

(2) Photographic studios.

(3) Professional services establishments providing human health care on an outpatient basis.

(4) Medical, optical and dental offices and laboratories.

(5) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.

(6) Music, dance, or performing arts studios.

(7) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.

(8) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities and similar professions, and the operation of professional associations, societies, and institutes.

(9) Retail trade, office and personal service businesses including financial institutions, hardware and appliance stores, barber and beauty shops, clothing, food, restaurants, with or without outdoor food and drink service (refer to section 94-173(j)), drug, variety, furniture, jewelry, self-service and/or drop-off laundry including dry cleaning performed off-premise, small job printing provided non-explosive fluids are used and similar uses when conducted within a building and no part of which consists of manufacturing or processing on the premises.

(10) Bed and breakfast (refer to section 94-192(7)).

(11) Residential use located above a business use that meets the minimum floor area standards of the RM multiple-family residential district.

(12) Establishments licensed for the sale of alcoholic beverages where consumption is allowed on and/or off the premises.

(13) Public assembly buildings, indoor theaters, and auditoriums.

(c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.

(d) *Uses authorized by special use permit.*

(1) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).

(2) Public or private educational structures or uses (refer to section 94-192(8)).

(3) Vehicular drive-in service when associated with a principal use.

(4) Off-street public or private parking facilities (refer to section 94-192(8)).

(5) Boarding and rooming houses.

(6) Pub, tavern, or restaurant with outdoor entertainment, including music.

(7) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.

(8) Monopole telecommunication towers and antennae in accordance with the requirements of section 94-173(d)(13)(a)5.

(9) Short-term dwelling rental (refer to section 94-192(11)).

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

(Ord. No. 152, 5-1-2006; Ord. No. 156, 9-5-2006; Ord. No. 161, 9-4-2007; Ord. No. 166, 8-4-2008; Ord. No. 227, 10-7-2019)

#### **Sec. 94-142. C-2: General commercial district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments that address the retail and service needs of both local and regional populations, including the highway traveler and uses that draw from a regional market or which uniquely benefit from close proximity to the US-127 interchanges.

(b) *Uses permitted by right.*

(1) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.

(2) Photographic studios.

(3) Professional services establishments providing human health care on an outpatient basis.

(4) Medical, optical and dental offices and laboratories.

(5) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.

(6) Music, dance, or performing arts studios.

(7) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.

(8) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities and similar professions, and the operation of professional associations, societies, and institutes.

(9) Retail trade, office and personal service businesses including financial institutions, hardware and appliance stores, barber and beauty shops, clothing, food, restaurants with or without outdoor food and drink service (refer to section 94-173(j)), drug, variety, furniture, jewelry, self-service and/or drop-off laundry including dry cleaning performed off-premise, small job printing provided non-explosive fluids are used and similar uses when conducted within a building and no part of which consists of manufacturing or processing on the premises.

(10) Boarding and rooming houses.

(11) Bed and breakfast (refer to section 94-192(7)).

(12) Residential use located above a business use that meets the minimum floor area standards of the RM multiple-family residential district.

(13) Establishments licensed for the sale of alcoholic beverages where consumption is allowed on and/or off the premises.

(14) Outdoor retail sales and service.

(15) Wholesale businesses.

- (16) Plumbing, heating, retail sales and service and other similar uses.
  - (17) Farm machinery and implement sales.
  - (18) Nursery, shrubbery, and garden supply centers.
  - (19) Public assembly buildings, indoor theaters, and auditoriums.
- (c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.
- (d) *Uses authorized by special use permit*
- (1) Community commercial centers (refer to section 94-192(5)).
  - (2) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).
  - (3) Public or private educational structures or uses (refer to section 94-192(8)).
  - (4) Vehicular drive-in service.
  - (5) Off-street public or private parking facilities.
  - (6) Communication towers and antennas (refer to section 94-173(d)).
  - (7) Hotels and motels.
  - (8) New and used motor vehicle, boat and trailer sales and service.
  - (9) Automobile service stations and automobile repair garages (refer section 94-192(2)).
  - (10) Automatic and self-serve car wash.
  - (11) Mini-warehouse.
  - (12) Adult businesses (refer to section 94-173(h)).
  - (13) Pub, tavern, or restaurant with outdoor entertainment including music.
  - (14) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.
- (e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.
- (Ord. No. 152, 5-1-2006; Ord. No. 156, 9-5-2006; Ord. No. 166, 8-4-2008)

**Sec. 94-143. C-3: Local commercial district.**

- (a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments that address the local day-to-day office, retail, and service needs of the city's residents and visitors, and nearby surrounding populations, and which are not located in the city's historic business area (C-1 District) nor cater to the highway traveler or serve more regional populations, for which the C-2 District has been established.
- (b) *Uses permitted by right.*
- (1) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.
  - (2) Photographic studios.
  - (3) Professional services establishments providing human health care on an outpatient basis.
  - (4) Medical, optical and dental offices and laboratories.
  - (5) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.
  - (6) Music, dance, or performing arts studios.
  - (7) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.
  - (8) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities and similar professions, and the operation of professional associations, societies, and institutes.
  - (9) Retail trade, office and personal service businesses including financial institutions, hardware and appliance stores, barber and beauty shops, clothing, food, restaurants with or without outdoor food and drink service (refer to section 94-173(j)), drug, variety, furniture, jewelry, self-service and/or drop-off laundry including dry cleaning performed off-premise,

small job printing provided non-explosive fluids are used and similar uses when conducted within a building and no part of which consists of manufacturing or processing on the premises.

(10) Bed and breakfast (refer to section 94-192(7)).

(11) Residential use located above a business use that meets the minimum floor area standards of the RM multiple-family residential district.

(12) Establishments licensed for the sale of alcoholic beverages where consumption is allowed on and/or off the premises.

(13) Enclosed public assembly buildings, indoor theaters, and auditoriums.

(14) Veterinary clinics and hospitals, not including kennels.

(c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.

(d) *Uses permitted by special use permit.*

(1) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).

(2) Public or private educational structures or uses (refer to section 94-192(8)).

(3) Vehicular drive-in service when associated with a principal use.

(4) Off-street public or private parking facilities (refer to section 94-192(8)).

(5) Boarding and rooming houses.

(6) Pub, tavern, or restaurant with outdoor entertainment, including music.

(7) Community commercial centers (refer to section 94-192(5), except that the lot area and width shall comply with the standards listed in section 94-121(c)(1)(a)).

(8) Outdoor retail sales and service (refer to section 94-192(10)).

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter; except that any use permitted in this district involving one or more structures, either individually or collectively, shall not exceed 20,000 square feet of gross floor area.

(Ord. No. 152, 5-1-2006; Ord. 156, passed 9-5-2006; Ord. 166, 8-4-2008; Ord. No. 209, 6-5-2017)

**Secs. 94-144—94-150. Reserved.**

**Sec. 94-151. M-1: Light manufacturing district.**

(a) *Intent and purpose.* It is the purpose of this district to provide opportunities for a variety of industrial activities that can be generally characterized as being of low intensity, including the absence of objectionable external affects such as noise, fumes, vibrations, odors and traffic patterns, and resulting in limited demands for additional public services. Manufacturing operations in this district are generally intended to utilize previously prepared materials as opposed to the use, alteration, or manipulation of raw materials.

(b) *Uses permitted by right.*

(1) Industrial parks.

(2) Research, development, and prototype manufacturing facilities and offices.

(3) Warehousing, grain elevators, grain storage, refrigerated storage, bulk storage of petroleum products, and general storage.

(4) Local and regional transit and passenger transportation facilities, and trucking terminals, maintenance and service facilities.

(5) Laundry services.

(6) The manufacturing, compounding, processing or treatment of such products as bakery goods, candy, cosmetics, dairy products, and food products.

(7) Assembly of merchandise such as electrical appliances, and electronic or precision instruments.

(8) Printing, lithographic, blueprinting, copying, and similar uses.

(9) Light manufacturing activity which, by the nature of the materials, equipment, and processes utilized, is to a considerable extent clean, quiet, and free from any objectionable or dangerous nuisance or hazard including any of the following goods or materials:

a. Furniture and fixtures.

- b. Paper and paperboard products.
- c. Jewelry, silverware and plated ware.
- d. Musical instruments and parts.
- e. Toys and sporting goods.
- f. Signs, advertising displays and canvas products.
- g. Office computing and accounting equipment.
- h. Jobbing and repair machine shops.

(10) Body and paint shops for automobiles and other vehicles.

(c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.

(d) *Uses authorized by special use permit.*

(1) Day care facilities serving the principal uses in the —1 district if the planning commission determines that the nature of the principal use and/or the relative location of the principal use or other uses to the day care facility does not pose any significant threat to the safety of children attending the day care facility (refer to section 94-192(8)).

(2) Public buildings for governmental utility or public service use, including storage yards, transformer stations, and substations (refer to section 94-192(8)).

(3) Communication towers and antennas (refer to section 94-173(d)).

(4) Sale of repaired, used vehicles, by special use permit as an accessory use (refer to section 94-151(c)) to a paint and body shop for automobiles and other vehicles (refer to section 94-151(b)(10)) which meets and complies with the following conditions and criteria.

a. Only the sale of vehicles which have been purchased in a state of disrepair and then repaired at the premises operated as a body and paint shop pursuant to section 94-151(b)(10).

b. The sale of repaired vehicles shall not exceed a total sum of eighteen (18) per calendar year.

c. No advertising shall occur to be placed on the premises indicating the sale of used vehicles. This shall include no "for sale" signage on the vehicle itself unless such vehicle is located on the premises where it is not readily visible to the general public from any nearby roads.

d. No repaired vehicles shall be kept or stored at the front of the site or at any location on the site where they are reasonably visible to the general public from abutting roadways.

e. The owner maintain accurate records on the premises for each vehicle purchased for repair reflecting the date of purchase, purchase price, seller, a brief description of repairs accomplished, and sale price. Such records shall be made available for inspection by the zoning official upon request.

f. Compliance with all other provisions of these Ordinances including the requirements for a Special Use Permit as well as section 94-151(e).

g. The owner complies with any federal, state, or county ordinances or requirements relative to the sale of vehicles, obtains all required licenses and/or permits and maintains them in good standing at all times.

h. For purposes of the subsection 94-151(d)(4), the following definitions shall apply:

1. *Vehicles* shall mean and refer to automobiles, trucks, motorcycles, and similar items.

2. *State of disrepair* shall mean that the vehicle in question had such damage or necessitated repairs to its power train, chassis, other non-exterior visible items and/or body work and where the necessary repairs, at normal retail pricing would exceed twenty-five (25%) of the retail value of the vehicle, after repair.

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

(Ord. No. 152, 5-1-2006; Ord. No. 195, 11-18-2013)

**Sec. 94-152. M-2: General manufacturing district.**

(a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for a variety of industrial activities, including assembly, packaging, fabrication, processing, compounding, and manufacturing processes that rely on raw materials or previously prepared materials.

(b) *Uses permitted by right.*

(1) Industrial parks.

(2) Research, development, and prototype manufacturing facilities and offices.

(3) Warehousing, grain elevators, grain storage, refrigerated storage, bulk storage of petroleum products, and general storage.

(4) Local and regional transit and passenger transportation facilities, and trucking terminals, maintenance and service facilities.

(5) Laundry services.

(6) The manufacturing, compounding, processing or treatment of such products as bakery goods, candy, cosmetics, dairy products, and food products.

(7) Assembly of merchandise such as electrical appliances, and electronic or precision instruments.

(8) Printing, lithographic, blueprinting, copying, and similar uses.

(9) Light manufacturing activity which by the nature of the materials, equipment, and processes utilized are to a considerable extent clean, quiet, and free from any objectionable or dangerous nuisance or hazard including any of the following goods or materials:

- a. Furniture and fixtures.
- b. Paper and paperboard products.
- c. Jewelry, silverware and plated ware.
- d. Musical instruments and parts.
- e. Toys and sporting goods.
- f. Signs, advertising displays and canvas products.
- g. Office computing and accounting equipment.
- h. Jobbing and repair machine shops.

(10) Body and paint shops for automobiles and other vehicles.

(11) Heavy construction and general building companies.

(12) Industrial manufacturing, processing, or assembling of the following:

- a. Prefabricated buildings and structural members.
- b. Fabricated metal products including heavy machinery and industrial equipment.
- c. Stone, clay, and glass products.
- d. Aluminum, bronze, copper, copper-alloy and other non-ferrous castings.
- e. Machinery such as engines, turbines, farm implements, and industrial machinery and equipment.
- f. Transportation equipment, such as motor vehicles and non-motorized vehicles and parts.
- g. Agricultural products.
- h. Biological products, drugs, medicinal, chemical and pharmaceutical products.
- i. Monuments, cut stone and stone products.

(c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.

(d) *Uses authorized by special use permit*

(1) Above ground storage of flammable liquids or combustible materials.

(2) Cement and asphalt plants.

(3) Communication towers and antennas (refer to section 94-173(d)).

(4) Junk and salvage yards (refer to section 94-192(3)).

(5) Livestock auction yard and livestock transport facilities.

(6) Refineries and power generating plants.

(7) Railroad terminals.

(8) Meat or poultry processing plant.

(9) Dry or liquid bulk blending plant.

(10) Nitrogen fertilizer and anhydrous ammonia.



- (11) Repair and storage of damaged mobile homes.
- (12) Racetrack or racing theatre (refer to section 94-192(9)).
- (13) Casino (refer to section 94-192(9)).
- (14) Removal and disposal of soil, sand, gravel, and other materials (refer to section 94-192(4)).
- (15) Drilling, exploring and production operations for oil, gas, or other hydrocarbon materials.

(e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

(Ord. No. 152, 5-1-2006)

**Secs. 94-153—94-160. Reserved.**

**Sec. 94-161. PUD: Planned unit development district.**

(a) *Intent and purpose.* It is the purpose of this district to establish provisions for the submission, review and approval of applications for specific development proposals that rely on more flexible land use and development standards than would normally be permitted by other districts. Such developments shall be authorized as "planned unit developments" pursuant to Section 4b of the City/Village zoning Act. It is the purpose of this district that such PUD districts and development be established only where it is determined that such approval supports the objectives of this chapter and results in a benefit to the community that would not otherwise be realized under traditional district provisions. Such benefit may address innovation in land use and site layout; economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities; useful open space; improved housing, employment, and shopping opportunities; and greater compatibility of design and use with the characteristics of the project area and between neighboring properties. This district and its provisions is not intended as a device for ignoring this chapter or the planning upon which it is based. To this end, the provisions of this section are intended to result in land use and development substantially consistent with the planned development pattern for the city, with modifications and departures from generally applicable chapter requirements made in accordance with standards provided in this section to ensure appropriate, fair, and consistent decision making.

(b) *Uses permitted by right.* Any land use authorized in this chapter is permitted in this district as a principal use provided that public health, safety, and welfare are not impaired and the essential character of the proposed development meets the general intent of the Master Plan. Where the Master Plan provides for residential development patterns, commercial and other non-residential uses may be permitted as part of a development which also contains a residential component, provided that the applicant demonstrates that the residential uses will be predominant. The planning commission shall determine predominance of use after taking into account the following criteria:

- (1) The extent to which a non-residential use serves residents in the development compared to others who travel to the site.
- (2) The amount of traffic generated by the non-residential use.
- (3) The operational hours of the non-residential use.
- (4) The proportional land area allocated to the non-residential use.
- (5) The building area allocated to the non-residential use.

(c) *Permitted accessory uses.* Any accessory use authorized in this chapter is permitted in this district if such use is consistent with the requirements of subsection (b).

(d) *Uses authorized by special permit.* Any use authorized by special use permit in this chapter is permitted in this district as if such uses were permitted by right. No special use permits are required in this district.

(e) *Site development standards and deviations.* The site development standards for all proposed individual land uses and facilities in this district shall conform to this chapter and any applicable sections of this code, including such standards pertaining to lot area and dimensions, density, lot coverage, setbacks, building height, parking, loading, landscaping and screening, road widths, and similar requirements, except that the city council may permit deviations from such standards where such deviations will result in a higher quality of development than would be possible without the deviations.

(1) Except where a deviation is granted, standards pertaining to lot area and dimensions, density, lot coverage, and setbacks shall comply with those standards of the district which most closely characterizes the dominant character of the development.

(2) Except where a deviation is granted, mixed uses shall comply with the regulations applicable for each individual use, including those standards contained in article VI, of this chapter. If regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply.

(3) Deviation from development standards may be authorized only upon a finding by the city council that there are adequate features or planning mechanisms designed into the project to achieve the objectives intended to be accomplished with respect to each of the standards from which a departure is sought.

(f) *PUD is a separate district.* A PUD is permitted only in association with a PUD District. The approval of a PUD shall



require an amendment to the Zoning Map constituting a part of this chapter so as to designate the property "PUD", and the PUD shall be subject to the approved PUD application including a site plan.

(g) *Minimum eligibility criteria.* The following minimum eligibility criteria shall be met for PUD approval.

(1) *Recognizable and substantial benefit.* The development shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely under the regulations of other districts.

(2) *Availability and capacity of public services.* The proposed type and intensity of use shall not result in an unreasonable burden on public services, facilities, and utilities.

(3) *Compatibility with the master plan.* The proposed development shall be in accordance with the goals and policies of the City of Mason Master Plan.

(4) *Compatibility with the intent and purpose.* The proposed development shall be consistent with the intent and purpose as stated in subsection (a).

(5) *Economic impact.* The proposed development shall not impede the continued use or development of surrounding properties for uses permitted on such properties.

(6) *Unified control of property.* The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this chapter and the specifications of the PUD approval. This provision shall not prohibit a transfer of ownership or control, upon due notice to the zoning official.

(h) *Approval procedure.*

(1) *Optional preapplication conference.* Prior to the submission of a preliminary site plan for PUD approval, the applicant may request a meeting with one or more representatives of the planning commission and city council, together with such consultants and other officials and staff as either the city or the applicant deem appropriate. The purpose of the meeting is to inform city officials of the general theme for the proposed development and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the city pertaining to the proposed development. Statements made in the course of a preapplication conference shall not be legally binding commitments. At or prior to the preapplication conference (or conferences), the applicant may present a general sketch plan of the proposed PUD that provides an overview of the proposed project.

(2) *Preliminary plan: application, public hearing, and action.*

a. The applicant shall submit to the zoning official 20 copies of a PUD application supplied by the zoning official, which shall also include a preliminary site plan. The zoning official shall forward copies to the planning commission. The preliminary site plan shall comply with the requirements of division 1 of article VII of this chapter and include a detailed text description of the proposed development and all requirements from which the applicant is seeking a departure. The zoning official shall transmit copies of the PUD application to other agencies and individuals selected to review such plans including city staff, city consultants, the county drain commissioner, and the county road commission.

b. The planning commission shall review the application, including comments by any reviewing agencies or individuals, and shall be entitled to make reasonable inquiries of and receive answers from the applicant. Following review of the application, including the preliminary site plan, the planning commission shall act on the application as if it were an application for rezoning, and in doing so, shall follow the provisions of article XII of this chapter.

c. Following the public hearing and any fact finding and additional studies, the planning commission shall prepare written findings regarding the application's conformance with the applicable requirements of this chapter, including the site plan approval standards of division 1 of article VII of this chapter and the special use approval standards of section 94-191(f). The planning commission shall recommend to the city council to approve, deny, or approve with conditions the application, including the preliminary site plan. The planning commission shall prepare and transmit a report to the city council stating its conclusions and recommendation, the basis for its decision, and any recommended conditions relating to an affirmative decision.

d. After holding a public hearing on the application with notice as provided in section 94-101 of this chapter, the city council shall take final action to approve, deny, or approve with conditions the application, including the preliminary site plan. In reviewing the application, the city council shall consider the applicable requirements of this chapter, including the site plan approval standards of division 1 of article VII of this chapter and the special use approval standards of section 94-191(f). The city council shall prepare and transmit a report to the applicant stating its conclusions and decision, the basis for its decision, and any conditions relating to an affirmative decision. The effect of city council approval of the application shall be:

1. To authorize the fundamental PUD character and layout embodied in the preliminary plan, including any conditions applied to the approval, prior to the preparation of a final site plan.

2. To authorize a change to the zoning map to classify the subject property as PUD upon approval of the final site plan by the city council.

(3) Final plan and permit issuance:

a. Within 24 months following receipt of preliminary plan approval, the applicant shall submit to the zoning official 20 copies of a final plan, or phase one of a final plan, including a final site plan conforming with division 1 of article VII of this chapter and including a detailed text description of the proposed development and all regulations from which the applicant is requesting a departure. If the final plan has not been submitted within such period, the preliminary plan approval shall become null and void unless the city council extends the time for submission of the final plan upon a showing by the applicant that no material change of circumstances has occurred having bearing on the original action of the city council.

b. The zoning official shall record the date of the receipt of the final site plan and transmit copies to the planning commission and other agencies or individuals selected to review such plans including city staff, city consultants, the county drain commissioner, and the county road commission.

c. The planning commission shall review the final plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. The planning commission shall prepare and transmit a report to the city council stating its conclusions and recommendation, the basis for its recommendation, and any conditions relating to an affirmative decision. The planning commission shall recommend to the city council to approve, deny, or approve with conditions the final plan. The city council shall take final action to approve, deny, or approve with conditions the final plan. In reviewing the final plan, the city council shall consider the applicable requirements of this chapter, including the site plan approval standards of division 1 of article VII of this chapter and the special use approval standards of section 94-191(f). The city council shall prepare and transmit a report to the applicant stating its conclusions and decision, the basis for its decision, and any conditions relating to an affirmative decision.

d. If and when the final site plan is approved, all improvements and use of the property shall be in conformity with the final site plan and any conditions imposed. The applicant shall record an affidavit with the register of deeds containing the legal description of the entire project, specifying the date of approval, and declaring that all future improvements will be carried out in accordance with the approved PUD unless a revision is approved by the city council upon request or approval of the applicant or applicant's transferee and/or assignees. Upon receipt of the recorded documents, the zoning official shall issue a permit for that portion of the PUD project receiving final site plan approval and the city administrator shall amend the zoning map of the city.

(i) *Phasing.*

(1) Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the PUD and residents, businesses and properties of the surrounding area.

(2) In developments that include mixed components such as residential and commercial, the city council may require that a specified portion of one component be constructed prior to the initiation of construction of other components, to ensure the intent and spirit of the PUD as approved. For example, if a city area is planned for predominantly residential development and a PUD application is approved that consists of both residential and commercial components, the city council may require that a certain portion of the residences be constructed prior to the initiation of construction of the commercial component.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006)

**Secs. 94-162—94-170. Reserved.**

## ARTICLE V. SUPPLEMENTAL REGULATIONS

### **Sec. 94-171. Intent and purpose.**

It is the purpose of this article to establish miscellaneous regulations which shall apply equally and uniformly to all zoning districts.

### **Sec. 94-172. General regulations.**

(a) *Rear dwelling prohibited.* No building in the rear of and on the same lot with a principal building shall be used for residential purposes except for watchmen, caretakers and domestic employees whose employment is related to the functions of the principal building, provided that all other requirements of this chapter are satisfied.

(b) *Uses of structures for temporary dwellings.* No structure shall be used for dwelling purposes that does not meet the minimum standards, as defined in this chapter and the building code. No garage, or other accessory building, trailer coach, cellar, basement, tent, cabin, or other partial structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purpose unless said structure is in compliance with this chapter and the building code.

(c) *Temporary buildings.* Temporary buildings shall be permitted by the building official in connection with the issuance of a building permit for uses incidental to permitted construction work. Such buildings shall be removed upon the completion of the construction work or upon the building permit becoming invalid unless an extension is granted pursuant to section 94-96(a).

(d) *Site development regulations.*

(1) *Residential front yard use.* On any lot in a residential district and on any lot used for residential purposes, that portion

lying in front of the building line shall be used only for landscaping purposes and nothing other than landscaping materials, permitted signs and permitted driveways shall be parked, placed, erected, or planted thereon.

(2) *Fences and walls.* Except as otherwise permitted in this chapter, fences or walls shall have a maximum height of six feet and shall be ornamental in design. No fence or wall with a height greater than three feet shall be constructed in the front yard of a residential building.

(3) *Vision clearance across corner lot.* (See figure 100-103 in chapter 100).

a. Nothing shall interfere with traffic visibility across the triangular area of a lot formed by the intersection of two public or private streets or combination thereof measuring 25 feet along the road right-of-way lines in each direction from the corner of said lot. Nothing shall interfere with traffic visibility across the triangular area adjacent to the intersection of a public or private street and a driveway formed by measuring seven feet along the driveway lines and 60 feet along the road right-of-way in each direction from the edge of said driveway. No fence, structure, or planting taller than three feet shall be erected or maintained in said triangular areas except trees with branches no lower than eight feet above the ground. However, nothing shall be permitted in the triangular area adjacent to a driveway.

b. In all manufacturing zones, where corner lots abut a railroad and a major or minor street, no structure, fence, or plantings shall be erected or maintained within a triangular area formed by measuring 200 feet along the property lines in each direction from the corner of said lot. However, if the intersection is controlled by automatic flashers installed pursuant to legal authority, the clear vision area may be reduced in accordance with subsection 94-172(h)(3)a.

(4) *Residential rear yard measurement.* Wherever there is a public alley abutting the rear of a residential lot for the full width of that lot, measurement of the depth of the abutting rear yard may be made to the center of such alley.

(5) *Rear yard use.* A rear yard may be occupied by buildings or structures for accessory uses permitted in the district provided that such structures comply with subsection 94-173(g)(4) and other applicable provisions of this chapter and the building code.

(6) *One main building per lot.* Every building hereafter moved, erected or structurally altered shall be located on a lot as herein provided and, except in the case of an approved planned unit development as herein defined, there shall be no more than one main building and permitted accessory buildings on one lot within a residential zone.

(7) *Restriction on building location.* No building permit shall be issued for any building or structure at any location within the proposed future outside lines of any new, extended, or widened street, avenue, place, or other public way, or any park, playground, or other public grounds or extensions thereof as shown on any certified plat adopted pursuant to Public Act No. 222 of 1943, (MCL 125.51 *et seq.*). Any owner denied a permit within such area shall have the right to appeal such decision to the zoning board of appeals pursuant to the procedures and review standards provided at Section 4 of Public Act 222 of 1943 (MCL 125.54).

(8) *Buildings to be moved.*

a. Any building or structure, which has been wholly or partially erected on any premises, shall not be moved from, or placed upon, any lot in the city until a building permit has been issued. Any such building or structure shall fully conform to all the provisions of this chapter in the same manner as a new building or structure.

b. Before a building permit may be issued for moving a building or structure, the building official shall inspect same and shall determine if it is in a safe condition to be moved, whether it may be reconditioned to comply with the building code and other city requirements for the use and occupancy for which it is to be used, and whether it may be moved.

c. Trees removed from the public right-of-way to facilitate the move of a building or structure, other than nuisance trees as determined by the city, shall be replaced by the party to whom the building permit is issued.

1. Trees used to replace removed trees shall be of a species and size approved by the tree commission of the city. Tree replacement shall be according to the following:

- i. Each removed tree of over two-inch caliper up to 15-inch caliper shall be replaced by one new tree.
- ii. Each removed tree of over 15-inch caliper up to 35-inch caliper shall be replaced by two new trees.
- iii. Each removed tree of over 35-inch caliper shall be replaced by three new trees.

2. All replacement trees shall be planted within one year of tree removal and in locations determined by the city.

3. A performance guarantee in accordance with section 94-100 of this chapter may be required to assure compliance with these requirements for tree replacement.

(9) *Building grades.* Any building requiring yard space shall be located at such an elevation that a minimum sloping grade of not less than two percent shall be maintained for a minimum distance of ten feet from the building to cause the flow of surface water to run away from the walls of the building. When a new building is constructed on a vacant lot adjacent to an existing building, the existing established grade of the adjacent lot shall be considered in determining the grade around the new building and the yard around the new building shall be established so as to not increase the run-off of surface water onto adjacent property. Grades shall be approved, in writing, by the building official.

(10) *Double frontage lots.* On double frontage or through lots, a front yard, as prescribed for the district, shall be provided on both streets.

(11) *Removal of soil, sand or other materials.* Top soil, sand, gravel or other materials from the land shall not be removed from any premises within the city except for the purposes of necessary excavation for the construction of permitted structures, or in accordance with an approved special use permit.

(12) *Mobile home and trailer dwellings prohibited.* No mobile home, motor home, house trailer, trailer coach or trailer shall be used as a dwelling or place for human habitation, living, sleeping or eating, in the city, except as approved by the building official or otherwise provided in this chapter.

(Ord. No. 152, 5-1-2006; Ord. No. 159, 9-17-2007)

**Sec. 94-173. Supplemental use regulations.**

(a) *Home occupation.*

(1) *Intent.* It is the intent of this section to set forth the requirements for establishing a home occupation as an accessory use of a single-family detached dwelling unit. Such home occupations could involve crafting, electronic or mail order sale or marketing of goods, the provision of services, or instruction in a craft or the fine arts which is conducted entirely within the dwelling unit by one or more persons, all of whom reside within the dwelling, and which is clearly incidental and secondary to the use of the dwelling as a residence.

(2) *Location.* Home occupations shall be allowed only as an accessory use in those districts specifically allowing such use as provided in article IV of this chapter.

(3) *Regulations and standards.* Home occupations shall meet the following regulations and standards:

- a. There shall be no outdoor on-site storage of materials, inventory, equipment, or accessory items, or display of materials, inventory, goods, or supplies used in the conduct of the home occupation.
- b. Only members of the immediate family who reside on the premises shall be employed in any part of the operation of the home occupation. All activities related to the home occupation shall be carried on entirely within the dwelling unit.
- c. Home occupations are permitted only in the principal structure/building. However, in no case shall more than 25 percent or 480 square feet, whichever is smaller, of the gross floor area of the principal building be utilized for a home occupation.
- d. A home occupation shall not generate an undue amount of traffic in excess of that prevailing or expected for the general area in which it is located. The home occupation shall not generate more than ten round trips per day, excluding trips generated by the occupants of the home. Adequate parking spaces shall be provided on the premises for persons patronizing the establishment.
- e. Home occupations shall maintain at least two on-site parking spaces dedicated for the permanent residents. All parking spaces shall be located in compliance with article IX of this chapter.
- f. The establishment of a home occupation shall not necessitate exterior modification or alter the fire rating, except as may be required by the building official, of any structure/building on the property.
- g. Home occupations shall not be open to the public except between the hours of 7 a.m. to 8 p.m., unless otherwise provided by special use permit.
- h. No food or beverages shall be sold to be consumed on the premises.
- i. No amusement games or devices shall be provided for or by customers on the premises.
- j. Uses prohibited as home occupations shall include the following:
  1. Convalescent and nursing homes.
  2. Day care centers or nursery schools, except as provided for in this chapter.
  3. Funeral homes.
  4. Kennels.
  5. Medical or dental clinics or hospitals, or animal hospitals.
  6. Refuse collection businesses.
  7. Repair of automobiles, motorcycles, boats, trailers, trucks or similar equipment or vehicles.
- k. The use of a detached garage or accessory building for home occupation is not permitted.
- l. All signs shall be in compliance with the provisions of section 58-127(a)(1) in chapter 58.
- m. The home shall be in compliance with all other applicable laws and ordinances.

(b) *Solid waste disposal.*

(1) *Intent.* Receptacles for the temporary storage of refuse or recyclable material are permitted in all districts as an accessory use to any use other than single-family residential uses, subject to the requirements of this section and division 2

of article VII of this chapter. The requirements of this section shall apply to any receptacle commonly referred to as a dumpster or any other container or group of containers having a total capacity of more than four 30-gallon cans.

(2) *Location.* All receptacles shall be located in a rear or side yard, shall not encroach upon required parking areas, and shall be clearly accessible to servicing vehicles. Receptacles shall be located as far as practicable from any adjoining residential district or use but shall in no instance be located closer than 15 feet, or the minimum side yard setback of the particular zoning district in which it is located, whichever is greater, of any residential property line or district.

(3) *Regulations and standards.*

a. *Screening.* Receptacles shall be screened from view from adjoining property and public streets and thoroughfares. Receptacles shall be screened on three sides with a permanent wall or fence of not less than the minimum height required in section 94-241(h) or two feet above the highest wall of the enclosed receptacle, whichever is higher. The fourth side of the receptacle screening shall be equipped with an opaque lockable gate that is the same height as the other sides. The wall or fence should blend with the materials, color and style of the development.

b. The location and method of screening of all receptacles shall be shown on the site plans and shall be subject to the approval of the designated site plan approval body in accordance with division 1 of article VII of this chapter.

c. Receptacle locations shall be consolidated to minimize the number of collection sites and located so as to reasonably equalize the distance from the buildings they serve.

d. Receptacles shall be situated so as to not cause excessive nuisance or offense to occupants of the development they serve or of nearby buildings.

e. Concrete pads of appropriate size and construction shall be provided for all receptacles regulated by this section. Aprons shall be provided for loading of a single receptacle with a capacity of one and one-half cubic yards or more.

f. If a receptacle enclosure is situated directly adjacent to parking spaces or drives, it shall be protected at its base by concrete curb blocks.

g. The area inside and around the outside of a receptacle enclosure shall be maintained and litter free at all times. The enclosure shall also be maintained and repaired as necessary.

(4) *Compost piles.* Composting shall be limited to manufactured commercial compost containers or equivalent containers and shall be regulated the same as other types of receptacles covered in this section.

(c) *Satellite dish antenna.*

(1) *Intent.* The use of a satellite dish antenna shall be permitted in all districts as an accessory use. A satellite dish antenna is an apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit.

(2) *Location.*

a. No satellite dish antenna may be located in any front yard or side yard open space unless mounted to and located completely within four feet of a building wall.

b. No satellite dish antenna may be located within any required parking area.

c. No satellite dish antenna may be constructed such that any part of the antenna or supporting structure is closer to a lot line than the minimum setback for the district in which the antenna is located.

d. Satellite dish antennas greater than 24 inches in diameter are prohibited on the roof or walls of any building in residentially zoned districts.

e. Roof-mounted satellite dish antennas shall be mounted directly upon the roof of a building and shall not be mounted upon appurtenances such as chimneys, towers, poles, or spires.

(3) *Regulations and standards.*

a. The placement of any satellite dish antenna greater than 24 inches in diameter by any means in any zoning district is prohibited unless a site plan thereof is approved by the planning commission in accordance with the standards contained in division 1 of article VII of this chapter.

b. Only one satellite dish antenna per residential dwelling unit shall be permitted.

c. All satellite dish antennas and the construction and installation thereof shall conform to the building code.

d. The surface of any satellite dish antenna shall be painted or treated so as not to reflect glare from sunlight or artificial lighting.

e. No satellite dish antenna shall be:

1. Linked physically to or with any structure which is not on the same lot.

2. In excess of an overall diameter of 12 feet.

3. Located such that any portion of a roof-mounted antenna is more than ten feet above the highest point of a roof.
4. Located such that any portion of a roof-mounted antenna is less than four feet from the edge of the roof.
5. Supported by structural supports other than corrosion-resistant metal.
6. Wired to a receiver, except by wires located at least four inches beneath the ground in a rigid conduit or other wiring configuration approved by the building official.

(d) *Wireless telecommunications towers and antennas.* The purpose of this section is to establish the procedures and guidelines for the siting of wireless communications towers and antennas. In furtherance of this purpose, the city shall give due consideration to the master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas, subject to the following definitions, review requirements, and criteria. The objectives of this section are to:

- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
- (2) Direct the location of towers to appropriate nonresidential areas;
- (3) Minimize the total number of towers throughout the community;
- (4) Encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, positioning, landscape screening, and innovative camouflaging techniques;
- (7) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- (8) Consider the public health and safety of communication towers;
- (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- (10) *Applicability.* All towers or antennas in the city shall be subject to these regulations, except as provided in the following.

a. *Amateur radio station operators/receive-only antennas.* Other than the provisions of subsections 94-173(d)(11)e. and f., this chapter shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned by or operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

b. *AM array.* For purposes of implementing this chapter, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(11) *General requirements.*

a. *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

b. *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

c. *Aesthetics.* Towers and antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

d. *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

e. *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring

such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

f. *Building codes and safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the state construction codes and the applicable standards for towers that are published by the Electronic Industries Association. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna as a public nuisance at the owner's expense.

g. *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

h. *Signs.* No signs shall be allowed on an antenna or tower.

i. *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection 94-173(d)(13)b.

(12) *Uses permitted by administrative review.* The zoning official may administratively approve a permit for any wireless communication facility for which all support equipment is screened from view and which complies with one of the following criteria:

- a. A roof mounted antenna not exceeding ten feet in height and located on a nonresidential structure.
- b. Antennas and supporting equipment cabinets and structures which are architecturally integrated with a principal building or structure so as not to be recognized as antennas.
- c. Up to three whip antennas with a maximum height of 20 feet.
- d. Collocation of a wireless communication antenna on an existing monopole support structure, on a public water tower, athletic field light standard, electrical utility transmission tower or distribution pole, or on an existing tower or pole within the right-of-way or easement of an electrical utility company in any district of the city, provided:
  1. The antenna does not extend more than 30 feet above the highest point of the structure;
  2. The antenna complies with all applicable FCC and FAA regulations; and
  3. The antenna complies with all applicable building codes.

(13) *Uses permitted by special use permit.* No wireless communications facilities other than those permitted by administrative review by subsection 94-173(d)(12) of this chapter shall be permitted except subject to the granting of a special use permit after review and approval by the planning commission pursuant to article VI of this chapter, subject to the general standards applicable to a special use permit as set forth at subsection 94-191(f), the goals set forth at subsection 94-191(a), and the following additional standards:

- a. *Location criteria.*
  1. Facilities shall be sited to minimize views to the extent reasonably possible from residential areas or the public right-of-way.
  2. Support structures will be located in all geographic districts to minimize their view from neighboring properties and public rights-of-way.
  3. Mounted wireless communication facilities are permitted in all districts except single-family and two-family districts, except that roof-mounted antennas are not permitted in any residential district.
  4. Monopoles and similar support structures are permitted as a principle or accessory use only in the M-2 general manufacturing district, and those portions of the M-1 light manufacturing district, and those commercial districts lying south of a line created by Kipp Road extended and north and west of lines created by North Street and Buhl Street extended.
  5. Monopoles not to exceed 150 feet in height are also permitted in the C-1 central business district by special use permit, provided the structure is located on publicly-owned property and is constructed and maintained for joint use by three or more users, at least one of which shall be a local or state governmental agency operating communication facilities for public safety services as defined under the Homeland Security Act.
  6. Monopoles and similar support structures are prohibited in parks, school grounds or other areas heavily trafficked by children.
  7. Lattice or guyed towers or antennas or similar structures are prohibited in all districts.

b. *Development and design standards.*

1. *Setbacks.*

i. Wireless communications facilities including all anchors or pads shall be sited so that the anchors and pads for the structure meet the minimum setback requirements of the zoning district where they are located and do not cross into another zoning district.

ii. Separation requirements for towers shall comply with the minimum standards shown in table 100-3 in chapter 100.

iii. Mounted wireless communication facilities shall meet the required setbacks for the structure upon which they are located and shall be situated to provide for maximum safety on the site.

2. Spacing requirements. Monopole tower structures shall be separated from all other towers by a minimum of 750 feet. For purposes of this subsection, the separation distance between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan, of the proposed tower. The minimum tower separation distance shall be calculated and applied irrespective of city jurisdictional boundaries.

3. Height of the support structure must be the minimum necessary to support the required coverage; however, in no case shall the antenna or its support structure exceed:

i. For a single user, 90 feet.

ii. For two users, 120 feet.

iii. For three or more users, 150 feet.

4. Support structures shall be painted in unobtrusive colors, unless in accordance with any other statutory or regulatory requirements.

5. Where an equipment building accompanying the support structure is erected, it shall be designed to be compatible with the adjacent architecture.

6. Landscaping and visual impact requirements.

i. Landscaping shall be provided in sufficient quantity around the perimeter of the required security fencing, as well as adjacent to any buildings and anchors. Site access entrances shall also be landscaped. This information shall be presented on a landscape plan.

ii. When located on an otherwise undeveloped site, the existing natural vegetation of the property shall be maintained to the greatest extent possible. The applicants shall provide information on a landscape plan regarding existing vegetation which is proposed to be removed and methods for replacement. In no case shall an entire site be graded and/or cleared for installation of a wireless communication tower.

iii. Whether a freestanding or mounted wireless communications facility is proposed, the applicants shall demonstrate how the accessory building's design will limit adverse visual impacts to neighboring property owners.

iv. Lighting at the facility and accessory structures shall be designed so not to adversely affect adjacent property owners and shall be in compliance with FAA standards.

c. *Safety and security requirements.*

1. All new wireless communication facilities shall be designed within the applicable ANSI/EIA standards (RSA-22, Revision E), and so as not to be in conflict with existing airport locations and flight patterns.

2. The applicant shall, in conjunction with the application, submit a statement that is certified and sealed by a licensed architect or engineer indicating that the proposed wireless communication facility is in compliance with all Federal Communications Commission (FCC) regulations and all building code requirements.

3. All wireless communication facilities shall maintain comprehensive general liability insurance issued by a company authorized to do business in Michigan with combined limits of not less than \$1,000,000, and the applicant shall supply the city with proof of same prior to construction.

4. Security fencing shall be installed completely around freestanding facilities, any accessory utility structures and guy anchors. Access shall be provided only by a locked gate. Security fencing shall not be required for mounted facilities.

5. All towers or similar facilities, antenna structures, accessory utility structures and guy anchors and pads shall be equipped with anti-climbing devices.

d. *Collocation.*

1. In order to maximize the efficiency of the provision of wireless communication services, while also minimizing the impact of such facilities on the community, collocation shall be encouraged. All applicants for wireless communication facilities shall be required to provide information regarding the feasibility of collocation at proposed or existing sites. Furthermore, all applicants shall be required to provide a notarized letter of intent to lease excess space on the proposed facility and commit itself to the following:

i. Respond to any requests for information from another potential shared use applicant;



ii. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically feasible; and

iii. Make no more than a reasonable charge for a shared use lease.

2. Should collocation be proposed at a wireless communication facility, accessory mechanical buildings shall either be situated directly adjacent to or abutting each other and separated by a firewall, shall be placed underground, or shall be designed in a manner which limits the number and size of the building(s) on the site. On-site constraints, such as existing topographical and other natural features, may be considered when reviewing a proposed collocation design. Accessory mechanical buildings shall be designed to be consistent in design, style and exterior appearance. Review and approval of accessory mechanical building(s) at a collocation-site shall be made by the planning commission.

e. *Abandonment.*

1. Wireless communication facilities which have been abandoned or are unused or disconnected from the network for a period of 12 months shall be immediately removed from the site at the cost of the facility applicant or successor.

2. Upon removal of a tower from a site, the foundation shall also be removed to a depth of at least six feet. Additionally, the fencing and accessory structure(s) shall be demolished and removed from the site at the cost of the facility applicant or successor.

f. *Application requirements.* Applications for a special use permit as set forth in this section shall contain the following in addition to the requirements or article VI of this chapter:

1. An explanation of the need of the applicant's clientele for this communications capacity.
2. Site and landscape plans drawn to scale.
3. The method of fencing and finished color and, if applicable, the method of camouflage and illumination.
4. A report including a description of the tower with technical support for the tower design.
5. Documentation establishing the structural integrity of the tower for the proposed uses.
6. The general capacity of the tower, and information necessary to assure that ANSI standards are met.
7. A statement of intent on whether excess space will be leased.
8. Proof of ownership or authorization to utilize the proposed site.
9. Copies of any easements necessary.
10. An analysis of the area containing existing topographical contours.

11. A presentation size map which shows an inventory of existing and proposed tower installations within the city and within one mile of the border thereof, including specific information about the location, height and design of each tower. The zoning official may share such information with other applicants applying for administrative approvals or seeking special use permits under this chapter or other organizations seeking to locate antennas within the city, provided, however, that the zoning official is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

12. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by the city or other persons located within a one-mile radius of the proposed tower site.

13. A written statement from a registered professional engineer that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structure located within a one-mile radius of the proposed tower site.

(e) *Swimming pools.* Pools used for swimming or bathing shall not be located in any front yard and shall conform to the applicable yard and setback requirements for an accessory structure. In no instance shall a swimming pool be located closer than ten feet from any property line. Any fencing, barriers, and structures shall comply with the state construction code and county health department specifications. Any lights used for illumination of a swimming pool shall be arranged or shaded so as to reflect light away from adjoining premises.

(f) *Junk storage, inoperable vehicles, restorable vehicles.*

(1) *Junk storage.*

a. No person shall store, place, abandon or permit to be stored, placed, abandoned, or allow to remain, in any district, a dismantled, partially dismantled, unlicensed, unrestorable, or inoperable motor vehicle, junk, rubbish, trash, old furniture, used lumber, unused or discarded machines or equipment, or litter upon any premises, except in an approved and licensed salvage or junk yard or in the case of motor vehicles unless confined in a wholly enclosed structure.

b. No person shall store, place, abandon or permit to be stored, placed, abandoned, or allow to remain, in any district, wrecked or inoperable farm machinery, unless hidden from all vantage points from the general public.

(2) *Restorable vehicles.*

a. A junk vehicle is considered an inoperable vehicle that is not a "restorable vehicle". A "restorable vehicle" is defined as a vehicle actively being restored in connection with a hobby.

b. The restorable vehicle must be in active use as the object of the restoration effort.

c. All junk vehicles or inoperable vehicles that do not qualify as restorable vehicles shall not be parked or stored in the open in any zoning district of the city. The only exception is vehicles parked in connection with a business legitimately using such vehicles, such as a body shop or wrecking yard, in zoning districts where such businesses are authorized. In such cases vehicle storage must meet the screening requirements in division 2 of article VII of this chapter.

(3) *Standards.*

a. No inoperative, restorable vehicle shall be parked or stored in the front yard or within the required setback of the side yard of property in any zoning district.

b. No more than one restorable vehicle may be stored in the open in inoperable condition on any residential lot. A cover or wrap is to be provided to conceal the vehicle parked in the open.

c. All doors, hatches, and trunk lids shall be secured against entry by small children.

d. Inoperable vehicles described in this section are not permitted in the RS-1, RS-2, and RS-3 districts unless such vehicles qualify as restorable vehicles.

e. Open storage of parts, tools, and materials is forbidden.

(g) *Accessory structures.* Any garage or other structure used for motor vehicle storage or as an accessory structure shall satisfy the following:

(1) Authorized accessory structures may be erected as a part of the principal structure, may be connected to the principal structure by a roofed over porch, patio, breeze way, or similar structure, or may be completely detached from the principal structure. If connected to the principal structure, an accessory structure shall be made an integral part of it, and shall comply in all respects with the requirements applicable to the principal structure. An accessory structure not attached and not made a part of the principal structure shall not be nearer than ten feet from any other structure on the same lot and shall also comply with the front, rear and side yard requirements of this chapter.

(2) In all residential zoning districts, the storage of commercial vehicles in accessory structures shall be limited as provided in subsection 94-292(d) of this chapter.

(3) Space in a garage accessory to a multiple-family unit or a motel shall not be rented out except to occupants of the principal dwelling.

(4) The total lot coverage of all accessory structures shall not exceed 35 percent of the area of any rear yard.

(5) Side yard. In all districts accessory structures shall not be erected nearer to a side lot line than the permitted setback distance for the district unless otherwise permitted by this chapter. In the RS-1, RS-2, RS-3, and R2F districts, an accessory structure may be erected not closer than two feet from the side lot lines if the following requirements are satisfied:

a. The accessory structure is not attached to, and is located completely behind, the associated principal structure.

b. The interior and/or exterior surfaces of the wall facing a side lot line are constructed of fire-resistant material as approved by the building official if any portion of that wall is closer than five feet from a side lot line.

(6) Rear yard. In all districts accessory structures shall not be erected nearer to a rear lot line than the permitted setback distance for the district unless otherwise permitted by this chapter. In the RS-1, RS-2, RS-3 and R2F districts, an accessory structure may be erected nearer to a rear lot line than the permitted setback distance for the district provided the accessory structure is not attached to, and is located completely behind, the associated principal structure, and pursuant to the following:

a. Where there is a public alley abutting the rear of a lot for the full width of that lot, an accessory structure may be erected not closer than ten feet from a rear lot line.

b. Where there is not a public alley abutting the rear of a lot for the full width of that lot, an accessory structure may be erected not closer than five feet from a rear lot line.

(7) Corner lot. Where the rear line of a corner lot coincides with the side line of an adjoining lot in a residential district, an accessory building shall not be closer than the side yard setback requirement of said adjoining lot.

(8) Accessory structures shall not include structures, fabrications, items, or enclosures originally designed for other purposes. The following are specifically prohibited from being used as accessory structures in the city.

a. Mobile home.

b. Travel trailers.

c. Former vehicles such as buses and ambulances.

d. Motor homes.

- e. Semi-trailer.
- f. Other similar structures, fabrications, items, or enclosures.

(h) *Adult businesses.*

(1) *Intent.* The intent of this section is to regulate the location of, but not to exclude, adult businesses in the city by preventing the concentration of such uses in close proximity to each other and to minimize the negative impacts of their operation by separating such uses from residential, office/commercial and other areas of public congregation. This regulation is done with the understanding that the city recognizes that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly if several of them are concentrated under circumstances having a deleterious effect upon adjacent residential, office and commercial areas. The city recognizes that the regulation of such uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of surrounding residential neighborhoods, nonresidential areas or other places of public congregation.

(2) *Definitions.* As used in this chapter, the following terms shall have the meanings set forth below:

a. *Adult bookstore* means an establishment which has, as a significant portion of its stock in trade, books, periodicals, magazines, newspapers, pamphlets, pictures, photographs, motion picture films and/or videotapes, or novelty items or paraphernalia which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein, or an establishment with a segment or section devoted to the sale or display of such material which exceeds 35 percent of the floor area of the establishment.

b. *Adult business* means adult bookstores, adult movie theaters, adult personal service businesses, adult cabarets, adult novelty businesses, massage parlors and nude modeling studios, or any combination thereof, as defined in this section.

c. *Adult business, significant portion* means a business where the stock in trade or services provided meets one or more of the following criteria:

1. Thirty-five percent or more of the stock, materials, novelties or services provided are classified as adult materials and/or services as defined in subsection 94-173(h)(2).

2. Thirty-five percent or more of the usable floor area of the building in which the adult business is located, is used for the sale, display and/or provision of services classified as adult materials and/or services, as defined in subsection 94-173(h)(2).

3. Thirty-five percent of the gross revenues of the business are derived from the sale or payment of an admission fee for adult materials and/or services as defined in subsection 94-173(h)(2).

4. The advertising (signs, publications, television, radio, and other media) associated with the business depicts, describes or relates to specified sexual activities and/or specified anatomical areas.

d. *Adult cabaret* means an establishment (which may or may not include the service of food or beverages) having as an activity the presentation or display of male or female impersonators, dancers, entertainers, waiters, waitresses or employees who display specified anatomical areas as defined herein.

e. *Adult motion picture theater* means an establishment which offers for sale the viewing of motion picture films, videotapes, pictures or photographs, television, or other visual media, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, as defined herein, for the observation of patrons therein.

f. *Adult novelties* means objects, items, and/or devices offered for sale which are designed for sexual stimulation or which stimulate human genitals.

g. *Adult personal service business* means a business having as its principal activity a person, while nude or while displaying specified anatomical areas, as defined herein, providing personal services for another person. Such businesses include modeling studios, body painting studios, wrestling studios, personal dance rooms, and conversation parlors.

h. *Massage* means offering for sale through the use of physical, mechanical or other devices, the manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating of the body of another.

i. *Massage parlor* means an establishment wherein private massage is practiced, used or made available as a principal use of the premises.

j. *Nude modeling studio* means a place which offers as its principal activity the providing of models to display specified anatomical areas, as defined herein, for artists and photographers for a fee.

k. *Offered for sale* means offered in exchange for money, a membership fee or any other valuable consideration.

l. *Sexual intercourse* includes genital coitus, fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any person's body.

m. *Sodomy* means sexual intercourse with a member of the same sex or an animal.

n. *Specified anatomical areas* means:

1. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
2. Less than a fully opaque covering of:
  - i. A female individual's breast below a point immediately above the top of the nipple and areola.
  - ii. Any individual's genitals.
  - iii. Any individual's anus.

o. *Specified sexual activities* means:

1. Acts of human masturbation, sexual intercourse or sodomy.
2. Fondling or other erotic touching of specified anatomical areas.
3. Human genitalia in a state of sexual stimulation or arousal.

(3) *Location of uses.* Any existing building or land, or new building hereinafter erected, converted or structurally altered or used for an adult business, shall meet all of the following conditions:

a. An adult business shall only be permitted in the C-2 general commercial district with the approval of a special use permit.

b. No adult business, as defined herein, shall be permitted within a 600-foot radius of an existing adult business. Measurement of the 600-foot radius shall be made from the outermost boundaries of the lots or parcels upon which the existing and proposed adult uses are situated.

c. No adult business, as defined herein, shall be permitted within a 600 foot radius of any residentially used or zoned land as depicted on the official zoning map and defined in this chapter. Measurement of the 600-foot radius shall be made from the outermost boundaries of the lots or parcels upon which the proposed adult use and the residential use are situated.

d. No adult business, as defined herein, shall be permitted within a 1,000-foot radius of a school, library, park, playground, licensed group day care center, church, convent, monastery, synagogue or similar place of worship or public congregation. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lots or parcels upon which the proposed adult use and the place of worship or public congregation are situated.

(4) *Miscellaneous requirements.*

a. No person shall reside in or permit any person to reside in the premises of an adult business.

b. The provisions of this section regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social worker or family counselor who is licensed to practice his or her respective profession in the State of Michigan, or who is permitted to practice temporarily under the auspices of an associate or an establishment duly licensed in the state of Michigan, clergymen, certified members of the American Massage and Therapy Association and certified members of the International Myomassethics Federation who have a current massage therapist license.

(i) *Hotel, motel, transient lodging facilities.*

(1) *Intent.* The following shall set forth the requirements for construction and site development of transient housing accommodations within the city.

(2) *Standards.*

a. Minimum floor area for each guest unit shall contain not less than 250 square feet.

b. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be at least 800 square feet of lot area for each guest.

c. The maximum lot coverage of all buildings, including accessory building shall not exceed more than 25 percent of the area within the boundary lines of land developed at any one time.

d. Minimum yard dimensions. All buildings shall observe a setback of not less than 75 feet from any road right-of-way, and not less than 40 feet from any side or rear property line.

e. Site screening. The site may be enclosed by open structure wood or wire fences, shrubs and/or trees which, along any yard line, shall not exceed six feet in height. No screening shall impair safe vertical or horizontal sight distance for any moving vehicles. Screening at least four feet high shall be erected to prevent headlight glare on adjacent residential or agricultural property. No screening shall be closer than 50 feet to any street line, except headlight screening shall not be closer than 30 feet.

f. Lighting. All outdoor lighting shall be arranged so that it is deflected from adjacent properties, streets and thoroughfares, and shall not impair the safe movement of traffic.

(3) *Accessory uses.* Accessory uses such as meeting rooms, taverns, bars, or similar uses are permitted provided such shall be conducted within the same building as the principal use. A caretaker or proprietor's residence shall be permitted as an accessory use.

(4) *Motor vehicle access.*

a. *Site plans.* All site plan proposals submitted for this use shall provide for the proper handling of traffic on the highway, frontage road, or street giving access to the district. No access by motor vehicles, other than stated herein, shall be permitted to a minor or residential street. All points of entrance or exit shall be no closer than 50 feet from the intersection of the right-of-way lines of two streets.

b. *Interstate or interchange site location.* Whenever a proposed use is located adjacent to or within one-half mile of an existing, or planned state or interstate limited access highway interchange, it shall be incumbent upon the applicant to show that the proposed site location shall not cause unsafe traffic congestion resulting at or in conjunction with said limited access interchange, and the applicant shall request and submit with the application a written recommendation from the Traffic Division of the Michigan Department of State Highways. In no case, shall private access drives be less than 200 feet from an interchange.

(5) Signs shall be those identifying any of the permitted uses within the zoning district and shall be in accordance with the provisions of any applicable city chapter.

(6) Off-street parking and loading requirements shall be in accordance with the provisions of article IX of this chapter except that required parking shall be furnished on the immediate premises.

(7) The storage of refuse and space required for the accumulation and out loading of garbage, trash, scrap, waste, and containers therefore shall comply with the standards in section 94-173(b).

(j) *Outdoor food and drink service areas.* It is the intent of this section to set forth the requirements for establishing outdoor food and drink service areas at a pub, tavern, or restaurant.

(1) General standards.

a. Provide a drawing to scale showing the seating plan and the layout of the outdoor dining space to be used in relation to adjacent properties and other public and private fixtures and amenities.

b. Trash receptacles shall be provided in food and drink service areas where table service is not provided. Trash receptacles shall be emptied when full and maintained in a clean and sanitary condition at all times.

c. Seating may not be placed in a way that obstructs pedestrian circulation or interferes with the opening of doors of buildings or parked vehicles.

d. An opaque fence or wall six feet in height shall be erected along all property lines abutting residentially zoned or used property.

e. Lighting shall be deflected away from abutting residentially zoned or used property.

(2) Establishments utilizing the public right-of-way shall do so only under a license granted by the city council which shall be revocable at the will of the council and shall include the following minimum standards in addition to the general standards of this section:

a. Establishments shall agree to defend, indemnify, and hold the city and its elected and appointed officers, agents, and employees harmless from all liability for damages or personal injuries resulting from any occurrence on the licensed property as a result of the establishment's use or occupancy of the public right-of-way and shall provide public liability insurance naming the city as an additional named insured in a form and with limits acceptable to the city.

b. Establishments must maintain a minimum of four feet of unobstructed sidewalk within the public right-of-way.

(Ord. No. 152, 5-1-2006; Ord. No. 159, 9-17-2007; Ord. No. 161, 9-4-2007; Ord. No. 166, 8-4-2008; Ord. No. 187, 2-6-2012; Ord. 217, 5-21-2018)

**Sec. 94-174. Supplemental area regulations.**

No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for the construction of a proposed building or the alteration of an existing building.

(Ord. No. 152, 5-1-2006)

**Sec. 94-175. Supplemental height regulations.**

It is the intent of this chapter that certain structural appurtenances shall be permitted to exceed the height limitations of this chapter. No portion of any such structural appurtenance shall be used for human occupancy or for commercial enterprise. Any exception to height limitations shall be only to such height as may be necessary to accomplish the purpose the subject appurtenance is intended to serve and so as not to become a hazard to aviation. Structural appurtenances exceeding the maximum height limitations established by the capital region airport authority within ten miles of a public airport shall not be allowed without the approval of the capitol region airport authority, the Michigan Department of Transportation, Bureau of Aeronautics, and/or any other agency having jurisdiction. If the roof area of structural appurtenances permitted to exceed the height limitations exceeds 20 percent of the gross roof area of the structure, said appurtenances shall be considered as integral parts of the whole structure and thereby shall not exceed the height limitations. Structural appurtenances which may be permitted to exceed height limitations include the following:

(1) Structural appurtenances which are ornamental in purpose, such as church spires, belfries, cupolas, domes, ornamental towers, flag poles and monuments.

(2) Structural appurtenances to mechanical or structural functions, such as chimneys, smoke stacks, solar collectors, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, masts, aerials, television antennas, fire hose towers, cooling towers, and heating, ventilation and air conditioning equipment.

(Ord. No. 152, 5-1-2006)

**Sec. 94-176. Supplemental access regulations.**

(a) *Purpose.* The purpose of this section is to establish standards and regulations to encourage reasonable access to land uses and buildings according to their access needs, while also ensuring safe and efficient travel within and through the city including minimizing disruptive and potentially hazardous traffic conflicts; ensuring safe access by emergency vehicles; and protecting the substantial public investment in the street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction that disrupts business and traffic flow.

(b) *Definitions.* For the purposes of this section, the following terms shall have the following meanings:

(1) *Access point.* The connection at the street right-of-way line between the street and the connecting driveway, service drive, other street, or other vehicular access way.

(2) *Service drive.* A local street or private road typically located in front of principal buildings (front service drive) and parallel to a thoroughfare classified as an arterial, for providing access to abutting properties while also controlling access to the arterial through reduced access points to the arterial. In the case of a rear service drive, the service drive is located behind such buildings.

(c) *Application of this section.* The standards and regulations of this section shall be applied by the body or body(s) designated authority by this chapter to approve development plans including the construction of homes and businesses, platted and condominium subdivisions, and institutional uses. Such approving bodies shall coordinate their review of specific development proposals with the standards and regulations of this Section, and the review by other agencies as required by law including the Michigan Department of Transportation.

(d) *General standards for access.*

(1) All lots created in the city shall have frontage on a public street, or a private road approved by the city, and take their lot access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking. Curb cuts and driveways accessing public roads shall be located only upon the approval of the city and appropriate state authorities as required by law.

(2) All plans for structures to be erected, altered, moved or reconstructed, and for the use of premises within the city shall contain a plan for the proposed access to the premises which shall be part of the site plan required pursuant to this chapter. No plan shall be approved unless such access is onto a dedicated public street or an approved private road.

(3) Access drives shall enter perpendicular to the existing public street or private road except where prohibited by physical conditions.

(4) Wherever a corner lot exists at the intersection of two streets, access shall be taken from the street presenting the least hazard.

(5) The location of new access points shall conform to road improvement plans or corridor plans that have been adopted by a public body.

(e) *Standards for residential uses.*

(1) For any access point or driveway located less than two feet from an adjoining property line, provisions shall be made to the satisfaction of the building official to control water runoff onto the adjoining property.

(2) An access point serving a single-family dwelling shall be a minimum of 15 feet from the nearest right-of-way line of an intersecting street.

(3) A driveway serving a single-family or two-family dwelling shall be a minimum of 9 feet wide.

(4) A lot containing one single-family dwelling or one two-family dwelling shall have no more than one access point to the street upon which it relies for access.

(5) No more than 25 dwellings shall be served by a single access point except upon finding that a second alternative and reasonable means of emergency vehicle access is available.

(6) In the case of the development of a platted or condominium subdivision, all lots made part of such subdivision shall have their access point from roads within such subdivision.

(f) *Standards for Office, Commercial and Industrial Uses*

(1) The minimum distance an access point may be located from an adjoining non-residential property line shall be 15 feet. The minimum distance an access point may be located from an adjoining residential property line shall be 25 feet.

(2) An access point shall be a minimum of 25 feet from the nearest right-of-way line of an intersecting street.

(3) No parcel shall be provided more than one access point for the first 150 feet of parcel frontage, and no more than one access point shall be provided for parcels with additional frontage except upon a showing that the projected trip generation necessitates additional access points and no feasible alternative exists such as the reliance on shared access as provided in sub-sections (4), (5) and (6) below.

(4) The sharing or joint use of a driveway by two or more property owners shall be encouraged. The sharing or joint use of a driveway by two or more property owners may be required in association with the approval of a site plan where such a shared or joint use driveway is feasible and practical, and where the lack of such a shared or joint use driveway would result in inappropriately spaced access points that are contrary to nationally-recognized engineering standards and public safety and welfare. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided that allows traffic to travel across one parcel to access another, and/or access the public street.

(5) The use of front or rear service drives shall be encouraged. The use of front or rear service drives may be required in association with the approval of a site plan where such a drive is feasible and practical, and where the lack of such drive would result in inappropriately spaced access points that are contrary to nationally-recognized engineering standards and public safety and welfare.

(6) Where a proposed parking lot is adjacent to an existing parking lot of a similar use, or of a differing use, and traffic flow between the two uses is anticipated, there shall be a vehicular connection between the two parking lots where determined physically feasible by the site plan approving body. For developments adjacent to vacant properties, the site shall be designed to provide for future connection. A written access easement signed by both landowners shall be presented as evidence of the parking lot connection prior to the issuance of any building permit.

(g) *Traffic impact study.* In the case of a proposed use that is likely to be characterized by trip generation rates in excess of 100 trips per peak hour, the applicant shall submit a traffic impact study with the building permit/site plan application for the use. The preparer of the study shall be either a registered traffic engineer or transportation planner. If the study involves geometric design, the study shall be prepared or supervised by a registered engineer with a background in traffic engineering. The qualifications of the author of the study shall be included in the application. The applicant may be required by a reviewing body to submit a traffic impact study though the use may be characterized by less than 100 trips per peak hour in the case where a reviewing body determines existing conditions warrant a study such as existing traffic conflicts in the immediate area, the proximity of existing access points, the lack of a left turn lane for the road providing access to the site, or other factors deemed to be relevant by the reviewing body. The traffic impact study shall address, at a minimum:

(1) Description of the proposed internal vehicular circulation system including the location of all access points into the project; parking and drop-off circulation; loading/unloading circulation; and pedestrian, bicycle, and transit circulation.

(2) Analysis of existing traffic conditions in the immediate area, based on current data.

(3) Projected trip generation at the project site or along the roads abutting the site, based on the most recent edition of the Institute of Transportation Engineers Trip Generation manual, or more recent studies of a minimum of three similar uses with similar surroundings in Michigan.

(4) Illustrations of current and projected turning movements at access points into the project.

(5) Description of the anticipated impact of the projected trip generation on abutting and nearby streets, including increases in congestion, available capacity of streets and impacts on levels of service of such streets, and proposed mitigation measures to minimize any conflict issues.

(6) Justification for the need of the number and location of proposed access points into the project.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-177. Supplemental environmental regulations.**

(a) *Purpose.* The purpose of this section is to promote a healthy environment as it relates to the city's natural resources; sensitive ecosystems; the integrity of the city's land, water, and air; the quality of the city's visual environment, including the management of lighting and its impact upon traffic safety, adjacent land uses and the night sky; and the provision of adequate sewage disposal and potable water. All provisions of this section apply to all structures, buildings and uses unless otherwise noted.

(b) *Compliance with local, county, state, and federal regulations* All land uses and construction activities shall conform with the provisions of this section and all local, county, state and federal regulations including the State Fire Marshall, Michigan Department of Agriculture, Michigan Department of Labor and Economic Growth, Ingham County Health Department, Ingham County Drain Commissioner, Michigan Department of Environmental Quality, Federal Communications Commission, and all local, county, state and federal regulations related to loading/unloading, transport, storage, use and/or disposal of hazardous substances.

(c) *Discharges and flammable/hazardous materials.*

(1) No dust, fumes, or noxious, odorous matter shall be discernible at or beyond the property line. Any atmospheric discharge requiring a permit from the Michigan Department of Environmental Quality or federal government shall have said permit(s) as a condition of approval for such use. This subsection shall not apply to farm operations in compliance with most

current published Generally Accepted Agricultural Management Practices of the Michigan Commission of Agriculture.

(2) It shall be unlawful to discharge any materials in such a way or of such nature or temperature as can contaminate any surface waters, land or aquifers, or otherwise cause the emission of dangerous or objectionable elements, except in accord with standards approved by the Michigan Department of Environmental Quality.

(d) *Noise.* The use of any lot shall not cause the emittance of sound from any source or combination of sources, which when measured in accordance with the procedure described herein, exceeds the sound level limits in this subsection. This subsection shall not apply to motor vehicles registered for use on public roads, agricultural operations, home landscape maintenance machines and snow blowers that meet their respective product requirements, the emission of sound for the purposes of alerting persons of an emergency or emergency vehicle, and the emission of sound in the performance of emergency work.

(1) Measurement of sound level shall be made using a microphone set at a height of approximately four and one half feet along the lot line of the lot on which the sound source being measured is located.

(2) A violation shall not be deemed to exist unless the sound level measured is at least six decibels higher than the sound level measured with the sound source or sources not in operation.

(3) All measurements shall be made using a sound level meter which meets the most current requirements of the American National Standards Institute "Type 2 or Type 1 Sound Level Meters," and which has been set for fast meter response and the A-weighting network.

(4) Sound level limits.

a. Adjacent lot in a residential or other non-commercial or non-industrial district.

1. 7:00 a.m. to 10:00 p.m.: 55 dba

2. 10:00 p.m. to 7:00 a.m.: 50 dba

b. Adjacent lot in a commercial district.

1. 7:00 a.m. to 10:00 p.m.: 65 dba

2. 10:00 p.m. to 7:00 a.m.: 60 dba

c. Adjacent lot in an industrial district.

1. 7:00 a.m. to 10:00 p.m.: 70 dba

2. 10:00 p.m. to 7:00 a.m.: 65 dba

(e) *Light.* The following regulations and standards shall apply to all uses except for single-family and two family dwellings:

(1) No lighting shall in any way impair the safe movement of traffic on any road.

(2) A wall, fence, or berm, at least five feet in height shall be erected to prevent vehicle headlight glare from shining onto adjacent residential property. No wall/fence shall in any way impair safe vertical or horizontal sight distance for any moving vehicles.

(3) Lighting shall be designed and constructed to ensure that direct and reflected light is confined to the lot or parcel upon which the light source is located.

(4) Exterior lighting shall be so installed that the surface of the source of light shall be hooded or louvered to the greatest extent practical so that:

a. Light sources shall not be visible from beyond the lot lines and shall be so arranged to reflect light away from adjacent properties.

b. No more than one foot candle power of light shall cross a lot line five feet above the ground on a residentially used lot.

c. Lighting is directed downward as much as is possible and appropriate for the application.

(5) Outdoor lighting for recreation and amusement areas need not comply with subsection (4) provided the lighting is designed with baffling and glare guards to ensure that no more than one foot candle power of light shall cross a lot line five feet above the ground on a residentially used lot, and such lighting is turned off during hours the facility is closed.

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

(g) *Vibration.* All machinery shall be mounted and operated in order to prevent transmission of ground vibration exceeding a displacement of three one-thousandths of one inch, as measured at the property line.

(h) *Odor.* The emission of noxious, odorous matter in quantities which are 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 is prohibited.

(i) *Gases.* The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and shall



be abated.

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

(k) *Electromagnetic radiation.* Propagation of electromagnetic radiation shall comply with all local, state, and federal regulations which are hereby adopted by reference as a part of this chapter.

(l) *Radioactive materials.* Radioactive materials and radiation shall not be emitted in excess of levels or quantities established as safe by local, state, or federal regulations which are hereby adopted by reference as part of this chapter.

(m) *Airborne emissions.* Airborne emissions shall be in compliance with state requirements.

(n) *Other forms of pollution.* It shall be unlawful to discharge into the air, onto the ground or into the water any material or materials in excess of standards approved by the state or the county public health department.

(o) *Grading and filling of property.* The final grade surface of ground areas remaining after the construction of a building or structure and any earth changes made in connection with the use of land shall be designed and landscaped such that surface water flows away from the building or structure and is collected or managed in a manner which avoids the following:

- (1) Any increase in surface water discharge onto adjacent properties or public roads.
- (2) The erosion of or filling of any road drainage facility.
- (3) The blockage of any public watercourse.
- (4) The creation of standing water over a private sewage disposal drainage field.
- (5) Any unnecessary impoundment of surface water.

(p) *Required water supply and sanitary sewer facilities.* No structure for human occupancy shall be erected, altered, or moved upon any lot or premises and used in whole or in part for dwelling, business, industrial, or recreational purposes unless it shall be provided with a safe, potable water supply and with a safe and effective means of collection, treatment, and disposal of human excreta and normal domestic wastes by connection to the city wastewater treatment system or to an approved private sewage disposal system. All such installations and facilities shall conform with the minimum requirements of the city and any other local, county, or state requirements.

(q) *Soil erosion/sedimentation, soil/groundwater contamination.*

(1) All development in all districts shall conform to the applicable Erosion/Sedimentation Ordinance and general rules and part 91 of the Natural Resources and Environmental Protection Act (MCL 324.9101 et seq.).

(2) A pollution incident prevention plan (PIPP) must be provided to the city by an owner or agent wherever uses or conditions exist on any parcel of property located in the city which could result in detectable soil or ground water contamination.

(r) *Drainage channels and floodplains.* Drainage channels and floodplains, which exist within the City of Mason are essential for the maintenance of the health and general welfare of the people of the city. Any encroachment, filling or obstruction of these drainage channels or floodplains is a violation of this chapter. Such property may be developed, however, for reasonable use provided that a special use permit is approved by the planning commission and that prior to granting said permit the city has referred the matter to appropriate permitting agencies and has received advice and recommendation. The applicant shall furnish needed topographic data, engineering studies, site plan and similar data necessary to determine the effects of flooding, impoundment of water, flow restrictions and other effects on the flow of water and possible harm to persons, property, or natural resources from the proposed development.

(s) *Dumping or disposal of waste.* The use of land for dumping or disposal of scrap iron, junk, garbage, rubbish, trash, or other refuse, or of ashes, slag or other industrial, commercial or household wastes or by-products is prohibited in all districts, except under a special use permit.

(Ord. No. 152, 5-1-2006)

**Secs. 94-178—94-190. Reserved.**

## **ARTICLE VI. USES AUTHORIZED BY SPECIAL USE PERMIT**

### **Sec. 94-191. General standards and requirements.**

(a) *Intent and purpose.* The intent of this article is to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the developer, but that will at the same time, maintain sound provisions for the protection of the health, safety and general welfare of the inhabitants of the city. In order to provide controllable and reasonable flexibility, this article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Uses possessing these characteristics may be authorized within certain zoning districts by the issuance of a special use permit. By such a procedure, the city has the opportunity to impose conditions and safeguards upon each use which are deemed necessary for the protection of the public welfare. The

following sections, together with previous references in other articles of this chapter, designate specific uses that require a special use permit and, in addition, specify the procedures and standards which must be met before such a permit can be issued.

(b) *Permit procedures.* An application for a special use permit for any use shall be submitted and processed under the following procedures:

(1) *Submission of application.* An application shall be submitted on a form through the zoning official for consideration by the planning commission. The application shall be accompanied by payment of a fee as established by resolution of the city council to cover costs of processing the application as well as site plan review fees that may be required. No part of any fee shall be refundable.

(2) *Required information.* One copy of an application for a special use permit shall be submitted to the zoning official and accompanied by 20 copies of a preliminary site plan in compliance with division 1 of article VII of this chapter. It shall be the responsibility of the applicant to furnish sufficient evidence to demonstrate compliance of the proposed use with the provisions of this chapter.

(3) *Acceptance of application.*

a. Upon receipt of an application for a special use permit, the zoning official shall review the application for completeness. If the application is found to be complete, the zoning official shall issue a dated receipt of acceptance to the applicant and schedule consideration of the application by the planning commission. If the application is found to be incomplete, the zoning official shall return the application to the applicant with a written description of what additional information is required.

b. The planning commission reserves the right to find that an application is incomplete. An application which is found to be incomplete shall be returned to the applicant with a written description of what additional information is required and the previously issued receipt of acceptance shall be considered void.

(4) *Time frame.*

a. *Acceptance of application.* The zoning official shall issue a receipt of acceptance or return the application as incomplete within ten business days after submission.

b. *Meeting date.* The planning commission shall hold a public hearing on the application within 45 days of the date of the receipt of acceptance by the zoning official.

(5) *Notice for review.* The zoning official shall notify the agencies and individuals identified in section 94-394(d), or other agencies or individuals, of receipt of the special use application as deemed appropriate by the zoning official or the planning commission.

(6) *Written comments.* Any person may present any petition or document supporting a position for or against an application. All documents shall be submitted to the zoning official no later than 4:00 p.m. the day of the public hearing at which the application will be considered. Documents so submitted will be provided to the planning commission at the public hearing.

(7) *Project start.* Until a special use permit has been issued for any use requiring the same in this chapter, and until a proper building permit has been granted pursuant to the special use permit, there shall be no construction or excavation on said land, nor shall there be made any use of land related to the request for the special use permit.

(c) *Public hearing.* After accepting an application for a special use permit as complete, the planning commission shall hold a public hearing on the special use request and the preliminary site plan. Notice of the public hearing shall be pursuant to section 94-101.

(d) *Review and decision.* The planning commission may approve, approve with conditions, or deny an application for special use permit. The review of a special use permit application and the associated site plan shall be made by the planning commission in accordance with the procedures and standards specified in this chapter.

(1) An application for special use permit and the associated preliminary site plan shall be approved if both are found to be in compliance with the requirements of this chapter, and other applicable local, county, state, or federal laws, rules or regulations. The planning commission may defer a decision in order to obtain that information deemed necessary to making an informed decision.

(2) The applicant may make changes to the application and site plan in order to achieve compliance with this chapter. Such changes shall be noted on the application or site plan or the planning commission may require that these documents be resubmitted incorporating said changes.

(3) Approval and issuance of a special use permit shall signify concurrent approval of the application and preliminary site plan, therefore any subsequent authorized modification to the site plan shall become part of the special use permit and shall be enforceable as such.

(4) The decision to approve or deny a request for a special use permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specifies the basis for the decision, any changes to the originally submitted application and site plan necessary to insure compliance with the chapter, and any conditions imposed with approval.

(5) Once a special use permit is issued, all site development and use of land on the property affected shall be consistent with the approved special use permit unless a change conforming to chapter requirements is approved by the planning commission.

(6) The concurring vote of a majority of the members appointed to and serving on the planning commission shall be necessary to approve a special use permit.

(7) The planning commission shall defer all proceedings on an application for a special use permit upon the request of the applicant when less than eight members of the planning commission are present for consideration of and voting on said special use. The right of deferment shall be considered waived by the applicant if deferment is not requested immediately upon the opening of the hearing conducted pursuant to section 94-191(c). When deferment is requested as required, the planning commission shall, at that time, determine the date of a future regular or special meeting for the continuation of the hearing and consideration of the matter. Notice previously given for the original hearing date shall constitute notice of the future hearing date with no further notice required.

(e) *Required site plan review.* A preliminary site plan must be submitted with the application for a special use permit. After approval and before issuance of a building permit or certificate of occupancy, a final site plan shall be submitted for review by the zoning official. The zoning official may request review by the planning commission of the final site plan. The site plan review shall be in conformance with division 1 of article VII of this chapter.

(f) *Basis of determination.* Before approving a special use permit, the planning commission shall find by clear and convincing proof that the applicable standards set forth by this chapter shall be satisfied by the completion and operation of the proposed development. The planning commission shall review the particular circumstances and facts of each proposed use in terms of these standards and shall make written findings showing that such use shall:

(1) 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 adjacent property or the zoning district in which it is proposed.

(2) Not be hazardous or disturbing to 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.

(3) Be served adequately by essential facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools.

(4) Not create additional requirements at public cost for public facilities and services.

(5) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any person, property, or the general welfare by noise, fumes, glare, or odors.

(6) Not be located such that it will directly or indirectly have a substantial adverse impact on the natural resources of this city.

(7) Be in compliance with other applicable local, county, state, or federal rules and regulations.

(g) *Conditions.* The planning commission may impose such reasonable conditions upon the approval of a special use permit as are deemed necessary to protect the general welfare, protect individual property rights, and insure that the intent and objectives of this chapter will be satisfied.

(1) The conditions may include those necessary to insure that public services and facilities affected by a proposed use will be capable of accommodating the increased service and facility loads caused by the use.

(2) The conditions may include those necessary to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses, and to promote the use of land in a socially and economically desirable manner.

(3) The conditions shall be designed to protect natural resources, the public health, safety, and welfare, as well as the social and economic well-being of those who will use the land or engage in the activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

(4) The planning commission may require a performance guarantee in accordance with section 94-100 of this chapter.

(5) The special use permit may be limited for a specified period of time only where the subject use has some naturally limiting factor.

(6) The conditions may include that a specified percentage of the authorized construction and/or development be completed within a specified period of time. Failure to meet this requirement shall invalidate special use authorization for only that portion of the project not developed as required.

(h) *Effective date of special use permit.* The special use permit shall become effective when the application has been approved by the planning commission.

(1) A building permit shall not be issued until approval of such special use permit by the planning commission.

(2) Land subject to a special use permit may not be used or occupied for purposes of such special use until after a certificate of occupancy for same has been issued pursuant to this chapter.

(i) *Transfer and expiration of special use permit.* The city shall notify the applicant, in writing mailed to the address listed on the application, that a special use permit has become invalid.

(1) A special use permit shall be valid for as long as the permitted use continues in accordance with the terms stated therein unless otherwise stated in the special use permit. If the use permitted by the special use permit is not established in compliance with the terms of the special use permit within 12 months from the date of its issuance, then the special use permit shall automatically expire and be of no further effect or validity. This period of time may be extended by the planning commission for good cause for an additional six months.

(2) Approval of a special use permit shall be valid regardless of change of ownership provided that all terms and conditions of the permit are met by subsequent owner.

(3) If the use permitted under the special use permit ceases or is vacated for 12 months, the special use permit shall automatically expire and be of no further effect or validity.

(j) *Re-application.* No application for a special use permit which has been denied, wholly or in part, shall be resubmitted until the expiration of one year from the date of such denial except on the grounds of newly discovered evidence or proof of changed conditions, as determined by the planning commission.

(k) *Compliance with requirements.* It shall be the duty and obligation of the owner and operator of the property to at all times be in compliance with the use requirements of this chapter and the stipulations of the special use permit under which their particular use is governed. Failure thereof shall be a violation of this chapter and may subject the owner and/or operator to the penalties and remedies provided in article III of this chapter and the continuance thereof is hereby declared to be a nuisance per se.

(l) *Special use deemed a conforming permitted use.* Any use for which a special use permit has been granted shall be deemed a conforming permitted use provided that the proposed use is subsequently built, operated, and maintained in compliance with this chapter, including conditions approved as part of the special use permit.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-192. Listed special uses.**

Special land uses listed in this section shall satisfy the supplementary standards found in this section in addition to the general standards found in section 94-191. The following are the listed special uses subject to this section:

(1) *Planned residential developments (PRD).*

a. *Intent and purpose.* The intent and purpose of a PRD shall be the same as that described for a PUD under section 94-161(a) insofar as subsection 94-161(a) is consistent with other requirements of this section.

b. *Permitted uses.* Only the following uses may be permitted in a PRD:

1. All uses permitted by right in the district in which the PRD is proposed.

2. Any additional uses which can be shown to be compatible with the general objectives of the Master Plan as well as integral to the specific PRD scheme in which they are contained. For the purpose of this section, an integral use shall be defined as a use which has a specific functional relationship with other uses contained in the development, such as a day care center which serves primarily the needs of residents of the development.

c. *Site development standards and deviations.* All proposed individual land uses and facilities in a PRD shall be in conformance with the standards of the district in which the PRD is proposed and any other applicable sections of this code, including such standards pertaining to lot area and dimensions, density, lot coverage, setbacks, building height, parking, loading, landscaping and screening, road widths, and similar requirements, except that the planning commission may permit deviations from such standards where such deviations will result in a higher quality of development than would be possible without the deviations.

1. Any deviation from applicable standards affecting density shall not result in an increase in density in excess of 30% of the density allowed in the district in which the PRD is proposed.

2. Except where a deviation is granted, mixed uses shall comply with the regulations applicable for each individual use, including applicable standards for special uses contained in Article VI of this chapter. If regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply.

3. Deviation from development standards may be authorized only upon a finding by the planning commission that said deviation will encourage creative design including the enhancement of open space and the protection of natural features, and that there are adequate features or planning mechanisms designed into the project to achieve the objectives intended to be accomplished with respect to each of the standards from which a deviation is sought.

d. *Minimum eligibility criteria.* A PRD shall satisfy the minimum eligibility criteria for a PUD as provided by section 94-161(g) insofar as such criteria are consistent with this section.

e. *Phasing.* A PRD may be constructed in phases in the manner described for a PUD as provided by section 94-161(l) insofar as such phasing is consistent with this section.

(2) *Auto service station.* Location and special needs for auto service stations require careful planning to properly

integrate this type of use into the pattern of other commercial and retail activities and special consideration, therefore, must be given to location, site, layout, use and storage facilities, traffic safety and compatibility with surrounding uses. The following are minimum requirements:

- a. Site size of 20,000 square feet with a minimum width of 150 feet of frontage on a major street.
- b. Buildings shall be set back 50 feet from all street right-of-way lines and shall not be less than 25 feet from a property line of a residentially used lot. Structures, except signs and buildings, shall be no closer than 15 feet to the street right-of-way line.
- c. All activities connected with auto service, except sale of gasoline and associated products, shall be carried on within the building. Outdoor storage of wrecked or partially dismantled vehicles is prohibited.
- d. No more than two driveway approaches shall be permitted directly from any major street nor more than one drive approach from any minor street, each of which shall not exceed 30 feet in width at the property line. If the property fronts on two or more streets, the driveway shall be located as far from the street intersection as practicable, but not less than 30 feet measured from the intersecting corner lot lines. All parking areas shall be constructed from hard-surface materials together with curb, gutter, and sidewalks as exist in the area.
- e. An opaque fence or wall six feet in height shall be erected along all property lines abutting residentially used lots.
- f. Lighting shall be deflected away from adjacent residential properties.

(3) *Junk and salvage yards.* Dealers in junk or salvage shall maintain such records of operation as required by the laws of the State of Michigan and satisfy the requirements of this section and any other applicable parts of this chapter.

- a. No junk or salvage operation shall be located on the same lot as a residential use.
- b. All junk or salvage material shall be stored in a building constructed specifically for that purpose, provided however, that junk automobiles, farm machinery, or recreational vehicles, and parts thereof, stored for the purpose of dismantling may be stored on an outdoor lot. Such a lot shall have an opaque fence or wall eight feet in height which encloses the view of said dismantled automobiles from any public road or street and from adjoining residential and commercial properties. Outdoor storage shall be completely within the enclosed area and shall not exceed the height of the fence.
- c. Junk and salvage yards adjacent to a residential or agricultural zone shall be set back from the property line 100 feet with an intervening greenbelt. The planning commission may reduce the setback requirements of this provision where, by reason of natural or artificial barriers, topographic conditions, the use of natural screening, or the nature of operations, a lesser setback would substantially meet the purpose and intent of this chapter.
- d. No open burning shall be permitted and all industrial processes involving the use of cutting, compression, or packaging shall be conducted within a completely enclosed building.
- e. Signs are permitted only as they apply to the junk or salvage business.
- f. No materials, trash, or garbage causing offensive odors or unsanitary conditions shall be stored on the premises.

(4) *Removal and disposal of soil, sand, gravel, and other materials.* To minimize and avoid open and dangerous excavations, accumulations of stagnant water, erosion of land and conditions unfit for growing of turf and other land uses, harmful and dangerous landfills and potential pollution of the city water supply, the removal of soil, sand, stone, gravel or the dumping of such material or other refuse on any lands in the city, except in the excavation for a structure pursuant to a building permit, is prohibited unless by a special use permit issued by the planning commission. In permitting such use, the commission shall condition the permit on the following requirements:

- a. A fence, adequate to protect trespassing children, and at least six feet in height shall be placed around the entire periphery of the property and no closer than 50 feet to the top of any slope.
- b. No slope shall exceed an angle with the horizontal of 45 degrees.
- c. The planning commission shall establish truck traffic haul routes where necessary to minimize traffic hazards and road damage to and from the site.
- d. Depleted or abandoned areas shall be rehabilitated progressively to a condition entirely lacking in hazards, inconspicuous and blended with the surrounding ground topography. A site reclamation plan must be submitted and approved by the planning commission prior to the granting of a special use permit.
- e. All slopes, banks, pits and denuded areas shall be reasonably graded, filled and treated to prevent erosion.
- f. All material used for landfill shall be reasonably leveled, covered and graded and no refuse shall be dumped at any location, which might imperil the city water supply or endanger persons or property.
- g. A performance guarantee in accordance with section 94-100 of this chapter may be required to assure compliance with these requirements.

(5) *Community commercial center.* The unique and changing characteristics of this type of business activity requires standards and procedures specifically designed to provide for the flexible application of protective regulations to insure that a safe, efficient, attractive and pleasing shopping environment can be created and maintained.

a. Area, height, bulk and placement requirements. Except as herein specified, the district regulations shall apply to area, height, bulk and placement requirements.

1. Lot size. Not less than five acres.

2. Lot frontage. Not less than 300 feet.

3. Minimum yard setbacks. Where side or rear yard setbacks, or vehicular parking abuts a residential area, a minimum yard setback of 25 feet shall be provided with an intervening fence or wall and greenbelt adjacent to the residential area. No parking shall be permitted within the front yard setback.

4. Minimum floor area. Not less than 800 square feet per business unit.

b. Parking areas and circulation.

1. All areas accessible to vehicles or pedestrians shall be clearly illuminated, adequately graded and paved, clearly marked and maintained, and adequately drained.

2. Automobile circulation design shall provide access to and from the parking areas without backing-up or interfering with traffic onto or from an external street under normal anticipated traffic conditions and, where deemed necessary, the front yard setback requirement may be increased to insure against such congestion and/or to provide for safe ingress and egress. A determination shall be made by the planning commission that the external access street to the shopping center shall be fully capable of absorbing the maximum hourly traffic generated by the center without undue interference to other traffic and pedestrians in the area.

3. All ingress and egress approaches from the external street shall have adequate acceleration and deceleration lanes.

4. Design of the site shall consider pedestrian protection by providing site access sidewalks and internal walkways separated from the traffic circulation and parking bays. Such pedestrian walkways shall be a minimum of five-foot wide.

(6) *Temporary outdoor use.* Temporary and seasonal uses on private property in all districts may be permitted by the planning commission when such uses do not impede pedestrian and vehicular traffic. Such uses may include sale of Christmas trees, shrubbery, flowers, fruits and vegetables in season, sidewalk or garage sales or short term promotional activities. The licensee shall be required to indemnify the city against the cost of removing and cleaning up any waste or debris, or replacing or repairing any damage to public facilities. If approved, a license shall be issued specifying the terms, conditions and time limitations of the activity in accordance with the applicable city ordinance.

a. Any temporary use of public streets or public property shall be permitted only by the prior approval of the city council, and the council shall, where deemed necessary for the protection of the public interest, require an adequate personal injury and property damage liability policy indemnifying the city against any claim, suit or loss occasioned by the use of city streets or public property.

b. Any license issued shall be carried by the owner in charge of the activities or posted on the property by the licensee and shall be available for inspection by a police officer at all times.

(7) *Bed and breakfast.* It is the intent of this section to provide standards for the utilization of the older large residential structures located in older neighborhoods of the city as bed and breakfast accommodations for tourists while maintaining the character of the surrounding neighborhoods. Bed and breakfast accommodations are subject to the following requirements:

a. Meals shall only be served to residents, the guests of residents, employees, family members and overnight guests. There shall be no food preparation in any guest sleeping room. Restaurant type operation is prohibited.

b. Accessory retail or service uses to a bed and breakfast establishment shall be prohibited including gift shops, antique shops, restaurants, and bakeries.

c. Each premises must be occupied and operated by its owner. The dwelling unit in which the bed and breakfast operations take place shall be the principal residence of the operator, who shall live on the premises while the operation is active. The living area for the owner/operator may be separated from the guest rooms. No more than six transient/guest rooms shall be provided.

d. Only one sign shall be allowed for identification purposes only. Such sign shall be non-illuminated and unanimated, be mounted flat against the wall of the principal building or freestanding, and not exceed four square feet in area. The planning commission, in its sole discretion, shall approve the indirect lighting of any sign on the site.

e. Exterior solid waste facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.

f. Additions or modifications to a structure for the purpose of accommodating additional guests shall be allowed only if such additions or modifications maintain the character of the buildings on, and within the neighborhood of, the property operating a bed and breakfast. Physical modifications to the structure may be permitted including the provision of barrier free access in order to meet building code requirements.

g. Meals for bed and breakfast patrons shall be prepared using the same kitchen facilities as are used for the residents. Kitchen facilities shall comply with all appropriate city, county and state regulations.

h. One off-street parking space per room to be rented shall be provided, in addition to the parking required for a single-

family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking.

- i. All sleeping rooms in the bed and breakfast shall be provided in accordance with the Michigan Residential Code promulgated pursuant to MCL 125.1504 and the additional requirements of MCL 125.1504b.
- j. Every bed and breakfast bedroom shall contain a functional smoke detector, and an approved fire extinguisher shall be located on each floor on which such sleeping rooms are located.
- k. Bed and breakfast bedrooms shall be a minimum of 120 square feet for the first two occupants and an additional 30 square feet for each additional occupant in that bedroom.
- l. One bathroom group for every three sleeping rooms shall be provided, with a minimum of two bathrooms for the exclusive use of bed and breakfast guests.
- m. The stay of bed and breakfast occupants shall be no more than 14 consecutive days and not more than 30 days in any one calendar year.
- n. The operator of each facility shall keep a list of the names of all persons staying at the bed and breakfast, which list shall be available for inspection by the zoning official.
- o. The bed and breakfast use shall not cause a nuisance to adjoining residences due to noise, odor, lighting, or traffic.
- p. All dimensional requirements and setbacks shall be maintained for the district in which the bed and breakfast is located. No unique or special equipment or mechanical devices shall be permitted that are not common for single-family dwelling use.

(8) *Institutional structures and uses.* In recognition of the institutional types of nonresidential uses which may be found compatible with and useful in residential areas, and in recognition of the peculiar and unique functional requirements of certain types of institutional uses, the planning commission may authorize such uses by special use permit when in compliance with the general standards and specific requirements of this article.

- a. Institutional uses include the following:
  - 1. Institutions for human care including hospitals, sanitariums, day care, nursing or convalescent homes, homes for the aged, and philanthropic institutions, but not institutions for substance abuse patients or correctional institutions.
  - 2. Religious uses including churches, or similar places of worship, convents, parsonages, parish houses and other houses for clergy.
  - 3. Education and social uses including public and private schools, auditoriums and other places of assembly, centers for social activities, lodges, fraternities, and sororities.
  - 4. Public buildings and public service uses including publicly owned and operated buildings, public utility buildings and structures, transformer stations and substations, gas regulator stations, radio, television, and microwave towers.
  - 5. Recreation uses including parks, playgrounds, ball fields, public swimming pools, stadiums, community centers, and country clubs.
- b. Site location standards. In addition to any other regulations or requirements of this chapter, the following standards shall be utilized to evaluate any institutional use for approval:
  - 1. An institutional use shall preferably be located at the edge of a residential district, or abutting a business or industrial district or public open space.
  - 2. All means shall be utilized to face an institutional use on a major street with motor vehicle egress and ingress thereon to avoid the impact of traffic generated by the institutional use in the surrounding area.
  - 3. An institutional use shall preferably be located on a site that offers natural or manmade barriers that will lessen the effect of the institutional use on the surrounding area.
  - 4. A proposed institutional use shall not require costly or uneconomical extensions of public services inconsistent with the growth of the district.

(9) *Racetrack, racing theater, and casino.* To recognize and accommodate the unique and functional requirements of this use, the intensity of the use, the exceptional demands on transportation facilities and public services that may be generated, the potential for excessive light, noise, dust, odors and fumes, all of which require that special consideration be given to siting, location, layout, parking, storage, traffic circulation, hours of operation, and to ensure compatibility with neighboring uses, such uses shall be subject to the following additional requirements:

- a. Minimum site.
  - 1. Racetrack. Twenty acres with an aggregate minimum frontage of not less than 300 feet on at least two major streets.
  - 2. Racing theatre. A minimum site of 10 acres with at least 200 feet of frontage on at least one major street.
  - 3. Casino. A minimum site of 10 acres with at least 200 feet of frontage on at least one major street.



4. Adequate ingress and egress from major street approaches shall be available through appropriate deceleration and acceleration and turning lanes as determined by the city Traffic Engineer.

b. Setbacks. All buildings shall be set back 100 feet from the public street right-of-way and 50 feet from all side and rear lot lines. Parking facilities shall be set back 50 feet from the public street right-of-way and 25 feet from all side and rear lot lines.

c. Lighting. Lighting shall be contained on site, directed inward and downward and not be deflected onto adjacent properties. Except for entry drives, no lighting fixtures shall be located within the required setbacks.

d. Parking requirements. There shall be provided 0.5 paved parking spaces per seat or one space per 6 feet of bench seating in the stadium or grandstand areas of such facilities plus the following additional parking:

1 One paved parking space for each employee on the largest shift of the facility and each owner and trainer.

2. One paved parking space per 50 square feet of usable floor area in any area where food or beverage is sold.

3. One paved parking space per 100 square feet of usable floor area for all betting areas or viewing areas where seats are not provided.

4. One paved parking area suitable to accommodate parking of one truck and horse trailer for each horse entered on the daily racing card.

e. Hours of operation. Such facility shall not be opened to the public except between the hours of 8:00 a.m. and 2:00 a.m., Monday through Saturday and 12:00 p.m. and 2:00 a.m. on Sunday.

(10) *Outdoor retail sales and service.* Location and special needs for outdoor retail sales and service require careful planning to properly integrate this type of use into the pattern of the local commercial activities that is compatible with adjacent populations including size, site layout, screening, duration, hours of operation and compatibility of surrounding areas. The following minimum standards shall apply:

a. Sales and service shall be limited to 15% of the gross floor area of the individual business unit.

b. Outdoor retail sales and service hours shall not exceed 8 a.m. to 8 p.m. Monday through Saturday and 10 a.m. to 4 p.m. Sunday.

c. All merchandise shall be removed from the outdoor sales area and placed within a fully enclosed building during non-business hours.

d. Permanent outdoor display areas may be allowed provided they are fully screened from view on all sides at all times of year.

(11) *Short term rentals* for legal dwelling units are permitted in the CI Central Business District. No more than six adults per bathroom may occupy a unit. No more than two adults per bed. One annual city parking permit per unit is required if no onsite parking is provided.

(Ord. No. 152, 5-1-2006; Ord. No. 156, 9-5-2006; Ord. No. 227, 10-7-2019)

### **Sec. 94-193. Appeals.**

Appeals from decisions of the planning commission in cases involving the granting or denial of any special use permit which is required pursuant to this chapter shall be filed with the city clerk, along with a fee as established by resolution of the city council, and shall be decided by the city council.

(1) *Standing to appeal.* An appeal from any decision of the planning commission involving a special use permit may be filed only by the following persons, hereinafter referred to as appellants:

a. The zoning official.

b. The applicant for the special use permit.

c. An owner or occupant of real property within 300 feet of the premises in question.

d. A person who has suffered or may suffer a substantial damage which is not common to other property owners or residents of the city at large, provided such an appeal by a non-abutting property owner or occupant shall state sufficient facts indicating special damages to confer standing as determined at the sole discretion of the city council.

(2) *Time for appeal.* All appeals under this section must be filed in writing with the city clerk within 21 days following the issuance of the written decision of the planning commission.

(3) *Contents of the letter of appeal.* The letter of appeal shall specify the reasons for appeal and which of the general standards and specific criteria of this chapter the planning commission is alleged to have incorrectly applied. The appeal review shall be limited to those issues stated in said appeal.

(4) *Appeal review.* The city clerk shall forward a letter of appeal for review by the city council at a regular meeting within 21 days of filing. The city council shall first take action verifying the standing to appeal of the appellant. If the appellant is found to have standing, the council shall then take action to schedule the appeal for consideration at a subsequent regular



or special meeting not less than seven days from taking said action.

(5) *Notice.* Notice of the city council meeting for consideration of the appeal shall be given in accordance with section 94-101.

(6) *Scope of review.*

a. The appeal shall be considered by the city council solely on the written record unless the appellant specifically requests oral argument in the letter of appeal, in which case the council shall consider any relevant information presented in oral argument. The written record shall include the letter of appeal, the minutes of public hearings and informational hearings conducted by the planning commission, the applications, site plans, and any other documentation presented to the planning commission prior to its decision, written staff reports and recommendations considered by the commission, written comments and documentation presented to the planning commission, and written responses to any questions posed by the city council to any person prior to its decision.

b. If oral argument is requested, the city council shall allow only those persons with standing to appeal, as defined in section 94-193(1), to speak on the appeal. Any person allowed to speak on the appeal shall limit their comments to the specific information addressed in the letter of appeal.

c. The city council shall reverse or modify a decision of the planning commission only if substantial rights of the appellant have been prejudiced by a decision found to be any of the following:

1. In violation of this chapter or the state Zoning Enabling Act.
2. In excess of the authority granted to the commission by this chapter.
3. Made upon unlawful procedure.
4. Not supported by competent, material and substantial evidence on the record as a whole.
5. A clearly unwarranted or unreasonable exercise of discretion, or an arbitrary or capricious abuse of discretion.

(7) *Decision.* The city council may affirm, reverse, modify, or remand a decision of the planning commission. The city council shall render its decision on appeal within 60 days of receipt of the appeal as provided in subsection 94-193(4) of this chapter, except that if a decision is remanded to the commission for a supplemental record, the council shall render its decision within 60 days of receipt of the supplemental record.

a. The city council may remand appeals to the planning commission for the making of a supplemental record on designated issues or for reconsideration by the planning commission. In the event that the planning commission reconsiders a decision on remand, the reconsidered decision may be appealed in the same manner as the original decision.

b. When action is taken to modify a decision of the planning commission the city council shall, to that end, have all of the powers of the planning commission.

(8) *Form of decision.* If the city council takes no action to reverse or modify a decision of the planning commission within 60 days of receipt of the record or supplemental record, the decision of the planning commission shall become final. Decision by the council to reverse or modify a decision of the planning commission shall state in writing which of the provisions of subsection 94-193(6)c. have been violated and shall contain a concise statement of the relevant provisions of the record and reasons in support of its decision. After considering the appeal, the council may designate one of its members to prepare a written proposal for decision to reverse or modify in which case the written decision shall be approved and issued within 30 days thereafter.

(9) *Stay.* An appeal to the city council shall stay the exercise of all rights and proceedings under the challenged special use permit. The council may modify a stay pending its final decision if necessary to protect against imminent peril to life or property.

(Ord. No. 152, 5-1-2006)

**Secs. 94-194—94-220. Reserved.**

## **ARTICLE VII. SITE PLAN REVIEW AND LANDSCAPE STANDARDS**

### **DIVISION 1.**

#### **SITE PLAN REVIEW AND APPROVAL**

**Sec. 94-221. Intent and purpose.**

It is the intent of this article to require site plan review and approval for certain structures and uses that can be expected to have a significant impact on natural resources, traffic patterns and the character of future development in the immediate area and the entire community. The requirements contained in this article are intended to ensure that all development within the city is in conformance with the intent and purpose of this chapter.

(Ord. No. 152, 5-1-2006)

**Sec. 94-222. Uses subject to site plan review.**

The uses of land and structures listed in this section shall receive final site plan review and approval in accordance with this article prior to the granting of a building permit or a certificate of occupancy.

- (1) Uses in the O-1, O-2, C-1, C-2, C-3, M-1 and M-2 zoning districts.
- (2) Uses in the planned unit development district.
- (3) Multiple-family dwelling uses.
- (4) Uses permitted by special use permit.
- (5) Platted subdivisions (refer to chapter 74).
- (6) Site condominium developments.
- (7) Public and governmental facilities.
- (8) Off-premise signs.
- (9) Grading and filling in any district which alters the flow of surface water to or from the property.

(Ord. No. 152, 5-1-2006; Ord. No. 230, 9-28-2020)

**Sec. 94-223. Administrative site plan review authority.**

The zoning official may approve or deny any site plan for the use of land and structures listed in this section. The zoning official may refer any submitted site plan to the planning commission for review and approval.

- (1) All uses of existing principal and accessory buildings which do not increase the base or footprint of the structure.
- (2) All uses of land and buildings which do not increase the number of required off-street parking spaces by more than two spaces.
- (3) Outdoor food and drink service areas at a pub, tavern, or restaurant unless otherwise permitted by special use permit.

(Ord. No. 152, 5-1-2006; Ord. No. 166, 8-4-2008)

**Sec. 94-224. Planning commission site plan review authority.**

The planning commission may approve, approve with conditions, or deny any site plan when referred and reviewed in accordance with the requirements of this chapter.

(Ord. No. 152, 5-1-2006)

**Sec. 94-225. Preliminary site plan review and approval.**

(a) *Intent, purpose, consideration concurrent with final site plan.* All uses of land and structures which are subject to the requirements of this article shall receive preliminary site plan review and approval prior to the submission of a final site plan unless the zoning official determines that concurrent preliminary and final site plan review and approval will promote the general welfare of the city. The standards for both preliminary and final site plan review and approval in this article shall be applied when concurrent consideration is allowed. The planning commission may require separate preliminary and final site plan review and approval for any plan subject to consideration by the commission.

(b) *Preliminary site plan application.* The owner or designated agent shall file an application requesting preliminary site plan review and approval with the zoning official. The application shall be accompanied by the information required in this section and be accompanied by the appropriate fees as established by resolution of the city.

(c) *Preliminary site plan application requirements.* All applications for preliminary site plan review and approval shall comply with the basic required submittal standards of subsection 94-225(d)(1) of this chapter. The additional required submittal standards of subsection 94-225(d)(2) of this chapter shall be satisfied by any application for preliminary site plan review and approval involving the following uses of land or structures.

- (1) Planned unit development.
- (2) Planned residential development.
- (3) Site condominium development.
- (4) Public and government facility.
- (5) Any use in the M-1 or M-2 zones.
- (6) Hotel or motel.
- (7) Multiple-family with 12 or more units.
- (8) Community commercial center.
- (9) Any use involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet

of gross floor area

(10) Other uses as determined by the designated site plan approval body, except that for such other uses, at the sole discretion of the designated site plan approval body, specific requirements of subsection 94-225(d)(2) of this chapter may be waived.

(d) *Preliminary site plan submittal standards.* It is the intent of this section to establish standards for submittal requirements that are consistent with the level of complexity of a proposed development. Further, it is the intent of this section to provide flexibility for the zoning official and planning commission to require submittal of sufficient information to evaluate the impact of a proposed development on nearby property and the city at large and to demonstrate compliance with this chapter.

(1) *Basic required submittal standards.* Any application for preliminary site plan review and approval shall include at minimum the following information:

- a. Name, address, and phone number of applicant and designated agent, if applicable.
- b. Legal description of subject property with tax parcel number.
- c. Proof of ownership or proof of land control for the subject property.
- d. Existing uses on subject property and abutting properties.
- e. Zoning of subject property.
- f. Description of intent including proposed principle and accessory uses.
- g. Statement of facts showing how the proposal meets applicable standards of this chapter including an itemized list of known or potential variances from the standards of this chapter.
- h. Site plan. Drawings or sketches of the subject property showing the following:
  1. North arrow.
  2. Drawing date.
  3. Site size.
  4. Contiguous property in which applicant has ownership interest.
  5. Proposed pedestrian and vehicle circulation systems.
  6. Location of existing and proposed structures including existing and proposed front, side, and rear yard setbacks.
  7. Location of existing and proposed uses.
  8. Location of existing and proposed off-street parking and curb cuts.
  9. Location and nature of proposed signage.
  10. Location of existing and proposed easements.
  11. Location and screening of refuse facilities.
- i. Landscape sketch plan meeting the requirements of section 94-241 of this chapter.

(2) *Additional required submittal standards.* Any application for preliminary site plan review and approval involving any of the uses listed in subsection 94-225(c) of this chapter shall include at minimum the following information.

- a. All information required in subsection 94-225(d)(1) of this chapter.
- b. Zoning of property within 500 feet of the subject property.
- c. Vicinity map showing the location of the subject property and the following information:
  1. Minimum scale of 1" = 600'.
  2. North arrow.
  3. Street names.
  4. Schools.
  5. Parks and recreation facilities.
  6. Shopping areas.
  7. Major streets and highways.
  8. Major public buildings.
- d. Site plan. Scaled drawings of the subject property showing the following:

1. Minimum scale of 1" = 100', north arrow, date, titles.
  2. Location of existing watercourses, depressions, ponds, marshes, wetlands, other regulated water bodies, and other unique natural features.
  3. Base flood level.
  4. Location, size, nature of existing and proposed rights-of-way, easements, other encumbrances.
  5. Streets with proposed street names.
  6. Proposed loading areas.
  7. Proposed lighting plan.
  8. Proposed access to existing public streets.
  9. Number, dimensions, size of buildings.
  10. Number, dimensions, size of lots or other land divisions.
  11. Number, dimensions, size of dwelling units.
  12. Boundaries of construction phases.
  13. Architect schematic plans, elevations, and/or perspective sketches of proposed buildings.
  14. Existing and proposed grading contours at two-foot intervals.
  15. Basis of any calculations.
  16. Seal of a professional engineer, architect, landscape architect or community planner licensed in the State of Michigan.
  17. Location and proposed use of common open spaces.
- e. How legal title is held, regulated, maintained.
1. Proposed easements, covenants, articles of association.
  2. Soil survey data as made available by the U.S. Department of Agriculture Soil Conservation Service indicating soil characteristics and suitability for development.
- f. Construction schedule.
- g. Detailed cost estimate.
- h. Engineering report of proposed location and size of water, sanitary sewer, storm sewer, and surface drainage systems.
- i. Identity of all land surveyors, architects, landscape architects, community planners and engineers participating in the proposal.
- j. Landscape detailed plan meeting the requirements of section 94-241 of this chapter.

(3) *Supplemental analysis and information.* The designated site plan approval body may require that supplemental information and analysis be submitted as part of any application for preliminary site plan review and approval if such information is deemed necessary by the designated site plan approval body to demonstrate compliance with the requirements of this chapter. The costs for such supplemental analysis and information shall be incurred by the applicant. Supplemental information may include the following:

- a. Detailed soil survey data including soil boring data from the subject property and engineering analysis.
  - b. Proof of financial ability.
  - c. Impact on fiscal and economic conditions of the city and surrounding area.
  - d. Impact on natural features on subject property and adjacent property.
  - e. Impact on public facilities and services.
  - f. Impact on traffic flow and volume.
  - g. Boundary survey.
  - h. Any other information deemed necessary by the designated site plan approval body to demonstrate compliance of the proposal with the requirements of this chapter.
- (e) *Time frame.*
- (1) *Special use permit.* The terms of acceptance and review of an application for preliminary site plan review and

approval submitted as part of an application for a special use permit shall be as required in section 94-191(b)(4) of this chapter.

(2) *Acceptance of application.* For any application for preliminary site plan review and approval separate from an application for a special use permit, the zoning official shall either issue a receipt of acceptance or return the application as incomplete within ten business days after submission.

(3) *Application review.* For any application for preliminary site plan review and approval separate from an application for a special use permit, the zoning official shall, within 45 days of acceptance, either complete review of the application or refer the application to the planning commission for review.

(f) *Request for review.* The zoning official shall notify the agencies and individuals identified in section 94-394(d), or other agencies or individuals as deemed appropriate, of receipt of the site plan application.

(g) *Zoning official review.* The zoning official shall have the authority to approve or deny an application for preliminary site plan review and approval as allowed by, and in accordance with, the requirements of section 94-223 of this chapter. Site plan review shall be in accordance with the standards in section 94-227 of this chapter.

(h) *Planning commission review.* The planning commission shall have the authority to approve, approve with conditions, or deny an application for preliminary site plan review and approval in accordance with the requirements of section 94-224 of this chapter. The following review procedures shall be utilized when considering an application:

(1) The planning commission shall receive from the zoning official a copy of all material submitted.

(2) The planning commission shall receive a review and recommendation from the zoning official relative to the compliance of the preliminary site plan with the requirements of this chapter.

(3) The planning commission shall receive from the zoning official a review and/or recommendation from all appropriate local, state, and federal agencies.

(4) The planning commission shall utilize the criteria identified within section 94-227 of this chapter when reviewing an application.

(5) The planning commission may impose conditions when approving a preliminary site plan application. The conditions must be reasonable, directly related to the standards of this chapter, or determined to be necessary for the protection of the public health, safety, and welfare.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-226. Final site plan review and approval.**

(a) *Final site plan application.* The owner or designated agent shall file an application with the zoning official requesting final site plan review and approval in compliance with section 94-225(a). The application shall be accompanied by the information required in this section and be accompanied by the appropriate fees as established by resolution of the city council.

(b) *Final site plan application requirements.* All applications for final site plan review and approval shall comply with the final site plan submittal standards of subsection 94-226(c).

(c) *Final site plan submittal standards.* It is the intent of this section to establish standards for submittal requirements that are consistent with the level of complexity of a proposed development. Further, it is the intent of this section to provide flexibility for the zoning official and planning commission to require submittal of sufficient information to evaluate the impact of a proposed development on nearby property and the city at large and to demonstrate compliance with this chapter.

(1) Any application for final site plan review and approval shall include at minimum all information submitted with the approved preliminary site plan with all changes incorporated that are necessary to comply with the direction of the designated site plan approval body during preliminary site plan review. The applicant may reference or re-use information submitted with the preliminary plan but shall submit an itemized list of such information.

(2) Drawings and other information submitted for final site plan review and approval shall be sealed or certified by the appropriate professional engineer, architect, landscape architect or planner.

(3) Any application for final site plan review and approval for a proposal that includes a use specifically listed in subsection 94-225(c) of this chapter shall include detailed construction drawings for water, sanitary sewer, storm sewer and surface drainage plans sealed by a professional engineer registered in the State of Michigan.

(4) Any application for final site plan review and approval shall include final documents for recording perpetual use of common open space, easements, rights-of-way, and dedications.

(5) Any application for final site plan review and approval shall include detailed drawings and/or specifications describing road design and construction plans, pavement and sidewalk design and construction plans, lighting plans, and all other construction information necessary to ensure that the project is built as approved and to ensure that the public health, safety, and welfare are protected.

(6) The applicant may be required to submit, at the sole discretion of the designated site plan approval body, information in a more detailed form for final site plan review and approval than was required for the preliminary site plan.

(7) Any application for final site plan review and approval shall include post construction storm water management concept plan pursuant to the requirements of Chapter 52.

(d) *Zoning official review.* The zoning official shall have the authority to approve or deny an application for final site plan review and approval as allowed by, and in accordance with, the requirements of section 94-223. Site plan review shall be in accordance with the standards in section 94-227.

(e) *Planning commission review.* The planning commission shall have the authority to approve, approve with conditions, or deny an application for final site plan review and approval. Final site plan review shall follow the procedures for preliminary site plan review in subsection 94-225 and shall be in accordance with the standards in section 94-227.

(Ord. No. 152, 5-1-2006; Ord. No. 203, 10-17-2016)

#### **Sec. 94-227. Standards for site plan review and approval.**

In reviewing an application for site plan review and approval the following standards shall apply:

(1) The site shall be developed so that all elements shall be harmoniously and efficiently organized in relation to the size, shape, type and topography of the site and surrounding property.

(2) The site shall be developed so as not to impede the normal and orderly development, improvement, and use of surrounding property for uses permitted in this chapter.

(3) All buildings or groups of buildings shall be arranged to permit emergency vehicle access by some practical means to all sites.

(4) Every structure or dwelling unit shall have direct access to a public street or indirect access to a public street via an approved dedicated private street.

(5) Appropriate measures shall be taken to ensure that the addition or removal of surface waters will not adversely affect neighboring properties, that controls are in place to minimize sedimentation and erosion, and that topographic alterations are minimized to accommodate storm water management.

(6) Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping, on-site storage, and treatment of turf as required to handle stormwater and prevent erosion.

(7) Secondary containment for above ground areas where hazardous substances are stored or used shall be provided as required by the city fire chief.

(8) Exterior lighting shall be designed and located so that the source of illumination is directed away from adjacent properties, the intensity of lighting is the minimum necessary, and the direction of lighting is downward as much as is possible and appropriate for the project.

(9) All loading and unloading areas, outside storage areas, and refuse receptacles shall be screened from casual view from the public rights-of-way and adjoining land uses.

(10) Site plans shall meet the driveway, traffic safety, and parking standards of the city in such manner as necessary to address the following:

a. Safe and efficient vehicular and non-vehicular circulation, including parking areas, non-motorized linkages to abutting parcels, uses, sidewalks, and trails.

b. Shared driveways and service drives.

c. Adequate and properly located utilities.

(11) Provisions shall be made for proposed common areas and public features to be reasonably maintained.

(12) The site plan submittal shall demonstrate compliance with all applicable requirements of this chapter, chapters 58 and 74, the building code, and county, state, and federal law.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-228. Amendments to an approved site plan.**

(a) *Material change.* An approved preliminary site plan may be amended only after review and approval by the original approving authority. The process for review and approval shall be the same as that used for the original approval of the preliminary plan. The applicant shall be responsible for paying any additional costs incurred by the city as a result of a request to amend an approved preliminary site plan.

(b) *Administrative approval.* An approved final site plan may be administratively amended by the zoning official if it is determined, at the sole discretion of the zoning official, that no material change is proposed, including the location of streets and buildings, the location and amount of open space or off-street parking, the location and type of landscaping material, the number of dwelling units or structures, or any other requirements of this chapter. An amendment which, in the opinion of the zoning official, represents a material change shall be referred to the planning commission for review and approval if the planning commission exercised original approval authority, or may be referred to the planning commission at the sole discretion of the zoning official.

(Ord. No. 152, 5-1-2006)

**Sec. 94-229. Extension of site plan approval.**

Approvals of preliminary site plans are valid for a period of six months. Only one extension of a preliminary site plan for an additional six months may be granted at the sole discretion of the approving authority. A preliminary site plan approval is deemed to have expired if an application for final site plan review and approval has not been submitted and accepted by the zoning official within six months of approval of the preliminary site plan. Approvals of a final site plan are valid for a period of 12 months. Only one extension of a final site plan may be granted for an additional 12 months at the sole discretion of the approving authority. A final site plan is deemed to have expired if a building permit has not been obtained for the development within 12 months of approval of the final site plan. A request to extend preliminary or final site plan validity shall be submitted prior to the expiration of the preliminary or final site plan.

(Ord. No. 152, 5-1-2006)

**Sec. 94-230. Conformance to approved site plan.**

A development project shall conform to the approved final site plan. Failure to conform to the approved final site plan shall constitute a violation of this chapter.

(Ord. No. 152, 5-1-2006)

**Sec. 94-231. Review standards for planning commission decision.**

(a) A decision rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

(b) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the conditions imposed under the zoning ordinance, other statutorily authorized and properly adopted local unit of government planning documents, other applicable ordinances, and state and federal statutes.

(Ord. No. 176, 5-4-2009)

**Secs. 94-232—94-240. Reserved.**

**DIVISION 2.**

**LANDSCAPE STANDARDS**

**Sec. 94-241. Landscape, screening and buffer requirements.**

(a) *Intent.* The intent of this section is to require landscape buffers and screening to reduce negative effects between incompatible land uses, to provide landscaping within parking areas, and to enhance aesthetic and ecological qualities, character, privacy, and land values. Landscape plans shall preserve, to the extent practical, the existing vegetation and ecological systems on the site.

(b) *Landscape plan submittal standards.*

(1) *Sketch plan.* The following information shall be provided:

- a. Name, address, phone number of the person who prepared the plan.
- b. All appropriate information required in subsection 94-225(d)(1)h.
- c. Location of existing significant vegetation to be saved and existing significant vegetation to be removed.
- d. Location, size, type, and quantity of proposed planting materials including botanical and common names.
- e. Location and description of proposed landscape materials and elements such as berms, walls, ponds, and tree wells.
- f. Proposed planting schedule.
- g. Proposed planting and staking details.
- h. Location and description of proposed screening and landscape treatment for refuse facilities.

(2) *Detailed plan.* The following information shall be provided:

- a. All applicable information required in subsection 94-241(b)(1).
- b. All applicable information required in subsection 94-225(d)(2)d.
- c. Minimum scale of one inch = 20 feet for sites of 20 acres or less.
- d. Minimum scale of one inch = 50 feet for sites of more than 20 acres.
- e. Drawings shall be sealed by a registered landscape architect licensed in the State of Michigan.



(c) *Landscape plan design standards.*

(1) All plant materials shall be hardy to the county, free of disease and insects and conform to the standards of the American Association of Nurserymen.

(2) All plant materials shall be installed in such a manner so as not to alter drainage patterns on-site or adjacent properties or obstruct vision for reasons of safety, ingress, or egress.

(3) All plant material shall be planted in a manner so as not to obstruct, interfere with, or cause damage to utility lines, public sidewalks and public roadways.

(4) Existing plant material which complies with the standards and intent of this chapter as determined by the designated site plan approval body may be credited toward meeting the landscape requirements.

(5) All shrub plant material shall be planned to achieve its horizontal and vertical effect within four years of installation.

(6) Clustering of trees and shrubs within the buffer zone is permitted.

(7) All plant materials shall comply with the list of preferred trees and shrubs and dimensional requirements as approved by the planning commission upon the recommendation of the tree commission of the city. The planning commission may allow substitutions.

(8) In addition to any required buffer area or parking lot landscaping, at least ten percent of the site area shall be landscaped with grasses and other live groundcovers, planting beds, and trees, or combinations thereof, and the site shall include a minimum of one tree per 10,000 square feet of disturbed land, or fraction thereof.

(d) *Installation, maintenance and completion.*

(1) All landscaping required by this chapter shall either be planted prior to obtaining a certificate of occupancy or secured by a performance guarantee in accordance with section 94-100 of this chapter.

(2) All landscaping and landscape elements shall be planted, and earth moving or grading performed, in accordance with generally accepted planting and grading procedures.

(3) The owner of property required to be landscaped by this chapter shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one year of damage or death or the next appropriate planting period, whichever comes first.

(e) *Buffer zone requirements.*

(1) A buffer zone shall be required on the subject parcel as indicated in table 100-4 in chapter 100.

(2) A parcel requiring a buffer zone shall comply with the buffer zone development standards set forth in subsection 94-241(f).

(3) If parcel dimensions and/or topography are such that a parcel cannot reasonably comply with the buffer zone standards of section 94-241(f), then the designated site plan approval body shall determine the character of the buffer based on the following criteria:

a. Traffic impact.

b. Increased building and parking lot coverage.

c. Increased outdoor sales, display, or manufacturing area.

d. Physical characteristics of the site and surrounding area including topography, vegetation, and other natural features.

e. Visual, noise, and air pollution.

f. Health, safety, and welfare.

g. Additional dwelling units and resulting density in a residential development.

h. The location and dimension of the existing easements on the site.

i. Any other criteria pertinent to the proposed use or character of the site.

(4) If two zoning districts requiring a buffer zone are separated by a street, the design of the buffer zone shall be determined by the designated site plan approval body.

(5) There shall be no planting of trees, shrubs, bushes, or other such permanent plants in the area of any public easement. Only grass or other ground cover approved by the zoning official shall be permitted.

(6) Any of the requirements of this section 94-241 may be waived or otherwise modified through site plan review and approval provided the approving body determines that specific characteristics of the site or site vicinity make such requirements unnecessary, inappropriate, or ineffective, or that such requirements would cause impaired vision at a driveway or street intersection. In addition, any of the requirements of this section 94-241 may be increased or otherwise modified through site plan review and approval provided the approving body determines that specific characteristics of the

site or site vicinity justify additional measures to mitigate the impacts of a proposed use.

(f) *Buffer zone development standards.*

(1) Required buffer zones shall comply with the following standards:

a. Buffer zone A.

1. Minimum width of five feet.
2. The buffer zone shall contain a minimum six-foot high screen comprised of plant material, deciduous or evergreen trees, berms, screen walls or fences, or any combination of these elements.
3. If berms are used for all or part of the buffer zone screen, the berm shall contain a minimum of one shrub for each ten linear feet of berm length, or fraction thereof. All required plant material shall be placed on the top and exterior side slope of the berm.
4. If a screen wall or fence is used for all or part of the buffer zone screen, a minimum of one shrub for each ten linear feet of wall or fence, or fraction thereof, shall be placed on the exterior of the wall or fence.
5. If plant material is used for all or part of the buffer zone screen, the screen shall consist of a minimum of four shrubs for each 20 linear feet of screen length or fraction thereof.
6. All areas outside of the planting beds shall be covered with grass or other living ground cover.

b. Buffer zone B.

1. Minimum width of ten feet.
2. The buffer zone shall contain one tree for each 30 linear feet of buffer zone length or fraction thereof. At least one-half of the total number of trees required within the buffer zone shall be canopy trees.
3. If berming is used for all or part of the buffer zone screen, the berm shall contain a minimum of one shrub for each ten linear feet of berm length, or fraction thereof. All required plant material shall be placed on the top and exterior side slope of the berm.
4. If a screen wall or fence is used for all or part of the buffer zone screen, a minimum of one shrub for each ten linear feet of wall or fence, or fraction thereof, shall be placed on the exterior side of the wall or fence.
5. If plant material is used for all or part of the required buffer zone screen, the screen shall consist of a minimum of four shrubs for each 20 linear feet of screen length or fraction thereof.
6. All areas outside of the planting beds shall be covered with grass or other living ground cover.

c. Buffer zone C.

1. Minimum width of 30 feet.
2. The buffer zone shall contain one tree for each 30 linear feet of buffer zone length or fraction thereof. At least one-half of the total number of trees required within the buffer zone shall be canopy trees.
3. The buffer zone shall contain a minimum six-foot high screen comprised of plant material, berming screen walls or fences, or any combination of these elements.
4. If berming is used for all or part of the buffer zone screen, the berm shall contain a minimum of one shrub for each ten linear feet of berm length, or fraction thereof. All required plant material shall be placed on the top and the exterior side slope of the berm.
5. If a screen wall or fence is used for all or part of the buffer zone screen, a minimum of one shrub for each ten linear feet of wall or fence, or fraction thereof, shall be placed on the exterior side of the wall or fence.
6. If plant material is used for all or part of the required buffer zone screen, the screen shall consist of a minimum of four shrubs for each 20 linear feet of screen length or fraction thereof. The shrubs shall be a minimum of 24 inches high at the time of planting.
7. All areas outside of the planting beds shall be covered with grass or other living ground cover.

d. Buffer zone D.

1. Minimum width of 50 feet.
2. The buffer zone shall contain one tree for each 20-linear feet of buffer zone length or fraction thereof. At least one-half of the total number of trees required within the buffer zone shall be canopy trees.
3. The buffer zone shall contain a minimum six-foot high screen comprised of plant material, berms, screen walls or fences, or any combination of these elements.
4. If berms are used for all or part of the buffer zone screen, the berm shall contain a minimum of one shrub for each ten linear feet of berm length, or fraction thereof. All required plant material shall be placed on the top and exterior side

slope of the berm.

5. If a screen wall or fence is used for all or part of the buffer zone screen, a minimum of one shrub for each ten linear feet of wall or fence, or fraction thereof, shall be placed on the exterior of the wall or fence.

6. If plant material is used for all or part of the buffer zone screen, the screen shall consist of a minimum of four shrubs for each 20 linear feet of screen length or fraction thereof. The shrubs shall be a minimum of 24-inches high at the time of planting.

7. All areas outside of the planting beds shall be covered with grass or other living ground cover.

(g) *Minimum standards for berms.*

(1) Berms shall be constructed so as to maintain a side slope not to exceed a one-foot rise to a three-foot run ratio.

(2) Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition.

(3) Berms shall be constructed in such a manner so as to not alter drainage on-site or on adjacent properties or obstruct vision for reasons of safety, ingress or egress.

(4) If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site. The planning commission may waive this requirement.

(5) Berms shall not encroach into the clear vision area at street intersections or driveway and property line intersections.

(h) *Minimum standards for screen walls and fences.*

(1) All screen walls and fences shall be constructed with new or re-manufactured, durable, weather resistant and easily maintainable materials. Chain link and barbed wire fences are not permitted.

(2) The wall or fence may be constructed with openings that do not exceed 20 percent of the wall surface. The openings shall not reduce the intended obscuring effect of the wall.

(3) Screen walls or fences shall not be constructed so as to alter drainage on-site or on adjacent properties.

(4) All fences, walls, or structural screens shall be a minimum of six feet in height.

(5) Screen walls or fences shall not be constructed or erected in a clear vision area.

(6) Detention/retention areas shall be permitted within the buffer zones provided they do not hamper the screening intent of the buffer or jeopardize the survival of plant materials.

(7) Solid waste dumpsters and recycling containers may be installed in the buffer zones provided they are screened in accordance with subsection 94-173(b)(3) of this chapter.

(i) *Off-street parking landscape development standards.*

(1) Required parking lot landscape areas shall comply with the following standards:

a. Off-street parking areas containing six or more parking spaces shall be provided with landscaping in accordance with the following:

1. Six through 50 spaces: One canopy tree and 50 sq. ft. of landscaped area per six spaces.

2. Fifty-one or more spaces: One canopy tree and 100 sq. ft. of landscaped area per eight spaces.

b. All landscaped areas shall be covered by grass, shredded bark, mulch, stone, or a living ground cover.

c. All landscaped areas shall contain at least one canopy tree.

d. The designated site plan approval body shall approve the location of required off-street parking area landscaping using the following criteria:

1. Landscaping shall be installed such that, when mature, it does not obscure traffic signs, fire hydrants, lighting, drainage patterns on-site or adjacent properties, or obstruct vision for reason of safety, ingress, or egress.

2. Trees shall be installed in such a manner that parked motor vehicles are shaded whenever possible.

3. Landscaping shall be dispersed throughout the parking lot in order to breakup large expanses of impervious surfaces.

4. At least one-half of the required trees shall be installed in the interior of the parking area. The interior shall be considered as any point ten feet or more from the outside boundary of the parking area.

e. All landscaped areas shall be protected by a raised standard or rolled concrete curb.

f. The planning commission may require that all parking areas in excess of 120 percent of the minimum required shall have a non-impervious surface and be designed to be harmonious with the surrounding landscaping.

(2) In no case shall any buffer zone be considered as part of the off-street parking landscaped area.

(Ord. No. 152, 5-1-2006)

**Secs. 94-242—94-260. Reserved.**

## **ARTICLE VIII. SITE CONDOMINIUM REGULATIONS**

### **Sec. 94-261. Intent and purpose.**

The intent of this article is to ensure that plans for site condominium developments within the city, proposed under the provisions of the Condominium Act (MCL 559.101 et seq.), shall be reviewed in the same manner and with the intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Land Division Act, (MCL 560.101 et seq.). It is also the intent of this section to ensure that such development is in conformance with the requirements of this chapter and other applicable local, state, and federal regulations.

(Ord. No. 152, 5-1-2006)

### **Sec. 94-262. General requirements and standards**

- (a) *Site plan required.* No building permit shall be issued for any unit, and no construction, grading, work, or other development shall be done upon any land intended to be used for a site condominium until a final site plan has been approved in accordance with division 1 of article VII of this chapter and the additional standards of this article.
- (b) *Permitted districts.* A site condominium development is permissible in all zoning districts.
- (c) *Equivalent of a lot.* The condominium unit and the limited common area reserved in the master deed for the exclusive use of the co-owner of that unit in a site condominium development are considered together as the functional equivalent of a standard subdivision "lot". (See figure 100-104 in chapter 100).
- (d) *Compliance with district regulations.* A site condominium development shall comply with the district regulations and dimensional requirements of the zoning district in which it is located.
- (e) *Condominium lot as basis of measurement.* Required yards shall be measured from the boundaries of a condominium lot. Ground floor coverage and floor area ratio shall be calculated using the area of the condominium lot.
- (f) *Water and sanitary sewer service.* Each condominium lot shall be connected to the water and sanitary sewer facilities of the city.
- (g) *Condominium unit boundary relocation.* Relocation of boundaries between adjoining condominium units if permitted in the condominium documents as provided in Section 48 of the Condominium Act (MCL 559.148), shall comply with all regulations of the zoning district in which located and shall be approved by the planning commission. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
- (h) *Condominium lot split.* Each condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents as provided in Section 49 of the Condominium Act (MCL 559.149), shall comply with all regulations of the zoning district in which located and shall be approved by the planning commission. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.
- (i) *Compliance with subdivision ordinance.* All site condominium projects shall conform to the applicable standards of article II of chapter 74.
- (j) *Amendment to master deed or bylaws.* Any amendment to a master deed or bylaws that affects the approved final site plan, shall be reviewed and approved by the original approving authority of the city before the issuance of a building permit or the recording of the revised master deed or bylaws.
- (k) *Development agreement.* The city may require, as a condition of approval, that the applicant enter into a development agreement incorporating the terms and conditions of final site plan approval and record the same in the office of the county register of deeds.
- (l) *Construction located in general common element.* Any application for a building permit for construction to be located in a general common element shall include written authorization by the condominium association.
- (m) *Monuments and lot irons.* Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points. Lot irons shall be set at all condominium lot corners and deflection points of condominium lot lines. The city may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year, on condition that the developer deposit with the city clerk a performance guarantee in accordance with section 94-100 of this chapter in an amount determined by resolution of the city council. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the state that the monuments and irons have been set as required and within the time specified. If the developer defaults, the city council shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans at a cost not to exceed the amount of the performance guarantee.

(Ord. No. 152, 5-1-2006)

**Sec. 94-263. Approval required.**

All proposals to divide property other than according to the Land Division Act (MCL 560.101 et seq.) or article II of chapter 74, must comply with this article.

**Sec. 94-264. Preliminary site plan requirements.**

(a) *Filing.* The preliminary site plan shall be filed for review and approval in accordance with division 1 of article VII of this chapter.

(b) *Information required.* In addition to the standards of division 1 of article VII of this chapter, the following shall be provided with the preliminary site plan:

(1) The boundaries of all condominium units, limited common elements, general common elements, and building envelopes.

(2) Statements regarding the use and occupancy restrictions and maintenance provisions for all general and limited common elements as will be contained in the master deed.

(Ord. No. 152, 5-1-2006)

**Sec. 94-265. Final site plan requirements.**

(a) *Filing.* The final site plan shall be filed for review and approval in accordance with division 1 of article VII of this chapter.

(b) *Information required.* A final site plan shall include a condominium subdivision plan including all information required in section 66 of the Condominium Act (MCL 559.166) and the master deed and by-laws.

(c) *Agency approval.* The applicant shall provide proof of approval by all local, state, and federal agencies having jurisdiction over the improvements in the site condominium development, including the county drain commissioner, county road commission, and the county health department.

(d) *Amendments to master deed or bylaws.* Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, shall be reviewed and approved by the original approving body before any building permit may be issued where such permit is required.

(e) *Rights-of-way and utility easements.* All rights-of-way and utility easements shall be described separately from individual condominium lots and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities. The developer shall dedicate to the appropriate agency all easements for utilities. All roads shall be constructed in accordance with the standards of the city. Water, sewer and electrical easements may be placed within streets, subject to the approval of the city and the county road commission as applicable.

(Ord. No. 152, 5-1-2006)

**Secs. 94-266--94-290. Reserved.**

**ARTICLE IX. OFF-STREET PARKING AND LOADING REGULATIONS**

**Sec. 94-291. Intent and purpose.**

It is the intent of this article that automobile parking spaces shall be provided and adequately maintained for the off-street storage of motor vehicles by occupants, employees, and patrons of each building and premise constructed, altered or enlarged under the provisions of this chapter. The number of off-street parking spaces prescribed in conjunction with all land or building uses shall be provided prior to the issuance of a certificate of occupancy.

(Ord. No. 152, 5-1-2006)

**Sec. 94-292. General off-street parking and loading requirements.**

(a) *Application of floor area.* The term usable floor area (UFA) shall be applied as defined in chapter 1.

(b) *Fractional space.* When units of measurement determining the number of required parking spaces result in a fractional space, any fraction above one-half shall require one parking space.

(c) *Requirements for a use not mentioned.* In the case of a use not specifically mentioned in this article, the zoning official shall determine the requirements of off-street parking based upon a similar listed use.

(d) *Use of parking areas.*

(1) The storage of merchandise, inoperable motor vehicles, motor vehicles for sale, and the commercial service or repair of vehicles in parking areas is prohibited.

(2) Parking areas once designated shall not be changed to any other use unless and until equal space facilities are provided elsewhere subject to planning commission approval.

(3) Parking and storage of certain vehicles. In residential zoning districts, the storage of commercial vehicles shall be limited to one vehicle per residential dwelling which shall not exceed a G.V.W.R. of 15,000 pounds. Further, such commercial vehicles must be owned and operated by a member of the family residing in said dwelling and shall not be used for hauling garbage or refuse or other objectionable matter.

(e) *Building additions or other changes in floor area* Whenever a use requiring off-street parking is increased in floor area, or when interior building modifications result in an increase in capacity for any such use, additional parking shall be provided and maintained in the proper ratio to the increased floor area or capacity.

(f) *Joint use of parking areas.* The joint use of parking facilities by two or more uses may be granted by the zoning official or the planning commission for uses requiring site plan review by the planning commission whenever such joint use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design, and construction are met.

(1) *Computing capacities.* The space requirement for jointly used parking facilities shall be the sum of the individual requirements. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint use may be reduced below the sum total of the individual space requirements at the sole discretion of the zoning official, but shall not be reduced below the largest single use requirement.

(2) *Record of agreement.* An agreement between joint users shall be made a condition of site plan approval and a copy of such agreement shall be filed with the application for a building permit and recorded with the Register of Deeds of Ingham County. The agreement shall include a guarantee for continued use and maintenance of the parking facility by each party.

(g) *Parking space requirements.*

(1) Table 100-5 in chapter 100 sets forth the minimum standards for the number of parking spaces required by type of land use.

(2) *Parking space deferment.* Where the property owner can demonstrate that the required amount of parking is excessive, the site plan approving body may waive the parking requirement and approve a parking area smaller than required. The parking area waived shall be designated as reserved parking area for possible future use. The site plan approving body may subsequently require the applicant to construct additional parking spaces upon a determination by said body that the reduced number of parking spaces is not adequate to meet the parking needs of the use and public safety and welfare is at risk. Upon such a determination, the applicant shall convert the reserved parking area into available parking spaces in compliance with said determination and the requirements of this article within six months of being so directed in writing by the zoning official. The approved site plan shall clearly identify the location of this reserved parking area including dimensions and dotted parking space layout, and no buildings, structures, or similar improvements shall be established in the reserved parking area. A notice clearly identifying the location and number of reserved parking spaces should be recorded with the Ingham County Register of Deeds by the owner as a condition of final site plan approval. This discretion shall be guided by the basis of determination set forth at section 94-191(f). This subsection shall apply only to office, commercial, and industrial uses that are required to provide more than 50 parking spaces.

(h) *Location of parking areas* All off-street parking areas shall be located on the same lot, or on the adjacent premises in the same district as the use they are intended to serve, with the following exceptions:

(1) Uses in the C-1 district. There shall be no off-street parking space requirements in the C-1 district for those uses which require 20 or less off-street parking spaces. Uses requiring more than 20 off-street parking spaces shall have their parking requirement determined by the planning commission. In making such a decision, the planning commission shall consider the availability of both public and private parking spaces.

(2) Uses in C-2 and C-3 districts. Parking on the premises or within 400 feet.

(3) Uses in M-1 and M-2 districts. Parking on the premises or within 800 feet.

(4) Public and quasi-public buildings, places of assembly, private clubs, associations and institutions. Parking on the premises or within 400 feet.

(i) *Parking lot plan review.* Whenever six or more off-street parking spaces are required for a given use, plans and specifications for the construction or alteration of an off-street parking area shall be submitted to the zoning official before a building permit can be issued. Such plans and specifications shall indicate, to the satisfaction of the zoning official, the location, basis of capacity calculation, size, site design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, landscaping, and any other detailed feature essential to the complete design and construction of the parking area.

(j) *Site development standards.* All off-street parking areas shall be designed, constructed and maintained in accordance with the following standards and requirements:

(1) Parking in the required front yard is prohibited in the RM, C-1, O-1, and O-2 districts. For residential uses in the AG, RS-1, RS-2, RS-3, and R2F districts, that portion of a regularly constructed driveway extending in front of the required front yard setback line may be used for parking by up to two passenger vehicles. Front yard parking in the C-2, C-3, M-1, and M-2 districts is prohibited except upon a finding by the planning commission that such parking is a critical component of the operation of the particular use and that adequate provisions are included for the screening and landscaping of such parking area.

(2) Required parking areas including driveways shall be constructed from materials that provide a durable smooth and

dustless surface, shall be drained properly, and shall be maintained in a safe and usable condition.

(3) A minimum area of 200 square feet with a minimum width of ten feet shall be provided for each vehicle parking space. Each space shall be definitely designated and reserved for parking purposes exclusive of space requirements for adequate ingress and egress. The planning commission may allow up to 20 percent of the spaces to be a minimum of 180 sq. ft. with a minimum width of nine feet in those cases where more than 40 spaces are required. For property zoned or used as single-family or two-family residential, the required minimum width shall be nine feet.

(4) Parking areas shall be so designed and marked as to provide for orderly and safe movement and storage of vehicles.

(5) Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided. Except for parking space provided for residential uses in the RS-1, RS-2, and RS-3 zones, drives for ingress and egress to the parking area shall be not less than 20 feet wide. For parking space provided for residential uses in the R2F zone, the zoning official may require a specified minimum drive width up to 20 feet for ingress and egress to the parking area if found necessary to ensure public safety due to the drive location, configuration, and visibility along the drive.

(6) Each parking space, within an off-street parking lot, shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. The width of required maneuvering lanes may vary depending upon the proposed parking pattern, as follows:

a. For right angle parking patterns 75 to 90 degrees, the maneuvering lane width shall be a minimum of 20 feet for one-way traffic movement or a minimum of 24 feet for two-way traffic movement.

b. For parking patterns 54 to 74 degrees, the maneuvering lane width shall be a minimum of 15 feet.

c. For parking patterns 30 to 53 degrees, the maneuvering lane width shall be a minimum of 12 feet.

d. All maneuvering lane widths shall permit one-way traffic movement, except for the 90-degree pattern which may provide for two-way traffic movement.

e. Except for property used as residential in the RS-1, RS-2, RS-3, and R2F districts, adequate lighting shall be provided throughout the hours when the parking area is in operation. All lighting shall be so arranged as to reflect light away from any residential property adjacent to the parking area and any adjacent road or street.

f. Where a parking area or drive with a capacity of six or more vehicles adjoins a residential district, a landscaped buffer strip at minimum equivalent to the requirements of subsection 94-241(f)(1)b. of this chapter shall be provided between the parking area and the adjoining property.

(7) Parking for the disabled shall comply with the State of Michigan Barrier Free Rules, Public Act No. 1 of 1966, as amended. For uses where there may be a higher number of persons with disabilities, such as medical uses or senior housing, the site plan approving body may require a larger proportion of the parking spaces be barrier-free.

(k) *Signs.* Parking area signage shall comply with applicable local, state and federal regulations.

(Ord. No. 152, 5-1-2006; Ord. No. 230, 9-28-2020)

#### **Sec. 94-293. Loading and unloading space requirements.**

(a) *Intent and purpose.* Every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, restaurant, tavern and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide space on the premises for that number of delivery vehicles that will be at the premises at the same time on an average day of full use.

(b) *Additional parking space.* Loading space required under this chapter shall be in addition to off-street parking space required under this chapter.

(c) *Space requirements.* Adequate space shall be provided for loading and unloading services not less than 12 feet in width, 25 feet in length, and 14 feet in height, open or enclosed, for uses listed in table 100-6 in chapter 100, or for similar uses involving the receipt or distribution by vehicles of materials or merchandise. There shall be no requirement of loading or unloading space in the C-1 district for property with direct access to an alley.

(d) *Access.* Access to loading and unloading space shall be provided directly from a public street or alley and such space shall provide sufficient off-street maneuvering space as well as adequate ingress and egress to and from a street or alley.

(e) *Site requirements.* Off-street loading spaces and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. Where any off-street loading space adjoins or abuts a lot used for residential, educational, recreational, or religious purposes, or abuts a residential district, a wall or solid fence not less than four feet in height shall be provided between the off-street loading space and said residential, educational, recreational, or religious lot or residential zone.

(Ord. No. 152, 5-1-2006)

#### **Secs. 94-294—94-320. Reserved.**

## **ARTICLE X. NONCONFORMING USES OF LAND AND STRUCTURES**



**Sec. 94-321. Intent and purpose.**

The intent of this article is to regulate an existing use, structure, or lot, or any combination thereof, which does not conform to the terms and conditions provided in this chapter. Further this article intends to allow the continuation of lawful nonconforming uses while securing the gradual elimination of all such uses over time. It is recognized that lots, structures, and uses of land and structures exist which were lawful before this chapter was adopted, or amended, and which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments.

(Ord. No. 152, 5-1-2006)

**Sec. 94-322. Nonconforming lot.**

On any lot legally created and recorded prior to the effective date of this chapter, or an amendment thereof, which is made non-compliant with the requirements for lot area, lot width, or lot depth-to-width ratio prescribed by this chapter and chapter 74, a single-family dwelling and customary accessory structures may be erected, provided that:

- (1) Single-family dwellings are permitted by right in the applicable zoning district.
- (2) All other requirements for the applicable zoning district are met.
- (3) No adjacent lot or undeveloped land is owned by the owner of the lot in question.

(Ord. No. 152, 5-1-2006)

**Sec. 94-323. Nonconforming use of land.**

Where a lawful use of land exists on the effective date of this chapter, or an amendment thereof, that is made no longer permissible under the requirements of this chapter, such use may be continued, so long as it remains otherwise lawful, and provided no such nonconforming use, structure, or lot shall be enlarged, increased or extended.

(Ord. No. 152, 5-1-2006)

**Sec. 94-324. Nonconforming structure.**

Where a lawful structure exists on the effective date of this chapter, or an amendment thereof, that is made no longer permissible under the requirements of this chapter by reason of dimensional restrictions on lot area coverage, height, yards or other characteristics of the structure or location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity, but the use of a structure and/or the structure itself may be changed or altered to a use permitted in the district in which it is located, provided that all such changes are also in conformance with the requirements of the district in which it is located.
- (2) Should such a structure be destroyed by any means to an extent equivalent to more than 50 percent of twice the state equalized value (SEV) at the time of destruction, it shall be reconstructed only in conformance with the provisions of this chapter except that a nonconforming structure used as a single-family dwelling may be reconstructed as a single-family dwelling provided the nonconformity is not enlarged or increased.
- (3) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(Ord. No. 152, 5-1-2006)

**Sec. 94-325. Change in nonconforming use.**

In any nonresidential district, notwithstanding other requirements of this chapter, a nonconforming use may be changed to another nonconforming use of the same or a lesser intensity of use, provided that no structural alterations are made and that a special use permit is granted in accordance with article VI of this chapter.

(Ord. No. 152, 5-1-2006)

**Sec. 94-326. Repair and maintenance.**

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12-consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of twice the state equalized value (SEV) of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter 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 thereof declared to be unsafe by any official charged with protecting the public safety.

(Ord. No. 152, 5-1-2006)

**Sec. 94-327. Change of tenancy or ownership.**

As long as there is no change in the characteristics or increase in the intensity of the nonconforming use, a change of

tenancy or ownership is allowed.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-328. District zoning change.**

Whenever the boundaries of a zoning district shall be changed, the provisions of this article shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-329. Increase in nonconformity.**

Nonconforming buildings or structures may be structurally changed, altered, or enlarged in a way which increases nonconformity only with the approval of a variance by the zoning board of appeals in accordance with the provisions of article XI of this chapter and Section 5 of the City and Village Zoning Act (MCL 125.585). When considering such a request, the proofs the board shall accept as proof of practical difficulty, shall include the following:

(1) A board finding that failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status.

(2) A board finding that the subject structure possesses historical significance and that the requested variance is necessary to maintain or enhance the utility or safety of the structure.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-330. Illegal use.**

Uses of structures or land existing on June 10, 2001 that were established without approval of zoning compliance or without a valid building permit or special use permit, and those uses which cannot be proved conclusively as existing prior to the effective date of this chapter shall be declared illegal uses and are not entitled to the status and rights accorded legally established nonconforming uses.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-331. Abandonment of use.**

(a) A nonconforming use, land, or structure which is discontinued for 12-consecutive months shall lose its nonconformity status, shall not be resumed and shall thereafter only be used in a manner which meets all the provisions of the district in which it is located.

(b) Failure to continue to use any nonconforming land or structure for 12-consecutive months, shall be prima facie proof of an intention to legally abandon the nonconformity.

(c) If a nonconformity is in probate, foreclosure or bankruptcy, and during the period of probate, foreclosure or bankruptcy the use is abandoned, such period of abandonment shall not be used to calculate the time described in subsections 94-331(a) and 94-331(b) hereof, up to a maximum of three years.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-332. Appeal.**

Any decision regarding any nonconformity may be appealed to the zoning board of appeals within the time limits and according to the procedures provided by article XI of this chapter.

(Ord. No. 152, 5-1-2006)

#### **Secs. 94-333—94-360. Reserved.**

## **ARTICLE XI. ZONING BOARD OF APPEALS**

#### **Sec. 94-361. Creation and membership.**

The zoning board of appeals is hereby established in accordance with Public Act No. 207 of 1921 (MCL 125.581 et seq.). In the performance of assigned duties and the exercise of assigned powers, the zoning board of appeals shall function such that the objectives of this chapter may be equitably achieved.

(1) *Members.* The zoning board of appeals shall consist of seven members each appointed by the city council for a term of three years, except that the term of a member serving because of their being a member of the city council shall be limited to the time they are a member of the council. One regular or alternate member may be a member of the city council but shall not serve as chairperson of the zoning board of appeals. The remaining members shall be selected from the electors of the city. The members selected shall be representative of the population distribution and of the various interests present in the city.

(2) *Alternate members.* The city council may appoint not more than two alternate members for the zoning board of appeals each appointed for a term of three years. An alternate member shall be called on a rotating basis to sit as a regular

member of the zoning board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a particular case in which the regular member has abstained for reasons of conflict of interest. Once having been called to serve, an alternate member shall serve as a regular member in the consideration of that particular case until a final decision has been made.

(3) *Removal.* 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 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.

(4) *Participation by dual members.* 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 such member voted on as a member of the planning commission or city council. However, such member may consider and vote on other unrelated matters involving the same property.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006; Ord. No. 176, 5-4-2009)

#### **Sec. 94-362. Organization and procedure.**

(a) *Meetings.* Four members of the zoning board of appeals shall comprise a quorum for the purpose of conducting a meeting. Meetings shall be held at the call of the chairman or the zoning official in writing delivered to the addresses of each member of the board. All meetings shall be open to the public. The city manager or a designee shall act as secretary of the board.

(b) *Records.* Minutes of all meetings shall be recorded and made available in accordance with the Michigan Open Meetings Act (MCL 15.261 et seq.) and shall contain the grounds of every determination made by the zoning board of appeals including all evidence and data considered, all findings of fact and conclusions drawn, the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the city clerk and shall be available to the public. The record of proceedings for the zoning board of appeals shall contain the following information when applicable:

- (1) The application for an appeal, variance, or interpretation.
- (2) Any reports, plans, surveys or photos.
- (3) Notice of public hearing delivered to affected parties and published in a newspaper.
- (4) Affidavit of publication of notice of public hearing.
- (5) Letter from the zoning official granting or denying the application or referring it to the zoning board of appeals and all other relevant records related to the case.
- (6) Record of testimony heard and evidence presented.
- (7) A copy of the zoning articles and sections in question.
- (8) Briefs, correspondence or other communications made to the zoning board of appeals.
- (9) Statement of facts found by the zoning board of appeals, of its own knowledge, regarding the request including any information gained from personal inspection.
- (10) Decision of the zoning board of appeals as specifically related to the findings of fact.
- (11) A copy of any other correspondence to the appellant regarding the request.

(c) *Counsel.* The city attorney shall provide legal counsel to the zoning board of appeals when requested. Special legal counsel may be retained for the zoning board of appeals for any purpose deemed necessary provided that such appointment or retainer shall be approved in advance by the city council.

(d) *Decisions.* The zoning board of appeals shall return a decision on a case within a reasonable time after the hearing on an application or appeal unless a reasonable extension of time is deemed necessary by a majority of the members present. Any decision of the zoning board of appeals shall not become final until the expiration of five days from the date of the decision unless the zoning board of appeals shall find the immediate effect of the decision is necessary for the preservation of property or personal rights and shall so certify on the record.

(e) *Deferment by applicant.* When considering an appeal pursuant to subsection 94-363(a), or a variance pursuant to subsection 94-363(b), the zoning board of appeals shall defer all proceedings upon the request of the applicant when less than six members of the zoning board of appeals are present for consideration of and voting on said appeal or variance. The right of deferment shall be considered waived by the applicant if deferment is not requested immediately upon the opening of the hearing on the matter. When deferment is requested as required, the zoning board of appeals shall, at that time, determine the date of a future regular or special meeting for the continuation of the hearing and consideration of the matter. Notice previously given for the original hearing date shall constitute notice of the future hearing date with no further notice required.

(Ord. No. 152, 5-1-2006; Ord. 222, § 61, 12-3-2018)

#### **Sec. 94-363. Duties and powers.**

(a) *Appeals.* Upon direct application, the zoning board of appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the zoning official in accordance with section 94-364 of this chapter.

(b) *Variances.* Upon direct application, the zoning board of appeals shall have original jurisdiction to grant a variance from such dimensional requirements as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, and off-street parking and loading space requirements. A variance shall be granted only in accordance with section 94-365 of this chapter.

(c) *Interpretation.* The zoning board of appeals shall have the power to:

- (1) Interpret the provisions of this chapter so as to carry out the intent and purpose of this chapter.
- (2) Determine the precise location of the boundary lines between zoning districts.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-364. Appeals.**

(a) *Letter of appeal.* Except as otherwise provided by rule of the board of appeals, a letter of appeal shall be filed with the zoning official within ten days after the action causing the complaint. The appeal shall state the order or interpretation appealed from, specify the grounds for the appeal and specify the basis for standing to appeal.

(1) *Standing to appeal.* An appeal may be taken by a person aggrieved or by an officer, department, board, or bureau of the city.

(2) *Record of action.* Upon receipt of a letter of appeal, the zoning official shall immediately transmit to the secretary of the zoning board of appeals the letter of appeal and all documents constituting the record of the action upon which the appeal is based.

(3) *Fee.* A fee as established by resolution of the city council shall be paid before an appeal shall be considered filed.

(4) *Acceptance.* The secretary of the zoning board of appeals shall determine, pursuant to this chapter, if a letter of appeal is accepted as being filed in proper form, including the required data and fee. If the letter of appeal is not accepted as being in proper form, the letter of appeal and fee shall be returned by first class mail or hand delivery to the appellant within seven days of filing with the zoning official along with a written explanation of the insufficiency of the letter of appeal.

(b) *Public hearing.*

(1) When a letter of appeal has been accepted by the secretary of the zoning board of appeals, a public hearing shall be scheduled at the next regularly scheduled meeting or, at the discretion of the secretary, at a special meeting of the zoning board of appeals. Unless otherwise provided by rule of the board of appeals, the scheduled date of the hearing shall be no more than 45 days from acceptance of the appeal.

(2) Notice of the hearing shall be given pursuant to section 94-101 of this chapter.

(c) *Action on appeal.* The zoning board of appeals may affirm, reverse wholly or partly, or modify the order, requirement, decision, or determination appealed. When action is taken to modify said order or interpretation, the board shall, to that end, have all of the powers of the zoning official.

(d) *Majority vote.* The concurring vote of a majority of the members appointed to and serving on the zoning board of appeals shall be necessary to reverse any order, decision, or determination of the zoning official.

(e) *Stay of proceedings.* An appeal accepted pursuant to subsection 94-364(a) stays all proceedings relative to the order, requirement, decision, or determination appealed unless the zoning official certifies to the zoning board of appeals that a stay would cause imminent peril to life or property. Said certificate of imminent peril shall state by reasons of fact why proceedings shall not be stayed. Upon certification by the zoning official, proceedings shall not be stayed except by a restraining order issued by the board or by the circuit court.

(Ord. No. 152, 5-1-2006)

#### **Sec. 94-365. Variances.**

(a) *Variance application and fee.* An application for variance shall be filed with the zoning official along with a fee as established by resolution of the city council. The zoning official shall immediately forward the application for variance to the secretary of the zoning board of appeals. The secretary of the zoning board of appeals shall determine, pursuant to this chapter, if the application is accepted as being filed in proper form, including the required data and fee. If the application is not accepted as being in proper form, the application and fee shall be returned to the appellant within seven days of filing with the zoning official along with a written explanation of the insufficiency of the letter of appeal.

(b) *Public hearing.*

(1) When an application for variance has been accepted by the secretary of the zoning board of appeals, a public hearing shall be scheduled at the next regularly scheduled meeting or, at the discretion of the secretary, at a special meeting of the zoning board of appeals. The scheduled date of the hearing shall be no more than 45 days from acceptance of the application for variance.

(2) Notice of the hearing shall be given pursuant to section 94-101 of this chapter.

(c) *Basic conditions.* A variance may be granted only when the variance application and other factual evidence demonstrate all of the following:

(1) The variance must be granted in order to avoid practical difficulties not created by the applicant that would result from strict application of the letter of this chapter.

(2) A variance will not permit the establishment within a zoning district of any use not permitted within the district.

(3) A variance will not cause a substantial adverse effect to property or improvements in the zoning district and the immediately surrounding neighborhood.

(4) A variance will not be contrary to the public interest and will insure that the spirit and intent of this chapter will be observed, public safety secured, and substantial justice done.

(5) There is no lesser variance than that applied for which would give substantial relief to the applicant.

(d) *Additional conditions.*

(1) The zoning board of appeals may specify reasonable conditions on the approval of a variance which will substantially secure the objectives of the regulations to which the variance applies, be related to the standards established in the chapter for the land use or activity under consideration, and be necessary to ensure compliance with those standards. The conditions may include those necessary to ensure the public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by user activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. The breach of any condition shall invalidate the variance.

(2) A variance granted shall be the minimum necessary to relieve the practical difficulty.

(3) The zoning board of appeals may require that a performance guarantee be provided as a condition of approval in granting any variance as allowed in this article. The performance guarantee shall be provided in accordance with section 94-100 of this chapter.

(e) *Majority vote.* The concurring vote of a majority of the members appointed to and serving on the zoning board of appeals shall be necessary to grant a variance.

(Ord. No. 152, 5-1-2006)

**Secs. 94-366—94-390. Reserved.**

## ARTICLE XII. AMENDMENTS

### **Sec. 94-391. Intent and purpose.**

The purpose of this article is to provide for the amendment of this chapter when provisions become obsolete, when identifiable conditions change in relation to the provisions of this chapter, when errors in this chapter are discovered, when changes are made in the master plan, or when the city council has determined a public interest exists.

(Ord. No. 152, 5-1-2006)

### **Sec. 94-392. Amendment initiation.**

An amendment to this chapter may be initiated by the city council, by the planning commission, or by petition of one or more persons having an interest in property located within the jurisdiction of this chapter.

(Ord. No. 152, 5-1-2006)

### **Sec. 94-393. Filing fee.**

The city council shall establish by resolution a fee to be paid in full at the time of receipt of any petition to amend this chapter. Said fee shall be collected by the city clerk and no part shall be refundable to the applicant. No fee shall be charged when the petitioner is a governmental body.

(Ord. No. 152, 5-1-2006)

### **Sec. 94-394. Amendment procedures.**

(a) The planning commission shall adopt an application form to be completed and filed with the city clerk by the person or persons petitioning for the change. An application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for amendment.

(b) The petitioner shall submit to the city clerk a complete application, not less than 45 days before any regular meeting of the planning commission.

(c) The zoning official shall review the application for completeness. Any application not properly filed or complete shall be returned to the applicant. Complete applications shall be transmitted to the planning commission.



(d) The zoning official shall notify the following agencies within five days of receipt of a proper application from a petitioner or introduction of an ordinance by the city council to amend this chapter, requesting their comments and recommendations:

(1) Each electric, gas and pipeline public utility company, each telecommunication service provider, and each railroad within the district or zone that registers the name and address of such entity with the city clerk for the purpose of receiving notice of public hearings.

(2) City manager and city department directors.

(3) City engineer

(4) Superintendent of Mason Public Schools.

(5) County drain commissioner.

(6) County health department.

(7) County road commission.

(8) The airport manager of each airport that registers its name and mailing address of such entity with the city clerk for the purpose of receiving notice of public hearings.

(9) Other governmental units and agencies deemed appropriate by the zoning official.

(e) The above mentioned review agencies may submit comments and recommendations on the proposed amendment within 35 days of receipt of notice. If no written correspondence is received by the zoning official within said 35 calendar days, the planning commission shall presume that the review agency has no objections to the proposed rezoning.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006; Ord. 222, § 62, 12-3-2018)

#### **Sec. 94-395. Public hearing.**

(a) The planning commission shall hold a public hearing on the proposed amendment, not less than 45 days or more than 60, after receipt of an application or introduction of an amendatory ordinance.

(b) The city clerk shall give notice of time and place of the public hearing pursuant to section 94-101 of this chapter and the further requirements of MCL 125.3103.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006; Ord. No. 176, 5-4-2009)

#### **Sec. 94-396. Planning commission recommendations.**

(a) In reviewing any application for an amendment to this chapter, the planning commission shall identify and evaluate all factors relevant to the application, and shall report its finding in full along with its recommendations for disposition of the application, to the city council within 60 days of receipt of an application or proposed amendment. The matters to be considered by the planning commission shall include the following findings of fact:

(1) Compliance with the master plan of the city.

(2) What, if any, identifiable conditions related to the proposed amendment have changed which justify the proposed amendment?

(3) What, if any, error in judgment, procedure or administration was made in the original chapter which justifies the petitioner's change in zoning?

(4) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?

(5) What is the impact of the amendment on the ability of the city and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved?

(6) Does the proposed amendment adversely affect the value of the surrounding property?

(7) Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built? Examples include:

a. Surface water drainage problems.

b. Wastewater disposal problems.

c. Adverse effect on surface or subsurface water quality.

d. The loss of valuable natural resources, such as forest, wetlands, historic sites, wildlife, mineral deposits or valuable agricultural land.

(8) The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located.

(b) All findings of fact shall be made a part of the public records of the meetings of the planning commission. The planning

commission shall transmit its findings of fact, a summary received at the public hearing and its recommended action to the city council.

(Ord. No. 152, 5-1-2006)

**Sec. 94-397. Consideration by the city council.**

Upon receipt of a report and summary of hearing comments from the planning commission, the city council may hold an additional public hearing, if it considers it necessary or, if otherwise required by law. The city council shall grant a hearing on a proposed ordinance amendment to an interested property owner who requests a hearing by certified mail addressed to the city clerk, and may proceed to adopt the amendment in accordance with the Charter provisions. The hearing at the request of an interested property owner is not subject to the requirements of section 94-101, except that notice of the hearing shall be given to the interested property owner in the manner required by subsection 94-101(2)a and (3). If the city council considers further changes desirable, which are in addition to, or departures from the proposed amendment, it may first refer the matter back to the planning commission for a further report.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006; Ord. No. 176, 5-4-2009)

**Sec. 94-398. Protested amendment.**

Upon presentation of a protest petition which meets the requirements of this section, an amendment to the zoning chapter which is the object of the petition shall be passed only by a two-thirds vote of the city council. The protest petition shall be presented to the city council before final legislative action on the amendment, and shall be signed by one of the following:

- (1) The owners of at least 20 percent of the area of land included in the proposed change.
- (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
- (3) For purposes of this section, publicly owned land shall be excluded in calculating the 20 percent land area requirement.

(Ord. No. 152, 5-1-2006)

**Sec. 94-399. Notice of adoption.**

Following adoption of a new zoning ordinance or an amendment to the existing zoning ordinance by the city council, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

- (1) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the city council of the city of Mason".
- (2) In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
- (3) The effective date of the new ordinance or ordinance amendment.
- (4) A copy of the notice of adoption shall be mailed to the airport manager of an airport entitled to notice under section 94-394(d)(8).
- (5) The place and time where a copy of the ordinance may be purchased or inspected.

(Ord. No. 152, 5-1-2006; Ord. No. 157, 11-6-2006)

**Sec. 94-400. Effective date.**

The amendment shall become effective immediately upon publication of the notice of adoption in a newspaper of general circulation within the city unless an effective date subsequent to publication is specifically provided in the amendatory ordinance.

(Ord. No. 152, 5-1-2006)

**Secs. 94-401—94-430. Reserved.**

**ARTICLE XIII. CONFLICTING ORDINANCES AND INTERPRETATION**

**Sec. 94-431. Conflicting ordinances.**

This chapter is not intended to abrogate or annul any ordinance, rule, regulation, permit, easement, covenant, or other private agreement previously adopted, issued, or entered into and not in conflict with the provisions of this chapter.

(Ord. No. 152, 5-1-2006)

**Sec. 94-432. Interpretation.**



In the interpretation, application, and enforcement of this chapter, whenever any of the provisions or limitations imposed or required herein are more stringent than any other law, ordinance, rule, or regulation, then the provisions of this chapter shall govern, provided that whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this chapter, then the provisions of such other law or ordinance shall govern.

(Ord. No. 152, 5-1-2006)