

Chapter 28 - ZONING

Footnotes:

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Charter reference— *Commission's powers of zoning, serial section 65.***Cross reference**— *Administration, Ch. 2; buildings and building regulations, Ch. 5; community development, Ch. 8; fire prevention and protection, Ch. 10; housing, Ch. 14; planning, Ch. 20; water and sewers, Ch. 27.***State Law reference**— *Authority to regulate land use, MCL 125.581 et seq.*

ARTICLE I. - IN GENERAL

Sec. 28-1. - Title.

This chapter shall be known and may be cited and referred to as the City of Jackson Zoning Chapter.

(Code 1977, § 5.2)

Sec. 28-2. - Purpose.

This chapter is enacted to preserve and promote the public health, safety and general welfare, and for the following more particularly specified purposes:

- (1) To protect the character and stability of residential, commercial, industrial and recreational areas within the city, and to promote the orderly development of such areas.
- (2) To prevent overcrowding the land and undue congestion of population.
- (3) To regulate the location of buildings and the use of buildings and land adjacent to streets and thoroughfares.
- (4) To promote environmental quality and prevent the contamination of the city's natural resources.
- (5) To guide and regulate future growth and development of the city in accordance with the city's land use plan.
- (6) To seek achievement of other objectives authorized by law.

(Code 1977, § 5.3)

Sec. 28-3. - Scope.

- (a) Any of the following that occur after October 20, 1988 are subject to all applicable regulations in the chapter:
 - (1) The erection of any new building or structure.
 - (2) A change in the use of any lot, building or structure.
 - (3) The alteration of any building or structure.
- (b) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building or structure on which actual construction was lawfully begun prior to the effective date of adoption, or amendment of the ordinance under which construction was lawfully commenced, provided that construction shall be completed within three hundred sixty-five (365) days of such effective date and be subject thereafter to the provision for nonconforming uses in this chapter.
- (c) The adoption of this chapter shall not limit the construction of any building or structure for which a zoning compliance permit had been obtained before the effective date of adoption or amendment of the ordinance under which construction was lawfully commenced even though such building or structure does not conform to the

provisions of this chapter, provided that work shall commence and be carried on within thirty (30) days of obtaining such permit and be subject thereafter to the provisions for nonconforming uses in this chapter.

(Code 1977, § 5.4)

Sec. 28-4. - Interpretation and application.

- (a) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or provisions of this Code, this chapter shall control.
- (b) Words, phrases and terms defined in this chapter shall be given the defined meaning. Words, phrases and terms not defined shall be given their usual and customary meanings except where the context clearly indicates a different meaning. The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory. Words used in the singular include plural and words used in the plural include the singular. Words used in the present tense include the future tense and words used in the future tense include the present tense. The text of this chapter shall control captions, titles and maps.
- (c) Diagrams are provided to assist in defining and clarifying terms and sections for illustration only. Where inconsistencies occur between diagrams and text, the text of this chapter shall control.

(Code 1977, § 5.5; Ord. No. 93-2, § 1, 1-5-93)

Sec. 28-5. - Definitions.

Unless context indicates otherwise, the following words and phrases used in this chapter have these meanings:

Abandoned sign means any sign that is still on a residential property for six (6) months, a commercial property for nine (9) months or industrial property for fifteen (15) months after a business no longer operates at the location (see section 28-260(h)).

Accessory use or structure means a use or structure customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building, including alternative energy source structures such as solar panels, wind turbines, and back-up generators.

Adult arcade means an establishment where one or more motion picture projectors, slide projectors, television screens, DVDs, VCRs, or similar machines display for viewing by five (5) or fewer persons each films, motion pictures, video cassettes, slides, digital videos, or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified anatomical areas" or of "specified sexual activities."

Adult bookstore means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, pictures or films depicting, describing, or relating to "specified sexual activities," or which are characterized by their emphasis on matter depicting, describing or relating to "specified anatomical areas." In determining whether certain materials constitute a substantial or significant portion of the total stock in trade of an establishment, the following may be considered, together with all other relevant factors:

- (1) If the materials in question are located or displayed on the main traffic aisles or in close proximity to the public entrances or exits of the establishment, it shall indicate that the materials are a significant or substantial portion of the stock in trade.
- (2) If the general stock in trade of the establishment is available for observation and inspection by and/or sale to the general public, while the material in question is available for inspection and observation by and for sale to only a limited segment of the public, it shall indicate that the materials are an insignificant and insubstantial portion of

the total stock in trade.

- (3) If the material in question or its subject matter or the general subject emphasis of its product line is advertised to the general public by signs, posters, or any other means (including, but not limited to, the name of the establishment), which are either visible from the exterior of the establishment or published for public consumption in the press or electronic media or billboards or hand fliers or any other means whatsoever, then it shall be presumed that the material in question constitutes a significant portion of the total stock in trade.

Adult entertainment enterprise means adult bookstore, adult arcade, adult live entertainment establishment, or adult theater.

Adult live entertainment establishment means an establishment, which features dancers, waiters, waitresses, employees, patrons, exotic dancers, strippers, or similar entertainers who expose any or all of the "specified anatomical areas" to view by less than fully opaque covering.

Adult theater means an indoor or outdoor theater used for presenting by film, tape, or other means, material depicting, describing, or relating to "specified sexual activities" or which is characterized by its emphasis on matter depicting, describing, or relating to "specified anatomical areas" for observation by patrons therein.

Adult Use Marihuana Establishments, Emergency Rules, or Rules, means rules promulgated under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.

Agency means the Michigan Marijuana Regulatory Agency, a division of the Michigan Department of Licensing and Regulatory Affairs.

Alley means a public or private way of not more than thirty-three (33) feet wide which affords only a secondary means of access to abutting property.

Alter means to make any structural change in the supporting or load bearing member of a building, such as bearing walls, columns, beams, girders or floor joists.

Arcade means an establishment wherein the operation of coin-operated amusement devices as defined in [chapter 16](#) of this Code is conducted as the principal business thereof. For "video arcade" please see the definition within this section.

Automobile repair, major, means general repair, rebuilding or reconditioning of engines, motor vehicles, or trailers, collision service, including body repair and frame straightening; painting and upholstering; vehicle steam cleaning and undercoating.

Automobile repair, minor, means minor repairs, incidental replacement of parts and motor service to passenger automobiles and trucks not exceeding one and one-half (1½) tons capacity, but not including any operation specified under "automobile repair-major."

Automobile service station or gasoline station means a place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating vehicles is offered for sale to the public and deliveries made directly into motor vehicles, including greasing and oiling on the premises.

Automobile wrecking means the dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles, or their parts.

Awning means a fixed or retractable shelter constructed of non-rigid materials on a supporting framework which projects from the exterior wall of a building.

Awning sign means a sign affixed flat against the surface of an awning or inscribed on an awning (see [section 28-253\(a\)](#)).

Banners, balloons, pennants, festoons, spinners, or streamers shall include all removable fabric, cloth, paper or other non-rigid material suspended or hung from light poles, buildings or other site amenities (see [section 28-260\(o\)](#)).

Basic manufacture means the first operation or operations which transform a material from its raw state to a form suitable for fabrication.

Bed and breakfast establishments. See "tourist home."

Billboard means a sign for the display of information in public places, such as alongside highways (see [section 28-253\(b\)](#)).

Block building line, front or rear, means the average setback of the principal structures on one (1) side of the street in any one (1) block.

Board means the zoning board of appeals.

Building means any covered structure intended for the shelter, housing or enclosure of any person, animal or chattel.

Building height means the vertical distance measured from the average grade level of the building to the highest point of the roof.

Clinic, dental or medical, means a building in which three (3) or more physicians, dentists and allied professional assistants are associated for the purpose of carrying out their profession. The clinic may include a medical or dental laboratory. It shall not include in-patient care.

Co-location of one (1) medical and one (1) adult use marihuana facilities means that comparable medical and adult uses may be combined in the same suite and not considered a secondary license as regulated in [section 28-140](#) of the Code. If not comparable, only up to two (2) such uses may be located on the same parcel provided the ownership structure is identical for both and each is considered a separate license.

Conditional use means a use, permitted within certain zoning districts, of such a nature that the public has reserved the right to approve its exact location, subject to conditions stated in the chapter and to any special conditions imposed by the city planning commission to protect uses by right of other properties in the neighborhood.

Conforming sign means a sign that is allowable under [section 28-253](#).

Construction site sign means a sign erected on a construction site.

Cyber school means a full time instructional program of virtual courses for pupils that may or may not require attendance at a physical school location.

Day care facility means a facility for the care of children under eighteen (18) years of age, as licensed and regulated by the state under Act No. 116 of the Public Acts of Michigan of 1973 (MCL 722.111 et seq.), as amended, and the associated rules of the state department of social services. Such organizations are further defined as follows:

- (1) *Family day care home* means a private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
- (2) *Group day care home* means a private home in which more than six (6) but not more than twelve (12) children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.
- (3) *Child care center* means a facility, other than a private residence, receiving more than six (6) preschool or school

age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

Designated consumption establishment means a commercial space that is licensed by the agency and authorized to permit adults twenty-one (21) years of age or older to consume marijuana product at the location indicated on the state license.

Drive-thru board means a sign located within ten (10) feet of either side of a drive-thru lane.

Driveway means any extension of an approved curb cut on private property that extends into the side yard of the same property. Circle driveways are permitted if curb cuts are provided for the driveway on the same lot. All driveways must be surfaced with gravel, asphalt or concrete and provide ingress and egress to vehicles for the purpose of parking.

Driveway approach means any extension of an approved curb cut located between the street and property line used for approaching the driveway.

Dumpster means a waste receptacle having a capacity of at least one (1) cubic yard and utilized for the temporary storage of refuse pending collection.

Dwelling group means a group of three (3) or more detached dwellings located on a parcel of land in one (1) ownership and having any yard or court in common.

Dwelling, multiple-family, means a building designated for or occupied by three (3) or more families living independently of each other with separate housekeeping and cooking facilities for each.

Dwelling, single-family, means one (1) or more rooms with independent cooking facilities designed as a unit for residence by only one (1) family and complying with the following standards:

- (1) The dwelling shall have a minimum living area of seven hundred twenty (720) square feet.
- (2) The dwelling shall be firmly attached to a solid foundation construction on the site in accordance with the city's building code. No exposed wheels, towing mechanisms, undercarriage or chassis shall be permitted and no storage shall be allowed in any crawl space or skirted area which is not a standard basement.
- (3) The dwelling must contain storage area either in a basement located under such dwelling, in an attic area, in closet areas, or in a separate fully enclosed structure on the site of standard construction similar to or better quality than the principal dwelling, which space shall not be less than fifteen (15) percent of the interior living area of the dwelling.
- (4) The dwelling must contain no additions of rooms or other areas which are not constructed with similar materials and with similar quality of workmanship as in the original structure, including an appropriate foundation and permanent attachment to the principal structure.
- (5) The dwelling shall be in conformity with all applicable city building, plumbing, electrical codes and other applicable cable ordinances.
- (6) The dwelling must be aesthetically compatible in design and appearance to conventionally constructed homes, with not less than two (2) exterior doors with one being in the front of the home, and the other being in either the rear or side of the home, and roof drainage systems concentrating roof drainage and avoiding drainage

along the sides of the dwelling.

- (7) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park or a licensed mobile home subdivision except to the extent required by state law or otherwise specifically required in an ordinance of the city.

Dwelling, two-family, means a building designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.

Electronic and other changeable message board means the portion of a sign on which copy is changed either manually or electronically (see [section 28-253\(d\)](#)).

Enclosed locked facility means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground and as defined in the MMMA. If this definition is amended by state law, the amended definition shall apply.

Equivalent licenses means any of the following held by a single licensee:

- (a) A marihuana grower license, of any class, issued under the act and a grower license, of any class issued under the MMFLA.
- (b) A marihuana retailer license issued under the act and a provisioning center license issued under the MMFLA.
- (c) A marihuana secure transporter license issued under the act and a secure transporter license issued under the MMFLA.
- (d) A marihuana safety compliance facility license issued under the act and a safety compliance facility license issued under the MMFLA.

Fabrication means manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores or rubber. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects.

Family means either of the following:

- (1) *A domestic family*. One (1) or more persons living together and related by the bonds of consanguinity, marriage or adoption, together with servants of the principal occupants and not more than one (1) additional unrelated persons, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in the dwelling.
- (2) *The functional equivalent of the domestic family*. Persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single, nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforceable by the zoning

administrator in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six (6). Such presumption may be rebutted by application to the planning commission for a conditional use based upon the applicable standards in this chapter.

Fence or wall means any artificially constructed barrier which is used to enclose, separate, or screen areas of land or as a means of protection. For the purposes of this chapter a fence or wall is considered a structure and must be constructed of materials that are all weather and zero maintenance. Treated wood must meet the American Wood Protection Association's UC4B standard for ground contact (heavy duty).

- (1) Privacy fences or walls are eighty (80) percent or more opaque and of sufficient height to provide a visual buffer.
- (2) Non-privacy fences or walls are less than eighty (80) percent opaque or of insufficient height to provide a visual buffer.

Fenestration includes all window and other exterior openings within a structure, specifically the clear glass contained therein.

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

Flags means fabric, canvas or other similar material that is mounted to a pole or a building at one or more edges.

Floor area means total gross area on all floors as measured to the outside surface of exterior walls, excluding crawl spaces, garages, carports, open porches balconies and terraces (see "floor area terminology" diagram following this section).

- (1) *Useable floor area (UFA)* means that area to be used for sale of merchandise or services, or to serve patrons, clients or customers. Usable floor area must be measured from the interior faces of the exterior walls, and total usable floor area for a building must include the sum of the usable floor for all floors of a building. Floor area used (or intended to be used) principally for incidental services, storage, installations of mechanical equipment, heating systems, sanitary facilities, and similar uses are excluded from the computation.
- (2) *Gross floor area (GFA)* means the sum of all gross horizontal areas of all floors of a building or buildings, measured from the outside dimensions of the outside face of the outside wall. Unenclosed courtyards or patios are not considered to be part of the gross area, except where they are utilized for commercial purposes such as the outdoor sale of merchandise or dining.

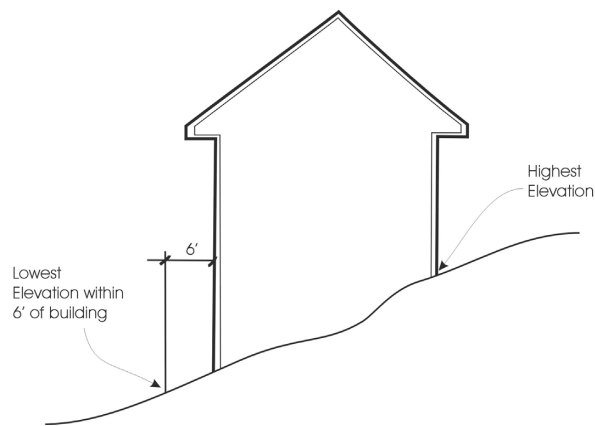
Frontage means the portion of a lot abutting on a street or way and ordinarily regarded as the front of the lot.

Garage, public, means a building or part of a building used for the storage, sale, hire, care, repair or refinishing of motor vehicles.

Gas station canopy sign means a sign located at a gas station attached directly to the elevated canopy that covers pump islands.

Grade.

- (1) Average grade means the arithmetic average of the finished grade and highest elevation in an area within six (6) feet of the foundation line of a building or structure.
- (2) Existing grade means the elevation of the ground surface in its natural state, before construction begins.
- (3) Finished grade means the lowest point of elevation between the exterior wall of the structure and a line within six (6) feet from the exterior wall of the structure.



Grower means a licensee that is a commercial entity located in this state that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or another grower.

Home occupation means an incidental and secondary use of a dwelling unit for business purposes (see subsections [28-71](#) and [28-145\(d\)\(10\)](#)).

Hotel means a building containing guest rooms in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests, or both, and where no provision is made for cooking in any guestroom.

Incidental sign means a small sign, emblem, or decal located on an entry door or window that accompanies other signs (see [section 28-257\(c\)](#)).

Inflatables mean any size, shape or style of inflatable that requires air or helium to remain permanently or intermittently inflated (see [section 28-260\(p\)](#)).

Ingress/egress sign means a sign located within ten (10) feet outside of the site clearance triangle (see [section 28-126](#), visibility at intersections) that is formed at the corner intersection of two (2) public rights-of-way and/or the intersection of a driveway and a public right-of-way.

Institution means an established or organized society or corporation; an establishment, especially one of a public character; a foundation; as, a charitable institution; also, the building or buildings used by such organization. It may be private in its character, designed for profit to those composing the organization, or public and charitable in its purposes.

Interior signs means signs located inside a building and are not reasonably intended to be visible from outside the building.

Junkyard means a place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including wrecked motor vehicles, used building materials, structural steel materials and equipment and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

Kenel means any lot or premises on which more than three (3) dogs or more than three (3) cats, or any combination of dogs and cats totaling more than three (3), are confined either permanently or temporarily. This does not include dogs and cats less than four (4) months old.

Laboratory, experimental, means a building or part of a building devoted to the testing and analysis of any product or animal.

Laboratory, medical or dental, means a laboratory which provides analytical or diagnostic services to physicians and dentists. No fabrication is conducted on the premises except the custom fabrication of dentures or surgical supports.

Landscaping means the treatment of the ground surface with live plant materials such as, but not limited to, turf grass (i.e., lawns), ground covers, trees, shrubs, and other live plant material. In addition, a landscape design may include other decorative natural materials, as well as various types of mulch. Structural features such as fountains, pools, statues and benches shall also be considered a part of landscaping if provided in combination with live plant material. The following are applicable definitions related to landscaping:

- (1) *Buffer zone* means a strip of land required between certain zoning districts reserved for plant material, berms, walls or fencing singularly or in combination to serve as a visual and noise barrier.
- (2) *Caliper* means the diameter of a tree trunk in inches measured at diameter breast height (dbh) (i.e., four and one-half (4½) feet above the existing grade).
- (3) *Deciduous* means a tree or shrub that sheds its foliage at the end of the growing season.
- (4) *Drip line* means an imaginary vertical line that extends downward from the outermost tips of tree or shrub branches to the ground.
- (5) *Evergreen* means a tree or shrub with persistent foliage (i.e., needles or broadleaves) that remains green throughout the year.
- (6) *Greenbelt* means the land abutting a public street, private street or access drive that shall be reserved as a landscaped area to serve as an obscuring screen, noise abatement and visual enhancement along roadway corridors in accordance with section 28-105, landscape standards.
- (7) *Ground covers* mean low-growing plants, including various types of:
 - a. Woody plants and vines (e.g., myrtle, pachysandra, ivy) planted to become dense after one (1) complete growing season and prevent weeds and soil erosion;
 - b. Perennials (i.e., flowers, herbs, ornamental grasses and other plants) which die back at the end of each growing season and regenerate at the beginning of the next growing season (including bulbs), planted to become dense after one (1) complete growing season and prevent weeds and soil erosion.
 - c. Annuals (i.e., flowers, herbs, ornamental grasses and other plants) which die at the end of each growing season in USDA Plant Hardiness Zone 6a, planted at sufficient density to prevent weeds and soil erosion.
- (8) *Landscape features* mean various manmade items typically found in the landscape including, but not limited to, outdoor furniture (e.g., benches, tables, and chairs, etc.), statuary, and birdbaths.
- (9) *Mulch* means processed pervious organic (e.g., shredded bark, wood chips, etc.) and inorganic (e.g., pea gravel, larger stones and rocks, etc.) materials utilized in planting areas to prevent weeds and soil erosion and retain soil moisture.
- (10) *Plant schedule* means a listing of the plants proposed as part of a landscape design which is keyed to the landscape plan as includes the following information: quantity (i.e., number of plants), common name, botanical name (i.e., genus, species, and variety (if applicable)) type (as defined in this chapter), size (at time of installation), and root ball (i.e., ball and burlap (B&B), bare root, or container). Please see the plant schedule example.

Plant Schedule Example

Key	Quant.	Common Name	Botanical Name	Type of Plant	Size	Root Ball
AE	4	Celebration® Maple	Acer x freemanii 'Celzam'	Canopy Tree	3-in Cal	B&B

CF	1	Flowering Dogwood	Gorans florida	Ornamental Tree	6-ft height	B&B
EA	5	Dwarf Burning Bush	Euonymiis alatus 'Compacta'	Large Deciduous Shrub	3-ft height	Container
SJ	9	Little Princess Spirea	Spiraea japoniea 'Little Princess'	Small Deciduous Shrub	2-ft height	Container
CO	3	Hinoki Femspray Cypress	Cliaamaecyparis obtusa 'Filicoides'	Upright Evergreen Shrub	2-ft height	Container
TD	5	Densi Yew	Taxus densiformis 'Densi'	Spreading Evergreen Shrub	2-ft spread	Container
HH	80	Baltic Ivy	Hedera helix 'Baltica'	Ground Cover	N/A	Container

- (11) *Shrub* means a deciduous or evergreen plant which at maturity is less than thirteen (13) feet in height with multiple stems and having a general bushy appearance or maintained as a hedge.
- Small means a mature (or maintained) height of thirty (30) inches or less.
 - Large means a mature height between thirty (30) inches and thirteen (13) feet.
 - Upright form means taller than its width at maturity.
 - Spreading form means shorter than its width at maturity.
- (12) *Tree* means a woody plant which at maturity is thirteen (13) feet or more in height with a perennial trunk and having a definite crown of foliage.
- Canopy tree means a deciduous tree which has a height of twenty-five (25) feet or more and a single trunk with at least five (5) feet of clear stem at maturity.
 - Ornamental tree means a deciduous or evergreen tree that is typically grown because of its shape, flowering characteristics or other attractive features (e.g., exfoliating bark, multiple-stems, fruit, etc.) and typically grows to a mature height of twenty-five (25) feet or less.
- (13) *Turf grass* means any family of plants with narrow leaves normally grown as permanent lawns (i.e., turf) in southern Michigan.

LARA means the State of Michigan Licensing and Regulatory Affairs division which is charged with administration and enforcement of the Michigan Medical Marihuana Act and the Michigan Medical Marihuana Facilities Licensing Act.

Lawn extension and/or terrace means the area between the road curb and sidewalk (or the property line if no sidewalk exists).

License means a person holding a state operating license and a City of Jackson license to operate a medical marihuana facility.

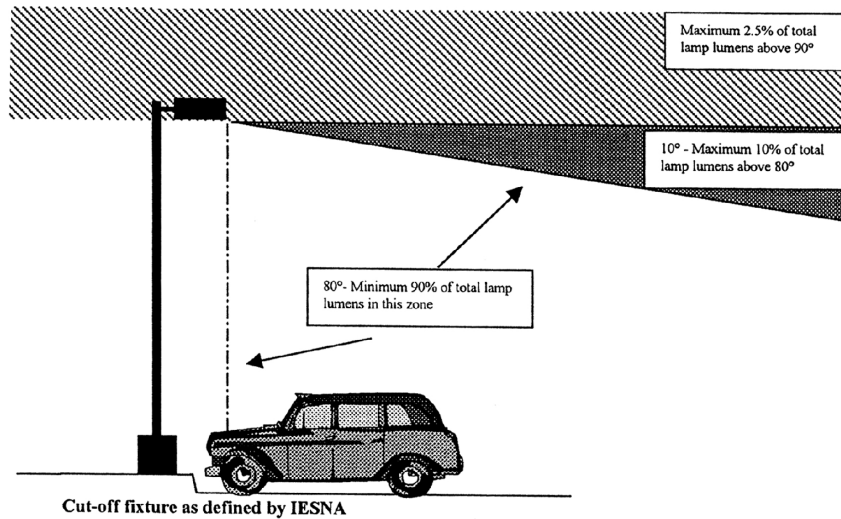
Licensee means a person holding a state operating license and a City of Jackson license to operate a medical marijuana facility.

Lighting means:

- (1) *Average illumination* means the overall average of all points on the surface of the illuminated area including the brightest and dimmest points.
- (2) *Canopy structure* means any overhead protective structure, which is constructed in a manner to allow pedestrians/vehicles to pass under.
- (3) *Flood light* means a fixture designed to "flood" a well-defined area with light.
- (4) *Footcandle (fc)* means a unit of illumination produced on a surface all points of which are one (1) foot from a uniform point source equivalent to one candle in brightness of illumination.
- (5) *Glare* means the sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility (e.g., blinding light). The magnitude of glare depends on factors such as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.
- (6) *Lamp* means the component of the luminaire that produces the actual light including luminous tube lighting.
- (7) *Lamp lumen depreciation (LLD)* means a factor (i.e., between 0.0 and 1.0) used to describe how the lamp output changes with time compared to the initial output. Typical LLD factors (depending principally on lamp type) for outdoor lighting types are as follows: metal halide: 0.84, compact fluorescent: 0.85, high pressure sodium: 0.91 and mercury vapor: 0.79.
- (8) *Light loss factor (LLF)* means a factor (i.e., between 0.0 and 1.0) describing light output of a luminaire after losses due to dirt accumulation (i.e., luminaire dirt depreciation (LDD)) and lamp lumen depreciation (LLD), relative to the output when the lamp and luminaire are new (i.e., $LLF = LDD \times LLD$).
- (9) *Light fixture* means the assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens. A light fixture also includes the assembly for luminous tube and fluorescent lighting.
- (10) *Light pollution* means artificial light which causes a detrimental effect on the environment, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties.
- (11) *Light trespass* means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
- (12) *Luminaire* means the complete lighting system including the lamp and light fixture.
- (13) *Luminaire dirt depreciation (LDD)* means a factor (i.e., between 0.0 and 1.0) used to describe how much light produced by the lamp is lost to dirt accumulation and other changes in the optical characteristics of the luminaire, relative to the value when the luminaire is new, depending on the quality of the luminaire, materials used, maintenance, and environment.
- (14) *Mounting height* means the vertical distance between the surface to be illuminated and the bottom of the light source.
- (15) *Outdoor light fixtures* mean outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement.
- (16) *Shielded fixture* means outdoor light fixtures constructed so that light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted (i.e. a shoebox-type fixture or a cutoff fixture as defined by the Illuminating Engineering Society of North America). The

fixtures almost always have a flat, horizontally oriented lens and opaque (usually metal) sides. A luminaire mounted in a recessed fashion under a canopy or other structure so that the surrounding structure effectively shields the light in the same manner is also considered fully shielded for the purposes of this section.

- (17) *Spot light* means a lighting assembly designed to direct the output of a contained lamp in a specific tightly focused direction (a beam) with a reflector located external to the lamp.
- (18) *Uniformity* means a measure indicating how evenly light is distributed across a surface. Typically the measure is expressed as a ratio of one value to another, such as average to minimum, or maximum to minimum. Using ratios, perfect uniformity would be 1:1.



Lamp Lumens

Lot means a piece or parcel of land under the same ownership occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or used for a principal use and uses accessory thereto, together with such open spaces as required by this chapter, and having frontage on a public street but that is not divided by any public street or alley. (See "corner, interior and double frontage lots" diagram following this section). A lot shall satisfy this chapter with respect to area, size, dimensions and frontage as required in the district in which the lot is located. A lot may not necessarily coincide with a lot of record as filed with the county register of deeds, but may include one (1) or more lots of record.

- (1) *Lot, corner*, means a lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The corner is the point of intersection of the street lines. In the case of corner lots, there shall be no rear yard. (See "corner, interior and double frontage lots" diagram following this section.)
- (2) *Lot, double frontage*, means an interior lot which has a pair of opposite lot lines along two (2) substantially parallel, nonintersecting streets. On a double frontage lot, both street lot lines shall be deemed front lot lines (see "corner, interior and double frontage lots" diagram following this section).
- (3) *Lot, interior*, means a lot other than a corner lot (see "corner, interior and double frontage lots" diagram following this section).
- (4) *Lot, key*, means an interior lot with one (1) lot line, or portion thereof, contiguous to the lot line opposite the frontage of a corner lot.
- (5) *Lot, reverse frontage corner*, means a corner lot on which the frontage is located along the longest dimension of the lot. In the case of reversed frontage corner lots, there will be no rear yard. (See "corner, interior and double frontage lots" diagram following this section).

- (6) *Lot, width*, means the horizontal straight line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines. (See "lot lines" diagram following this section.)

Lot, formal combination of, means the official combination of lots by the city assessor, including the generation of a legal description for the new lot of record.

Lot lines means the lines bounding a lot as defined herein (see "lot lines" diagram following this section):

- (1) *Lot line, front*, means in the case of an interior lot, the line separating said lot from the street right-of-way. In the case of a corner lot or double frontage lot, it is that line separating said lot from either street right-of-way.
- (2) *Lot line, rear*, means the lot line opposite the front lot line (except for reversed frontage corner lots or double frontage lots). In the case of a lot converging toward the rear by intersecting side lot lines, the rear lot shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
- (3) *Lot line, side*, means any lot line other than the front lot line or rear lot line.

Lot of record means a lot which exists in a subdivision plat as shown on the records of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been recorded.

Manufacturing means all operations required to produce a material or product suitable for use.

Marihuana means that term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106, and does not include industrial hemp as defined in the Industrial Hemp Research and Development Act.

Marihuana plant means any plant of the species *Cannabis sativa* L.

Marihuana establishments means a marihuana grower with or without a processor, marihuana safety compliance facility, marihuana microbusiness, marihuana provisioning center, marihuana retailer, marihuana secure transporter or any other type of marihuana-related business licensed to operate by the agency under the Michigan Medical Marihuana Facilities Licensing Act, Michigan Regulation and Taxation of Marihuana Act and their associated rules and regulations.

Marihuana event organizer means a person licensed to apply for a temporary marihuana event license under the associated rules.

Marihuana microbusiness means a combined operation including the cultivation of up to one hundred fifty (150) plants, processing and packaging of on-site grown marihuana, retail sale or transfer of said marihuana to individuals over twenty-one (21) years of age, and transfer of marihuana to a safety compliance facility for testing, but not to other adult-use marihuana establishments.

Medical marihuana facility means a grower, processor, provisioning center, safety compliance facility or secured transporter as defined herein and as defined in the Michigan Medical Marihuana Facilities Licensing Act and its rules and regulations, as amended that has a current license to operate from both the State of Michigan and the City of Jackson.

Michigan Medical Marihuana Act or *MMMA* means the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended.

Michigan Medical Marihuana Facilities Licensing Act or *MMFLA* means the Michigan Medical Marihuana Facilities Licensing Act, Act 281 of 2016, MCL 333.2701 et seq., as amended.

Michigan Regulation and Taxation of Marihuana Act or *MRTMA* means the Act passed by the voters of the State of Michigan at the November 6, 2018 election which is expected to be referred to as Initiative Law 1 of 2018.

Medical Marihuana Rules, Emergency Rules, or Rules, means rules promulgated under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, by the department in consultation with the board to implement this act.

Mobile home means any vehicle or building without motive power designed functionally as a dwelling unit and for periodic movement upon a highway as defined and regulated by Act No. 299 of the Public Acts of Michigan of 1986 (MCL 125.1104 et seq.), as amended. This term shall include those vehicles commonly referred to as a trailer, house trailer, or trailer coach or manufactured housing.

Monument (ground) sign means a sign attached to a permanent foundation of at least equal length to the sign structure and not attached to a building, pole, posts, or similar uprights (see [section 28-253\(f\)](#)).

Motel means a building or group of buildings on the same lot, whether detached or in connected rows containing sleeping or dwelling units which may or may not be independently accessible from the outside with a garage or parking space located on the lot, and designed for, or occupied by automobile travelers. The term shall include any buildings or building groups designated as motor lodges, motor inns or by any other title intended to identify them as providing lodging, with or without meals, for compensation.

Multiple-family residential complex means a multiple-family residential building or buildings with six (6) or more dwellings, which triggers the need for site plan review before the city planning commission.

Mural means a painting or similar graphic medium on or attached to a wall (see [section 28-253\(g\)](#)).

Nonconforming lot means any lot or parcel of land which does not meet the land area or dimensional requirements of this chapter.

Nonconforming sign means a sign that was lawfully permitted at the time it was erected, but is not permitted under current ordinance.

Nonconforming structure means a structure that does not conform to the limitations on building size and location for the use to which such building is being put.

Nonconforming use means a use of land that does not conform to the use provisions of the zoning district in which the use is located, but which complied with applicable regulations at the time the use was established.

Off premises sign means a sign located on property not owned by the sign owner.

Ordinary repair/maintenance means repairs to a structure due to day-to-day wear and tear that are required to maintain the structure's functionality but does not increase the value of the structure or perpetuate the legal nonconforming use.

Outdoor grow means a fully enclosed outdoor area that is shielded from public view and is not visible without the use of binoculars, aircraft, or other optical aids, and is equipped with secure locks and other functioning security devices to prevent entry into the area by unauthorized persons.

Park means an area of land used for the enjoyment of the public, having facilities for rest and recreation.

Parking area, space, lot, means an off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors or employees.

Parking lot sign means a sign located within a public or private - parking lot.

Person means an individual human being.

Playground means any outdoor facility (including parking lots appurtenant thereto) intended for recreation open to the public, and with any portion thereof containing three (3) or more separate apparatus for the recreation of children including, but not limited to, slides, swing sets, and teeterboards.

Portable sign means a free-standing sign not permanently anchored or secured to the ground or to a building.

Primary caregiver or *caregiver* means a person who is at least twenty-one (21) years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past ten (10) years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the Code of Criminal Procedure, Act 175 of 1927, MCL 770.9a.

Process or *Processing* means to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

Projecting sign means a sign which projects from and is supported by a building wall, any part of which extends more than fifteen (15) inches beyond the building face or ends of the building wall (see [section 28-253\(h\)](#)).

Proposed marihuana establishment means a location at which an applicant plans to operate a marihuana establishment under the act and the associated rules if the applicant is issued a state license.

Provisioning center means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through LARA'S marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this act.

Public building means any building held, used, or controlled primarily for public purposes by any department or branch of government; state, county, or municipal, without reference to the ownership of the building or of the realty upon which it is situated.

Public utility means any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under federal, state or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation or water.

Qualifying patient or *patient* means a person who has been diagnosed by a physician as having a debilitating medical condition alleviated by the use of medical marihuana, and who is registered through LARA to grow and consume marihuana.

Registered primary caregiver means a primary caregiver who has been issued a current registry identification card under the Michigan Medical Marihuana Act.

Registered qualifying patient means a qualifying patient who has been issued a current registry identification card under the Michigan medical marihuana act or a visiting qualifying patient as that term is defined in section 3 of the Michigan Medical Marihuana Act, MCL 333.26423.

Registry identification card means that term as defined in section 3 of the Michigan Medical Marihuana Act.

Restaurant/delicatessen means any business located in a building permanently affixed to real property which serves customers prepared food or beverages for consumption either on or off the premises.

Roof sign means any sign that extends above the top of the facade or eave line, and is exclusively mounted to the roof of the building or is incorporated into the material which clad a building roof (see [section 28-260\(q\)](#)).

Rooming and/or boarding house means a building containing rooms for guests in which lodging is provided with or without meals for compensation or on a short-term basis in response to a family crisis, and where no provision is made for cooking in any guestroom.

Safety compliance facility means a licensee that is a commercial entity that takes marihuana from a marihuana facility or receives marihuana from a registered primary caregiver, tests the marihuana for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana establishment.

Sandwich board sign means a temporary A-frame design sign that is freestanding, (see [section 28-253\(i\)](#)).

School means a public or private licensed pre-school, or a public, private, or charter elementary, middle, junior high, or high school, vocational school, secondary school, community college, or other institution of higher education.

Secure transporter means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

Setback means the minimum distance a building must be placed back from a lot line or right-of-way.

Shingled roof sign means a sign that consists of words or images in a pattern and color different to the any abutting shingle or other roofing material intended to advertise or draw the public's attention (see [section 28-260\(r\)](#)).

Sign means a name, identification, description, display, or illustration which is affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business and which is visible from any public street, right-of-way, sidewalk, alley, park, or other public place.

Soil removal means the removal of any kind of soil or earth matter, including top soil, sand, gravel, clay, or similar materials, or combination thereof, except common household gardening and general farm care.

Special license means a state license described under section 8 of the MRTMA and issued pursuant to section 9 of the same act, MCL 333.27958 and 333.27959.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered male or female human genitalia; or
- (2) Human male or female anal orifices; or
- (3) Human male genitals in a discernibly turgid state even if completely and opaquely covered; or
- (4) An individual's female breast below the point immediately above the top of the areola.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal; or
- (2) Acts of human masturbation, sexual intercourse, oral sex, bestiality or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Stacking space means the average length of a vehicle (i.e., twenty (20) feet), as it applies to the required number of vehicle lengths that must be provided for vehicles cueing per drive-through lane/facility.

State operating license or, unless the context requires a different meaning, *license* means a license that is issued under this act that allows the licensee to operate as one (1) of the following, specified in the license:

- (i) A grower (Class A only for Medical, Classes A and B for Adult Use, may include research and development component) with or without a processing facility;

- (ii) A safety compliance facility;
- (iii) A provisioning center;
- (iv) A retailer;
- (v) A microbusiness; or
- (vi) A secure transporter; or
- (vii) One (1) co-located grower and processor (maximum number of stacked MMFLA Class C grower licenses, the maximum number of stacked MRTMA Class C grower licenses and up to one (1) each MMFLA and MRTMA processor licenses). Licensee may also operate up to two (2) separate co-located retailers at a separate address in the City of Jackson.

Structure means anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, to include, but not be limited to driveways, parking lots, in-ground and above-ground swimming pools, and similar recreational facilities.

Swinging sign means a sign suspended from a horizontal or near horizontal support or arch.

Taxable value means the value of the property listed on the city's assessment role for the purpose of taxation, as confirmed by the last board of review.

Temporary banner means a sign of lightweight fabric or similar material that is temporarily mounted or attached to a pole or a building.

Temporary event sign means a temporary or portable sign concerning a special event.

Temporary freestanding commercial/industrial yard sign means a sign located in the front or side yard and constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and appears to be intended to be displayed for a limited period of time.

Temporary freestanding residential yard sign means a sign located in the front or side yard and constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and appears to be intended to be displayed for a limited period of time.

Temporary marijuana event license means a state license held by a marijuana event organizer for an event where the onsite sale is authorized at the location indicated on the state license during the dates indicated on the state license.

Temporary use or structure means a structure or use permitted by the zoning administrator (or designee) to exist during periods of construction of the main use or for special sales or other events. See [section 28-111](#) of this chapter for the various types of temporary uses and structures allowed and their standards.

Tourist home means a building where lodging is provided by a resident family in its home for compensation, mainly for transients. A tourist home may be called a "bed and breakfast establishment." A tourist home is not a hotel, motel or boardinghouse.

Use by right means any use which is listed as a use by right in any given zoning district in this chapter. Uses by right are not required to show need for their location.

Uses by temporary permit means listed uses which may be permitted in any given zoning district provided that need for the use in the district can be established to the satisfaction of the zoning inspector.

Use, conditional. See "conditional use."

Use, nonconforming. See "nonconforming use."

Use, transitional, means a use permitted on certain lots abutting zoning boundary lines.

Variance means a modification of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in practical difficulties and unnecessary hardship. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

Video arcade facility means any facility legally accessible to person under eighteen (18) years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten (10) pinball and/or video machines.

Virtual course means a course of study that is capable of generating a credit or a grade and that is provided in an interactive learning environment in which the majority of the curriculum is delivered using the internet and in which pupils are separated from their instructor or teacher of record by time or location, or both.

Wall. Please see "fence" or "wall".

Wall sign means a sign attached to, painted on, or otherwise placed upon an exterior building wall (see [section 28-253\(l\)](#)).

Warning sign means a sign that warrants of a potential danger, hazard or health risk.

Watercourse shall mean any waterway including a river, stream, lake, pond or any body of surface water having definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.

Window signs mean signs affixed to the interior or exterior glass surfaces of windows or doors and are visible from outside the structure.

Wireless communication facilities means all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities that are subject to state or federal law or regulations that preempt municipal regulatory authority.

- (1) *Antenna.* Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- (2) *Attached wireless communications facilities (antennae).* Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
- (3) *Base station.* A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base station includes, without limitation:
 - a. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 - b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks).
 - c. Any structure other than a tower that, at the time the relevant application is filed with the City of Jackson

under this section, supports or houses equipment described herein that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the City of Jackson under this section, does not support or house equipment described above.

- (4) *Collocation.* The location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennae within the city.
- (5) *Eligible facilities request.* Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
 - a. Collocation of new transmission equipment;
 - b. Removal of transmission equipment; or
 - c. Replacement of transmission equipment.
- (6) *Eligible support structure.* Any tower or base station, as defined in this section, provided that it is existing at the time the relevant application is filed with the City of Jackson under this section.
- (7) *Existing.* A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this section.
- (8) *New facility.* A new wireless communication support structure.
- (9) *Site.* For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- (10) *Substantial change.* A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
 - a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten (10) percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten (10) percent or more than ten feet, whichever is greater
 - b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;
 - c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if

there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure;

- d. It entails any excavation or deployment outside the current site or increases an existing equipment compound to greater than two thousand five hundred (2,500) square feet;
 - e. It would defeat the concealment elements of the eligible support structure;
 - f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (10)a., e. of this section.
 - g. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act (2012).
- (11) *Tower*: Any structure for the sole or primary purpose of supporting any FCC authorized antennas and associated facilities.
- (12) *Wireless communication support structures*. Structures erected or modified to support wireless communication antennae. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, buildings or other similar structures.

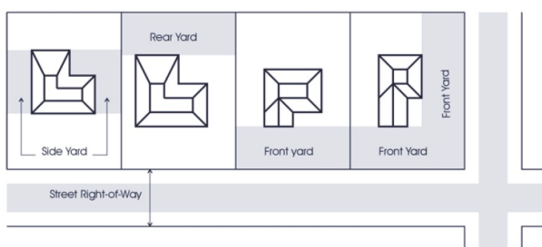
Wireless telecommunication facility means the following equipment:

- (1) *Wireless telecommunication antenna* means an antenna and associated equipment mounted to a building or other structure for the purpose of broadcasting wireless telecommunication transmissions.
- (2) *Wireless telecommunication tower* means a separate structure fastened to an independent foundation, not mounted to a building or structure, for the sole purpose of mounting wireless telecommunication antennas, excluding non-commercial radio and television antennas.

Work release (halfway) house means a residential building used to help recently released inmates to matriculate back into the community while they are still on partial supervision with a state or county facility.

Yard means a required open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed by a principal structure or portion of a structure from the ground upward, except as provided otherwise in this chapter.

Yard Example



- (1) *Front yard* means a yard extending the full width of a lot and situated between a street line and a front building line parallel to the street line. The depth of the front yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines in the case of rounded property corners at street intersections. Where the radius of the curve is thirty (30) feet or less, the foremost point of the side lot line shall be assumed to

be the point at which the side and front lot lines would have met without such rounding. If the radius of such curve exceeds thirty (30) feet, the yard shall be parallel to the street line. The front and rear yard lines shall be parallel.

- a. *Addressed front yard* means all front yards will be considered the addressed (primary) front yards of the lot, excluding corner and double frontage lots.
 - b. *Non-addressed front yard* means that the non-addressed front yard will be considered the secondary front yard and regulated accordingly, for corner and double frontage lots.
- (2) *Rear yard* means a yard extending the full width of the lot between the interior side yard lines and situated between the rear lot line and the rear building line and parallel to the rear lot line. In the case of corner and double frontage lots, there shall be no rear yards but only front and side yards.
- (3) *Side yard* means a yard situated between the side building line and adjacent side lot line and situated between the rear yard and front yard. In the case of corner lots and double frontage lots it is the yard situated between the side building line and adjacent lot line situated between the front yards.

Youth center means any recreational facility and/or gymnasium (including any parking lots appurtenant thereto), intended primarily for use by person under eighteen (18) years of age, which regularly provides athletic, civic, or cultural activities.

Zoning administrator means the staff zoning administrator and includes any designee of the zoning administrator.

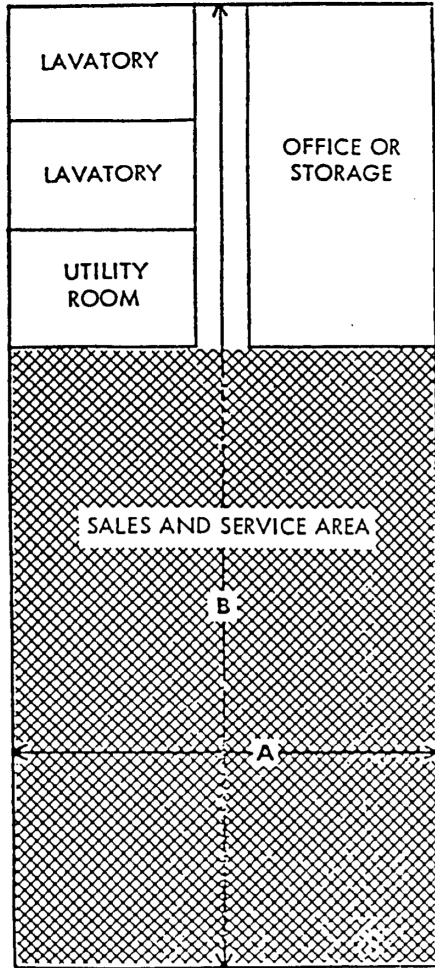
Zoning compliance certificate means a certificate issued by the zoning administrator which recognizes that the holder of a zoning permit has developed the intended use, building, or structure in full compliance with the requirements of this chapter at the time the certificate is issued.

Zoning permit means a permit issued by the zoning administrator which authorizes the recipient to use or occupy a tract of land or a structure; or to erect, alter or install a structure which fully meets the requirements of this chapter.

(Code 1977, §§ 5.6—5.13; Ord. No. 90-14, § 1, 7-31-90; Ord. No. 93-2, § 2, 1-5-93; Ord. No. 93-25, § 1, 11-9-93; Ord. No. 97-17, § 1, 9-2-97; Ord. No. 2003.17, § 1, 11-25-03; Ord. No. 2006.11, § 1, 7-18-06; Ord. No. 2010-04, § 1, 2-9-10; Ord. No. 2011.15, § 2, 8-16-11; Ord. No. 2012.5, § 3, 4-10-12; Ord. No. 2012.17, § 3, 7-17-12; Ord. No. 2012.19, § 2, 9-11-12; Ord. No. 2012.20, § 2, 9-11-12; Ord. No. 2012.23, § 2, 9-25-12; Ord. No. 2013.02, § 2, 3-12-13; Ord. No. 2013.06, § 2, 4-9-13; Ord. No. 2013.10, § 2, 4-23-13; Ord. No. 2016.07, § 2, 3-29-16; Ord. No. 2016-29, § 2, 11-15-16; Ord. No. 2017-06, § 2, 5-2-17; Ord. No. 2017-08, § 2, 6-13-17; Ord. No. 2017-12, § 2, 11-28-17; Ord. No. 2018-14, § 2, 12-11-18; Ord. No. 2019-14, § 2, 10-15-19; Ord. No. 2020-03, § 2, 4-14-20; Ord. No. 2020-06, § 2, 6-16-20; Ord. No. 2020-16, § 2, 10-13-20; Ord. No. 2020-21, § 2, 12-8-20)

Cross reference— Definitions and rules of construction generally, § 1-2.

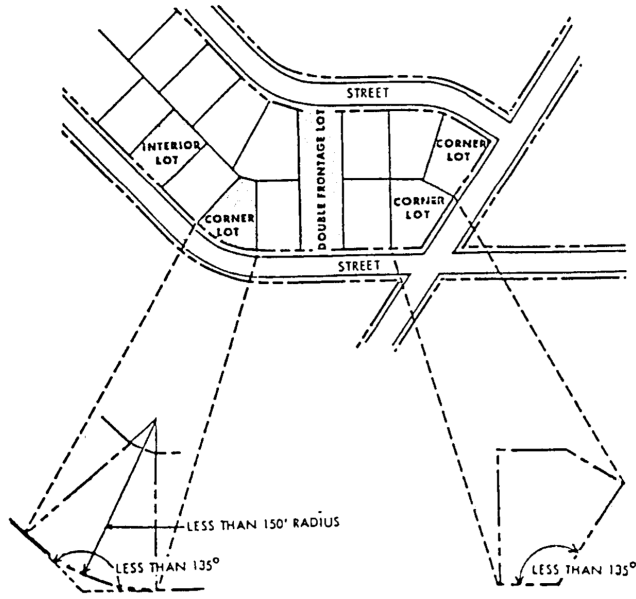
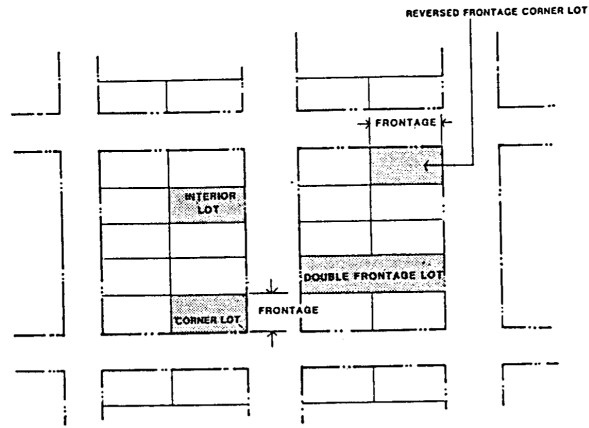
FLOOR AREA TERMINOLOGY



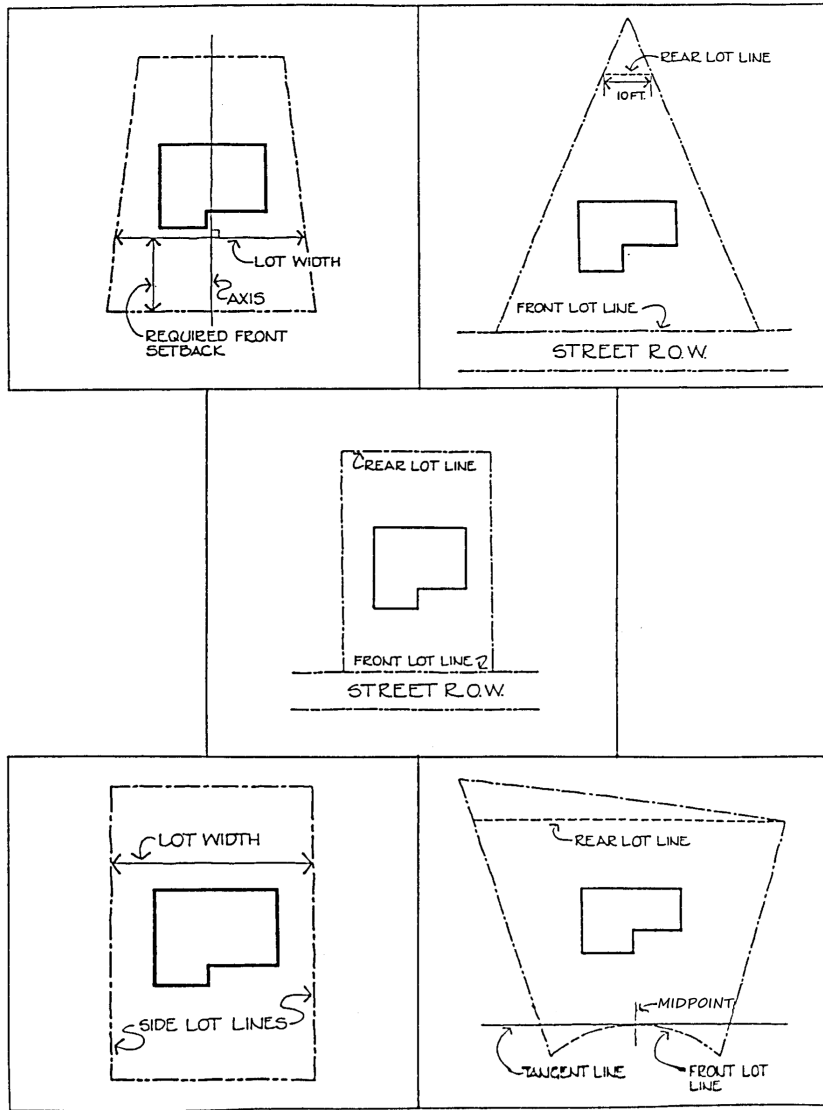
"A" X "B" = GROSS FLOOR AREA

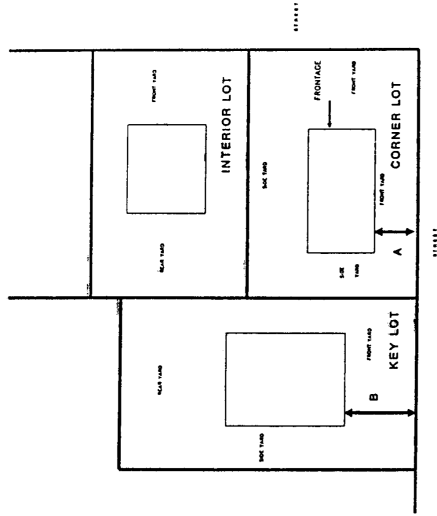
 **USABLE FLOOR AREA**
(FOR PURPOSES OF COMPUTING PARKING)

CORNER, INTERIOR AND DOUBLE FRONTAGE LOTS



LOT LINES



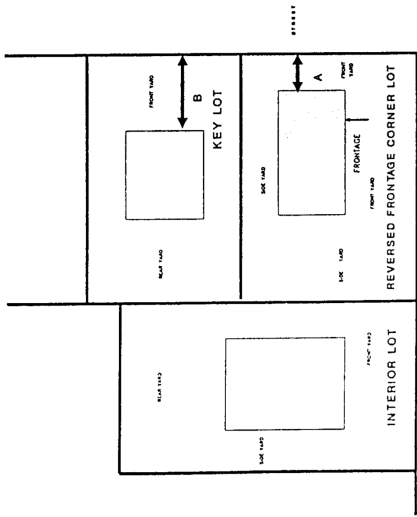


A = FRONT YARD MEASUREMENT FOR CORNER LOT ADJOINING KEY LOT

B = MINIMUM FRONT YARD MEASUREMENT (SETBACK REQUIREMENT)

FORMULA IS: $A = 1/2 B$

YARD REQUIREMENT FOR CORNER LOT ADJOINING KEY LOT

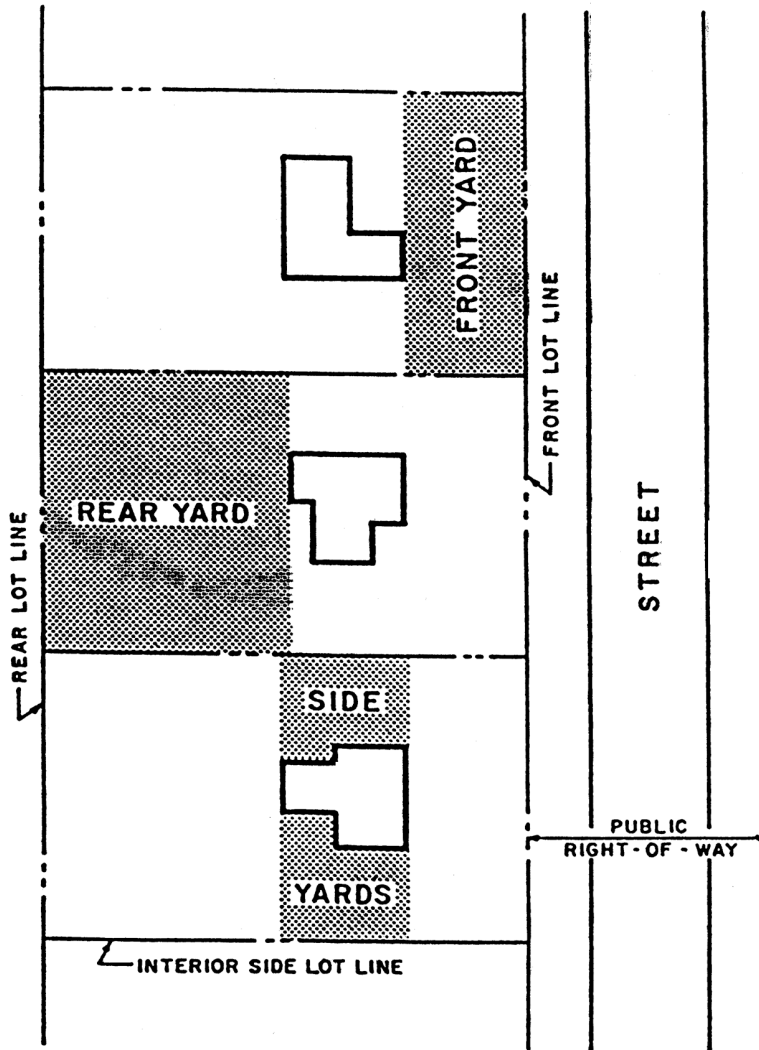


A = FRONT YARD MEASUREMENT FOR REVERSED FRONTAGE CORNER LOT ADJOINING KEY LOT

B = MINIMUM FRONT YARD MEASUREMENT (SETBACK REQUIREMENT)

FORMULA IS: $A = 1/2 B$

YARD REQUIREMENT FOR REVERSED FRONTAGE CORNER LOT ADJOINING KEY LOT



Sec. 28-6. - Fees/establishment by resolution of city council.

The city council shall establish by resolution fees for all permits, applications and other charges appropriate under this chapter.

(Code 1977, § 5.292)

Sec. 28-7. - Report to city council.

Following the enactment of this chapter the city planning commission shall from time to time prepare and file with the city council a report on the operations of this chapter, including recommendations as to amendments, supplements or changes thereto, at least once each year.

(Code 1977, § 5.291)

Sec. 28-8. - Public notice.

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act (MZEA), PA 116 of 2006, as amended; MCL 125.3101, et seq., and the other provisions of this chapter with regard to public notification.

- (a) *Responsibility for notice.* When the provisions of this section or the Michigan Zoning Enabling Act require that notice be published, planning staff shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the City of Jackson and mailed or delivered as provided in this section.
- (b) *Content.* All mail, personal and newspaper notices for public hearings or meetings shall:
1. Describe the nature of the request by identifying whether the request is for a district change (rezoning), text amendment, conditional land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there is no street address, other means of identification may be used such as tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property.
No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property or text amendment.
 3. Indicate when and where the request will be considered including the date, time and place of the public hearing(s).
 4. Include a statement describing when and where written comments will be received concerning the request and that the public may appear at the public hearing in person or by counsel.
 5. Include information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
- (c) *Personal and mailed notice.*
1. When the provisions of this section or state law require that personal or mailed notice be provided, notice shall be provided to:
 - a. The owners of property for which approval is being considered, and the applicant, if different than the owners of the property.
 - b. Except for district change (rezoning) requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property or text amendment, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the City of Jackson. 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 (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, 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.
 - c. All neighborhood organizations, public utility companies, railroads and other persons that have requested to receive notice.
 2. *Notice by mail/affidavit.* Notice shall be deemed mailed by its deposit in the United States Mail, first class, properly addressed with postage paid. Planning staff shall prepare a list of property owners and registrants

to whom notice was mailed, as well as anyone to whom personal notice was delivered.

- (d) *Timing of notice.* Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended; MCL 125.3101, et seq.; or this Ordinance where applicable, notice of a public hearing or of an application for a district change (rezoning), text amendment, conditional land use, planned unit development, variance, appeal or ordinance interpretation shall be given not less than fifteen (15) days before the date the application will be considered for approval.
- (e) *Registration to receive notice by mail.* Any neighborhood organization, public utility company, railroad or any other person may register with planning staff to receive written notice of all applications for development approval pursuant to this section. Personal and, mailed notice, or written notice of all applications for development approval within the zoning district in which they are located. Planning staff shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by city council. The requesting party must provide planning staff information on an official form to ensure notification can be made. All registered persons must re-register bi-annually to continue to receive notification pursuant to this section.

(Ord. No. 2011.15, § 3, 8-16-11)

Secs. 28-9—28-30. - Reserved.

ARTICLE II. - ZONING DISTRICTS

Sec. 28-31. - Enumerated.

For the purposes of this chapter, the city is hereby divided into the following zoning districts:

- R-1 One-family residential district.
- R-2 One- and two-family residential district.
- R-3 Multiple-family residential district.
- R-4 High density apartment and office district.
- R-5 Mobile home park district.
- R-6 Residential and low intensity office district.
- C-1 Neighborhood commercial district.
- C-2 Community commercial district.
- C-3 Central commercial district.
- C-4 General commercial district.
- I-1 Light industrial district.
- I-2 General industrial district.

(Code 1977, § 5.21)

Sec. 28-32. - Zoning map.

The zoning districts are bounded and defined on the map entitled zoning map of the city. The map and all notations, references and other information shown thereon, are hereby made a part of this chapter.

(Code 1977, § 5.22; Ord. No. 2003.18, § 1, 11-15-03; Ord. No. 2004.1, § 1, 2-10-04; Ord. No. 2004.5, § 1, 4-13-04; Ord. No. 2004.6, § 1, 4-13-04; Ord. No. 2004.7, § 1, 4-13-04; Ord. No. 2004.10, § 1, 5-12-04; Ord. No. 2004.11, § 1, 5-12-04; Ord. No. 2004.12, § 1, 6-8-04; Ord. No. 2004.13, § 1, 6-8-04; Ord. No. 2004.16, § 1, 9-14-04; Ord. No. 2004.17, § 1, 9-28-04; Ord. No. 2005.5, § 1, 5-10-05; Ord. No. 2009.7, § 1, 5-12-09; Ord. No. 2009.8, § 1, 5-26-09; Ord. No. 2010.06, § 1, 5-11-10; Ord. No. 2011.03, § 1, 1-11-11; Ord. No. 2011.07, § 1, 4-26-11; Ord. No. 2011.10, § 1, 7-19-11; Ord. No. 2011.13, § 1, 8-16-11; Ord. No. 2011.18, § 1, 10-25-11; Ord. No. 2014-1, § 1, 2-11-14; Ord. No. 2014-12, § 1, 4-22-14; Ord. No. 2014-28, § 1, 10-28-14; Ord. No. 2014-31, § 1, 12-2-14; Ord. No. 2016-01, § 1, 1-12-16; Ord. No. 2016-03, § 1, 2-9-16; Ord. No. 2016-06, § 1, 3-29-16; Ord. No. 2016-28, § 1, 10-25-16; Ord. No. 2019-01, § 1, 1-15-19; Ord. No. 2019-15, 1, 12-17-19; Ord. No. 2019-16, 1, 12-17-19; Ord. No. 2020-17, § 1, 10-13-20)

Sec. 28-33. - District boundary lines.

Except where specifically designated on the zoning map, the zoning district boundary lines are intended to follow lot lines, the centerlines of streets or alleys, centerlines of railroads rights-of-way lines, or channelized waterways as they existed at the time of the adoption of this chapter. Where a district boundary line does not coincide with any of these designated lines, its location shall be fixed from the scale of the official zoning map by the zoning board of appeals.

(Code 1977, § 5.23)

Sec. 28-34. - Boundary line divides a lot.

Where a district boundary line, as shown on the zoning map, divides a platted lot or unplatted property which was in single ownership and of record at the time of the adoption of this chapter, the least restricted portion of such lot or property under this chapter shall be considered as extending to the entire lot or property, if the more restricted portion is entirely within twenty-five (25) feet of the dividing district boundary. The entire use shall be deemed to be conforming.

(Code 1977, § 5.24)

Sec. 28-35. - Vacated public right-of-way.

Whenever any street, alley or other public way is vacated by official action, the zoning districts adjoining the sides of the public way shall be automatically extended to include the right-of-way of the public way vacated, which shall be subject to all regulations of the extended district or districts.

(Code 1977, § 5.25)

Sec. 28-36. - R-1 one-family residential district.

The R-1 one-family residential district is established for low to medium density single-family residential neighborhoods. The regulations are intended to stabilize, protect and encourage the residential character of the district and prohibit all activities of a commercial nature. Development is limited to single unit dwellings, home occupations, plus certain conditional uses that are compatible and convenient to the residents in the district.

(Code 1977, § 5.31)

Sec. 28-37. - R-2 one- and two-family residential district.

The one- and two-family residential district is established to allow a compatible commingling of one- and two-family dwellings. The regulations are intended to stabilize and encourage the residential character of the district and to prohibit all activities of a commercial nature. Development is limited to one- and two-family dwelling units, home occupations plus certain conditional uses that are compatible and convenient to the residents in the district.

(Code 1977, § 5.32)

Sec. 28-38. - R-3 multiple-family residential district.

The multiple-family residential district is established for multiple-family residential use. The regulations are designed to protect and promote a more intensive residential character than the R-1 and R-2 districts and to prohibit all commercial activities. All types of residential structures are permitted, but the predominant type will be multiple-family dwellings, including apartments, townhouses and conversions of single-family dwellings into multiple units.

(Code 1977, § 5.33)

Sec. 28-39. - R-4 high density apartment and office district.

The high density apartment and office district is established for high density residential uses located close to the central business district. The district permits all types of residential use and limited professional and business development. Permitted uses include apartments, clinics, offices, clubs and headquarters for group organizations.

(Code 1977, § 5.34)

Sec. 28-40. - R-5 mobile home park district.

The mobile home park district is composed of areas suitable for residential development. It is limited to the prefabricated types of single-family mobile dwelling units and other uses characteristic of a residential area. This district is not intended to exclude mobile home subdivisions or individually sited mobile homes from locating in other residential districts. Rather it is designed to allow for a greater density and flexibility in design that is otherwise allowed in residential districts by setting standards for a mobile home park development. Mobile home park regulations are approved by the state mobile home commission and are found in the supplemental provisions section of this chapter.

(Code 1977, § 5.35)

Sec. 28-41. - R-6 residential and low-intensity office district.

The residential and low-intensity office district is designed to maintain low intensity uses in those areas of the city where changing traffic volumes and patterns can generate more intensive land uses. This district encourages a mixture of low intensity residential uses and administrative or professional office uses that generate little pedestrian or automobile traffic. It is specifically intended to prohibit commercial establishments of a retail nature that are involved with the sale or repair of goods, wares or merchandise.

(Code 1977, § 5.36)

Sec. 28-42. - C-1 neighborhood commercial district.

The neighborhood commercial district is established to service the daily and weekly household or personal needs of abutting residential neighborhoods. It permits the retailing of commodities classed by merchants as "convenience goods," such as groceries and drugs, and the furnishing of certain personal services such as beauty and barber shops. This district is small, located at the intersection of two (2) streets, and is usually surrounded by residential districts. The regulations of this district are designed to encourage development of designated uses and services needed for the neighborhood without creating a strong commercial atmosphere.

(Code 1977, § 5.37)

Sec. 28-43. - C-2 community commercial district.

The community commercial district is composed of certain land and structures used primarily to provide all types of "convenience goods," as described in the C-1 district, and limited types of "durable shoppers goods," such as household furnishings, hardware, and apparel. The district also permits services such as gasoline stations and branch banks. The district usually occupies more area than a C-1 district, is located on or near arterial streets, and is designed to serve more than one (1) neighborhood.

(Code 1977, § 5.38)

Sec. 28-44. - C-3 central commercial district.

The central commercial district represents the focal point of the city's commercial, office and civic activity. It is designed to provide retailing, personal services, parking and business services for the entire urban area. The district also supports mixed use developments that include residences as well as commercial and office space. Residential use is encouraged on the upper level floors of structures. The district, located at the area of convergence of arterial streets and highways, is surrounded on all sides by districts which are given over to general business, light industrial, office and high density residential uses or some combination. Recognized as the "central business district" of the metropolitan area, the regulations are designed to:

- (1) Encourage a strong, compact central core.
- (2) Realize and enhance the existing character of certain areas.
- (3) Encourage primary parking areas in proximity to the uses they serve and to discourage auto and pedestrian interaction.
- (4) Provide and maintain green spaces that can act as activity areas for employees and shoppers.

(Code 1977, § 5.39; Ord. No. 2006.17, § 1, 11-14-06)

Sec. 28-45. - C-4 general commercial district.

The general commercial district is composed of certain land and structures used to provide all types of retail goods and services for the residents of the city and surrounding communities. The district also provides wholesale supply services, warehousing facilities, intracity truck transfer services and limited types of fabrication in support of the central business district and industrial districts. The regulations are intended to encourage development of the district in a manner compatible with its best uses and to protect any abutting residential districts.

(Code 1977, § 5.40)

Sec. 28-46. - I-1 light industrial district.

The light industrial district is designed to provide suitable space for industrial uses that operate in a safe, nonobjectionable and efficient manner, and so require a minimum of buffering measures from adjoining nonindustrial zoning districts. These uses generate a minimum of noise, glare, odor, dust, vibration, air pollutants, water pollutants, fire, explosive or radioactive hazards, or other harmful or obnoxious matter. Any use allowed as a permitted or conditional use in the C-4 district, except the planned building group shopping center and the work release (halfway) house, shall be considered a valid permitted or conditional use in this district.

(Code 1977, § 5.41; Ord. No. 93-10, § 1, 7-20-93; Ord. No. 93-18, § 1, 9-28-93; Ord. No. 2006.11, § 1, 7-18-06)

Sec. 28-47. - I-2 general industrial district.

The general industrial district is designed to provide suitable space for industrial operations of all types and adult entertainment enterprises that can comply with all provisions of this chapter and can assure protection of the public interest and surrounding property and persons. The City of Jackson, in adopting this section, recognizes, the secondary blighting effects caused by concentration of adult entertainment uses proven in other areas of the state and nation. Any use allowed as a permitted or conditional use in the I-1 district, except those expressly listed in the C-4 district, shall be considered a valid permitted or conditional use in this district.

(Code 1977, § 5.42; Ord. No. 93-10, § 1, 7-20-93; Ord. No. 93-18, § 1, 9-28-93; Ord. No. 2003.16, § 2, 11-25-03)

Sec. 28-48. - Planned unit development district (PUDD).

- (a) *Intent.* The PUDD is designed to offer an alternative to the fixed provisions typical to traditional zoning districts by creating a separate district. The PUDD regulations offer flexibility in development design by using performance criteria to regulate development. Where these criteria are deemed appropriate, a PUDD approval process, as the basis for land use control, can replace the dimensional and use specifications of traditional districts.
- (b) *Objectives.* PUDDs must achieve the following objectives:
- (1) Promote maximum choice in the types of environment, lot sizes, and community facilities available.
 - (2) Encourage more usable tracts of land for open space, recreational purposes, and common use.
 - (3) Preserve trees, outstanding natural topography, and geologic features, and prevent soil erosion.
 - (4) Preserve historically and culturally significant structures and areas of the city.
 - (5) Offer creativity through mixed-use developments to promote urban-cultural diversity.
 - (6) Encourage creative use of land and reuse of existing structures, which can be planned to relate to surrounding physical development.
 - (7) Attain more efficient use of land as a result of smaller networks of utilities and streets, and thereby lower costs.
 - (8) Achieve a development pattern in harmony with the objectives of the comprehensive plan.
 - (9) Provide an opportunity to locate necessary community facilities within residential neighborhoods.
 - (10) Create a more desirable environment than would be possible through the application of strict zoning requirements applied in other sections of this chapter.
- (c) *Applicant requirements.* As a condition precedent to PUDD zoning approval, an applicant for a PUDD must demonstrate that:
- (1) The PUDD will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved.

- (2) The proposed type and density of use will not result in an unreasonable increase in the use of public services, facilities, utilities, and will not place an unreasonable burden upon the subject or surrounding land, property owners and the natural environment.
 - (3) The proposed PUDD will not have a materially adverse impact upon the land use plan of the city and will be consistent with the intent and spirit of this chapter.
 - (4) The proposed PUDD will be under single ownership or control and there will be a single person or entity having responsibility for completing the project. This provision will not prohibit a transfer of ownership or control, upon due notice to the chief building inspector.
- (d) *Project design standards.*
- (1) Both residential and nonresidential uses are permitted with a maximum density and intensity determined appropriate by the city planning commission based upon the applicant's demonstration of design excellence in the PUDD that results in a substantial benefit to all or a significant portion of ultimate users of the PUDD. These benefits may include development of innovative design producing significant energy efficiency, historic or cultural preservation, pedestrian or vehicular safety, or a long-term aesthetically pleasing appearance. Nonresidential uses, including parking and vehicular traffic-ways, must be separated and buffered from residential units in a manner consistent with good land and community planning principles; provided, it is recognized that this provision may have limited application to multi-use buildings.
 - (2) The PUDD must be designed so as to promote preservation of natural and cultural resources and features. In the interpretation of this provision, natural and cultural resources and features may be impaired or destroyed if it is in the public interest to do so. In determining whether action is in the public interest, the benefit which would reasonably be expected to accrue from the PUDD must be balanced against the reasonably foreseeable detriment caused by the loss of the natural and cultural resources and features, taking into consideration the local, state, and national concern for the protection and preservation of natural and cultural resources and features, and taking into account the provisions and standards of any environmental protection act or historic preservation act.
- (e) *Pre-application conference.* Before the application is submitted for approval, the applicant must meet with the appropriate city staff and other consultants, as either deem appropriate. At the conference, the applicant must present at least a sketch plan of the PUDD, as well as the following information:
- (1) A legal description of the property in question.
 - (2) The total number of acres in the project.
 - (3) A statement of the approximate number of residential units, the approximate number and type of nonresidential units, and the approximate number of acres to be occupied by each type of use.
 - (4) The number of acres to be preserved as open or recreational space.
 - (5) All known natural resources and natural features.
- (f) *Procedure for review and approval of preliminary plan.*
- (1) The applicant must submit seventeen (17) copies of a preliminary plan, including a preliminary site plan, to the chief building inspector within ninety (90) days following the pre-application conference required above. The chief building inspector will present the preliminary plan to the planning commission for consideration at a regular or special meeting following the pre-application conference.
 - (2) The preliminary plan must include the following:
 - a. Applicant's name and address.

- b. The name of the proposed PUDD.
 - c. Common description of property and complete legal description.
 - d. Dimensions of land, width, length, acreage and frontage.
 - e. Existing zoning and zoning of all adjacent properties.
 - f. Statement of intent of proposed use of land and any phasing of the project.
 - g. Name, address, city and phone number of firm or individual who prepared the plan, the owner of the property, and the applicant, if other than owner.
 - h. Existing and proposed right-of-way width of all adjoining and internal roads, and layout of all internal roads.
 - i. Proposed acceleration, deceleration, and passing lanes.
 - j. Location of existing drainage courses, floodplains, lakes, streams, and wetlands.
 - k. Intentions with respect to water and sewer.
 - l. All parking areas and number of spaces by size.
 - m. The number and location of areas to be preserved as open or recreational space.
 - n. All known natural and cultural resources and features.
 - o. Density calculations for residential units, number and types of units (if applicable), and floor area per habitable space.
 - p. A community impact statement if the property on which the PUDD is to be situated consists of twenty-five (25) acres or more.
 - q. A fair representation of the PUDD concept, including each type of use, square footage or acreage allocated to each use, approximate locations of each principal structure and use in the development, setbacks, typical layout and elevation for each type of use.
 - r. Specification of each deviation from the applicable ordinance regulations which will be sought to be approved, and the safeguards, features or planning mechanisms proposed to achieve the objectives intended to be accomplished by the regulations from which a deviation is being sought.
 - s. The planning commission or the city council may require a topographical map if the size of the project or nature of the topography indicates that such document would be meaningful to the review.
- (3) Planning commission review of preliminary plan. The planning commission will review the preliminary plan during a public hearing. Notice of the hearing shall be provided as required in section 28-8. At the hearing, the planning commission may make reasonable inquiries of and receive answers from the applicant. Following review, the planning commission must provide the applicant with written comments, which will become part of the official minutes of the planning commission. The action of the planning commission must take place within sixty (60) days of receipt of all materials required in the preliminary plan, unless mutually agreed upon between the planning commission and the applicant.
- (4) City council review of preliminary plan. The planning commission must forward the preliminary plan, together with its written comments, to planning staff who will notice the preliminary plan for public hearing before the city council. Notice of the hearing shall be provided as required in section 28-8. Within a reasonable time following the public hearing, the city council must approve, approve with conditions, or deny the preliminary plan. If the council approves, or approves with conditions, the preliminary plan, it will be an authorization of the concept embodied in the preliminary plan, subject to submission, review, and approval of the final plan described below. In reviewing the preliminary plan, the city council will review and determine whether the basic

concept of the proposal is consistent with the intent and spirit of this chapter. In no case may the preliminary approval be construed as a final approval of the plan and the preliminary approval is subject to review and approval of the final plan.

- (5) Criteria for preliminary approval. The planning commission and city council will consider the following relevant criteria: compliance with all related applicable regulations; perimeter setback and berming; thoroughfare, drainage, and utility design; underground installation of utilities; insulation of the pedestrian circulation system from vehicular thoroughfares and ways; achievement of an integrated development with respect to signage, lighting, landscaping, and building materials; and, particularly in cases where nonresidential uses adjoin off-site residentially zoned property, noise reduction and visual screening mechanisms.

(g) *Procedure for submission and review of final plan.*

- (1) The final plan constitutes an application to amend this chapter, and upon receipt will be noticed for public hearing before the planning commission and the city council for rezoning, as consistent with section 28-8 or as provided by law.
- (2) Within six (6) months following receipt of the preliminary plan approval, the applicant must submit to the chief building inspector seventeen (17) copies of a final plan, including a final site plan. If the final plan is not submitted within six (6) months, the preliminary plan approval lapses and the applicant must recommence the review process. However, the city council may extend the time for submission of the final plan if the applicant shows that no material change of circumstances has occurred including that the law and ordinance impacting upon the PUDD have not changed.
- (3) The final plan must include the following:
 - a. All requirements for the preliminary plan.
 - b. All requirements for site plan review under this chapter.
 - c. A site plan showing the type, location and density of all uses.
 - d. All open spaces, including preserves, recreational areas, and the like, and each purpose proposed for such area.
 - e. Evidence of market need for the use and economic feasibility of the development.
 - f. A detailed landscaping plan.
 - g. A specific schedule of the intended development and construction details, including phasing or timing, and the general improvements to constitute a part of the development, including at least lighting, signage, utilities, visual screening features and the mechanisms designed to reduce noise.

(h) *Review of final plan.*

- (1) Reasonable conditions may be required with the approval of a PUDD rezoning, to the extent authorized by law, for the purpose of insuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed must be designed to protect natural and cultural resources and the public health, safety, and welfare of individuals in the PUDD, those immediately adjacent thereto, and the community as a whole; must be reasonably related to the purposes affected by the planned unit development; and must be necessary to meet the intent and purpose of this chapter. All conditions imposed must be made a part of the record of the approved PUDD.
- (2) The city council may depart from compliance with a generally applicable regulation when such is consistent with

the PUDD and the city council finds that the plan provides adequate mechanisms to achieve the regulation's original objective.

- (3) The approval of the PUDD rezoning, together with all conditions imposed, will constitute the land use authorization for the property. All improvements and uses must be in conformity with such plan and any approved amendments thereto. Upon approval, the property for which the plan has been approved will be designated "PUDD" on the official zoning map of the city. The applicant must record an affidavit with the register of deeds containing the legal description of the entire development, specifying the date of approval of the PUDD, and declaring that all future development of the PUDD property has been authorized and required to be carried out in accordance with the approved PUDD unless the city council adopts an amendment at the request or approval of the applicant, or applicant's transferees or assigns.
 - (i) *Phasing and commencement of construction.*
 - (1) Where a PUDD is proposed for construction phases, the planning and designing must be such that, upon completion, each phase will stand on its own in terms of the presence of services, facilities, and open space, and will contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the PUDD and the residents of the surrounding area.
 - (2) Construction must be commenced within one (1) year following final approval of a PUDD rezoning, or within one (1) year of any other necessary governmental approval for commencement of the development, whichever is later, provided all other necessary approvals have been actively pursued. Each phase of the PUDD must commence within one (1) year of the schedule established for it in the application submitted for the PUDD. If construction is not commenced within such time, any approval of the final plan for the PUDD lapses and is null and void. However, the city council may grant an extension for a specified time period if the applicant makes a request for extension before the expiration of the initial period and demonstrates good cause. If the final plan expires, the city council may rezone the property in any reasonable manner. If the property remains classified as a PUDD, a new application for a PUDD must be filed and reviewed in light of the then existing and applicable law and ordinance provisions.
 - (j) *Fees.* Fees, as established by city council resolution pursuant to section 28-6, must be paid when the applicant files the preliminary plan and the final plan.

(Ord. No. 2003.10, § 1, 8-12-03; Ord. No. 2011.15, § 3, 8-16-11)

Secs. 28-49—28-70. - Reserved.

ARTICLE III. - ZONING DISTRICT REGULATIONS

Sec. 28-71. - Permitted and conditional uses.

The following uses are permitted (P), or conditional (C) within the zoning districts. Conditional uses require approval by the planning commission according to the procedures of section 28-147.

	Zoning Districts											
	R-1	R-2	R-3	R-4	R-5	R-6	C-1	C-2	C-3	C-4	I-1	I-2

(1)	Adult entertainment enterprises provided that such uses shall not be located within one thousand (1,000) feet of any other adult entertainment enterprise measured from property line to property line, and such uses shall not be located within seven hundred fifty (750) feet of a church, park, playground or school, or within seven hundred fifty (750) feet of any R-1, R-2, R-3, R-4, R-5, R-6, or PR-1 zoning district measured from property line to property line. Not more than one (1) adult entertainment enterprise shall be located in the same building, structure or portion thereof.														P	
(2)	Ambulance service														P	P
(3)	Animal hospital, veterinary clinic or kennel, not to include any outdoor exercise runway, provided any structure used for such purposes shall be at least one hundred (100) feet from any R district															P
(4)	Antique store										P	P	P			
(5)	Apparel and accessories store									P	P	P	P			
(6)	Appliance (household) store										P	P	P			
(7)	Arcade										P	P	P			
(8)	Auto washing stations										C	C	C	C	C	
(9)	Automobile parts store										P	P	P			
(10)	Automobile repair—Major												P	P	P	
(11)	Automobile repair—Minor										C	C	P			
(12)	Automobile service station (See "Supplemental Regulations)									C	C	C	C	P	P	

(13)	Automobile truck and trailer display and sales. Sales lots, which includes the entire outdoor display area and any associated structures, shall not be within fifty (50) feet of any R district									C	C	P	P	
(14)	Automobile wrecking and salvage yard													C
(15)	Bag, carpet and rug cleaning, provided dust is effectively controlled											P	P	
(16)	Bakery (limited in quantity to goods sold retail on premises)							P	P	P	P			
(17)	Bakery (wholesale)									P	P	P		
(18)	Banks, loan and finance offices including drive through facilities				P			P	P	P	P	P	P	P
(19)	Barbershops, beauty shops, tanning salons and other similar personal grooming services				P			P	P	P	P			
(20)	Bed and breakfast, tourist homes				P			P	P					
(21)	Bicycle shop								P	P	P			
(22)	Billboards (subject to the provisions in <u>section 28-253(b)</u> and <u>section 28-145(d)(13)</u>)													C
(23)	Boat display, hire, sales, and repair													C
(24)	Bookstore								P	P	P			
(25)	Bottling or distribution of soft drinks and milk, provided a building used for such processing and distribution shall be at least one hundred (100) feet from any R district											P	P	

(26)	Bowling alleys, skating rinks, dance clubs, pool halls, indoor athletic and exercise facilities and other similar indoor recreation provided a building used for such purpose shall be at least one hundred (100) feet from any R district									P	P			
(27)	Building materials sales yard and supply store											P	P	P
(28)	Building materials salvage yard													C
(29)	Business or trade schools										P	P		
(30)	Bus stations										P	P		
(31)	Cabinet fabrication and sales									C	P	P		
(32)	Camera and photographic equipment supply store										P	P		
(33)	Candy, ice cream and other confectionery stores (production is limited in quantity to goods retailed on the premises)								P	P	P	P		
(34)	Candy, ice cream and other confectionery—Wholesale										P	P	P	
(35)	Cemetery; adjacent to an existing cemetery	P	P											
(36)	Churches, synagogues, temples and associated buildings, but not including elementary or secondary school buildings	C	C	C	C	C	C	C	C	C	C	C		
(37)	Cleaning or dyeing plants, commercial laundries													P
(38)	Clinic—Dental or medical				P				P	P	P	P		
(39)	Clothing store								P	P	P	P		
(40)	Crating and packing services when conducted within a completely enclosed building										P	P		
(41)	Cold storage plants												P	

(42)	a.	Contractor yards for vehicles, equipment, materials, supplies but excluding asphalt and cement mixing												P	P
	b.	Contractor offices with the incidental storage of parts, equipment and vehicles								C			P	P	P
(43)	Convenience store								C	C	C	C			
(44)	Day care facility														
	a.	Family day care home	P	P	P	P	P	P							
	b.	Group day care home (must be located in a single-family dwelling with a minimum lot size of seven thousand five hundred (7,500) square feet)	P	P	P	P	P	P							
	c.	Child care center	C	C	C	C	C	C	C	C	C	C			
(45)	Delicatessen								P	P	P	P			
(46)	Department store										P	P			
(47)	Diaper, linen and towel supply service										P	P			
(48)	Drapery, curtain shop									P	P	P			
(49)	Drugstore								P	P	P	P			
(50)	Dry cleaners, custom and self-service								P	P	P	P			
(51)	Dwelling														
	a.	One-family detached	P	P	P	P	P	P							
	b.	Two-family		P	P	P		P							
	c.	Multiple-family			P	P									

	d.	Conversion of one- and/or two-family residences into multiple-family dwelling units, provided these conform with the lot area and yard requirements prescribed for multiple-family dwellings in this chapter			P	P								
	e.	Permitted in buildings of two (2) stories in height or greater, provided that no dwelling unit shall occupy any portion of the building at ground level							P	P	P	P		
	f.	Watchman or caretaker residence, secondary to a primary use permitted in this district											P	P
(52)		Egg and poultry store, with no slaughtering, eviscerating or dressing of poultry conducted outside of an enclosed structure										P		
(53)		Electrical equipment and motor assembly											P	
(54)		Electrical supplies, wholesale and storage										P		
(55)		Experimental laboratory											P	
(56)		Exterminator service										P		
(57)		Factory and mill supplies										P	P	
(58)		Feed and fertilizer, sales and storage										P	P	
(59)		Florist—Gift shop							P	P	P			
(60)		Fraternity or sorority house and college-owned dormitories				P								
(61)		Fruit, vegetable, fish and poultry wholesale market										P		
(62)		Funeral home				C			P	P	P			

(63)	Furniture store									P	P	P		
(64)	Garden and lawn supplies store												P	
(65)	Gas station with or without a mini-mart									C	C	C	C	C
(66)	Gift, novelty and souvenir store									P	P	P		
(67)	Greenhouse and nursery												P	
(68)	Grocery store, supermarket and meat market								P	P	P	P		
(69)	Grocers' wholesale supply												P	
(70)	Hardware store								P	P	P	P		
(71)	Headquarters for religious, philanthropic and charitable organizations					P				P	P	P		
(72)	Hearing aid store											P	P	
(73)	Helicopter landing pad					C							C	
(74)	Home occupations, provided all the conditions in the supplemental regulations are met	C	C	C	C	C	C							
(75)	Hospitals, sanitariums and other institutions for human care					C								
(76)	Hotels and motels												P	P
(77)	Incinerators, or reduction of garbage, refuse, bones, offal or dead animals													C
(78)	Institution for children or the aged, but not including penal or correctional institution					C								
(79)	Interior decorator, including sales												P	P
(80)	Jewelry store									P	P	P		
(81)	Jukebox and vending machine service and distribution												P	

(82)	Junkyard													C
(83)	Laboratory, dental or medical				C						P	P		
(84)	Landing field for aircraft (service buildings must be five hundred (500) feet from any R district)												P	
(85)	Laundry, custom and self-service							P	P	P	P			
(86)	Library, public	C	C	C	C	C	C	P	P	P	P			
(87)	Liquor and wine and malt beverage packaging and distribution											P	P	
(88)	Liquor store (sale by package only)							C	C	C	C			
(89)	Luggage shop										P	P		
(90)	Lumberyard, retail, including only incidental mill work in an enclosed building											P	P	
(91)	Machinery sales, farm or industrial, provided yards shall be enclosed												P	P
(92)	Mail order warehouse											P	P	
(93)	Manufacturing or processing, limited to the following products: Beverage bottling (nonalcoholic); coffee roasting; cosmetics; electrical/electronic equipment; engraving; fishing tackle; home/office furniture/furnishings; instruments (e.g. dental, drafting, musical, surgical); mattresses; paper products; pharmaceuticals; products from purchased plastic, shell, cellophane, glass, rubber and precious or semiprecious metals and stones; radar equip.; radios; surgical supports (e.g. braces, trusses, elastic hosiery); televisions; windows/doors													P

(94)	Manufacturing or processing of any of the following:																		P
	a.	Abrasives, acid, alcohol, ammonia, asbestos, bone black, carbon black, lamp black, brick, clay, tile, charcoal and coke;																	
	b.	Chemicals, cinder block, detergents, soaps and by-products;																	
	c.	Fungicides and insecticides;																	
	d.	Gases, glue, or gelatin;																	
	e.	Grain milling and mixing;																	
	f.	Graphite, insulation, metals, ingots, castings, sheets, bars or rods;																	
	g.	Metal plating;																	
	h.	Oils and fats, animal or vegetable;																	
	i.	Paints, pigments, enamels, japans, lacquer, varnishes and wood fillers;																	
	j.	Paper pulp and cellulose; paraffin, wax and wax products;																	
	k.	Plastics, rubber and rubber products;																	
	l.	Sauerkraut, vinegar and yeast;																	
	m.	Viruses, toxins and serums																	
(95)	Manufacturing or processing of alkali, asphalt, cement, concrete, fertilizer, gravel, rock, gypsum and other forms of plaster base																		C
(96)	Medical and adult use marihuana facilities:																		

	a.	Grower with or without a colocated processing facility in accordance with <u>Sec. 28-140</u> of the Code.												P	P
	b.	Registered primary caregiver in accordance with MMMA and <u>Chapter 16</u> .	P	P	P	P	P	P	P	P	P	P	P	P	P
	c.	Retail or provisioning center facility in accordance with <u>Sec. 28-140</u> of the Code.										P	P	P	P
	d.	Secure transporter facility in accordance with <u>Sec. 28-140</u> of the Code.												P	P
	e.	Safety compliance facility in accordance with <u>Sec. 28-140</u> of the Code.											P	P	P
	f.	Microbusiness in accordance with <u>Sec. 28-140</u> of the Code.												P	P
(97)		Metal working (excluding presses of over twenty (20) tons and machine-operated drop hammers)												P	
(98)		Mobile home park						P							
(99)		Mobile home subdivision						P							P
(100)		Monument works provided cutting operations are conducted within a completely enclosed building											P		
(101)		Motorcycle sales and service												P	
(102)		Moving and storage companies											P	P	
(103)		Museum, public	C	C	C	C	C	C	P	P	P	P			
(104)		Music store									P	P	P		
(105)		Newspaper publishing										P	P		
(106)		Newsstand										P	P		

(107)	Office												
	a. Designed to attract and serve customers on the premises;					P			P	P	P	P	P
	b. Designed to attract little or no customer or client traffic. Limited to the conversion of residences or to new construction of residences or to new construction on vacant lots zoned R-6 at the date of adoption of this ordinance [chapter]							P					
(108)	Office supply store including sales of business machines									P	P	P	
(109)	Optician and optometrist shops										P	P	
(110)	Ornamental iron work and fence service											P	
(111)	Outdoor advertising service, including construction and storage of materials and equipment											P	
(112)	Paint and wallpaper store									P	P	P	
(113)	Park and/or playground, public	C	C	C	C	C	C	C	C	C	C	C	C
(114)	Parking and storage yards for motor vehicles and/or transport equipment (must be at least two hundred (200) feet from any R district)												P
(115)	Parking lots and/or structures either public or privately owned or operated, subject to provisions of sections <u>28-100</u> and <u>28-145(d)(12)</u>			C	C				P	P	P	P	
(116)	Pattern making with light weight nonferrous metal											P	
(117)	Pet store and supplies										P	P	
(118)	Pet grooming services					P			P	P	P	P	

(119)	Pharmacy, as an accessory use located in the same structure as a medical or dental office or clinic					C								
(120)	Photocopying services							C	P	P	P			
(121)	Photographic studio								P	P	P			
(122)	Planned building group shopping centers (see supplemental regulations)							P	P	P	P			
(123)	Planned unit residential development (see supplemental regulations)	P	P	P	P	P	P							
(124)	Plumbing, heating store								P	P	P			
(125)	Plumbing, heating, and sheet metal shops (including punching or material of one-eighth inch or less in thickness)										P	P		
(126)	Pressing, altering, and repairing of wearing apparel							P	P	P	P			
(127)	Printing and publishing, including related processes								P	P	P			
(128)	Public utilities offices and salesrooms									P	P			
(129)	Public utility material storage and service yard										P	P		
(130)	Radiator repair shop										P			
(131)	Radio and television broadcasting studios													
	a. With transmitter										P	P	P	P
	b. Without transmitter								C	P	P	P	P	
(132)	Recycling collection centers							C	C	C	C	C	C	
(133)	Rehabilitation center for handicapped persons					C								

(134)	Resource centers providing services for the betterment of family relationships, neighborhood quality, occupational skills and educational development and similar uses, but excluding alcohol and drug therapy or counseling centers, crime rehabilitation or counseling centers, halfway houses and similar uses	C	C	C	C	C	C	C	P	P	P	P		
(135)	Repair, rental and servicing of any product the sale of which product is a Use by Right permitted in the same district								P	P	P	P		
(136)	Resale shops, used clothing and furniture (permanent and fully contained within a structure)								P	P	P	P		
(136a)	Resale shops for used furniture (permanent and fully contained within a structure)										P	P		
(137)	Restaurant, including eat-in and carry-out, and including bars and cocktail lounges								P	P	P	P	P	P
(138)	Rooming house, boarding house			P	P									
(139)	Schools (elementary, secondary and college levels for academic instruction)	C	C	C	C	C	C	C	C	C	C	C		
(140)	Shoe store, sales and repair									P	P	P		
(141)	Sign painting shops										P	P		
(142)	Skating rinks										P	P		
(143)	Social, fraternal clubs, union halls, lodges and similar uses									P	P	P	P	
(144)	Special tools and gauges, checking and service											P		
(145)	Special trades contractors												P	

(146)	Sporting goods store									P	P	P		
(147)	Stockyards, livestock auction yard													C
(148)	Storage													
	a. Bulk storage of explosives													C
	b. Flammable liquids three thousand (3,000) gallons or more, if stored aboveground, shall be at least one hundred (100) feet away from all boundary lines of the premises													C
	c. Liquid petroleum gas five hundred (500) gallons or more, if stored aboveground, shall be at least fifty (50) feet away from all boundary lines of the premises													C
	d. Self-service storage facilities (a building or group of buildings used exclusively as a storage facility for residential goods and available for rent with individual leases for portions of the facility)												C	C
(149)	Studio, school or similar facility for professional work or instruction of any form of fine arts, ceramics, crafts, music, drama, dance and other similar activities. The incidental provision of such instruction in a single family residence will be considered a home occupation (see subsection (74)).				C					P	P	P	P	
(150)	Surgical supplies store											P	P	
(151)	Taxi stands											P	P	
(152)	Telephone exchange											P	P	
(153)	Theaters and theatrical studios											P	P	

(154)	Tire and battery shops including recapping and rebuilding											P		
(155)	Toy store								P	P	P			
(156)	Travel agencies				P				P	P	P			
(157)	Truck repair and service												P	P
(158)	Trucking freight terminal and yards													P
(159)	Trucking terminal, intercity											P		
(160)	Variety and notions store								P	P	P			
(161)	Wall and floor coverings stores								P	P	P			
(162)	Welding shop											P	P	
(163)	Wholesale and warehousing of any commodity permitted to be made or processed in the same district										P	P	P	P
(164)	Work release (halfway) house (see additional development requirements in <u>section 28-140</u>)												P	P
(165)	Accessory nonresidential uses and structures not otherwise prohibited, customarily accessory and incidental to any use by right							C	C	C	C	C	C	C
(166)	Any residential accessory use or structure clearly incidental and customary to the operation of the uses by right (such as a garage) when located on the same property	P	P	P	P	P	P	P/C*						
(167)	Legal nonconformities	C	C	C	C	C	C	C	C	C	C	C	C	C

*Permitted by right for residential uses and conditional for nonresidential uses.

(Code 1977, §§ 5.50—5.57; Ord. No. 90-11, §§ 2, 3, 7-17-90; Ord. No. 90-15, § 1, 7-31-90; Ord. No. 92-11, § 1, 6-16-92; Ord. No. 92-18, § 1, 11-10-92; Ord. No. 93-2, § 3, 1-5-93; Ord. No. 93-10, § 2, 7-20-93; Ord. No. 93-16, § 1, 8-31-93; Ord. No. 93-18, § 2, 9-28-93; Ord. No. 93-27, § 1, 11-23-93; Ord. No. 94-8, § 1, 8-23-94; Ord. No. 96-10, § 1, 7-30-96; Ord. No. 97-15, § 1, 8-19-97; Ord. No. 98-15, § 1, 7-7-98; Ord. No. 98-16, § 1, 7-7-98; Ord. No. 99-9, § 1, 6-1-99; Ord. No. 99-18, § 1, 9-21-99; Ord. No. 2000.5, § 1, 8-22-00; Ord. No. 2001.5, § 1, 2-13-01; Ord. No. 2002.1, § 1, 2-12-02; Ord. No. 2003.7, §§ 1, 2, 5-27-03; Ord. No. 2003.16, § 3, 11-25-03; Ord. No. 2004.8, § 1, 4-13-04; Ord. No. 2006.11, § 1, 7-18-06; Ord. No. 2006.12, § 1, 7-18-06; Ord. No. 2006.13, § 1, 8-15-06; Ord. No. 2006.17, § 1, 11-14-06; Ord. No. 2007.2, § 1, 1-9-07; Ord. No. 2009-6, § 1, 4-7-09; Ord. No. 2011.15, § 3, 8-16-11; Ord. No. 2012.5, § 4, 4-10-12; Ord. No. 2016.04, § 2, 3-15-16; Ord. No. 2016.07, § 2, 3-29-16; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2017-06, § 3, 5-2-17; Ord. No. 2018-14, § 2, 12-11-18; Ord. No. 2019-14, § 2, 10-15-19; Ord. No. 2020-16, § 2, 10-13-20; Ord. No. 2020-21, § 2, 12-8-20; Ord. No. 2021-08, § 2, 8-17-21)

Sec. 28-72. - Additional compatible uses.

In addition to the uses specifically permitted in each district, any other use that is determined by the zoning board of appeals to be of the same general character and to result in comparable impact upon the surrounding area and property and place comparable demands upon streets and public facilities may also be permitted. This does not include uses that are first permitted in any other zoning district.

(Code 1977, § 5.58)

Sec. 28-73. - Lot area, width, yard, building height requirements—Residential districts.

	R-1	R-2	R-3	R-4	R-6
Lot Area (minimum):					
1-Family	7,500 sq. ft.	7,500 sq. ft.	7,500 sq. ft.	7,500 sq. ft.	7,500 sq. ft.
2-Family	NA	12,000 sq. ft.	8,000 sq. ft.	5,000 sq. ft.	7,500 sq. ft.
3-Family	NA	NA	10,000 sq. ft.	For each dwelling unit over 2 in one building, an additional: 900 sq. ft. = 2 bedroom unit 700 sq. ft. = 1 bedroom unit 500 sq. ft. = 0 bedroom unit	NA
4-Family	NA	NA	12,000 sq. ft.		NA

Over 4-Family*	NA	NA	For each dwelling unit over 4 in one building, an additional: 1,600 sq. ft. = 2 bedroom unit 1,200 sq. ft. = 1 bedroom unit 800 sq. ft. = 0 bedroom unit		
Office	NA	NA	NA	NA	7,500 sq. ft.

*The first 4 dwelling units in this calculation shall be made up of the units with the most bedrooms.

Lot Width (minimum):					
1-Family	60 ft.	60 ft.	60 ft.	NA	60 ft.
2-Family	NA	60 ft.	65 ft.	NA	60 ft.
3-Family	NA	NA	80 ft.	NA	NA
4-Family	NA	NA	100 ft.	NA	NA
Over 4-Family	NA	NA	NA	NA	NA
Office	NA	NA	NA	NA	60 ft.
Lot coverage of principal building (maximum)	NA	NA	NA	35% of interior lot 45% of corner lot	NA
Front yard	35 ft.	35 ft.	25 ft.	25 ft.	35 ft.
Side yard**:					
1-Family	8/20 ft.	8/20 ft.	10/25 ft.	For all structures	8/20 ft.

2-Family	NA	8/20 ft.	12/28 ft.	Stories: 1-1.5 5/12 ft. 2-2.5 6/14 ft. 3 8/18 ft.	9/20 ft. NA NA
3-Family	NA	NA	12/28 ft.		NA
4-Family	NA	NA	10/22 ft.		NA
Over 4-Family	NA	NA	10/22 ft.		
Office	NA	NA	NA		8/20 ft.
**Side yard requirements are expressed by two (2) numbers (x/xx ft.) The first number is the minimum width of one yard and the second number is the minimum total widths of both side yards required.					
Rear yard (minimum):					
1-Family	50 ft.	50 ft.	40 ft.	(The rear yard shall have a depth equal to the height of the building, but in no case shall the depth of a rear yard be less than 25 feet and need not exceed 80 feet)	50 ft.
2-Family					50 ft.
3-Family					NA
4-Family					NA
Over 4-Family					NA
Office	NA	NA	NA		50 ft.
Height (maximum)	30	30	45 ft.	45 ft.	25 ft.

High water mark of a watercourse (minimum)	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.
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R-5 districts—All permitted uses, except mobile home parks, shall conform to the provisions in the R-1 district of this chapter.

All nonresidential uses shall meet minimum requirements for lot area, width, yard and height as established for each district.

For the provisions regulating signs, off-street parking and off-street loading, see those sections in the "supplemental regulations" section.

(Code 1977, § 5.60; Ord. No. 2016-29, § 3, 11-15-16)

Sec. 28-74. - Same—Commercial districts.

	C-1	C-2	C-3	C-4
Lot area (minimum)	NA	NA	NA	NA
Lot width (minimum)	NA	NA	NA	NA
Lot coverage of principal building (maximum)	NA	NA	NA	NA
Yards (minimum):				
Front	25 ft.	20 ft.	None	15 ft.
Side (only required when the lot adjoins any R district or abuts a street)	15 ft.	10 ft.	½ the height of the building but not < 20 ft.	½ the height of the building but not < 20 ft.

Rear	10 feet except when abutting any R district, then 20 feet	10 feet except when abutting any R district, then 20 feet	10 ft. for buildings not exceeding 3 stories. If more than 3 stories, 10 feet plus 2½ feet for each additional story	10 feet except when abutting any R district, then 20 feet
Height	25 ft. maximum	25 ft. maximum	25 ft. minimum	40 ft. maximum
High water mark of a watercourse	15 ft.	15 ft.	15 ft.	15 ft.

(Code 1977, § 5.61; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2017-06, § 3, 5-2-17)

Sec. 28-75. - Same—Industrial districts.

	I-1	I-2
Lot area (minimum)	NA	NA
Lot width (minimum)	NA	NA
Lot coverage of principal building (maximum)	NA	NA
Yards		
Front	25 ft.	40 ft.
Side	10 ft.	10 ft.
Rear	20 ft.	30 ft.
Height	35 ft.	90 ft.
High water mark of a watercourse	15 ft.	15 ft.

(Code 1977, § 5.62; Ord. No. 2016-29, § 3, 11-15-16)

Sec. 28-76. - Compliance with regulations.

- (a) No building or structure shall be erected or altered contrary to the regulations prescribed for the district in which the building or structure is located.
- (b) No yard or lot existing on October 20, 1988 shall be reduced in dimension or area below the minimum requirements set forth for the district in which the yard or lot is located. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.
- (c) No part of a yard or other open space required for or in connection with any structure for the purpose of complying with this chapter shall be included as part of a yard or open space required for compliance by any other structure.

(Code 1977, § 5.63)

Sec. 28-77. - Yard measurements.

- (a) Lots which abut on more than one (1) street shall provide the required front yards along every street.
- (b) All front, side, and rear yards shall be the minimum perpendicular distance measured from the principal structure, excluding all projections not exceeding three (3) feet in length from the structure wall.

(Code 1977, § 5.64)

Sec. 28-78. - Exceptions and modifications.

The regulations set forth by this chapter within each district shall be subject to the exceptions and modifications embodied in sections 28-79 through 28-84, to be administered by the zoning inspector unless otherwise specified.

(Code 1977, § 5.65; Ord. No. 93-2, § 4, 1-5-93)

Sec. 28-79. - Front and rear yard exceptions.

A primary structure may be constructed up to the front or rear block building line (see section 28-5 for the definition) when more than fifty (50) percent of the principal structures on one (1) side of the street in any one (1) block in a residential or commercial district do not meet the required front or rear yard setbacks, respectively.

(Code 1977, § 5.66; Ord. No. 93-2, § 5, 1-5-93; Ord. No. 2012.5, § 4, 4-10-12)

Sec. 28-80. - Double frontage lots.

Buildings on lots having frontages on two (2) nonintersecting streets shall have applicable front yards on both streets.

(Code 1977, § 5.66; Ord. No. 93-2, § 5, 1-5-93)

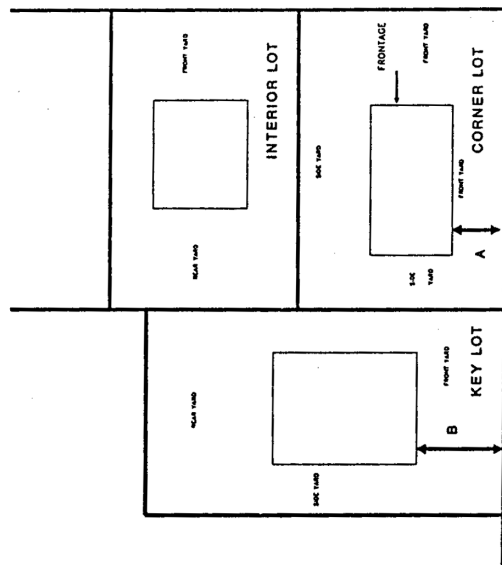
Sec. 28-81. - Side yard exceptions in R districts.

- (a) Each side yard shall be increased in width by two (2) inches in any R district for each foot by which the length of the side wall of a building, adjacent to the side yard, exceeds forty (40) feet.
- (b) The width of one (1) side yard may be reduced to a width not less than three (3) feet; provided the sum of the widths of the two (2) side yards is not less than the required minimum, and further provided the distance between the proposed dwelling and another dwelling, existing or proposed on an adjoining lot is not less than the minimum sum

of the widths of the two (2) side yards. Such reduction may be authorized only when the zoning board of appeals finds it to be warranted by the location of existing buildings or conducive to the desirable development of two (2) or more lots.

- (c) For corner lots which adjoin key lots, the yard setback which is contiguous to a street, but is not the frontage of the structure, shall have a width of not less than one-half (1/2) the required depth of the front yard setback on the adjoining key lot. (See "yard requirement for corner lot adjoining key lot" diagram following this section.)

(Code 1977, § 5.67; Ord. No. 93-2, § 5, 1-5-93)

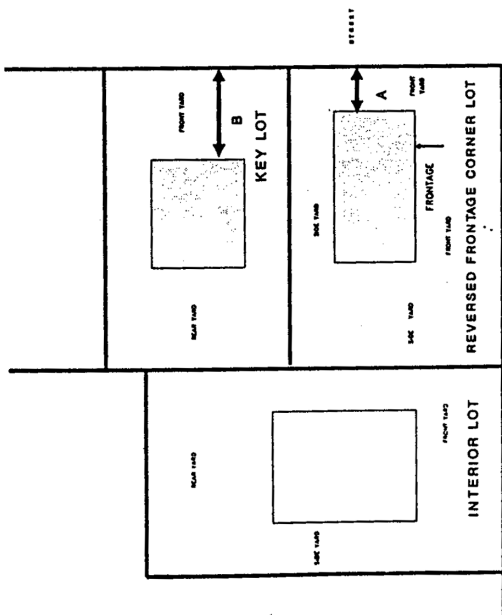


A - FRONT YARD MEASUREMENT FOR CORNER LOT ADJOINING KEY LOT

B - MINIMUM FRONT YARD MEASUREMENT (SETBACK REQUIREMENT)

FORMULA IS: $A = 1/2 B$

YARD REQUIREMENT FOR CORNER LOT ADJOINING KEY LOT



A - FRONT YARD MEASUREMENT FOR REVERSED FRONTAGE CORNER LOT ADJOINING KEY LOT

B - MINIMUM FRONT YARD MEASUREMENT (SETBACK REQUIREMENT)

FORMULA IS: $A = 1/2 B$

YARD REQUIREMENT FOR REVERSED FRONTAGE CORNER LOT ADJOINING KEY LOT

Sec. 28-82. - Lot width.

Width of a lot shall be the horizontal straight line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines (see "lot lines" diagram); provided however, that the width between side lot lines (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width, except in the case of lots on the turning circle of culs-de-sac, where the eighty (80) percent requirement shall not apply.

(Code 1977, § 5.68; Ord. No. 93-2, § 5, 1-5-93)

Sec. 28-83. - Height exceptions.

Exceptions to the maximum height regulations for each district specified in this chapter may be permitted subject to the following provisions:

- (1) *Height limitations.* The limitations affecting the height of structure shall not apply to the following appurtenant appendages and structures provided they comply with all other provisions of this or any other applicable ordinances: parapet walls, chimneys, smokestacks, church spires, flagpoles, radio and television towers, penthouses for mechanical equipment and water tanks.
- (2) *Increased height.* Building height in excess of the height above average ground level allowed in any district may be permitted by the zoning board of appeals provided all minimum front, side, and rear yard depths are increased one (1) foot for each additional one (1) foot of height and provided that adequate fire protection and compatibility with existing structure heights can be demonstrated.

(Code 1977, § 5.69; Ord. No. 93-2, § 5, 1-5-93)

Sec. 28-84. - Transitional uses in R districts.

In any R-2 or R-3 district, a transitional use shall be permitted on a lot the side lot line of which adjoins, either directly or across an alley, any C or I district. The permitted transitional uses for any such lot in an R-2 district shall be any use permitted in the R-3 district; and the permitted transitional uses for any such lot in the R-3 district shall be any use permitted in the R-4 or R-6 district. In the case of any such lot in an R-2 or R-3 district, the requirements governing lot area per dwelling unit, off-street parking, height and yards shall be the same as for the district.

(Code 1977, § 5.70; Ord. No. 90-11, § 5, 7-17-90; Ord. No. 93-2, § 5, 1-5-93)

Sec. 28-85. - Distance between grouped buildings.

In addition to the required setback lines provided elsewhere in this chapter for dwelling groups (including semidetached and multiple dwellings), the following minimum distances shall be required:

- (1) Where buildings are front to front or front to rear, three (3) times the height of the taller building, but not less than seventy (70) feet.
- (2) Where buildings are side to side, one (1) times the height of the taller building but not less than twenty (20) feet.
- (3) Where buildings are front to side, rear to side, or rear to rear, two (2) times the height of the taller building but not less than forty-five (45) feet.

(Code 1977, § 5.72; Ord. No. 90-11, § 7, 7-17-90)

Sec. 28-86. - Projections into yards.

In any R district, certain architectural and other features may project into required yards as follows:

- (1) Cornices, canopies, eaves, bay windows, balconies, chimneys and other architectural features may project a distance not exceeding three (3) feet.
- (2) Outside stairways and fire escapes may project a distance not exceeding four (4) feet, six (6) inches.
- (3) An uncovered stair with landing which does not extend above the entrance floor of the building except for a

railing, and projects not more than six (6) feet.

- (4) Walks, driveways or necessary retaining walls may occupy any yard area.
- (5) Patios or decks that do not extend above the floor of the building or project more than twelve (12) feet into the required rear yard space.
- (6) A ramp may project into the required yards so long as the ramp meets all requirements of the Americans with Disabilities Act and regulations of the American National Standards Institute, and is set back from the front property line a minimum of four (4) feet.

(Code 1977, § 5.73; Ord. No. 90-11, § 8, 7-17-90; Ord. No. 2009-13, § 1, 9-22-09)

Sec. 28-87. - Use by right on a lot.

In all R districts, not more than one (1) use by right and/or principal building shall be placed on one (1) lot of record.

(Code 1977, § 5.160; Ord. No. 2012.16, § 4, 7-17-12)

Editor's note— Ord. No. 2012.16, § 4, adopted July 17, 2012, renumbered the former § 28-131 as § 28-87.

Sec. 28-88. - Required area or space cannot be shared.

No part of a yard, provided about or for any building or structure for the purpose of complying with the provisions of this chapter, shall be included as part of a yard for another building or structure.

(Code 1977, § 5.180; Ord. No. 2012.16, § 4, 7-17-12)

Editor's note— Ord. No. 2012.16, § 4, adopted July 17, 2012, renumbered the former § 28-133 as § 28-88.

Sec. 28-89. - Exemption of essential services.

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam, or water distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police callboxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, telephone exchange buildings, public utility or municipal buildings and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission shall be permitted as authorized or regulated by law and other ordinances of the city in any use district, it being the intention hereof to except such erection, construction, alteration, and maintenance from the application of this chapter.

(Code 1977, § 5.190; Ord. No. 2012.16, § 4, 7-17-12)

Editor's note— Ord. No. 2012.16, § 4, adopted July 17, 2012, renumbered the former § 28-134 as § 28-89.

Sec. 28-90. - Required setback from the high water mark of a watercourse.

- (a) Within an established high water mark setback there shall be no: construction; deposit of any material, including structures; removal of any soils, minerals and/or vegetation; dredging, filling or land balancing; constructing or undertaking seasonal or permanent operations, except as authorized in this section.
- (b) The setback shall only contain vegetation unless located within the C-3 zoning district within which a boardwalk/sidewalk may be constructed on public and/or private property as a means of maintaining public

access/visibility to the waterfront.

- (c) Additionally, under certain conditions as defined below, a high water mark setback conditional use permit may be authorized by the planning commission to allow limited construction, activity, use, or operations within said setback. All such conditional use permit requests will be evaluated based upon no less than the following general criteria:
- (1) The relative extent of the public and private need for the proposed activity.
 - (2) The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
 - (3) The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or natural feature setback provides.
 - (4) The probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
 - (5) The probable impact on recognized historic, cultural, scenic, ecological, or recreational values, and on fish, wildlife and the public health.
 - (6) The size and quantity of the natural feature setback being considered.
 - (7) The amount and quantity of the remaining natural feature setback.
 - (8) Proximity of the proposed construction and/or operation in relation to the natural feature, taking into consideration the degree of slope, general topography in the area, soil type and the nature of the natural feature to be protected.
 - (9) Economic value, both public and private, of the proposed construction and/or operation, and economic value, both public and private, if the proposed construction and/or operation were not permitted.
 - (10) The necessity for the proposed construction and/or operation.

(Ord. No. 2016-29, § 3, 11-15-16)

Secs. 28-91—28-99. - Reserved.

ARTICLE IV. - SITE AND BUILDING DESIGN STANDARDS

Footnotes:

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Editor's note— Ord. No. 2012.16, § 5, adopted July 17, 2012, repealed the former Art. IV, §§ 28-106—28-159, and enacted a new Art. IV as set out herein. The former Art. IV pertained to supplemental provisions. For a complete derivation see the Code Comparative Table at the end of this volume.

Sec. 28-100. - Off-street parking, loading, and access design standards.

(a) *General provisions for off-street parking.*

- (1) The regulations of this article must be met in all districts whenever any uses are established or any building or structure is erected, enlarged, or increased in capacity.
- (2) Plans and specifications showing required off-street parking spaces, including the means of access, ingress, egress, drainage and circulation must be submitted to the zoning administrator (or designee) for review on or before the time of application for a building permit for the erection or enlargement of a building or at the time

spaces are added or altered, unless a site plan is required under section 28-135 (site plan review procedures and requirements), in which case this requirement does not apply.

- a. *Modification of standards.* The zoning administrator (or designee) will perform an independent site review analysis and may allow the applicant to deviate from zoning regulations if unique or restrictive circumstances exist.
- (3) No parking area or parking space which exists at the time this section becomes effective, or which subsequently thereto is provided for the purpose of complying with the provisions of this section, may thereafter be relinquished or reduced in any manner below the requirements established by this section.
- (4) *Residential parking.*
- a. One-family residential off-street parking spaces must consist of a parking strip, driveway, garage, or combination thereof, and must be located on the premises they are intended to serve.
 - b. No parking is permitted on lawns or other unpaved areas on residential lots.
 - c. Parking areas in a front yard are limited to a drive or driveway and may not exceed thirty-five (35) percent of the front yard area.
 - d. Parking in a front yard is prohibited except in an approved driveway which:
 1. Must be paved in accordance with subsection (g)(3) of this section.
 2. Cannot be more than twenty (20) feet wide, extending from the curb cut, unless otherwise approved by the zoning administrator (or designee).
 - e. Carports and garages will be calculated as parking spaces on a one-to-one basis. Carports must be enclosed or obscured at least twenty-five (25) percent along all sides visible from public streets, residential districts or vehicular drives within the site.
- (5) *Location.*
- a. The parking of vehicles will not be permitted except in an area that has been designated and improved to provide for such vehicle parking in accordance with the provisions of this article.
 - b. Off-street parking for uses other than one- or two-family dwellings in the R-3, R-4, and R-6 zoning districts must be located only in the side and rear yards and must meet the setbacks of subsection (a)(6) of this section. The zoning administrator (or designee) may allow parking in the front yard in consideration of site characteristics such as lot size, configuration, site circulation, number of spaces required, topography, existing structures, parking arrangement on adjacent sites, views, uses across the street and similar features.
 - c. Off-street parking for uses other than one- or two-family dwellings in the C-1, C-2, C-3, C-4, I-1, and I-2 zoning districts must meet the setbacks of subsection (a)(6) of this section.
 - d. Off-street parking for all multiple-family and nonresidential uses must be either on the same lot or within lots under the same ownership and control as the lot or use being served, except where provided in subsection (a)(5)e., below.
 - e. Required parking may be provided off-site, on a lot or lots where there is a lease or shared parking agreement to accommodate parking, provided such arrangement is approved by the zoning administrator (or designee). Any lease or shared parking agreement must include a provision that requires notification to the zoning administrator (or designee) of any change in the terms or expiration. The zoning administrator (or designee) may allow modifications to parking agreements where parking compliance is achieved in some other manner or the zoning board of appeals grants a variance.
 - f. All off-street parking required to meet the requirements of this section must be within a convenient walking

distance of the building entrances, as determined by the zoning administrator (or designee), except that valet parking may be provided elsewhere.

- g. Parking is prohibited in the lawn extensions and/or terraces or on sidewalks within public rights-of-way, on lawn areas or otherwise outside of designated parking spaces.
- (6) *Parking lot setbacks for uses other than one- or two-family dwellings.* Parking lots, including drives and maneuvering aisles, but excluding driveways, must maintain a minimum of a five (5) foot setback from the abutting right-of-way(s) and abutting property lines. Where two (2) unlike zoning districts abut, a minimum of an eight (8) foot setback shall be maintained. However, front yard setbacks for warehousing and marijuana transporter establishments shall be equal to the established front yard building line of the subject parcel. The zoning administrator (or designee) may waive this requirement where a shared access driveway, connected parking lots, or rear service drive is provided, or where landscaping, a wall or a fence is provided to screen views and headlight glare. Required parking lot setback areas must be landscaped according to the standards of [section 28-105](#) of this chapter.
- (7) *Change in use or intensity.*
- a. Whenever the use of a building or lot is changed, parking facilities must be provided as required by this section for the new use.
 - b. When an existing use changes employment, operations or activities that may produce parking demand in excess of available spaces, the city will require documentation showing adequate parking is provided or will be expanded to meet the requirements of this section.
 - c. If any building, structure, or lot is increased through the addition of dwelling units, increased floor area, increased seating capacity, or through other means, additional off-street parking must be provided to bring the use or site into compliance with this section.
 - d. Any area once designated as required off-street parking must not be altered unless and until equal facilities meeting the standards of this section are provided elsewhere, or the parking requirements of the site change as determined by the zoning administrator (or designee).
 - e. Off-street parking existing at the effective date of this section, in connection with the operation of an existing building or use, may not be reduced to an amount less than required for a similar new building or new use.
- (8) *Storage and repair.* The use of required parking and loading areas for any other purpose is expressly prohibited.
- (9) *Shared parking.* The shared provision of off-street parking for two (2) or more buildings or uses is permitted where the locational requirements of subsection (a)(5) of this section are met, and a notarized agreement submitted on behalf of all pertinent parties is approved by the zoning administrator (or designee). In such cases, the total number of spaces provided collectively must not be less than the sum of spaces required for each separate use. However, the zoning administrator (or designee) may reduce the total number of spaces by up to thirty (30) percent if it is determined that the operating hours of the buildings or uses do not overlap.
- (10) *Construction parking.* During construction, gravel surfacing may be permitted for such temporary parking as determined by the zoning administrator (or designee).
- (11) *Deferred parking spaces.*
- a. The zoning administrator (or designee) may approve a lesser amount of parking, based upon demonstration by the property owner and applicant (if different) that the required amount of parking is greater than the intended use will generate. In order to meet the parking space requirements of this section, the area in which the deferred parking would be located must be retained as open space in the event additional parking is required. The site plan must note the area where parking is being deferred, including dimensions and a

dotted parking lot layout. Any required landscaping placed within the "banked" parking area must be replaced by the owner/applicant if the parking area is expanded. The owner must agree to construct the additional parking, based on observed use, within six (6) months of being informed of such request by the city.

- b. Design of the stormwater management facilities for the entire potential parking area (i.e., including the "banked" parking area) must be carried out at the time of the approval of the lesser amount of parking by the zoning administrator (or designee). Only the construction of stormwater management facilities needed to serve the portion of the parking to be built may be required. In such cases, however, the property owner must agree to construct the additional stormwater management facilities when the additional parking is constructed. The site plan must note the area where the deferred stormwater management facilities will be constructed.

(b) *Rules for calculating required number of parking spaces.*

(1) *Usable floor area and gross floor area.*

- a. Where useable floor area (UFA) or gross floor area (GFA), is the unit for determining the required number of off-street parking spaces, determination of the floor area must be based upon a floor plan submitted as part of the site plan review application (see section 28-5 of this chapter for definitions).
- b. Where the UFA cannot be established at the time of site plan review, it will be considered to be eighty-five (85) percent of the gross floor area.

(2) *Bench seating.* In stadiums, sports arenas, churches, and other places of assembly in which those in attendance occupy benches, pews, or similar seating facilities, each twenty-four (24) inches of such seating will be counted as one (1) seat. In cases where a place of assembly has both fixed seats and an open assembly area(s), requirements will be computed separately for each type and added together.

(3) *Employees.* For requirements stated in terms of employees, the calculation will be based upon the maximum number of employees likely to be on the premises at one time and may include overlap of employees during shift changes.

(4) *Capacity.* For requirements stated in terms of capacity or permitted occupancy, the number will be determined on the basis of the largest ratings by the building, fire or health codes of the city, county, or state.

(5) *Partial spaces.* When the number of required parking spaces results in a partial space, any portion of a space up to and including one-quarter (0.25) will be disregarded and portions of a space over one quarter (0.25) will be counted as one (1) additional required space.

(6) *Public parking is available.* Where a common municipal parking area is in existence, the off-street parking requirements can be waived or reduced if: (a) sidewalks are provided between the parking area and the use and (b) the parking area is no more than a five hundred-foot distance, as measured along the sidewalks from the entrance of the establishment concerned. A notarized letter or memo containing this information must be submitted to the zoning administrator (or designee). Any change in tenancy or use will be judged as sufficient cause for review by the zoning administrator (or designee) for the purpose of determining off-street parking requirements.

(7) *Two (2) or more uses proposed.* The number of parking spaces required for land or buildings used for two (2) or more purposes will be the sum of the requirements for the various uses computed in accordance with this subsection.

If a parking lot serves two (2) or more uses where the operating hours of the uses do not overlap, the total number of required spaces may be less than the sum of requirements for each use. In no case, however, may the number of spaces required be less than the sum of the largest number of spaces required for one use plus one-half (½) of the required spaces for each additional use. A notarized agreement must be submitted to the zoning administrator (or designee) which identifies (1) the hours of operation for each use and (2) the use with the largest parking requirement as the primary use. The zoning administrator (or designee) will determine the conditions of overlapping requirements and the amount of reductions in the required number of spaces which will be permitted, in accordance with this subsection.

- (8) *Similar uses.* Where a use is not specifically listed in the table of off-street parking space requirements, the parking requirements of a similar use will apply. The zoning administrator (or designee) will make the interpretation. The zoning administrator (or designee) may also refer to national parking generation studies in determining the required parking calculation.
- (9) *Reduction or modification of required spaces.* The required number of spaces in the tables that follow may be reduced or modified by the zoning administrator (or designee) under the following circumstances:
- A shared parking agreement or leased parking is provided as noted in this section.
 - Convenient municipal off-street parking is available to meet peak time parking demands of the use. The city council may require payment to offset acquisition, construction and maintenance costs.
 - The number of required spaces may be reduced in consideration of available curbside spaces within a convenient walking distance, but not those located fronting a residential use.
 - Where the applicant has provided a parking study, conducted by a qualified traffic engineer, which demonstrates that another standard based on actual number of employees, expected level of customer traffic or actual counts at a similar establishment would be more appropriate.
- (c) *Off-street parking space requirements.*
- (1) *General off-street parking requirements.* The requirements in this subsection apply to uses outside of the downtown. Please refer to subsection (c)(2) of this section for the off-street parking requirements which apply in the C-3 district.

Table of General Off-Street Parking Space Requirements			
Use	Range of Parking Spaces		
	Min.	Max.	Measurement
<i>Dwellings and other residential uses</i>			
One-family dwellings	2.00	4.00	spaces for each dwelling unit
Two-family dwellings	2.00	3.00	spaces for each dwelling unit
Multiple-family dwellings	1.00	1.50	spaces for each dwelling unit; plus
	0.50	0.55	spaces per dwelling unit for visitor parking

Manufactured housing communities	2.00	2.00	spaces per dwelling unit (per the Mich. Admin. Code r. 125.1925); plus
	1.00	1.10	spaces per every 3 dwelling units for visitor parking (per the Mich. Admin. Code r. 125.1926)
Buildings converted to dwellings outside of the C-3 District	1.0	<u>1.1</u>	spaces per dwelling unit
Elderly housing dwelling units	1.00	1.10	spaces for each 2 dwelling units; plus
	1.00	1.10	spaces per employee on maximum shift
Apartment hotels, dormitories, and fraternity and sorority houses, including work release (halfway) houses	1.00	1.10	spaces per room or resident (whichever is greater)
Rooming and boarding houses	1.00	1.10	spaces per room or resident (whichever is greater)
Adult and child group home facilities	1.00	1.10	spaces for each employee on site at any one time as well as the required spaces for the dwelling
Assisted living facilities, convalescent homes, nursing homes, and children's homes	1.00	1.10	spaces for each 4 beds; plus
	1.00	1.10	spaces for each 2 employees on maximum shift
Bed and breakfast inns	2.00	2.00	spaces for the owner(s) of the bed and breakfast;
	1.00	1.10	spaces for each guest room
<i>Institutional uses</i>			
Adult and child day care facilities	2.00	2.20	spaces; plus
	1.00	1.10	spaces per 8 adults or children of licensed authorized capacity; and

	1.00	1.10	drop-off spaces per 8 adults or children of licensed authorized capacity
Churches, temples and similar places of worship and related establishments	1.00	1.10	spaces for each 4 seats of capacity
Essential public services	1.00	1.10	spaces per 100 square feet of UFA
Hospitals	1.75	2.00	spaces per bed; plus the spaces required per 1,000 square feet of UFA devoted to office, research or other related uses; or the required spaces for outpatient care centers
Medical and dental offices and clinics	4.00	4.40	spaces per 1,000 square feet of UFA
Outpatient care centers, urgent care facilities or other similar uses	2.00	2.20	spaces per exam or outpatient procedure/operating room; plus
	1.00	1.10	spaces per room for employee parking
Private clubs and lodge halls	1.00	1.10	spaces for each 3 persons of maximum capacity
Public and quasi-public institutional buildings, structures and uses	0.50	0.75	spaces per 3 seats of permitted capacity with fixed seats (e.g., arenas, auditoriums, and stadiums) ; or
	1.00	1.10	spaces per 300 square feet of UFA without fixed seats (e.g., community centers)
Schools: Elementary and middle schools	1.00	1.10	spaces for each employee on maximum shift; plus
	50%	55%	of spaces required for any assembly, auditorium and/or outdoor arena areas; and
	10.00	11.00	pick-up/drop-off spaces as well as any necessary waiting or loading area for buses
Schools: High schools	1.00	1.10	spaces for each employee on maximum shift plus

	1.00	1.10	spaces for each 20 students of capacity; and
	50%	55%	of spaces required for any assembly, auditorium, and/or outdoor arena areas; and
	10.00	11.00	pick-up/drop-off spaces as well as any necessary waiting or loading area for buses
Schools: Colleges and business, vocational, and trade schools	1.00	1.10	spaces for each employee plus
	1.00	1.10	spaces for each ten students of capacity; and
	50%	55%	of spaces required for any assembly, auditorium, and/or outdoor arena areas
Libraries, museums, art galleries and centers, and other cultural facilities	1.00	1.10	spaces per 300 square feet of UFA
<i>Commercial uses</i>			
Automobile: Gasoline stations and repair establishments	1.00	1.10	spaces for each gasoline pump; plus
	2.00	2.20	spaces for each service bay; and
	1.00	1.10	spaces for each employee on maximum shift; and
	1.00	1.10	spaces per 200 square feet of UFA for retail sales; and
	1.00	1.00	spaces per 4 seats for restaurants; and
	5.00	11.00	stacking spaces per drive-through lane
Automobile: New and used dealerships and other types of vehicle dealers (e.g., recreational vehicles, tractors, commercial trucks, etc.)	1.00	1.50	spaces for each 300 square feet of interior sales area in addition to the spaces dedicated for vehicle sales (refer to section 28-115 , site design standards); plus
	1.00	1.10	spaces for each service bay; and

	1.00	1.10	spaces for each 2 employees on maximum shift
Automobile: Wash establishments (automatic)	1.00	1.10	spaces per employee during peak shift; plus
	12.00	14.00	stacking spaces for the initial car wash bay; and
	5.00	7.00	stacking spaces for each additional car wash bay; or
	6.00	7.00	stacking spaces when accessory to a gas station
Automobile: Wash establishments (manual)	2.00	2.20	spaces; plus
	1.00	1.10	spaces per each employee on maximum shift; and
	2.00	2.20	stacking spaces per bay
Automobile: Oil change establishments	3.00	3.30	spaces; plus
	2.00	2.20	stacking spaces per service bay
Banquet facilities	1.00	1.10	spaces per 2 persons of capacity authorized by the building code; or
	1.00	1.10	spaces per 300 square feet of UFA (whichever is greater)
Barber shops and beauty salons, including day spas	2.00	2.20	spaces for each chair; plus
	1.00	1.10	spaces for each employee on maximum shift
Conference centers, exhibit halls and similar uses	1.00	1.10	spaces per two persons of capacity authorized by the Building Code; or
	10.00	11.00	spaces per 1,000 square feet of UFA, (whichever is greater)

Convenience stores, medical marihuana provisioning centers, and marihuana retail establishments (including temporary marihuana events)	1.00	2.00	spaces per 150 square feet of GFA, and
	1.00	1.00	space for each 2.5 seats of on-site seating, and
	1.00	1.00	space per each employee based upon the peak shift
	5.00	5.00	spaces; and
Dry cleaners, jewelry stores, repair shops, and similar uses	5.00	5.55	spaces for the initial 1,000 square feet; plus
	1.00	1.10	spaces for each additional 1,000 square feet; and
	1.00	1.10	spaces per employee on maximum shift
Funeral homes and mortuary establishments	1.00	1.10	spaces for each 50 square feet of UFA in service parlors, chapels and receptions areas; plus
	1.00	1.10	spaces for each fleet vehicle
Furniture, appliance, and household equipment stores	1.00	1.10	spaces for each 1,000 square feet of UFA; plus
	1.00	1.10	spaces for each employee on maximum shift
Gas station with or without a mini-mart	1.00	2.00	spaces per 150 square feet of GFA, and
	1.00	1.50	stacking spaces per each fueling station, and
	1.00	1.00	space for each 6 seats of on-site seating, and
	1.00	1.00	space per each employee based upon the peak shift, and
	2.00	3.00	spaces per each service bay

General commercial and retail sales establishments (excluding convenience stores and liquor stores, medical marijuana provisioning centers, and marijuana retail establishments)	1.00	1.50	spaces per 1,000 square feet of UFA for stores up to 25,000 square feet of GFA; and
	0.50	1.75	spaces per each additional 1,000 square feet of UFA for stores greater than 25,000 square feet of GFA such as shopping centers, discount stores, club warehouses, home improvements centers and grocery stores; and
	0.00	0.25	spaces per 1,000 square feet of UFA of outdoor display and sales areas
	1.00	1.10	spaces per employee on maximum shift
Hotels and motels	1.00	1.10	spaces per guest room; plus
	10.00	11.00	spaces per 1,000 square feet of UFA of lounge, restaurant, conference, banquet rooms or exhibit space (if the majority of the patrons are expected to be hotel/motel guests) or the individual standards
Kennels or boarding areas	5.00	5.50	spaces; plus
	1.00	1.10	spaces per employee on maximum shift
Liquor stores (sale by package)	1.00	2.00	spaces per 150 square feet of GFA, and
	1.00	1.00	space per each employee based upon the peak shift
Lumberyards/stores	3.00	3.30	spaces per 1,000 square feet of UFA
	0.00	0.25	spaces per 1,000 square feet of UFA of outdoor display and sales areas
Mini-self-storage warehouse	3.00	3.30	spaces; plus

	1.00	1.10	spaces per employee on maximum shift
Restaurants: Bars, taverns, and lounges	10.00	12.00	spaces per 1,000 square feet of UFA; plus
	1.00	1.10	spaces per employee on maximum shift
Restaurants: Fast food, drive-through, and drive-in	15.00	16.50	spaces per 1,000 square feet of UFA, excluding the areas used for food preparation; plus
	5.00	7.00	stacking spaces per lane from the location where orders are placed
	1.00	1.10	spaces per employee on maximum shift
Restaurant: Standard	20.00	25.00	spaces per 1,000 square feet of UFA, excluding the areas used for food preparation; plus
	1.00	1.10	spaces per employee on maximum shift and the spaces required for bars, taverns, or lounges and/or banquet or meeting rooms
Restaurant: Carry-out and open front window	6.00	6.60	spaces; plus
	1.00	1.10	spaces per employee on maximum shift
Restaurant: Coffee, tea, and "Wi-Fi" cafes	1.50	2.00	spaces per 125 square feet of UFA
	1.00	1.10	spaces per employee on maximum shift
Self-serve laundry (laundromat)	1.00	1.10	spaces for each 2 machines
Studios for photography, dance, music, art and similar uses	3.00	3.30	spaces per 1,000 square feet of UFA; plus
	1.00	1.10	spaces per employee
Theaters, cinemas, and auditoriums	1.00	1.10	spaces per three seats
Video arcade	1.00	1.10	spaces per 100 square feet of UFA; or
	6.00	6.60	spaces (whichever is greater)

Video rental stores	10.00	11.00	spaces per 1,000 square feet of UFA
Office: General	4.00	10.00	spaces per 1,000 square feet of UFA
Office: Professional	5.00	5.50	spaces per 1,000 square feet of UFA
Banks, credit unions, and similar financial establishments	1.00	1.10	spaces per 200 square feet of UFA; plus
	1.00	1.10	stacking spaces for each drive-up teller and each ATM; and
	4.00	5.00	spaces per employee on maximum shift
Banking centers separate from a financial establishment (including ATM's)	4.00	4.40	parking spaces for walk-up banking centers; or
	4.00	4.40	stacking spaces per lane for drive-through banking centers
Veterinary offices, clinics and hospitals	4.00	4.40	spaces per 1,000 square feet of UFA, plus the required spaces for kennels or boarding areas
<i>Industrial uses</i>			
Light and general manufacturing, research establishments, testing labs, development centers, marihuana grower with or without a processor (excluding registered primary caregiver), marihuana safety compliance facility, and marihuana microbusiness	2.00	5.00	spaces; plus
	1.00	1.10	spaces per employee on maximum shift; and the spaces required for any office or sales area
Utility substations, including wireless telecommunication facilities	2.00	2.00	spaces for each substation
Warehousing and marihuana secure transporter establishments	2.00	5.00	spaces; plus

	1.00	1.10	spaces per employee on maximum shift; and
	1.00	1.10	spaces for each vehicle to be stored on the premises
<i>Recreational uses</i>			
Batting cages	3.00	3.30	spaces per batting cage
Bowling alleys	4.00	5.00	spaces for each alley; plus the parking for accessory uses as provided herein
Fitness centers and health clubs	5.00	5.50	spaces per 1,000 square feet of UFA; plus the required parking spaces for swimming pools, courts, restaurants and other uses
Golf driving ranges	1.00	1.10	spaces per 2 tees plus the parking required for other uses on the site
Golf courses (public or private)	6.00	6.60	spaces for each golf hole; plus
	1.00	1.10	spaces for each employee; and the spaces required for each accessory use, such as a restaurant
Miniature golf courses	2.00	2.20	spaces for each golf hole; plus
	1.00	1.10	spaces for each employee; and the spaces required for each accessory use, such as a restaurant
Municipal recreation centers	5.00	8.00	spaces per 1,000 square feet of UFA; plus the spaces required for outdoor courts, field and facilities
Racquetball/tennis courts	2.00	3.00	spaces per court
Stadiums, sports arenas, and rolling or ice skating rinks	1.00	1.10	spaces per 3 persons of capacity authorized by the Building Code

Swimming pools	1.00	1.10	spaces per 3 persons of capacity authorized by the Building Code
Swimming pool clubs, tennis clubs, and similar uses privately operated	1.00	1.10	spaces for each 2 member families; plus spaces as required for each accessory use, such as restaurant

(2) *Downtown off-street parking requirements.*

- a. The requirements in this subsection apply to uses in the downtown, which are reduced requirements in recognition of the opportunities for shared parking and trips in the C-3 district and the proximity to residential areas and public parking areas. Please refer to subsection (c)(1) of this section for the general off-street parking requirements.

Table of Downtown Off-Street Parking Space Requirements			
Use	Range of Parking Spaces		
	Min.	Max.	Measurement
Commercial and retail sales establishments	30%	50%	of the spaces required in the Table of General Off-Street Parking Space Standards
Restaurants: Bars, taverns, lounges	50%	70%	of the spaces required in the Table of General Off-Street Parking Space Standards
Restaurants: Fast food, excluding drive-through or drive-in	50%	70%	of the spaces required in the Table of General Off-Street Parking Space Standards
Restaurant: Standard	50%	70%	of the spaces required in the Table of General Off-Street Parking Space Standards
Restaurant: Standard with bars, taverns, lounges	50%	70%	of the spaces required in the Table of General Off-Street Parking Space Standards
Restaurant: Carry-out and open front window	50%	70%	of the spaces required in the Table of General Off-Street Parking Space Standards
Restaurant: Coffee, tea, and "Wi-Fi" cafes	50%	70%	of the spaces required in the Table of General Off-Street Parking Space Standards

Personal service establishments and offices	50%	70%	of the spaces required in the Table of General Off-Street Parking Space Standards
New multiple-family dwellings and existing buildings converted to dwellings	0.00	1.00	spaces for each dwelling unit in buildings with 4 units or less
	1.00	1.10	spaces for each dwelling unit in buildings with 5 to 20 units
	0.50	0.55	spaces for each dwelling unit in buildings with 20 units or more

b. If the required spaces above are obtained by participating in the city's meterless parking system, notarized and signed documentation must be provided to the zoning administrator (or designee).

(d) *Storage of recreational vehicles and equipment.*

(1) *Recreation vehicles and equipment.* Recreational vehicles and equipment includes, but are not limited to: boats and boat trailers; snowmobiles; trail cycles; all-terrain vehicles; travel trailers; camp trailers; tent trailers; motor homes; utility trailers; floats, rafts and similar equipment; trailers; cases and boxes used for transporting recreational equipment; and all equipment designed to be used for a temporary dwelling for travel, recreation and vacation use or periodical and occasional family recreational and vacation use.

(2) *Standards in residential districts.* The following standards will apply in all residential districts:

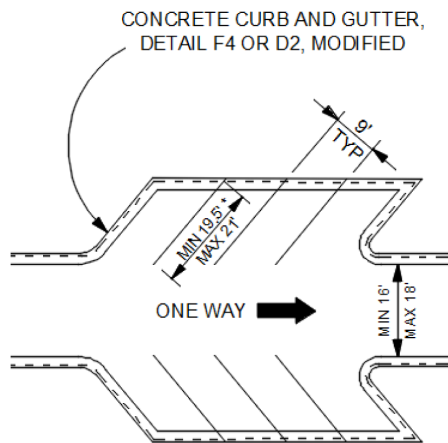
- a. Except as otherwise permitted in this section, recreational vehicles and equipment greater than eight (8) feet in width, twenty-two (22) feet in length, and seven (7) feet in height cannot be parked or stored on any lot or parcel in any residential district, and/or parcel used for residential purposes, unless all of the following applies:
 1. The lot/parcel is located adjacent to a property zoned for commercial use.
 2. The vehicle/equipment is parked adjacent to the commercial use and behind the rear corner of the home.
 3. The front and side yard setbacks are satisfied.
- b. Recreational vehicles and equipment eight (8) feet in width, twenty-two (22) feet in length, and seven (7) feet in height or less may be parked and stored in the rear yard, behind the back building line, on any lot or parcel in any residential district, and/or parcel used for residential purposes, providing the following is satisfied:
 1. No less than a five-foot side yard setback is maintained.
 2. No less than a ten-foot setback is maintained from the adjacent home unless abutting the garage in which case only the five-foot side yard setback will apply.
 3. No less than three (3) feet shall be maintained between the on-site home and the vehicle/equipment.
 4. On a corner lot, vehicles and equipment must be stored behind the established front yards as defined in section 28-5 of this chapter.

- c. No more than one (1) unit can be parked outside of a garage or similar structure. For purpose of this limitation, recreational equipment used in conjunction with other recreational equipment (i.e. a recreational vehicle mount shall be considered one (1) unit).
 - d. For the purposes of loading and unloading, recreational vehicles and equipment may be parked anywhere in a driveway or parking area on a residential premises for a period not to exceed forty-eight (48) hours, for the purposes of loading and unloading. Parking of self-propelled (i.e. motorized) vehicles (as defined in the motor vehicle code) within the public street shall also be acceptable for the same period, contingent upon other on-street parking regulations contained in this Code.
 - e. Such equipment cannot be used for living or sleeping purposes when parked or stored on a residential lot, or in any location not approved for such use, other than as follows:
 - 1. The location must be in accordance with the above noted provisions, and can never be within the public right-of-way.
 - 2. Duration cannot exceed two (2) weeks per year.
 - f. Recreational vehicles and equipment cannot be parked or stored on any public right-of-way other than as noted above in subsection (d)(2)e. of this section.
 - g. Stored recreational vehicles must have a current license plate and be registered to an occupant of the dwelling unit on the parcel(s) on which it is stored.
 - h. The following shall apply to all recreation equipment:
 - 1. Unmounted camper enclosures or boats are not permitted in the front or side yard or driveway and must be stored on a paved surface approved by the zoning administrator (or designee) and stabilized.
 - 2. Open top utility trailers may not be used to store any material other than recreational equipment.
 - 3. All boats must be covered.
 - 4. Refer to subsection (f) of this section for commercial vehicle parking and storage regulations.
- (3) No recreational vehicles or equipment are allowed in multiple family development or manufactured housing communities.
- (4) *Repairs in residential districts.* Recreational vehicles and equipment may not be stored or parked in residential districts for the purpose of making major repairs (i.e. engine rebuilding, reconditioning of motor vehicles, body work, etc.), refurbishing, or reconstruction of the recreational vehicle or equipment.
- (5) *Nonresidential districts.* The storage of recreational vehicles, equipment, and any other motorized or non-motorized (excluding bicycles) in nonresidential districts when it is not associated with the business of the property, must provide proper screening (i.e. no less than eight-foot evergreens and/or an eight-foot high solid fence, as approved by the zoning administrator (or designee)) so that it is not visible from the street and abutting residential areas. All such areas must also be maintained in accordance with of chapter 26, article III (grass and noxious weeds) of this Code.
- (e) *Repair of vehicles.* The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of the vehicle, is subject to the following limitations:
- (1) Procedures exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours must be carried out within an enclosed building.
 - (2) Inoperable vehicles and vehicle parts must be stored inside an enclosed building.
- (f) *Commercial vehicle parking and storage.*

- (1) Commercial vehicles cannot be considered as an accessory use to a residential dwelling except as permitted below:
 - a. The vehicle is used as the principal means of transportation for a resident in the conduct of such resident's employment or profession.
 - b. The vehicle cannot be a utility trailer, dump truck, stake truck, flat-bed truck, wrecker or semi-tractor.
 - c. No part of the vehicle may exceed seven (7) feet in overall height, measured from grade.
 - d. The vehicle cannot have outside brackets or holders for ladders, tools, pipes or other similar equipment.
 - e. The vehicle cannot have more than four (4) rear wheels.
 - f. The vehicle cannot exceed twelve thousand (12,000) pounds gross weight.
 - (2) The parking or storage of essential public service vehicles, such as a police vehicle, fire department or vehicle of a public agency where the vehicle is operated by the homeowner or the occupant is exempt from these provisions provided that the vehicle does not exceed the height and weight standards contained in subsection (f) (1) of this section.
 - (3) Commercial vehicles which are employed in conjunction with the permitted use of a lot, parcel or any premises must be parked or stored in compliance with the following provisions:
 - a. For sites with a site plan approved subsequent to the effective date of this subsection, such vehicles must be parked or stored in parking or loading spaces designated for that purpose on the site plan.
 - b. For situations not covered under subsection (f)(3)a. of this section, such vehicles cannot be parked while the commercial establishment is closed to the public or stored in any parking space adjacent to the public right-of-way except when the number of commercial vehicles under control of the owner and/or occupant exceeds the number of available parking spaces.
 - (4) Commercial vehicles intended to be used as signs are prohibited. No commercial vehicle may be parked on a business premises or an industrial lot for a time period exceeding forty-eight (48) hours for the intended purpose, as determined by the zoning administrator (or designee), of advertising a product or serving as a business sign.
 - (5) In any multiple-family residential district, the property owner or the controlling authority must provide a designated area, approved by the zoning administrator (or designee), to park or store commercial vehicles. Required parking spaces shall not be used for the parking or storage of commercial vehicles and must be hard surfaced, as approved by the zoning administrator (or designee).
 - (6) The parking or storage of commercial vehicles and/or for residential, office or storage purposes shall not be permitted, except as allowed in subsection (f)(1) of this section.
 - (7) No vehicles used by secured transporters may contain any medical or adult use marihuana when a driver or passenger is not present in the vehicle.
-
- (g) *Off-street parking space layout standards, construction and maintenance.* Wherever a parking lot is built, such parking lot must be laid out, constructed and maintained in accordance with the following standards:
- (1) *Aisle lane widths, parking space widths and parking space length.* Aisle lane widths, parking space widths and parking space lengths are to be provided as shown in the table of off-street parking layout standards and the figure of off-street parking layout standards, unless otherwise approved by the zoning administrator (or designee). All spaces must have adequate access by means of aisles or lanes. Aisles for access to all parking spaces on two-way aisles must be designed and clearly marked for two-way movement. Aisles for angle parking spaces must have one-way movement only and must be clearly marked for one-way movement.

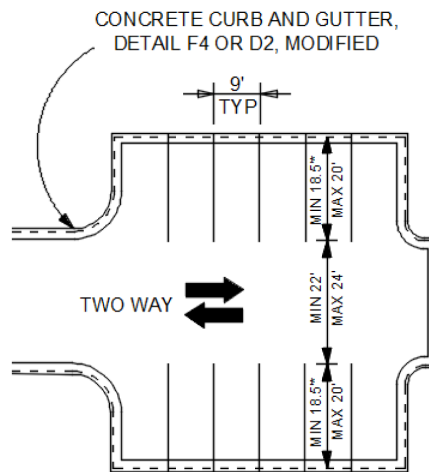
Table of Off-Street Parking Space Layout Standards				
Parking Space Angle	Traffic Direction	Aisle Lane Width	Parking Space Width	Parking Space Length
30 to 74 degrees	One-way	Min. 16 feet Max. 18 feet	9 feet	Min. 19.5 feet Max. 21 feet*
75 to 90 degrees	Two-way	Min. 22 feet Max. 24 feet	9 feet	Min. 18.5 feet Max. 20 feet*
Parallel	One-way	12 feet	9 feet with a minimum 4-foot wide maneuvering area between each space	25 feet
	Two-way	Min. 22 feet Max. 24 feet		

*See subsection 9 of this chapter.



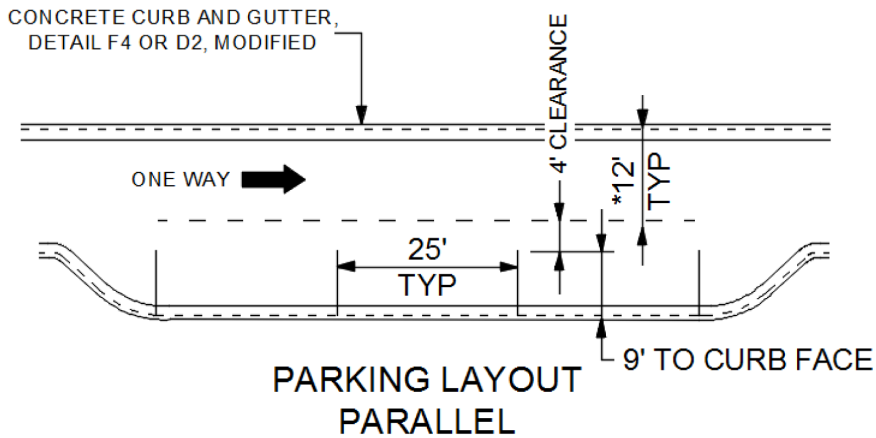
**PARKING LAYOUT
30 TO 74 DEGREE**

* DIMENSION IS TO FACE OF CURB OR EDGE OF ASPHALT FOR PERIMETER PARKING SPACES



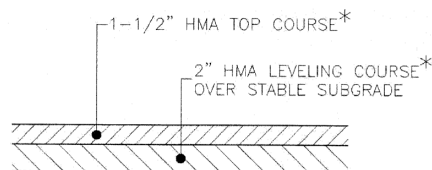
**PARKING LAYOUT
75 TO 90 DEGREE**

* DIMENSION IS TO FACE OF CURB OR EDGE OF ASPHALT FOR PERIMETER PARKING SPACES



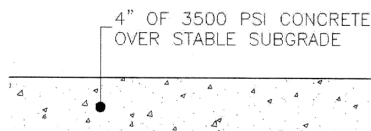
***24' AISLE WIDTH FOR TWO-WAY TRAFFIC**

- (2) *Stormwater drainage.* All off-street parking areas must drain into the appropriate facilities for handling stormwater run-off (per the requirements of the stormwater utility ordinance (section 27-180 et seq.)), and must be directed to prevent direct drainage onto abutting properties, toward buildings, or onto public rights-of-way.
- (3) *Surface treatment.* Surfaces of parking areas or drives must be constructed over an approved and inspected base and maintained in the following manner with concrete or asphalt surfaces and curb and gutters in accordance with city standards. The entire parking lot includes maneuvering lanes, while alternate standards apply for one- and two-family driveways excluding the approach as outlined in subsection (7).
 - a. *One-and two-family residential.* The depth of pavement and base must meet one of the following standards, or as otherwise approved by the city engineer (or designee):
 1. Three and a half (3½) inches of asphalt placed in two (2) lifts; or
 2. Four (4) inches of concrete (does not need to extend the full width of the driveway, can be installed as two (2) tire-width strips of pavement; or
 3. Pavers (full width or two (2) tire-width strips) with no less than the manufacturers specified base.

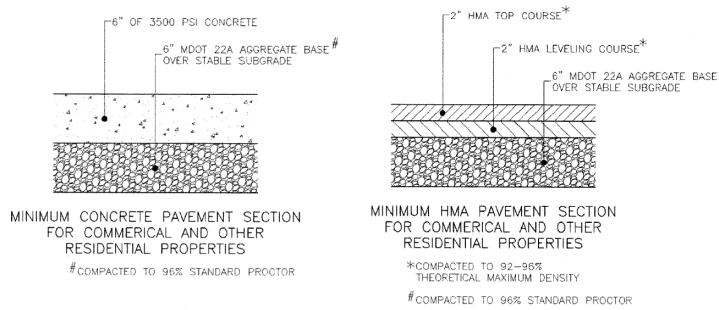


MINIMUM HMA PAVEMENT SECTION FOR 1 & 2 FAMILY PROPERTIES

*COMPACTED TO 92-96% THEORETICAL MAXIMUM DENSITY



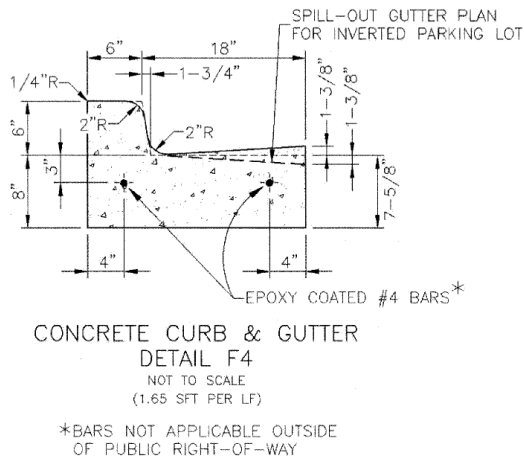
MINIMUM CONCRETE PAVEMENT SECTION FOR 1 & 2 FAMILY PROPERTIES



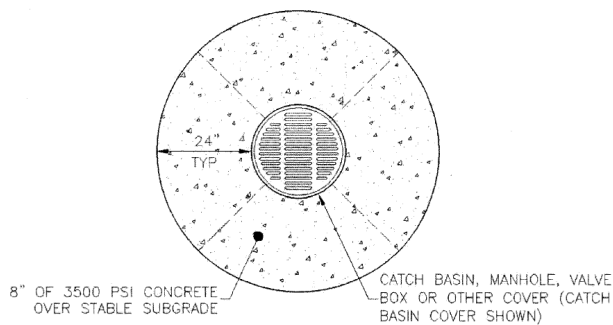
- b. *Other residential and commercial.* The depth of pavement and base must meet one of the following standards, or as otherwise approved by the city engineer (or designee):
- Four (4) inches of asphalt placed in two (2) lifts with six (6) inches of base comprised of MDOT 22a aggregate compacted to ninety-eight (98) percent proctor for parking spaces and six (6) inches of asphalt placed in two (2) lifts with six (6) inches of base comprised of MDOT 22a aggregate compacted to ninety-eight (98) proctor for maneuvering lanes and loading areas for commercial vehicles; or
 - Six (6) inches of concrete.
- c. *Industrial.* The depth of pavement and base must meet one (1) of the following standards, or as otherwise approved by the City Engineer (or designee):
- Four (4) inches of asphalt placed in two (2) lifts with six (6) inches of base comprised of MDOT 22a aggregate compacted to ninety-eight (98) proctor for parking spaces and six (6) inches of asphalt placed in a minimum of two (2) lifts with six (6) inches of base comprised of MDOT 22a aggregate compacted to ninety-eight (98) proctor for maneuvering lanes and loading areas used for commercial and industrial vehicles.
 - Six (6) inches of concrete with six (6) inches of base comprised of MDOT 22a aggregate compacted to ninety-eight (98) proctor.
- (4) *Curbs.* A raised or rolled concrete curb and gutter at least six (6) inches in height shall be installed. All curbing shall be installed per the concrete curb and gutter detail illustration below. Parking bumpers or stops, of any material, are strictly prohibited in any zoning district.
- a. *New industrial use.*
- Corner lots:* Curbing shall be required in all addressed and non-addressed front yards and designated side yards;
 - Interior lots:* Curbing shall be required for all parking areas located along public rights-of-way. No curbing shall be required for parking areas located in the designated rear yard; and
 - All lots:* All interior islands and access aisles shall be curbed.
- b. *New commercial use.*
- Corner lots:* Curbing shall be required in all addressed and non-addressed front yards and designated side yards;
 - Interior lots:* Curbing shall be required for all parking areas located along public rights-of-way and the designated side yards. At the discretion of the zoning administrator (or designee) curbing may be required for parking areas located in the designated rear yard; and
 - All lots:* All interior islands and access aisles shall be curbed.
- c. *Existing commercial and industrial use.* If the use of property has been vacant, abandoned or discontinued

for a period of nine (9) consecutive months or more, or, if the damage, repair, alteration or improvement costs to the structure meets or exceeds one hundred (100) percent of the taxable value, then;

1. *Corner lots:* Curbing shall be required in all addressed and non-addressed front yards and designated side yards;
2. *Interior lots:* Curbing shall be required for all parking areas located in the designated front yard and along public rights-of-way. At the discretion of the zoning administrator (or designee) curbing may be required for parking areas located in the designated side yard and rear yard based on the abutting or adjoining property use or condition;
3. *All lots:* All interior islands and access aisles shall be curbed.

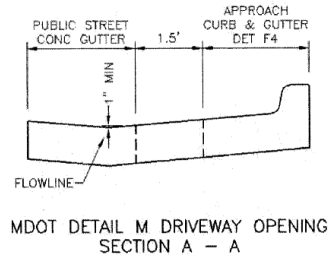
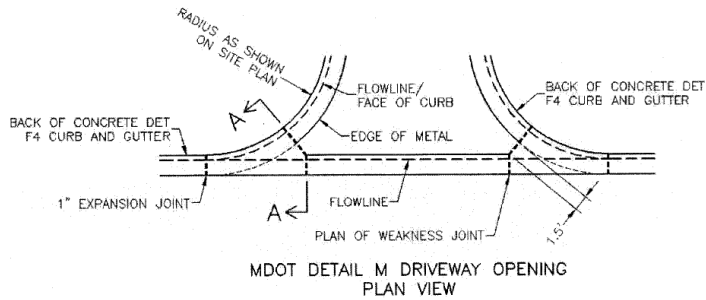


- (5) *Pavement structures.* All catch basins, manhole covers, valve boxes, and similar structures must be encased in eight-inch thick concrete (as illustrated in the figure of pavement structure standards) with a minimum two-foot diameter outside of the structure, or as approved by the city engineer (or designee).



- (6) *Maneuvering lanes.* All off-street parking areas that make it necessary or possible for vehicles to back directly into a public street are prohibited provided that this prohibition does not apply to off-street parking areas of one-family or two-family dwellings.
- (7) *Ingress and egress.* Ingress and egress to parking lots must be provided for all vehicles by means of clearly limited and defined drives. One-way driveways must be twelve (12) feet wide and two-way driveways must be twenty-four (24) feet wide to the front building line of a principal structure.
 - a. The zoning administrator (or designee) retains the authority to approve or deny the existing ingress and egress based on criteria such as, but not limited to, the following:
 1. Condition of the surface treatment material in place;
 2. If the width meets the minimum allowable dimension per this chapter;

3. If the design meets general engineering standards and is approved by the city engineer (or designee). As de city engineer (or designee) the Type M standard shown below may not be applicable for all situations.



- (8) *Small vehicles.* A limited number of spaces in each parking lot may be provided for parking of smaller vehicles. The number of such spaces must not exceed ten (10) percent of the required spaces. The spaces must be clearly identified through the use of signs and/or pavement markings as being for small vehicles. Small vehicle parking spaces must be a minimum of seven and a half (7.5) feet wide and a minimum of eight (8) feet long.
- (9) *Parking overhang of curbs abutting sidewalks or landscape areas.* The required length of a parking space can be reduced by one and a half (1½) feet if either of the following applies:
- The useable (net) width of the sidewalk is no less than five (5.5) feet, once the one and a half-foot vehicle overhangs are accounted for; or
 - The landscape area is deep enough to accommodate both the one and a half-foot vehicle overhang and the mature widths of any proposed/required shrubbery.
- (10) *Stacking spaces.* Stacking spaces must be nine (9) feet wide and twenty-five (25) feet long. Stacking spaces must be illustrated on the site plan and must not block driveways, parking aisles or circulation around a building or restrict access to waste receptacles and loading areas.
- (11) *Pavement markings.* All parking and loading spaces must be delineated with pavement markings. The visibility of pavement markings delineating parking and loading spaces and directional control must be maintained.
- (12) *Barrier-free parking.*
- Off-street parking facilities required for buildings under separate ordinances or zoning laws must be provided in accordance with the provisions of the Americans with Disabilities Act of 1989, as amended.
 - In no case may that parking be less than the following:
 - Each reserved parking space must be not less than eight (8) feet wide and adjacent to an access aisle not less than five (5) feet wide.
 - Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet, a width of not less than four (4) feet,

and a six-foot taper along the sidewalk must be provided for wheelchair access.

- c. Parking spaces for the physically handicapped must be located as close as possible to walkways and entrances. There must be a barrier-free route of travel from the parking space to the front entrance of the building. Where possible this route must not cross parking lot maneuvering lanes. Signs must be provided when necessary indicating the direction of travel to an accessible entrance.

Table of Michigan Barrier-Free Parking Requirements	
Total Number of Spaces in the Parking Lot	Required Number of Handicap Accessible Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	8
301 to 400	12
Over 400	12; plus 2 for every 250 or fraction thereof over 400

(h) *Off-street loading facilities.*

- (1) *Applicability.* In connection with every building or part thereof hereafter erected, except one- and two-family dwellings, off-street loading and unloading spaces for uses which customarily receive or distribute material or merchandise by vehicles must be provided on the same lot with such buildings. Off-street loading spaces are hereby required in order to avoid interference with public use of streets and parking areas.
- (2) *Required parking.* Loading areas cannot be included in calculations for off-street parking space requirements.
- (3) *Review required.* Plans and specifications showing required loading and unloading spaces and the means of ingress and egress and internal circulation must be submitted to the zoning administrator (or designee) and any appropriate state or county agency for review at the time of application for a building permit for the erection or

enlargement of a use of a building or structure or at the time such spaces are added or altered, except as required in section 28-135 (site plan review procedures and requirements), in which case this requirement will not apply.

- (4) *Size of spaces.* The size of all required loading/unloading spaces must be at least ten (10) feet by fifty (50) feet (five hundred (500) square feet) for office uses and at least ten (10) feet by seventy (70) feet (seven hundred (700) square feet) in areas for commercial and industrial uses, with a clearance of at least fourteen (14) feet in height.
- (5) *Number of spaces.* The minimum number of loading spaces in all zoning districts must be provided in accordance with the following table. The zoning administrator (or designee) may modify these requirements upon making the determination that another standard would be more appropriate because of the number or type of deliveries experienced by a particular business or use.

Table of Off-Street Loading Facility Requirements	
Usable Floor Area in Square Feet	Loading and Unloading Space Required in Terms of Square Feet of Useable Floor Area
0—5,000	None
5,001—20,000	One (1) space
20,001—100,000	One (1) space; plus one (1) additional space for each 20,000 square feet in excess of 20,001 square feet
100,001—500,000	Five (5) spaces; plus one (1) additional space for each 40,000 square feet in excess of 100,001 square feet
500,001 and over	Fifteen (15) spaces; plus one (1) additional space for each 80,000 square feet in excess of 500,001 square feet

- (6) *Location.* Loading spaces must meet the following location requirements:
- a. Loading spaces must be provided off-street in the rear or side yard behind the front building line of the principal structure and will not be permitted in the front yard or where visible from a street or residential district.
 - b. Loading spaces must meet the parking space setback requirements of subsection (a)(6) of this section.
 - c. Loading spaces must not be closer than twenty-five (25) feet to any residential district property line, unless otherwise approved by the zoning administrator (or designee), upon the installation of additional landscaping and/or a barrier.
 - d. Where the loading space requires an overhead door on the building elevation, the overhead doors cannot be visible from the street.

- e. In accordance with section 28-105, the zoning administrator (or designee) has the discretion to require additional screening in order to provide adequate screening of loading areas from abutting properties.
- (7) *Access and vehicular movement.* Site plans must illustrate expected vehicular path and turning radii of loading/unloading vehicles in order to demonstrate there are no conflicts with internal circulation, parking and accessory structures. Off-street loading facilities that make it necessary or possible to back directly into a public street are prohibited. All maneuvering of trucks and other vehicles must take place on the site and not within a public right-of-way.
- (8) *Surface.* Loading dock approaches and loading spaces must be surfaced with asphalt or concrete paving in order to provide a permanent, durable, and dustless surface with a base sufficient to accommodate expected vehicle weight.
- (9) *Stormwater drainage.* Loading areas must be graded and drained consistent with the stormwater drainage standards for parking lots described in subsection (g)(2) of this section.
- (10) *Storage and repair.* The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading spaces.
- (11) *Change in use or intensity.*
- a. Whenever the use of a building or lot is changed, loading facilities must be provided as required by this section for the new use.
 - b. If any building, structure or lot is increased in floor area or through other means, additional loading must be provided to bring the site into compliance with this section.
 - c. Any area designated for required loading must not be changed to any other use unless and until equal facilities meeting the standards of this section are provided elsewhere, or the loading requirements of the site change as determined by the zoning administrator (or designee).
 - d. Loading facilities, existing at the effective date of this section, in connection with the operation of an existing building or use, cannot be reduced to an amount less than required for a similar new building or new use.
 - e. When changes in activity occur that may produce loading demand in excess of available loading facilities, the city will require documentation showing adequate loading facilities will be provided or will be expanded to meet anticipated needs.
- (i) *Site access location and design (access management).* The standards of this section are intended to preserve the capacity of the street system and to minimize the potential for traffic collisions, in balance with the need to provide reasonable access to properties.
- (1) *Location in general.* Driveways must be located to minimize interference with the free movement of traffic, to provide adequate sight distance, and to provide the most favorable driveway grade. Driveways (including the radii but not including right turn lanes, passing lanes, and tapers) must be located entirely within the right-of-way frontage, unless otherwise approved by the city and upon written certification from the adjacent property owner agreeing to such encroachment.
 - (2) *Number of driveways.* The number of commercial driveways (not including driveways for two-family dwelling units or unmanned public utility uses) must be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles, while preserving traffic operations and safety along streets.
 - (3) *Driveway spacing from an intersection.* Minimum spacing requirements between a proposed driveway and an intersection (either adjacent or on the opposite side of the street) may be set on a case-by-case basis but in no instance may not be less than the distances listed in the table of minimum commercial driveway spacing from

street intersections, unless approved by the zoning administrator (or designee) in consultation with the city engineer (or designee). The following measurements are from the near edge of the proposed driveway (measured at the throat perpendicular to the street) to the near lane edge of the intersecting street or pavement edge for uncurbed sections.

Table of Minimum Commercial Driveway Spacing From Street Intersections		
Location of Driveway	Minimum Spacing for a Full Movement Driveway	Minimum Spacing for a Driveway Restricting Left Turns
Along State Trunkline and City Major Streets, intersecting street is a State Trunkline or City Major Streets	250 feet	125 feet
Along State Trunkline and City Major Streets, intersecting street is a Local Street	200 feet	125 feet
Along Local Streets	75 feet	50 feet

(4) *Minimum spacing between driveways.* Minimum spacing between two commercial driveways is determined based upon posted speed limits along the parcel frontage. The minimum spacing indicated in the table of minimum spacing between commercial driveways are measured from centerline to centerline, and may only be deviated from upon the approval of the zoning administrator (or designee) in consultation with the city engineer (or designee).

Table of Minimum Spacing Between Commercial Driveways	
Posted Speed Limit	Minimum Driveway Spacing
25 MPH	130 feet
30 MPH	185 feet
35 MPH	245 feet
40 MPH	300 feet
45 MPH or higher	350 feet

(5) *Offset.* To reduce left-turn conflicts, commercial driveways must be aligned with driveways or streets on the opposite side of the roadway where possible. If alignment is not possible, driveways should be offset based upon the posted speed limit along the parcel frontage. The minimum spacing indicated below are measured from centerline to centerline.

Table of Minimum Offsets Between Commercial Driveways	
Posted Speed Limit	Minimum Driveway Spacing
25 MPH	255 feet

30 MPH	325 feet
35 MPH	425 feet
40 MPH	525 feet
45 MPH or higher	630 feet

- (6) *Modification of standards.* Given the existing built conditions through much of the city, the standards above may be modified by the zoning administrator (or designee) on a case-by-case basis depending upon analysis of existing and expected traffic operations, and restrictions imposed by current development or site conditions. The zoning administrator (or designee) may require preparation by the applicant of a traffic study and/or a review by the city engineer (or designee) to assist in their decision. In no case, however, can the minimum distance between driveways be less than sixty (60) feet. The zoning administrator (or designee) may require a shared access system as described in subsection (i)(7) of this section (see below).
- (7) *Shared access system.* The zoning administrator (or designee) may require a shared access system where it is determined to have a beneficial impact on traffic operations and safety. This determination will be based on the expected traffic patterns, existing traffic conditions and the feasibility for shared access. This shared access system may involve a shared driveway, connections of parking lots or a drive connecting two (2) or more lots or uses, access from a side street, a shared driveway or service road connecting two (2) or more properties or uses. In such cases a shared access agreement must be provided to the city.
- (8) *Changes in use.* When a use is proposed to change or expand the zoning administrator (or designee) may require the removal or redesign of access points to bring the site closer to conformity with this section.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2012.17, § 2, 7-17-12; Ord. No. 2015.12, § 2, 4-14-15; Ord. No. 2016.04, § 3, 3-15-16; Ord. No. 2018-14, § 2, 12-11-18; Ord. No. 2019-14, § 2, 10-15-19; Ord. No. 2020-16, § 2, 10-13-20; Ord. No. 2020-19, § 2, 10-27-20; Ord. No. 2020-21, § 2, 12-8-20)

Secs. 28-101—28-104. - Reserved.

Sec. 28-105. - Landscape standards.

- (a) *Intent.* Landscaping is necessary for the protection and enhancement of the environment and for the continued vitality of all land uses in the city. The intent of this section is to promote the public health, safety and welfare by establishing minimum standards for the design, installation, and maintenance of landscape improvement. The requirements of this section are intended to help achieve a number of functional and environmental objectives such as:
- (1) To promote the implementation of the city's comprehensive plan and any related subarea plans;
 - (2) To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge, and stormwater runoff retardation, while at the same time aiding in noise, glare and heat abatement;
 - (3) To encourage the preservation of existing trees and vegetation;
 - (4) To assist in providing adequate light and air and in preventing overcrowding of land;
 - (5) To provide visual buffering and enhance the beautification of the city;
 - (6) To reduce the physical impact between adjacent land uses by requiring complementary landscape treatments and providing a transitional area adjacent to natural areas;
 - (7) To safeguard and enhance property values and to protect public and private investment;

- (8) To preserve, protect and restore the unique identity and environment of the City of Jackson and preserve the economic factors attracted to the city by such factors;
- (9) To define, articulate and integrate outdoor spaces, architectural elements, and various site elements;
- (10) To conserve energy, and to protect the public health, safety, and general welfare;
- (11) To provide habitat for living things that might not otherwise occur or be found in urban environs; and
- (12) To provide reasonable standards to bring developed sites that existed prior to the adoption of these standards into compliance with the requirements contained herein.

(b) *Scope of application.*

- (1) The requirements set forth in this section will apply to all uses, lots, sites, and parcels that are developed or expanded following the effective date of this section. No site plan that is reviewed in accordance with section 28-135, site plan review procedures and requirements, may be approved unless the site plan shows required landscaping consistent with the provisions of this section.
- (2) Where landscaping is required, a building permit will not be issued until the required landscape plan is submitted and approved, and a certificate of occupancy will not be issued by the chief building official (or designee) unless provisions set forth in this section have been met or by providing either a performance guarantee as authorized by section 28-165; or by entering into a development agreement as authorized by section 28-209
- (3) The zoning administrator (or designee) will determine if the existing landscaping or screening identified for preservation meets the intent of this section (see subsection (d) of this section).
- (4) Each landscape plan will be independently reviewed; the zoning administrator (or designee) may determine that there exist unique circumstances that would prevent the installation of all or a portion of the required site landscaping, greenbelts, buffer zones, and parking lot landscaping or detention/retention basin landscaping requirements.
 - a. Such a determination must be made based upon criteria such as the following:
 1. Topography;
 2. Existing woodlands, wetland, floodplain, drainage conditions and poor soils;
 3. Types and distance to adjacent land uses;
 4. Dimensional conditions unique to the parcel;
 5. Provision of adequate sight distances/clearance for motorists and pedestrians;
 6. Health, safety and welfare of the city;
 7. Clearance from overhead utility lines and separation from underground utilities; and
 8. Accessibility to fire hydrants.
 - b. In return the applicant will be required to incorporate at least one (1) of the following elements in the landscape plan:
 1. The utilization of credits obtained by preserving existing vegetation per the standards of subsection (c)(3)e. and subsection 28-110(c);
 2. Placing the required plant material elsewhere on the site, as approved by the zoning administration (or designee);
 3. Use of larger plant material (see subsection (c)(1) of this section); or
 4. An alternative proposed by the applicant in writing and approved by the zoning administrator (or

designee) (see subsection (g) of this section).

- (5) *Landscape plan review required.* A separate landscape plan detailing the landscape changes consistent with the standards of this chapter must be submitted to the zoning administrator (or designee) when:
- a. A full site plan (FSP) is mandated, per the requirements of the table of required review process located in subsection 28-135(a) of this chapter;
 - b. Where the building and/or parking area is being increased by at least twenty-five (25) percent or reconstructed; or
 - c. The building is being changed to a more intense use, as determined by the zoning administrator (or designee). The change in use intensity must consider factors such as required parking, amount of traffic generated, maximum building occupancy or change to a different use category in the building code.
- (c) *Landscape plan specifications.*
- (1) *Minimum requirements.* The requirements contained in this section are considered the minimum necessary to achieve the intent of this section, but nothing herein will preclude the use of more extensive landscaping to further improve the function, appearance and value of the property. The use of larger plant material may be used to count towards the overall minimum planting requirements (i.e. planting a twelve-foot tall evergreen when a six-foot is required equals credit for one and one-half (1½) trees).
 - (2) *Appropriate design professional requirement.* The zoning administrator (or designee) may require the landscape plans to be prepared by an appropriate design profession due to the complexity of a project or another compelling issue.
 - (3) *Required information.* The landscape plan must demonstrate that all requirements of this section are met and must include the following information:
 - a. Illustration of the location, spacing, species, size and root ball of proposed plant material, including a plant schedule (see "landscaping" under section 28-5 of this chapter for a definition and example);
 - b. Separately identify compliance with the minimum numeric requirements (rounded up) for site landscaping, greenbelts, buffer zones, parking lot landscaping, and detention/retention ponds;
 - c. Clearly identify and delineate proposed planting beds and turf grass areas;
 - d. Provide typical cross sections to illustrate views from adjacent land uses, and the slope, height, and width of proposed berms or landscape elements, as required by the zoning administrator (or designee);
 - e. Existing vegetation survey. Provide a survey of existing vegetation in accordance with subsection 28-110(c) of this chapter which denotes the following (see "landscaping" under section 28-5 of this chapter for pertinent definitions):
 1. Trees, noting their size (i.e., caliper or height) and type (i.e., canopy, evergreen, or other ornamental);
 2. Shrubs, noting their size and type/form (i.e., upright or spreading evergreen or small or large deciduous);
 3. Ground covers, noting their size/coverage and type (i.e., woody plants and vines or perennials); and
 4. Identify the vegetation proposed for preservation and the credits (if any) that will be claimed per the standards cited in subsection 28-110(c) of this chapter.
 - f. Delineate the location of protective fencing around existing vegetation identified for preservation per the standards of subsection 28-125(e) of this chapter. A detail of all such fencing must be provided on the landscape plan and meet the standards for such fencing included in section 28-125 of this chapter;
 - g. Provide construction details to resolve specific conditions such as limits of grading adjacent to areas with trees and vegetative cover to be preserved, tree wells to preserve existing trees or culverts to maintain

natural drainage patterns;

- h. Provide details to ensure proper installation and establishment of proposed plant material (e.g., tree stakes, guy wires, protective fencing, etc.), as directed by the zoning administrator (or designee); and
- i. Identify a landscape maintenance program, including a statement that all diseased, damaged or dead materials will be replaced in accordance with the requirements of this section.

(d) *Landscape standards.*

(1) All landscaping must conform to the following standards, unless otherwise approved by the zoning administrator (or designee), each of which will be calculated separately. Please see "landscaping" in section 28-5 of this chapter for definitions of the various plant types cited in the following table:

Table of Landscape Standards				
Location	Dimensions (min.)	Landscape Quantities^(a)	Shrubs (min.)^(b)	Other Materials
		Trees (min.)		
<i>Site Landscaping</i>				
Within the lawn extension/terrace (i.e., between the sidewalk and street curb)		1 canopy tree per each 30 linear feet of frontage	Turf grass (i.e., lawns) and planting beds (per the requirements of subsection (e)(5) of this section)	
Cul-de-sac islands (if applicable)		1 canopy or evergreen tree per each 1,000 sq. ft. area	Turf grass (i.e., lawns) and planting beds (per the requirements of subsection (e)(5) of this section)	
Front Yard (new residential only)	Between the principal structure and the sidewalk/right-of-way line	1 tree per each 30 linear feet of frontage	4 shrubs per each 20 linear feet or, if not feasible, sufficient ornamental trees and shrubs (as determined by the zoning administrator (or designee)) located in clearly defined planting beds to screen views to the adjacent street, as well as turf grass (i.e., lawns)	

Outdoor ground mounted equipment (i.e. HVAC units, etc.)			Evergreen hedge or privacy fence or wall no less than the height of the equipment	
Entire property	Open areas remaining after accounting for the required landscape areas	1 tree per each 1,200 sq. ft. of total lot area	1 small shrub per each 500 sq. ft. of total lot area	Turf grass and planting beds
<i>Greenbelts^(c)</i>				
All zoning districts or uses	Between the principal structure or use and the sidewalk/right-of-way line	1 tree per each 30 linear feet of frontage ^(d, e)	4 shrubs per each 20 linear feet or, if not feasible, sufficient ornamental trees and shrubs (as determined by the zoning administrator (or designee)) located in clearly defined planting beds to screen views as well as turf grass (i.e., lawns) ^(d, e)	
<i>Buffer Zones</i>				
Multiple-family residential district or use adjacent to one-family and one- and two-family residential districts or uses	Between the principal structure or use and the property boundary	1 canopy or evergreen tree per each 20 linear feet	4 shrubs per each 20 linear feet or, if not feasible, sufficient ornamental trees and shrubs (as determined by the zoning administrator (or designee)) located in clearly defined planting beds to screen views as well as turf grass (i.e., lawns)	
Institutional uses adjacent to any residential district or use	Between the principal structure or use and the property boundary	1 canopy or evergreen tree per each 20 linear feet	4 shrubs per each 20 linear feet or, if not feasible, sufficient ornamental trees and shrubs (as determined by the zoning administrator (or designee)) located in clearly defined planting beds to screen views as well as turf grass (i.e., lawns)	

Commercial and industrial district or use adjacent to any residential district or use	Between the principal structure or use and the property boundary	1 canopy tree and 2 evergreen trees per each 20 linear feet	4 shrubs per each 20 linear feet or, if not feasible, sufficient ornamental trees and shrubs (as determined by the zoning administrator (or designee)) located in clearly defined planting beds to screen views as well as turf grass (i.e., lawns)
Industrial district or use adjacent to any commercial district or use	Between the principal structure or use and the property boundary	1 canopy or evergreen tree per each 20 linear feet	4 shrubs per each 20 linear feet or, if not feasible, sufficient ornamental trees and shrubs (as determined by the zoning administrator (or designee)) located in clearly defined planting beds to screen views as well as turf grass (i.e., lawns)

Berm and/or Masonry Wall^(f)

Along the lot line, but outside of the required front yard setback ^(g, h)	Between 4 and 6 feet tall ⁽ⁱ⁾	Applicable buffer zone landscaping may also be required
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Parking Lot Islands

Within and/or immediately adjacent to the parking lot, protected by curbing, and spaced no more than 15 parking spaces apart in lots with less than 75 spaces or 20 spaces apart in lots with more than 75 spaces	9 feet wide, 150 sq. ft. in area, 9 foot curve radius adjacent to aisle lanes	1 canopy tree per 150 sq. ft. of the total area comprising parking lot islands ^(j)	Planting beds (per the requirements of subsection (e)(5) of this section)
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Perimeter Parking Lot Landscaping

Perimeter of the parking lot envelope	Parking lots must be set back at least 5 ft. from a right-of-way and abutting property lines, and required plantings must be within 10 ft. from the edge of pavement	1 canopy tree per each 2,000 sq. ft. of paved surface area ^(k)	3 foot tall perimeter hedge along a right-of-way or, if not feasible, sufficient shrubbery (as determined by the zoning administrator (or designee) located in clearly defined planting beds, as well as turf grace (i.e. lawns) ^(m, n, o)
<i>Loading and Outside Storage Areas</i>			
Loading and outside storage areas		The zoning administrator (or designee) may require additional landscaping/screening for loading areas and outdoor storage areas when visible from adjoining parcels or streets	
<i>Detention and Retention Ponds^(k)</i>			
Rear or side yards within a natural or man-made depression designed to appear natural or free formed		1 tree per each 50 linear feet measured at the top bank of the pond ^(l, m)	10 shrubs per 50 linear feet measured at the top of the pond or, if not feasible, sufficient shrubbery (as determined by the zoning administrator (or designee)), located in clearly defined planting beds plus a native seed mix on the slopes to prevent erosion ^(l, m)

(2) Footnotes to the Table of Landscape Standards.

- a. Adjustments in the placement of plantings are subject to any required site clearance triangles, per the requirements of section 28-126 of this chapter.
- b. The type of shrubbery must be a mix of each type noted in subsection (e)(3) of this section.
- c. Pertains to the entire street frontage of a property, as measured from the right-of-way, excluding access drives (i.e., driveway cuts).
- d. Greenbelt plantings must be arranged to emulate the landscape character of the surrounding areas. Subject to zoning administrator (or designee) determination, the greenbelt plantings may be waived within the C-3 (central commercial) district providing the buildings are located at or near the front property line.
- e. Nothing but landscaping, including decorative fencing and landscape features (as identified in subsection 28-125(d) of this chapter), is allowed within the greenbelt.
- f. A berm and/or masonry wall may be required as part of or in place of the buffer when deemed necessary by

zoning administration (or designee) to meet the intent of subsection 28-105(e)(9) of this section and must conform to section 28-125 of this chapter.

- g. The location may be modified by the zoning administrator (or designee) upon recommendation of the city engineer (or designee) due to unique circumstances, such as conflicts with underground utilities and better screening provided at alternative locations.
- h. See section 28-125 of this chapter for berm construction standards.
 - i. Up to an eight-foot berm and/or wall may be permitted within the commercial and industrial districts.
 - j. No branches may remain within five (5) feet above the grade of the parking lot, if the drip line extends outside of the landscape area.
- k. Decorative treatment may be incorporated into the perimeter parking lot landscaping such as the inclusion of tree clusters and decorative fencing and landscape features (as identified in subsection 28-125(d) of this chapter). Treatment provided must be compatible with, or a site improvement to, surrounding properties. This decorative treatment is encouraged on sites within the commercial districts and multiple family developments near the downtown.
- l. The basin slopes must be sculptured to filter and soften the views.
- m. The plantings must be clustered in a natural pattern around the basin with trees above the freeboard line (i.e., the high water mark designed for the pond), and all other plantings must be tolerant of wet/moist soils. (e.g., London Plane Trees (*Platanus x acerifolia*), Red Maples (*Acer rubrum*), etc.) The location of plant material will also be done in consideration of the need to provide access for and minimize disruption of plant material during routine pond maintenance.
- n. Parking area(s) located in the designated rear yard of a parcel shall be offered a relief from landscape requirements if location is not visible from the centerline of a public right-of-way within one hundred (100) feet. All landscape modifications shall be approved by the zoning administrator (or designee).
- o. Parking area perimeters not contained by curb and gutter shall contain turf grass to prevent runoff. Additionally, one (1) canopy tree per each twenty (20) linear feet shall be planted.

(e) Specifications for landscape improvements and plant materials.

- (1) *Plant material.* All plant material must be hardy to the City of Jackson (i.e., USDA Plant Hardiness Zone 6a), be free of disease and insects, and conform to the American Standard for Nursery Stock of the American Nursery and Landscape Association.
- (2) *Minimum sizes and spacing.* The minimum plant sizes must be provided in accordance with the following (please see "landscaping" in section 28-5 of this chapter for definitions of the various plant types cited in the following table):

Table of Minimum Plant Sizes and Spacing		
Plant Type	Minimum Plant Size	Spacing Requirements (max. on center)
Canopy Trees	Two and a half-inch caliper	Twenty-five (25) feet

Coniferous Trees	Six to eight-foot height ^(a)	Fifteen (15) feet
Other Ornamental Trees	Six-foot height	Fifteen (15) feet
Large Deciduous Shrubs	Three-foot height	Four (4)—six (6) feet
Small Deciduous Shrubs	Two-foot height	Three (3) feet
Upright Evergreen Shrubs	Two-foot height	Three (3)—four (4) feet
Spreading Evergreen Shrubs	Two-foot spread	Three (3)—four (4) feet

(3) *Footnotes to the Table of Minimum Plant Sizes and Spacing.*

- a. Height of coniferous trees shall be measured at the third tine from the top, not a measurement of overall height.
- (4) *Mixing of species.* The overall landscape plan may not contain more than one-third (33.3%) of any one (1) plant species for each type of planting specified in the Table of Landscape Standards (see subsection (d) of this section). The use of native species and mixture of plants from the same plant community is strongly encouraged.
- (5) *Trees not permitted.* Various trees are not permitted for the following reasons, although the zoning administrator (or designee) may allow them when associated with an appropriate ecosystem, for historic preservation, or another compelling objective:
- a. *Easily damaged or short lived.* Including, but not limited to, Black Locusts (*Robinia pseudoacacia*), Silver Maples (*Acer saccharinum*), and various Poplars and Cottonwoods (*Populus* species);
 - b. *Bears nuisance leaves, fruit, or other characteristics.* Including, but not limited to, Weeping Willows (*Salix babylonica*), nut-bearing Horse Chestnuts (*Aesculus* species), female Ginkgoes (*Ginkgo biloba*), various Mulberries (*Morus* species), Catalpas (*Catalpa speciosa*), various Poplars and Cottonwoods (*Populus* species), Honey Locusts with thorns (*Gleditsia triacanthos* (i.e., not var. *inermis*)), and Hawthorn, Thornapple, May-tree, Whitethorn, or Hawberry (*Crataegus* species);
 - c. *Weedy or invasive.* Including, but not limited to, Box Elders (*Acer negundo*), various Poplars and Cottonwoods (*Populus* species), Trees of Heaven (*Ailanthus altissima*), and Black Locusts (*Robinia pseudoacacia*);
 - d. *Roots clog drains and sewers and crack sidewalks and foundations.* Including, but not limited to, Weeping Willows (*Salix babylonica*) and Silver Maples (*Acer saccharinum*); and
 - e. *Unusually susceptible to disease or insects.* Including, but not limited to, American Elms (*Ulmus americana*) and various Ashes (*Fraxinus* species).

(6) *Planting beds.*

- a. Planting beds are clearly defined areas surrounding a single tree, shrub, or grouping of trees and shrubs and may also include annuals, various other types groundcovers, and mulch (please see "landscaping" in [section 28-5](#) of this chapter for definitions of the various plant types cited in the following table).

There is no size limit for a planting bed as long as dedicated open areas of mulch and annuals do not exceed one-third (33.3%) of its total area. Plant coverage will be determined as follows:

1. An eighteen-inch radius circle around the trunk of a canopy tree;
 2. The drip-line of an ornamental tree or shrub at the time of planting; and
3. Groupings of ground cover (excluding annuals) planted to become dense after one (1) complete growing season.

Mulch is required in those areas at the time of planting, but will not be included when determining the percentage of a planting bed dedicated to open areas of mulch and annuals.

- b. Mulch must be maintained at a minimum of two (2) inches deep in order to prevent weed growth and soil erosion and to retain soil moisture.
 - c. Material in planting beds shall be identified on the landscape plan and approved by the zoning administrator (or designee) and maintained in good condition.
 - d. Mulch and stone landscape beds will be permitted in parking islands contained by curb and gutter.
- (7) *Top soil.* Top soil must consist of a four (4) inch base for lawn areas and an eight (8) to twelve (12) inch base within planting beds. This also applies to berms.
- (8) *Proximity to utilities.* Plant material cannot be located in a manner that will interfere with or cause damage to underground or overhead utility lines, public roads or other public facilities.
- (9) *Turf grass.* Turf (i.e., lawn) grass must be planted in species normally grown as permanent lawns in cool/humid area of the North American Climate Zone. Turf grasses may be seeded or sodded. Only rolled sod, erosion reducing net or suitable mulch may be used in swales or other areas susceptible to erosion and must be staked where necessary for stabilization. When complete sodding or seeding is not possible, nurse grass (i.e., fast growing temporary) seed must be sown and mulched for immediate protection until permanent coverage is achieved. Turf grass sod, seed, and top soil must be free of weeds and noxious pests or disease. Areas of turf grass must be adequately irrigated for the first two (2) growing seasons.
- (10) *Regulations pertaining to sight distance.* All proposed landscaping adjacent to the intersection of two or more streets or access drives must meet the standards of section 28-126 of this chapter.
- (f) *Minimum standards for installation, irrigation and maintenance.*
- (1) *Timing of planting.* All required plant materials must be planted prior to issuing a certificate of occupancy by the chief building official (or designee) in consultation with the zoning administrator (or designee). In the event that the project is completed during a time of year when planting is impractical, a performance guarantee, as authorized by section 28-165 of this chapter, must be provided equal to the amount of installation of the proposed landscaping.
 - (2) *Completion of improvements.* Tree stakes, guy wires, and tree wrap installed to satisfy subsection (c)(3)h. of this section must be removed by the date indicated on the landscape plan.
 - (3) *Irrigation.* All landscaped areas must be provided with a readily available and acceptable water supply (e.g., irrigation systems, exterior faucets and hoses, tree watering bags, etc.); as indicated on the landscape plan and approved by the zoning administrator (or designee); and in accordance with the Michigan Plumbing Code, as applicable.
 - (4) *Maintenance.* The owner of the property is responsible for the regular maintenance of all landscaping. Landscaped areas and plant materials required by this section must be kept free from refuse and debris. Plant materials, including turf grass (i.e., lawns), must be maintained in a healthy growing condition, neat and orderly in appearance per the intent of the approved site plan. Additionally, all plantings approved as part of a site plan must be maintained in perpetuity or an amended landscape plan must be submitted for consideration by the

zoning administrator (or designee). However, if any required plant material dies or becomes diseased, it must be replaced. Replacement must be within thirty (30) days unless an extended time period is necessary due to weather in which case a written request may be submitted and reviewed by the zoning administrator (or designee) prior to its potential authorization.

(g) *Proposal by applicant for complying with requirement.*

- (1) *Proposal by applicant.* If the applicant demonstrates that compliance with this section is not feasible on the property, in lieu of complying with all of a part of the specific requirements set forth in this section for landscaping, the applicant may propose in writing an alternative means of compliance. Subject to approval by the zoning administrator (or designee) for a particular property and circumstance, such alternative may include, by way of example, installing landscape materials in the immediate area of the property being developed or paying moneys into the city tree fund in an amount by multiplying the total quantity of plantings that would not be installed by the cost per plant. That proposal must include a timetable for performance, and state whether a performance guarantee (see section 28-165 of this chapter) would be filed to secure such performance.
- (2) *Review by the zoning administrator (or designee).* The zoning administrator (or designee) will review the written proposal of the applicant and determine whether the proposal would be accepted in place of the landscape requirements that would not be completed in accordance with this section. If and to the extent the zoning administrator (or designee) is satisfied that the applicant has demonstrated that it would not be feasible to fully comply with the landscaping requirements in this section, the determination by the zoning administrator (or designee) on whether to approve an applicant's proposal will be based on the standard of most closely achieving the intent of the ordinance, to the extent reasonably feasible. The expense of complying with this section shall not be a basis of consideration by the zoning administrator (or designee). Any bonding to be a part of the proposal shall be subject to review by the city attorney, and shall conform with customary bonding requirements for development in the city.
- (3) *Effect of approval.* If the applicant's written proposal is approved by the zoning administrator (or designee), the proposal shall be deemed to be a regulation required under this [section], and a failure to comply with the approved proposal shall be deemed to be a violation of this [section].

(h) *City tree fund.*

- (1) All revenues raised in lieu of complying with all of a part of the specific requirements set forth in this section for landscaping (per subsection (g)(1) of this section) must be placed in a city tree fund together with such other revenues from any source or combinations of sources of revenues otherwise legally available which have been designated to be used for the planting of trees and shrubs.
- (2) No part of the funds held in the city tree fund may be transferred to the general operating fund or used for any purpose other than undertaking the planting of trees and shrubs in the city.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2012.20, § 3, 9-11-12; Ord. No. 2013.07, §§ 1, 2, 4-23-13; Ord. No. 2015.11, § 2, 4-14-15; Ord. No. 2016.04, § 3, 3-15-16)

Secs. 28-106—28-108. - Reserved.

Sec. 28-109. - Lighting standards.

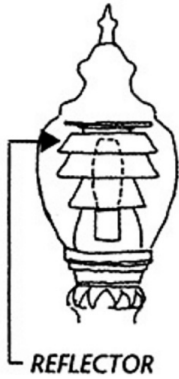
- (a) *Intent and purpose.* The purpose of this section is to protect the health, safety and welfare of the public by recognizing the need for buildings and sites to be illuminated for safety, security and visibility for pedestrians and motorists balanced against the often detrimental effects associated with the use of outdoor lighting. This section

provides standards for various forms of lighting that will minimize light pollution; reduce the potential for off-site impacts; preserve the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to sky glow; reduce light pollution and light trespass from light sources onto adjacent properties; enhance customer and employee safety; contribute to improving visibility by requiring illuminated areas to have uniform light; and curtail the degradation of the nighttime visual environment.

- (b) *Applicability.* The standards in this chapter apply to any light source visible beyond the property from which it is emanating. The zoning administrator (or designee) may review any building or site to determine compliance with the requirements under this section. Whenever a person is required to obtain a building permit, electrical permit for outdoor lighting or illuminated signs, a conditional use permit, subdivision approval or site plan approval from the city, the applicant must submit sufficient information to enable the zoning administrator (or designee) or planning commission to determine whether the proposed lighting will comply with this section.
- (c) *Exemptions.*
- (1) Street lights located in a public right-of-way or another public easement are exempt from the lighting requirements of this chapter without any conditions.
 - (2) The following are exempt from the lighting requirements of this chapter, provided that they do not shine beyond the property line and have no glare or other detrimental effects on adjoining streets or property owners:
 - a. Residential lighting associated with one- and two-family dwellings.
 - b. Private swimming pools;
 - c. Holiday decorations; and
 - d. Window displays.
- (d) *Submittal requirements.* The following information must be included for all site plan submissions which include any existing or new exterior lighting and where site plan approval is not required, some or all of the items may be required by the zoning administrator (or designee) prior to zoning approval or lighting installation:
- (1) The location of all outdoor lighting fixtures, including but not limited to pole-mounted, building-mounted (including outline lighting), architectural accent, landscape (including walkway bollards), and canopy light fixtures on the site plan and building elevations;
 - (2) A photometric grid overlaid on the proposed site plan indicating the light intensity throughout the site (in footcandles (fc)). Measurements must be at ground level and shown at ten-foot spacing;
 - (3) The manufacturer's specification sheets and details for the type of fixture being proposed including but not limited to light intensity levels (in footcandles (fc)) at ground level based on fixture mounting height, the total lumen output, type of lamp, distribution type and method of shielding;
 - (4) The maximum and minimum footcandle (fc) calculations, minimum-to-maximum and minimum-to-average uniformity ratios, and the light loss factor (LLF) used. These statistics must be provided for areas where vehicular and pedestrian movement is provided for and for other areas as necessary to show compliance with standards of subsection 28-109(f) of this chapter.
 - (5) Use of fixture(s) proposed; and
 - (6) Any other information deemed necessary by the zoning administrator in accordance with the intent and purpose of this section.
- (e) *General standards.*
- (1) Unless otherwise permitted within subsection 28-109(c) or subsection 28-109(f), only shielded fixtures as defined in Section 28-5 may be used. Any interior light fixtures that are deemed to be causing glare and therefore not

meeting the purpose or intent of this Chapter must be shielded to prevent glare outside the building and do not shine beyond the property line.

- (2) Decorative fixtures using lamps with low wattages do not have to be shielded; these include incandescent lamps of sixty (60) watts or less; glass tubes filled with neon, argon and krypton; and any other light source of fifty (50) watts or less. Decorative luminaries above fifty (50) watts must have internal and/or external reflectors that shield the light source.



- (3) It is recognized that metal halide LED, inductive, and fluorescent lamps are superior lights for color and object recognition when compared to other lamp types such as low and high pressure sodium or mercury vapor. Therefore, use of metal halide, LED, inductive, and fluorescent lamps is required unless the zoning administrator (or designee) or planning commission determines that unique circumstances exist that prevent installation of the required lamp types. It is also recognized that as the lighting industry develops, new lamp types are occasionally introduced that may have similar characteristics as the currently required types that may also be desirable for use in outdoor lighting.
- (4) The intensity of light on a site must not exceed three-tenths (0.3) of a footcandle (fc) at any property line that abuts a residentially zoned property or half (0.5) of a footcandle (fc) for any other zoned property.
- (5) All exterior lighting must be designed in a consistent and coordinated manner for the entire site.
- (6) Indirect internal illumination of signs and canopies is permitted provided a maximum one hundred twenty-five (125) watt bulb is utilized and the transmittal surface is of a color and material that effectively shields lamps. This does not take into consideration fluorescent, LED, or neon light sources typically used in these applications.

(f) *Lighting intensity and uniformity standards.*

- (1) *Table of standards.* The following lighting intensity and uniformity standards must be used in designing an outdoor lighting plan as required within subsection 28-109(d) of this chapter.

Table of Lighting Intensity and Uniformity Standards				
Light Use	Required Average to Minimum Uniformity Ratio (b)	Required Minimum Footcandle (fc) Reading (b)	Maximum Allowable Average Illumination (b)	Maximum Allowable Footcandle (fc) Reading (b)

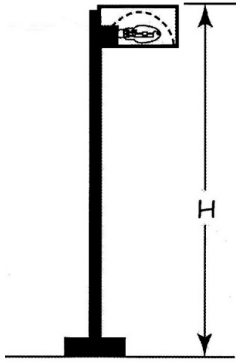
The C-4 district along West Avenue and Wisner Street (north of North Street)	4:1	n/a	5.0 fc	No more than 20 fc in addressed front yards or 10 fc in non-addressed front yards.
All other districts				No more than 10 fc in addressed front yards or 5 fc in non-addressed front yards.
Pump islands of gasoline stations	4:1	Between 1.0 fc and 5.0 fc		22.0 fc
Building facades and externally illuminated signs (c)			n/a	
Building entrances	4:1	n/a	5.0 fc, active, and 1.0 fc, inactive	n/a
Parking lots ^{2d}	4:1	Between 0.2 fc and 0.7 fc	n/a	n/a
Security lighting	n/a	n/a	1.5 fc	n/a
Exterior recreational facilities	See subsection <u>28-109(e)(3)</u>			

(2) *Footnotes to the table.*

- a. The above statistics should only be applied to the area of each site devoted to the particular use. For example, a gas station/restaurant combination may have an area dedicated as a parking lot for the restaurant patrons and in addition have a pump island canopy. In this scenario two sets of statistics would need to be generated; one set for the parking lot and the other set for the canopy area.
- b. Measurements for average to minimum uniformity ratio, required minimum footcandle (fc) reading, maximum allowable average illumination and maximum allowable footcandle (fc) reading must be generated at the surface intended to be illuminated (e.g., pavement or area surface). These statistics must be provided

for areas where vehicular and pedestrian movement is provided for and other areas as necessary to show compliance with standards.

- c. Building facades and signs cannot be illuminated if they are of glass, polished metal or other glossy surface including painted surfaces. Building facades cannot be entirely illuminated. Rather, illumination can be for architectural ornament and/or the illumination of small areas for visibility and security. For spotlight fixtures, no less than ninety (90) percent of the light beam must be concentrated on the surface intended to be illuminated. For fixtures mounted directly to a wall surface or sign, external shields or dark colored non-reflective surface materials or other appropriate methods must be used to direct the light perpendicular to the ground and minimize reflectance glare.
- d. The maximum height of parking lot light fixtures, from grade, shall be as follows:



Fixture Height

1. Up to fifteen (15) feet in a residential district;
 2. Up to eighteen (18) feet in a commercial or industrial district when within one hundred fifty (150) feet of a residential district;
 3. Up to twenty (20) feet in a commercial district when no less than one hundred fifty (150) feet of a residential district; or
 4. Up to twenty-five (25) feet in an industrial district when no less than one hundred fifty (150) feet of a residential district.
- (3) *Exterior recreational facilities.* For exterior recreational facilities, sufficient information must be submitted in addition to that required in Subsection 28-109(c) that demonstrates that the location, selection and aiming of all lighting fixtures will focus light on the playing areas, minimize glare and visibility from adjacent and nearby properties and roadways and minimize sky glow. A written explanation and statements must be supplied explaining why locations, fixtures types, intensities, orientation of fixtures and other decisions were made. Lighting of sports facilities cannot be operated except during an event and must be turned off no later than forty-five (45) minutes after the event is over.
- (4) *Uses not specifically listed.* For uses not specifically listed within this Subsection, but determined to be of a type, use and or intensity that may be detrimental to achieving the purpose of this chapter, the zoning administrator, depending on the purpose of the lighting, must classify lighting into one of the categories contained in subsection 28-109(f) of this chapter. An applicant may appeal an initial classification to the zoning administrator, in writing, detailing why more intense lighting or less lighting is necessary. The zoning administrator must either approve or deny the appeal based on whether or not sufficient justification has been submitted and whether the proposal meets the intent of this Code. Final determinations of the zoning administrator may be appealed to the zoning board of appeals.

(g) *Prohibited outdoor lighting.*

- (1) The use of a laser light source, searchlights or any similar high intensity light for outdoor advertisement or entertainment is prohibited except in conjunction with a special event as defined in article VI of chapter 16 of this Code.
- (2) Lighting cannot be of a flashing, moving or intermittent type except in conjunction with a special event as defined in article VI of chapter 16 of this Code.

(h) *Lamp or fixture substitution.* Should any light fixture regulated under this Chapter, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the zoning administrator for approval, together with adequate information to assure compliance with this code, which must be received prior to substitution.

(i) *Administration.*

- (1) An outdoor lighting permit must be issued on a form from the zoning administrator (or designee) if it is determined by the zoning administrator (or designee) or planning commission that a proposal fulfills the requirements and intent and purpose of this chapter. The permit must list what is being approved and contain copies of relevant documents.
- (2) The zoning administrator has the discretion to require the re-direction of existing light fixtures when it is determined that the fixture is not in compliance with the requirements of this code.

(Ord. No. 2013.10, § 3, 4-23-13; Ord. No. 2016-29, § 3, 11-15-16)

Editor's note— Ord. No. 2013.10, § 3, adopted April 23, 2013, enacted provisions intended for codification as § 28-125. At the direction of the city, and to avoid duplicate section numbers, said provisions have been redesignated as § 28-109.

Sec. 28-110. - Environmental protection standards.

(a) *Intent.* The intent of including environmental protection standards is to ensure that development in the City of Jackson that is reviewed, approved and completed under the regulations of this [chapter] is compatible with the natural systems of this city including woodlands, wetlands, the Grand River and other drainage courses, soils, air and the overall natural quality of life. These features are sensitive and can be negatively impacted by development. The following standards seek to minimize these impacts and are in addition to state regulations related to natural features such as the Natural Resources Environmental Protection Act (PA451 of 1994, MCL 324.101 et sec), as amended.

(b) *Soil removal, filling, and grading standards.*

- (1) *Applicability.* No person is authorized to undertake any tree clearing, grading, stripping, excavating or filling, or undertake any earth change, unless the zoning administrator (or designee) has issued a valid grading permit in consultation with the city engineer (or designee).
- (2) *Exceptions to applicability.* A grading permit is not required under the circumstances described below. Even though no permits are required for these instances, those operations and construction exempted from obtaining permits must still be in compliance with the rules and regulations concerning grading and erosion specified in this [section] or other applicable laws and ordinances.
 - a. The activity is associated with an approved site plan, subdivision plat, site condominium plan or private street approval.

- b. Plowing and tilling of land for purposes of gardening or urban farming provided that:
 1. The activity meets the requirements of this section;
 2. The activity complies with article V, post-construction stormwater management for new development and redevelopment, of chapter 27 and the city's Stormwater Management Manual; and
 3. A soil erosion and sedimentation control permit is obtained from Jackson County, if required by Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act (PA 451 of 1994, MCL 324.9101), as amended.
 - c. The activity involves a volume of soil less than one hundred (100) cubic yards, provided the alteration meets the requirements of this section.
 - d. The activity is associated with grading or excavating for a building or structure that was authorized by another valid permit.
 - e. If the zoning administrator (or designee) certifies in writing that the planned work and the final structure or topographical changes will not: result in or contribute to soil erosion or sedimentation of the water of the state; interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the depositing of debris or sediment on any public way; create any hazard to any persons or property; or have a detrimental influence upon the public welfare or upon the total development of the watershed.
- (3) *Grading permit review and approval procedures.* A separate application is required for each grading permit and the following procedure will apply:
- a. Submission of a completed application as required in subsection (b)(4) of this section and the required fee to the zoning administrator (or designee).
 - b. The zoning administrator (or designee) will review the application for conformance with subsection (b)(4) and (5) of this section. The zoning administrator (or designee) may require a re-submittal, or additional information. If the zoning administrator (or designee) determines the application complies with the ordinance, the permit will be issued.
 - c. The zoning administrator (or designee) will inspect the work upon completion to confirm compliance with the approved plan.
- (4) *Application information requirements.* The plans must be prepared or approved by a person who is trained and experienced in soil erosion and sedimentation control methods and techniques. The plans and specifications accompanying the grading permit application and required fee will be submitted to the zoning administrator (or designee) and contain the required data listed below.
- a. A vicinity sketch indicating the site location as well as the adjacent properties within one hundred (100) feet of the site boundaries.
 - b. Scale and north arrow for the plan.
 - c. Name, address and telephone number of the landowner, developer and petitioner.
 - d. The location of existing and proposed utility structures, ditches, culverts.
 - e. The location and distance of drainage structure to which the site will drain.
 - f. The location of existing and proposed buildings and structures.
 - g. A description and details of soil erosion control methods.
 - h. Existing and proposed spot elevations and indicators of existing and proposed drainage patterns for the site and adjacent properties within one hundred (100) feet of its boundaries. The zoning administrator (or

designee), in consultation with the city engineer (or designee), may also require existing and proposed topographic contours at no less than two-foot intervals if he or she determines them to be necessary.

- i. A timing schedule indicating the anticipated starting time and completion dates for the project.
 - j. Any additional information deemed necessary by the zoning administrator (or designee) in consultation with the city engineer (or designee).
- (5) *Review standards.* All applications will comply with the following standards:
- a. New grades must slope away from buildings and structures, thereby causing surface water to drain away from the walls of the building to a natural or established drainage course.
 - b. New grades cannot be established that will permit an increase surface water run-off onto adjacent properties and public roadways except through established drainage courses.
 - c. New grades cannot result in the creation of standing water; the erosion or filling of a roadside ditch and cannot result in the blockage of public water courses.
 - d. Any land development, dredging, filling or other activity requiring a permit pursuant to Part 91 of the Natural Resources and Environmental Protection Act (PA451 of 1994, MCL 324.9101 et seq.) must obtain said permit from the County of Jackson prior to the issuance of a grading permit. The zoning administrator (or designee) may require the applicant to submit a letter from the county to confirm non-jurisdiction.
 - e. Any land development which disturbs the existing grade of more than one (1) acre of land or lies within five hundred (500) feet of a river, stream lake or open drain, requires a soil erosion and sedimentation control (SESC) permit per the requirements of Part 91 of the Natural Resources and Environmental Protection Act (PA 451 of 1994, MCL 324.9101), as amended, prior to issuance of a grading permit.
 - f. Any project requiring a grading permit is also required to obtain a letter from the city engineer (or designee) confirming compliance with article V, post-construction stormwater management for new development and redevelopment, of chapter 27 and the city's Stormwater Management Manual.
- (6) *Performance guarantee.* The city may require a performance guarantee, as authorized by section 28-165 of this chapter, to assure the completion of any improvements shown on the site plan. For the purposes of this section, improvements subject to performance guarantees must include features and actions associated with a project that are considered necessary by the city to protect the natural resources or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage.
- (7) *Extension of time.* If the applicant is unable to complete work within the specified time, he may, at least ten (10) days prior to the expiration of the permit, present in writing to the zoning administrator (or designee) a request or extension of time setting forth the reasons for the requested extension. If such an extension is warranted, the zoning administrator (or designee) may grant additional time for the completion of the work, but no such extension releases the owner from the obligation of the performance guarantee, if required, set forth in subsection (b)(6) above.
- (c) *Preserving existing vegetation.*
- (1) *Intent.* The intent of this section is to preserve existing vegetation unless there are no other site design alternatives. Where healthy plant material exists on a site prior to its development or redevelopment, as determined by the zoning administrator (or designee) or the planning commission, variations from the landscape requirements contained in section 28-105 may be approved to allow credit for such plant material if such adjustment is in keeping with the intent of this section.
 - (2) *Inspection.* All existing vegetation must be inspected by the zoning administrator (or designee) to ensure the

vegetation is high quality and will fulfill the requirements of this section.

- (3) *Credit for trees.* Credit for tree preservation will be applied at the following rate:
 - a. For preserved trees of equal to or greater than twelve (12) inches in caliper, a credit of three (3) trees is permitted.
 - b. For preserved trees less than twelve (12) inches in caliper, a credit of two (2) trees is permitted.
 - (4) *Credit for shrubs.* Shrubs may be credited toward shrub requirements on a one (1) for one (1) basis.
 - (5) *Removed credit trees.* In the event that healthy plant material credited towards required plantings are removed, damaged, or destroyed, as determined by the zoning administrator (or designee), they must be replaced with new plant material meeting the standards of this section.
 - (6) *Mitigation.* Every attempt must be made to preserve healthy mature existing vegetation. In the event that an existing tree with greater than a four-inch caliper or eight (8) feet tall is removed when there are obvious alternatives to its removal, as determined by the zoning administrator (or designee), all such trees must be replaced at a ratio of 2 for 1. Each new tree must have a caliper of no less than three (3) inches or a height of no less than six (6) feet.
- (d) *Standards for limiting the external effect of uses.* All uses must comply with the following standards which limit their effect on the surrounding area:
- (1) *Enclosure of uses.* Every use must be operated in its entirety within a completely enclosed structure, unless such mode of operation is deemed impractical by the zoning administrator (or designee) or planning commission.
 - (2) Every use must be so operated that it is not obnoxious or dangerous to adjacent properties by reason of the following:
 - a. *Smoke.* It is unlawful for any person, firm or corporation to permit the emission of smoke from any source in an amount which is injurious or substantially annoying to persons residing in the affected area.
 - b. *Airborne solids.* It is unlawful for any person, firm or corporation to operate and maintain (or cause to be operated and maintained) any process or activity that causes injury to neighboring properties.
 - c. *Odor.* The emission of odors found to be obnoxious to any considerable number of persons at their place of residence or place of business is prohibited.
 - d. *Gases.* The emission or release of corrosive or toxic gases (in amounts which are injurious or substantially annoying to persons living or working in the affected area) is prohibited.
 - e. *Glare and exterior lighting.* Glare from any process or operation must be shielded so as to be invisible beyond the property line of the premises on which the process is performed. Exterior lighting must also be shielded so that no more than one-half (0.5) of a foot candle is visible beyond that property line.
 - f. *Radioactive materials.* Radiation, including radioactive materials and electromagnetic radiation such as that emitted by the x-ray process or diathermy, cannot exceed quantities established as safe by federal regulations, when measured at the property line.
 - g. *Noise.* The emission of measurable noises from the premises cannot exceed sixty-five (65) decibels (dBs) as measured at the property lines, except that where normal street traffic noises exceed sixty-five (65) dBs, the measurable noise emanating from the premises may equal, but not exceed, traffic noise levels.
 - h. *Vibration.* Machines or operations which cause vibrations are permitted in industrial districts, provided that vibrations do not cause displacement exceeding three thousandths (.003) of an inch as measured at the property line.
- (3) *Outdoor storage and waste disposal.*

- a. All outdoor storage and waste disposal facilities must be enclosed by an opaque fence or wall adequate to conceal facilities from adjacent properties and adjoining rights-of-way and constructed in accordance with the standard for them in section 28-125 (standards for fences, walls, and landscape berms).
- b. All materials or wastes which might cause fumes or dust or which could constitute a fire hazard or which may be edible by rodents or insects must be stored outdoors in closed containers and screened from the street or adjacent property.
- c. No materials or wastes can be deposited on the property in such form or manner that they may be transferred off the premises by natural causes or forces.
- d. Waste materials cannot be allowed to accumulate on the property in such manner as to be unsightly, constitute a fire hazard, or contribute to unsanitary conditions or conditions which will or would be likely to pollute or impair natural resources. The specific standards are as follows:
 1. Waste material piles shall be no taller than the height of the abutting screen wall/fence.
 2. All waste materials containing unnatural bi-products such as carcinogens from treated wood and all non-tree based products shall be stored on an impervious surface with retaining walls/curbs to avoid polluting the natural environment.
- e. Screening of trash storage areas. Any new or altered use which has an outdoor trash storage area containing a dumpster, must comply with the following requirements:
 1. Any such area is to be limited to normal refuse which is collected on a regular basis and must be maintained in a neat, orderly, and sanitary condition.
 2. In no instance may any such refuse be visible above the wall, as required in subsection (e)(3) of this section.
 3. A wall, six (6) feet in height, must enclose three (3) sides of the storage area. Such wall must be constructed in accordance with the standards established for it in section 28-125 of this chapter. Bollards and/or other protective devices must be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. The surface under any such storage area must be constructed of concrete which complies with local building requirements.
 4. Any such storage area must be located in a rear yard and/or be so located and arranged as to minimize its visibility from adjacent streets and uses. The zoning administrator (or designee) or planning commission may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance may any such area be located in an addressed front yard.

(e) *Hazardous materials.*

- (1) *Intent.* Protection of groundwater and surface water quality is of paramount importance to the City of Jackson. No uses or developments are permitted which threaten water quality or which violate standards of county, state, and federal agencies.
- (2) *Storage of hazardous substances.* Uses that utilize, store, or generate hazardous substances in quantities greater than one hundred (100) kilograms (equal to about twenty-five (25) gallons or two hundred and twenty (220) pounds) must provide secondary containment (double enclosure) for all above ground storage containers.
- (3) *Outdoor aboveground storage.* Secondary containment structures must be designed to protect containers from the effects of storms, wind, fire and vandalism. Structures that are covered and protected from rain and precipitation must provide secondary containment for ten (10) percent of the volume of all containers or the volume of the largest container, whichever is greatest. Structures that are not protected from rain and

precipitation must provide secondary storage capacity to hold one hundred fifty percent (150%) of the stored substances unless the zoning administrator (or designee) or planning commission approves a less quantity. Whether open or covered, the above ground storage area shall also be fully screened from view at all abutting parcel perimeters. Outdoor storage of medical marihuana must comply with State law requirements.

- (4) *Indoor aboveground storage.* Hazardous substances should not be stored indoors in locations which are near a floor drain connecting to soils, groundwater, sanitary sewer lines, or nearby drains and rivers unless secondary containment is provided. Sump pumps and floor depressions to collect and hold leaks and spills may be required by the zoning administrator (or designee) in consultation with the city engineer (or designee).
 - (5) *Loading/unloading areas.* Areas used for the loading and/or unloading of hazardous substances must be designed and constructed to trap hazardous materials spilled or leaked and designed to prevent discharge of hazardous substances to floor drains, sanitary sewer lines, rivers, or storm drains.
 - (6) *Underground storage tanks.*
 - a. At a minimum, regulations of the state department of environmental quality, the state fire marshal division, and the city for the installation, inspection, maintenance of a leak detection system, inventory and record keeping, emergency response, and closure must be met.
 - b. All underground storage tanks that have been out-of-service for nine (9) months or longer must be removed from the site before a building permit is issued. The fire chief (or designee) may adjust this requirement when a clear timetable for the safe use of the underground tank is established.
 - (7) *County, state, and federal requirements.* At minimum, county, state and federal requirements for storage, leak detection, record keeping, spill prevention, emergency responses, transport and disposal of hazardous substances must be met. It is the responsibility of the commercial facility owner to obtain any applicable county, state, or federal permits or approvals.
 - (8) *Site plan review and approval.* Site plans for facilities with hazardous substances must also be reviewed by the fire chief (or designee) prior to the approval by the zoning administrator (or designee) or planning commission.
 - (9) *Enforcement and penalties.*
 - a. Any person who fails to comply with this section is subject, upon adjudication, to the penalty provided in [chapter 2.5](#) (administrative hearings bureau), in addition to any other penalties as may be prescribed herein.
 - b. In addition to any other penalty or sanction provided in this section, or by any other applicable state or federal law, any person violating [section 28-110] must pay the costs of removing all hazardous materials that are the subject of the violation, plus the costs of damage to any land, water, wildlife, vegetation or other natural resource, or to any facility which is damaged by the violation.
- (f) *Storage of flammable or explosive materials.* The location or storage of flammable or explosive materials will be regulated as follows. However, [section 28-145](#) of this chapter may contain additional requirements for certain conditional uses. The storage of normal household chemicals is exempt from these regulations.
- (1) On any parcel of land in any floodplain in an office, commercial or industrial district, the owner or tenant cannot store flammable materials closer than one hundred (100) feet from a residential district and/or three hundred (300) feet from a residential building. Furthermore, no residential building can be constructed within three hundred (300) feet of an existing flammable storage facility.
 - (2) The storage of flammable materials must be in containers or storage facilities as approved by the local fire marshal or other designated fire official.
 - (3) Said containers or storage facilities must be at least forty (40) feet from any side or rear lot line and one hundred fifty (150) feet from the front lot line as measured from the edge of the street right-of-way, unless a shorter

distance is required by state law.

(4) The storage of explosive materials must be in accordance with applicable state regulations.

(g) *Medical and adult use marihuana regulations.* The following regulations shall apply to medical and adult use marihuana facilities:

(1) The storage of marihuana waste shall be in accordance with the Michigan Medical Marihuana Facilities Licensing Act, the Michigan Regulations and Taxation of Marihuana Act, and the associated rules and advisory bulletins promulgated therefore, as amended.

(2) Marihuana facilities shall comply with all federal, state, and local stormwater requirements.

(3) Marihuana facilities shall comply with all federal, state, and local wastewater requirements.

(4) No outdoor grow operations (medical or adult use) shall be permitted.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2012.23, § 3, 9-25-12; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2017-06, § 3, 5-2-17; Ord. No. 2018-14, § 2, 12-11-18; Ord. No. 2019-14, § 2, 10-15-19; Ord. No. 2020-16, § 2, 10-13-20; Ord. No. 2020-21, § 2, 12-8-20)

Sec. 28-111. - Temporary uses and structures.

(a) *Intent.* Temporary uses and structures are necessary for the vitality of the city. The intent of this section is to promote the public health, safety and welfare by establishing minimum standards for the location, design, and duration of temporary uses and structures.

(b) *Temporary uses.*

(1) *Garage and yard sales.* The incidental sales of personal possessions on an occupied residential lot, by the owner or resident, for a limited period of time.

a. *Exclusions.* Sales are excluded from:

1. Public rights-of-way or other public property; and
2. Front yards outside of approved driveways.

b. *Duration.* Sales are limited to three (3) events per calendar year for no more than three (3) consecutive days per event.

c. *Signage.* Signs promoting a sale which comply with the following standards are permitted:

1. One (1) on-premise sign and one (1) off-premises sign posted on private property with the permission of the owner.
2. Individual signs are limited to a size of four (4) square feet.
3. In no case may a sign be located on public property or within public rights-of-way or posted on utility poles or other public structures.
4. In no case may a sign be posted on a tree.
5. Signs may only be posted up to two (2) days prior to the sale, as well as during the sale, for a total of no more than five (5) days

d. *Plot site plan (PSP).* A PSP complying with the requirements of subsection 28-135(e) of this chapter may be required at the discretion of the zoning administrator (or designee) or under certain circumstances.

(2) *Temporary outdoor sales.* The sale of edible items, wares, goods, or merchandise associated with a business located on the same lot(s) from mobile stands, vehicles, temporary structures, and similar devices for a limited period of time.

a. *Plot site plan (PSP).* A PSP complying with the requirements of subsection 28-135(e) of this chapter must be

submitted for the review and approval of the zoning administrator (or designee), with the exception of property specifically designed to accommodate a special event. This exception does not exempt the organizer(s) from obtaining other required permits.

- b. *Exclusions.* Sales are excluded from public rights-of-way or other public property.
 - c. *Duration.* Limited to three (3) events per calendar year for no more than fourteen (14) consecutive days per event.
 - d. *Temporary structures.* A temporary structure must comply with the minimum setback and maximum height restrictions of the zoning district in which it is located and be set back a minimum of ten (10) feet from a permanent structure located on the property or an adjoining lot. In all cases, a clear path of egress must be maintained, to the satisfaction of the zoning administrator (or designee).
 - e. *Dedicated parking.* If the temporary use and any associated temporary structures are located on an existing parking lot:
 1. *Required parking spaces.* The remaining portion of the lot must contain at least seventy-five (75) percent of the spaces required for the primary use(s), as specified in subsection 28-100(c) of this chapter.
 2. *Parking lot circulation.* Proper parking lot circulation must be maintained during the event, to the greatest extent possible, as specified in subsection 28-100(g) of this chapter, and approved by the zoning administrator (or designee).
 - f. *Noise and lighting.* The temporary use and any associated temporary structures must comply with the standards for noise contained in section 17-76 of this chapter, et seq., of this Code and subsection 28-110(d) (2) of this chapter and the standards for lighting contained in section 28-125 of this chapter, to the fullest extent possible, as determined by the zoning administrator (or designee).
 - g. *Signage.* Signage related to the temporary use must comply with the standards contained in subsection 21.5-22(k) of this Code to the fullest extent possible, as determined by the zoning administrator (or designee).
 - h. *Other city regulations.* The applicant must also comply with chapter 16 of this Code.
- (3) *Transient merchants.*
- a. *Transient outdoor sales.* The sale of edible items, wares, goods, or merchandise from mobile stands, vehicles, temporary structures, or similar devices outside of a public right-of-way on appropriately zoned property for a limited period of time.
 1. *Plot site plan (PSP).* A PSP complying with the requirements of subsection 28-135(e) of this chapter must be submitted for the review and approval of the zoning administrator (or designee), with the following exceptions:
 - i. Property specifically designed to accommodate a special event. This exception does not exempt the organizer(s) from obtaining other required permits.
 - ii. Private property adjacent to the boundary of a special event located within public rights-of-way and/or publicly owned property and approved by city council.
 2. *Exclusions.* Sales are excluded from public rights-of-way or other public property.
 3. *Duration.* Sales are limited to three (3) events per calendar year for no more than fourteen (14) consecutive days per event. However, a sale may last up to forty-five (45) days, if approved by the Zoning Administrator (or designee).
 4. *Temporary structures.* A temporary structure must comply with the minimum setback and maximum height restrictions of the zoning district in which it is located and be set back a minimum of ten (10) feet

from a permanent structure located on the property or an adjoining lot. In all cases, a clear path of egress must be maintained, to the satisfaction of the zoning administrator (or designee).

5. *Parking.*

A. *Dedicated parking.* If the temporary use and any associated temporary structures are located on an existing parking lot:

- i. *Required parking spaces.* The remaining portion of the lot must contain at least seventy-five percent (75%) of the spaces required for the primary use(s), as specified in subsection 28-100(c) of this chapter.
- ii. *Parking lot circulation.* Proper parking lot circulation must be maintained during the event, to the greatest extent possible, as specified in subsection 28-100(g) of this chapter, and approved by the zoning administrator (or designee).

B. *Overflow parking.* If extra parking is required to serve the temporary use and any associated temporary structures:

- i. *Paving.* Paving is required unless otherwise deemed non-objectionable and the event is for public or non-profit sanctioned events and is approved by the zoning administrator (or designee).
- ii. *Public infrastructure protection.* Vehicles leaving the parking lot cannot track mud onto any public right-of-way.
- iii. *Parking lot circulation.* Parking lot circulation patterns complying with the requirements specified in subsection 28-100(g) of this chapter must be clearly marked and maintained.

6. *Noise and lighting.* The temporary use and any associated temporary structures must comply with the standards for noise contained in section 17-76, et seq., of this Code and subsection 28-110(d)(2) of this chapter and the standards for lighting contained in section 28-125 of this chapter, to the fullest extent possible, as determined by the zoning administrator (or designee).

7. *Signage.* Signage related to the temporary use must comply with the standards contained in subsection 21.5-22(k) of this Code to the fullest extent possible, as determined by the zoning administrator (or designee).

8. *Other city regulations.* The applicant must also comply with chapter 16 of this Code.

b. *Transient indoor sales.*

1. *Appropriate zoning.* The property must be zoned appropriately for the temporary use.

2. *Plot site plan (PSP).* A PSP complying with the requirements of subsection 28-135(e) of this chapter must be submitted for the review and approval of the zoning administrator (or designee), with the following exceptions:

- A. Property specifically designed to accommodate a special event. This exception does not exempt the organizer(s) from obtaining other required permits.
- B. Private property adjacent to the boundary of a special event located within public rights-of-way and/or publicly owned property and approved by city council.
- C. Temporary marijuana events shall comply with all informational requirements outlined in Rule 62 of the Michigan Regulations and Taxation of Marijuana Act, including verification that the request was submitted to the agency no less than ninety (90) days before the first day of the event.

3. *Exclusions.* Sales are excluded from public rights-of-way or other public property, unless approval is also granted for temporary outdoor sales (see subsection 28-111(b)(2) of this section or seasonal outdoor

sales and displays (see subsection 28-111(c)(2) of this section).

4. *Duration.* Sales are limited to one hundred and eighty (180) days in any given calendar year. However, temporary marihuana events are limited to no more than five (5) events per calendar year for no more than seven (7) consecutive days at any given location.
 5. *Dedicated parking.* The parking lot, or portion of a parking lot reserved for the temporary use must contain at least seventy-five (75) percent of the required spaces, as specified in subsection 28-100(c) of this chapter. The same standard must be observed for any primary use(s).
 6. *Odor, noise and lighting.* The temporary use and any associated structures must comply with the standards for odor contained in subsection 28-110(d)(2), noise contained in section 17-76, et seq., of this Code and subsection 28-110(d)(2) of this chapter and the standards for lighting contained in section 28-125 of this chapter, to the fullest extent possible, as determined by the zoning administrator (or designee).
 7. *Signage.* Signage related to the temporary use must comply with the standards contained in article IX of this Code to the fullest extent possible, as determined by the zoning administrator (or designee). However, temporary marihuana events must also display the requisite signage outlined in Rule 62 of the Michigan Regulations and Taxation of Marihuana Act.
 8. *Other city regulations.* The applicant must also comply with chapter 16 of this Code.
- (4) *Special events.* Special events—as defined in chapter 16 of this Code and including street fairs and other events taking place within public-rights-of-way—are permitted provided the following standards are met.
- a. *Plot site plan (PSP).* A plot site plan complying with the requirements of subsection 28-135(e) of this chapter must be submitted for the review and approval of the zoning administrator (or designee), with the following exceptions:
 1. Property specifically designed to accommodate a special event. This exception does not exempt the organizer(s) from obtaining other required permits.
 2. Private property adjacent to the boundary of a special event located within public rights-of-way and/or publicly owned property and approved by city council.
 - b. *Exclusions.* Special events are excluded from public rights-of-way or other public property unless an exception under subsection (4)(a) of this section applies.
 - c. *Duration.* Special events are limited to three (3) events per calendar year for no more than fourteen (14) consecutive days per event.
 - d. *Temporary structures.* A temporary structure must comply with the minimum setback and maximum height restrictions of the zoning district in which it is located and be set back a minimum of ten (10) feet from a permanent structure located on the property or an adjoining lot. In all cases, a clear path of egress must be maintained, to the satisfaction of the zoning administrator (or designee).
 - e. *Parking.*
 1. *Dedicated parking.* If the temporary use and any associated temporary structures are located on an existing parking lot:
 - A. *Required parking spaces.* The remaining portion of the lot must contain at least seventy-five (75) percent of the spaces required for the primary use(s), as specified in subsection 28-100(c) of this chapter.
 - B. *Parking lot circulation.* Proper parking lot circulation must be maintained during the event, to the

greatest extent possible, as specified in subsection 28-100(g), and approved by the zoning administrator (or designee).

2. *Overflow parking.* If extra parking is required to serve the temporary use and any associated temporary structures:
 - A. *Paving.* Paving is not required, although vehicles leaving the parking lot cannot track mud onto any public right-of-way.
 - B. *Parking lot circulation.* Parking lot circulation patterns complying with the requirements specified in subsection 28-100(g) of this chapter must be clearly marked and maintained.
- f. *Noise and lighting.* The temporary use and any associated temporary structures must comply with the standards for noise contained in section 17-76, et seq., of this Code and subsection 28-110(d)(2) of this chapter and the standards for lighting contained in section 28-125 of this chapter, to the fullest extent possible, as determined by the zoning administrator (or designee).
- g. *Signage.* Signage related to the temporary use must comply with the standards contained in subsection 21.5-22(k) of this Code to the fullest extent possible, as determined by the zoning administrator (or designee).
- h. *Other city regulations.* The applicant must also comply with chapter 16 of this Code.

(c) *Seasonal uses.*

- (1) *Sidewalk cafés.* A sidewalk café is permitted provided the following standards are met:
 - a. All uses must comply with the following standards which limit their effect on the surrounding area:
 - i. The tables, chairs, and other appurtenances must be associated with the building containing the restaurant or business, owned or leased, by the person operating the sidewalk café.
 - ii. The tables, chairs, and other appurtenances must be placed in a way that a clear pathway of at least five (5) feet (eight (8) feet on Michigan Avenue) in width—free of street trees, street furniture, signs, and other obstructions—is maintained along the section of the sidewalk closest to the building.
 - iii. The tables, chairs, and other appurtenances shall not be permanently anchored to the sidewalk in any manner.
 - iv. Ingress and egress from the building or driveway shall not be blocked or obstructed by any such appurtenances.
 - v. All temporary fencing shall comply with the provisions of this chapter.
 - b. Plot site plan (PSP). A PSP comply with the requirements of subsection 28-135(e) of this chapter must be submitted for the review and approval of the zoning administrator (or designee)
 - c. Other city standards. The café must comply with all pertinent municipal regulations.
- (2) *Outdoor sales and displays.* Outdoor sales and displays—as defined in chapter 16 of this Code and including displays located on the lot(s) occupied by the store—are permitted provided the following standards are met:
 - a. *Plot site plan (PSP).* A PSP complying with the requirements of subsection 28-135(e) of this chapter must be submitted for the review and approval of the zoning administrator (or designee). The PSP must identify the location of the limits of the outdoor sales, if that location is not part of an approved full site plan (FSP).
 - b. *Other city standards.* The outdoor sales and displays must comply with the standards contained in chapter 16 of this Code, as well as other pertinent municipal regulations, as determined by the city clerk (or designee).
- (3) *Concessionaires.* Edible items, wares, goods, and merchandise sales from mobile stands, vehicles, temporary structures, or similar devices located within a public right-of-way and in the central commercial (C-3) district.

Concessionaires must comply with the requirements of chapter 16 of this Code.

- (4) *Peddlers*. Sale of food, merchandise, and services from place to place. Peddlers must comply with the requirements of chapter 16 of this Code.
- (d) *Temporary structures*.
- (1) *Temporary buildings and accessory structures*. A temporary building or accessory structure must comply with the minimum setback and maximum height restrictions of the zoning district in which it is located and be set back a minimum of ten (10) feet from a permanent structure located on the property or an adjoining lot. In all cases, a clear path of egress must be maintained, to the satisfaction of the zoning administrator (or designee). Temporary storage structures, as identified in subsection (d)(2)a. of this section, are excluded from these standards.
- a. *Plot site plan (PSP)*. A PSP must be submitted for the review and approval of the zoning administrator (or designee) for all temporary buildings and accessory structures that are not included on a full site plan (FSP) submitted to the city, including those which do not require a building permit. The PSP must comply with the requirements of subsection 28-135(e) of this chapter.
- b. *Construction trailers/buildings*. Unless otherwise approved by the zoning administrator (or designee), any structure designed solely to be utilized during the construction of a building or other structure may be erected or placed on a property, provided that it:
1. Be erected or placed not more than fourteen (14) days prior to the commencement of construction; and
 2. Be removed within fourteen (14) days of the issuance of the certificate of occupancy the city.
- c. *Temporary sheds and other temporary accessory structures*.
1. Any temporary sheds or other temporary accessory structures intended for use outside of a permanent, temporary (see subsection (a) of this section), or seasonal (see subsection (b) of this section) use must comply with the standards for permanent accessory structures located in section 28-120 of this chapter.
 2. Tents and other soft-sided structures not utilized during a special event (see subsection (b)(4) of this section) are prohibited.
- (2) *Other temporary structures*. Other temporary structures, as identified below, are limited to fourteen (14) consecutive days or less at a time, no more than two (2) times per calendar year, unless otherwise approved by the zoning administrator (or designee).
- a. *Pods, trailers, truck beds*. Pods, trailers, truck beds, or other similar vessels and containers used for storage outside of permanent structures, excluding dumpsters already regulated under subsection 28-110(d)(3) of this chapter.
- b. *Temporary pools*. Pools twenty-four (24) inches in depth or less and/or designed to be disassembled and/or stored when not in use.
- (3) *Donation boxes*. Donation boxes —as defined in chapter 16 of this Code—are allowed on the grounds of registered nonprofit organizations located on nonresidential property provided the following standards are met.
- a. *Plot site plan (PSP)*. A PSP complying with the requirements of subsection 28-135(e) of this chapter must be submitted for the review and approval of the zoning administrator (or designee).
- b. *Other city standards*. The donation box or boxes must comply with the standards contained in chapter 16 of this Code, as well as other pertinent municipal regulations, as determined by the city clerk (or designee).
- (4) *Temporary protective fences*.
- a. Temporary fencing associated with temporary and seasonal uses.

1. *Materials.*
 - A. Fencing located in public rights-of-way must be decorative in nature and cannot be more than fifty (50) percent opaque.
 - B. Fencing materials must be compatible with the surrounding area, as determined by the zoning administrator (or designee).
 - C. Fencing associated with a special event, as defined in chapter 16 of this Code, may also comply with the standards for temporary fencing associated with construction projects located in subsection (d) (4)b of this section.
 2. *Installation.*
 - A. Fencing that is not anchored in the ground must be sufficiently braced to the satisfaction of the zoning administrator (or designee) to ensure that it will not break or fall down.
 - B. Fencing must be installed in compliance with the city's building standards located in chapter 5 of this Code.
 3. *Maintenance.* The temporary fencing must be inspected regularly and any broken sections of fence must be immediately removed and replaced. Bent or leaning posts must be removed, replaced and anchoring methods improved so that the posts remain plumb. Fence fasteners must be visually inspected and replaced should any be found to have come undone or to have torn through the protective fencing.
- b. *Temporary fencing associated with construction projects.*
1. *Materials.*
 - A. Fencing must be comprised of high density polyethylene mesh fabric or chain link with a nominal two-inch diamond design not less than forty-eight (48) inches above grade.
 - B. Steel posts must be at least eight (8) feet long and at least one (1) inch wide with a nominal weight of one (1.08) pounds per foot exclusive of the anchor plate. Steel posts must include an anchor plate and be notched, studded or have other means for holding the fabric in place on the post.
 - C. Fencing must be attached to each post with at least five (5) eleven (11) gauge galvanized or aluminum coated wire fasteners.
 2. *Installation.*
 - A. Install steel posts a maximum of ten (10) feet apart. Steel posts must be installed plumb with a post driver into undisturbed earth. Bent or broken posts are prohibited. Line posts shall have a minimum bury depth of thirty (30) inches. Corner posts shall have a minimum bury depth of forty-two (42) inches and must be braced as necessary to ensure that the posts remains plumb and the protective fencing remains taut once it is attached.
 - B. Install line posts with the anchor plate turned to parallel with the fencing. Install corner posts with the steel plate turned to cross the inside of the angle formed by the fence runs on each side of the corner post.
 - C. Stretch fence fabric taut and fasten to each post using wire fasteners. Fasteners must be spaced no greater than twelve (12) inches apart on the steel posts with the bottom fastener being located no more than two (2) inches above the ground.
 3. *Maintenance.* The temporary fencing must be regularly inspected and any broken sections of fence must be immediately removed and replaced. Bent or leaning posts must be removed, replaced and anchoring methods improved so that the posts remain plumb. Fence fasteners must be visually inspected and

replaced should any be found to have come undone or to have torn through the protective fencing.

4. *Duration.* The installation and removal of temporary fencing associated with a construction project must comply with the same standards established for construction trailers/buildings located in subsection (d) (1)a. of this section.
5. Temporary fencing associated with construction projects must also comply with the standards contained in section 28-125(e) of this chapter.

(Ord. No. 2013.02, § 3, 3-12-13; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2019-14, § 2, 10-15-19; Ord. No. 2020-16, § 2, 10-13-20; Ord. No. 2020-21, § 2, 12-8-20)

Secs. 28-112—28-114. - Reserved.

Sec. 28-115. - Building design standards.

- (a) *Intent.* The intent of these regulations is to provide specific design guidelines that achieve the following:
 - (1) Encourage development and redevelopment that protects and enhances the traditional character of neighborhoods and other areas of the city, fits within its traditional urban form, and creates a character that reinforces a sense of community identity;
 - (2) Encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of the various business districts, maintain the desired character of the city, prevent the creation of blight, and protect property values;
 - (3) Promote the preservation and renovation of historic buildings and sites; and ensure new buildings are compatible with, and enhance the character of, the city's cultural, social, economic, and architectural heritage;
 - (4) Implement objectives of the comprehensive plan.
- (b) *Applicability.* All uses except one-family and two-family residential must comply with the design standards of subsections (c) and (e) of this section under the following circumstances;
 - (1) *New buildings.* All uses, except one-family and two-family residential, that receive site plan approval for construction of a new building after the effective date of this section must fully comply with its design standards. Refer to subsection (g) of this section for building design standards for one-family and two-family dwellings.
 - (2) *Expansions and major improvements to buildings.* For buildings existing prior to the effective date of this section, major building improvements or expansions that require site plan approval may be permitted by the zoning administrator (or designee) without the complete upgrade to meet the standards of this section, provided they are reasonable in relation to the scale and construction cost of the building improvements or expansion and they do not increase noncompliance with the requirements of this section. Major exterior renovations must be consistent with the building design standards herein to the extent deemed practical.
 - (3) *Minor improvements to buildings.* For buildings existing prior to the effective date of this Section, minor changes, improvements, and modifications that are approved administratively will be permitted, provided the improvements do not increase noncompliance with the requirements of this section.
 - (4) *All structures within the C-3, Central Commercial, zoning district.*
 - a. *Change of use.* Any change of use within an existing structure in the C-3 zoning district shall be subject to the fenestration requirements of this section, the exterior wall design standards specific to materials. Additionally, to the greatest extent practical as determined by the zoning administrator (or designee), all

structures shall comply with the historically accurate restoration option outlined in the Downtown Jackson Facade Study and Use Recommendations and/or via original photographs. All other provisions of this section shall be at the discretion of the Director of Neighborhood and Economic Operation; and/or

- b. *Interior and/or exterior modifications to a legal nonconforming structure.* Any interior or exterior modifications to a legal nonconforming structure within the C-3 zoning district may be subject to the same provisions as those noted for a change of use. This determination shall be at the discretion of the zoning administrator (or designee); and/or
 - c. *Applicability if no longer deemed a legal nonconforming structure.* For purposes of this section, a legal nonconforming structure within the C-3 zoning district shall consist of any structure within which a use does not cease for a period of less than three (3) months. If the use ceases for greater than three (3) months, the structure will be subject to all of the design standards outlined in subsections (c), (d), and (e) of this section.
- (5) *Modification of standards.* The zoning administrator (or designee) will perform an independent site review analysis and may allow the applicant to deviate from zoning regulations if unique or restrictive circumstances exist.

(c) *Exterior wall design standards.*

- (1) *Colors.* Information on building colors must be submitted with the site plan and considered to be part of any site plan approval under section 28-135 of this chapter. Colors must be compatible with the surrounding area, as agreed to by the chief building official, zoning administrator (or designee).
- (2) *Wall materials.* The use of exterior wall materials on walls (including those on accessory structures) that are visible from a public road, alley, or a parking lot must be in compliance with the maximum percentages permitted in the "Table of Acceptable Exterior Wall Materials," unless otherwise provided per the footnotes on subsections (c)(2) through (5) of this section.

Table of Acceptable Exterior Wall Materials						
Building Materials	Maximum Percent of Wall That May be Covered by Certain Building Materials by Zoning District (see Subsections (a) and (b))					
	R-3 R-4 R-6	C-1 C-2	C-3	C-4	I-1	I-2
Brick, face brick, or structural single wythe wall/veneer	100%	75%	75%	75%	75%	75%
Stone (cut)	100%	75%	75%	75%	75%	75%
Burnished concrete block	NP	NP	NP	50% (f)	50% (f)	50% (f)
Cast stone (see (e))	100%	75%	75%	75%	50%	50%

Precast concrete	NP	NP	NP (g)	NP (g)	75%	75%
Concrete formed in place	NP	NP	NP (g)	NP (g)	75%	75%
Metal	NP	NP	NP (h)	NP (h)	100% (c, j)	100% (c, j)
Reflective glass	NP	NP	NP	NP	NP	NP
Glass block	25%	25%	NP	25%	25%	25%
Cement board siding	100%	50%	50%	50%	50%	50%
Wood siding (see (i))	100%	NP	NP	25%	25%	25%
Vinyl siding	100%	NP	NP	25%	25%	25%
Finishes (see (d))	50%	50%	50%	50%	50%	50%

Key: NP = Not permitted.

Footnotes to the Table of Acceptable [Exterior] Wall Materials.

- a. Does not include facade areas consisting of doors and windows.
- b. All walls exposed to public view from a public street, alley or an adjacent residential area must be constructed of not less than seventy-five (75) percent brick, face brick, stone or cast stone.
- c. Includes flat sheets and seamed or ribbed panels, including aluminum, porcelain and stainless steel and similar material. Such materials cannot be used where contact with vehicles may occur, such as parking areas, traffic ways, and loading areas, unless such walls are adequately protected to prevent damage.
- d. Includes fiberglass, reinforced concrete, polymer plastic (fypon), exterior insulation and finishing systems (EIFS), plaster, stucco and similar materials. The chief building official, zoning administrator (or designee) may increase the percentage of wall that can be clad in finishes if they are designed to mimic the appearance of another approved finish (e.g., EIFS designed to look like cut stone) or other embellishments are added to the building facade (e.g., window and door trim, cornices, etc.), per the criteria set forth in subsection (c)(4) of this section. Such materials cannot be used where contact with vehicles may occur, such as parking areas, traffic ways, and loading areas, unless such walls are adequately protected to prevent damage.
 1. Material used in the C-3 district shall match the historical characteristic of the district.
- e. Cast stone, including lightweight artificial stone products, must complement other materials found in the surrounding area and be approved by the chief building official, zoning administrator (or designee) upon the review of building facade elevations submitted by the applicant.
- f. A maximum coverage of fifty (50) percent burnished concrete block is permitted in the C-4, I-1, and I-2 districts only upon special approval from the chief building official, zoning administrator (or designee) where the applicant demonstrates special conditions that limit use of other materials and demonstration that other

site and building design enhancements are provided. The height limit for burnished concrete block is six (6) feet.

- g. Parking structures may use precast concrete or concrete formed in place if approved by the chief building official, zoning administrator (or designee) upon the review of building facade elevations submitted by the applicant.
- h. Decorative metal and other embellishments may be used if approved by the chief building official, zoning administrator (or designee) upon the review of building facade elevations submitted by the applicant.
- i. Must be clapboard, cedar shingles, or similar materials approved by the chief building official and zoning administrator (or designee) upon the review of building facade elevations submitted by the applicant. Any grade of plywood, oriented strand board (OSB), T-111 siding, and similar materials are strictly prohibited on any portion of a structure because they are not finished building materials and do not under any circumstances weather like the other reference exterior/wall materials.
- j. The exterior wall of the office area of an industrial structure shall consist of any mixture of material permitted in the C-4 zoning district or other materials approved by the chief building official or the zoning administrator (or designee).

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- (3) *Allowance for other materials.* The chief building official, zoning administrator (or designee) may waive strict compliance with the subsection (c)(1) of this section when the qualities listed below can be demonstrated. Review and consultation by the appropriate design professional is encouraged before a final determination is made. The proposed building design and materials schedule must be accompanied by a written design statement which describes how the selected wall materials and material combinations will be consistent with and enhance the building design.
- a. The design and materials are found to be in keeping with the character and history of the neighborhood or other area of the city;
 - b. The materials are found to be permanent and durable;
 - c. The design and materials are compatible with the type of use and development proposed;
 - d. The design and materials can easily be adapted to another use in the future; and
 - e. The design and materials meet the intent of this section.
- (4) *Mixture of materials.* The application of these standards promotes integration and mixture of materials where more than one (1) material is used on a building. If only one (1) material is used, architectural detailing and articulation, massing, texture and form must be introduced into the building design, unless otherwise specified in the Table of Acceptable Exterior Wall Materials (see subsection (c)(2) of this section). Building roof materials must be in harmony with the style and materials used on the building walls.
- (5) *Long walls.* When building walls are one hundred (100) feet or greater in length, design variations must be applied to assure that the building is not monotonous in appearance. Such variations include but are not limited to the following:
- a. Recesses and projections along the building facade, which must be a minimum of one (1) foot in depth;
 - b. Architectural details or features;
 - c. Enhanced ornamentation around building entryways;
 - d. Landscaping;
 - e. Streetscape elements; and

f. Variations in building height.

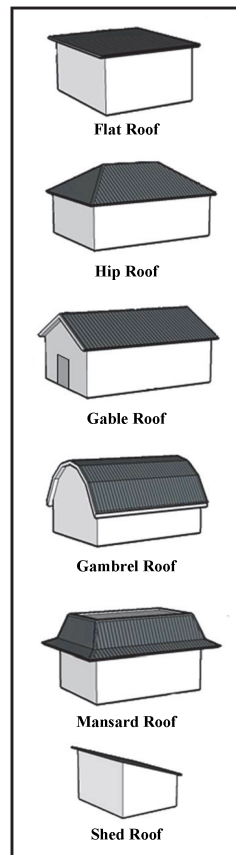
(d) *Roof design standards for all structures.*

- (1) *Compatible design character.* Roof design and materials are considered to be key elements to the city character, and thus must be consistent with the character of the neighborhood or other areas of the city regardless of the zoning district. As a part of building design, roofs must be designed in keeping with the overall architecture of the building (see subsection (c)(4) of this section).
- (2) *Roof materials.* The following regulations apply to roof materials:
 - a. Asphalt, fiberglass, tile, slate or cedar shingles may be used in all districts.
 - b. Metal roof systems may be permitted by the chief building official, zoning administrator (or designee), based upon installation quality, panel design, coating quality, metal type, and metal thickness. However, a sample must be provided to verify each of the above requirements before its use can be considered. The color must also be subtle and compatible with the exterior building materials.
 - c. Roofing materials shall be the same material and color on all on-site structures unless deemed an accent by the chief building official and zoning administrator (or designee).
- (3) *Roof style in the residential districts.* These districts are intended to maintain a residential character in the city and to be compatible with the neighborhood. To meet this intent the following roof style elements are required:
 - a. Peaked roofs are required.
 - b. All roofs must be gambrel, hip or gable roof styles. The chief building official, zoning administrator (or designee) may approve the use of shed roofs for porches and other extensions of the primary structure, provided that they comprise (in aggregate) no more that twenty-five percent (25%) of the total square footage of the roofs.
 - c. Additional roofline treatments are encouraged and may be required by the chief building official, zoning administrator (or designee) in order to minimize the mass of the roof and in order to promote the residential character. These treatments include, but are not limited to offset rooflines, dormer windows, cupolas, additional accent gables and covered entryways.
- (4) *Roof style in the C-3 district.* New building construction must blend with the existing established building line of the central business district. The buildings must be a minimum of two (2) stories or have the appearance of multiple stories. Roofs must be flat with a minimum three-foot high parapet and decorative cornices, in keeping with the historic architecture of the central business district. An enclosure must be provided that is at least one (1) foot higher than rooftop mechanical equipment that is taller than three (3) feet.
- (5) *Roof style in the C-1 and C-2 districts.* New building construction in these districts should attempt to emulate the design character and history of the residential neighborhoods which often surround these districts. At the same time, the buildings must accommodate the types of uses and sites proposed. As such, the following roof styles are required:
 - a. A peaked roof is required;
 - b. Additional roofline treatments are encouraged and may be required by the zoning administrator (or designee) in order to minimize the mass of the roof and in order to promote the residential character. These treatments include, but are not limited to dormer windows, cupolas, additional accent gables and covered entryways; and
 - c. The zoning administrator (or designee) may allow a gentler pitched roof including a flat roof with a minimum three-foot high parapet and decorative cornices consistent with the design standards of subsection (d)(4) of

this section.

- (6) *Roof style in the C-4, I-1, and I-2 districts.* New building construction in these districts should complement their surroundings. At the same time, the buildings must accommodate the types of uses and sites proposed. As such, the following roof styles are required:
- a. The roofs of large buildings (i.e., two thousand (2,000) feet of greater) may be flat as long as a minimum three-foot high parapet at least three (3) feet high and decorative cornices consistent with the design standards of subsection (d)(4) of this section are part of the roof design. A peaked roof is required for smaller structures and extensions of larger buildings; and
- (7) *Screening rooftop equipment.* New or replacement rooftop equipment, including but not limited to, HVAC, kitchen vents, hood or exhausts equipment, shall be screened from view of adjacent properties and the nearest public rights-of-way and the nearest public rights-of-way on all sides the property. The method to screen rooftop equipment must complement the buildings color sale, materials, and architectural style unless the building official and/or zoning administrator can demonstrate a hardship which requires modification and/or waiving this requirement. Rooftop screening on a one story structures may be accomplished by using ground level vegetation that will mature in growth within five (5) years at the time of planting; location of the planting will be at the discretion of the zoning administrator (or designee). The zoning administrator (or designee) may require cross-section details to confirm compliance.

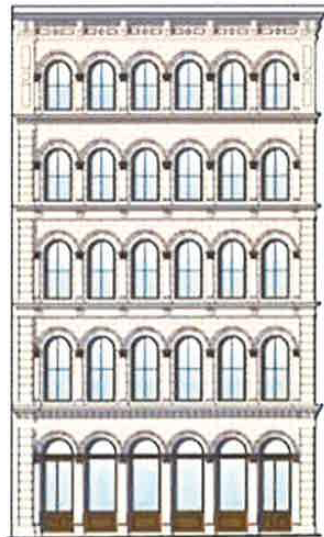
Roof Styles



- (e) Fenestration requirements for all new buildings, and in rehabbed building, in the R-4, R-6, C-1, C-2, C-3, and C-4 districts. Also applies to the office portion of a building in the I-1 and I-2 Districts.
- (1) Windows and doors must comprise at least forty-five percent (45%) of the first floor (including the parapet of a single story building) front facade (facing the public rights-of-way) of a building as well as the facade facing the parking lot.

- (2) No window shall start at a point higher than thirty (30) inches above grade.
- (3) Windows above the first floor must be vertical in proportion (whether a single unit or combined units) unless deemed impractical due to structural limitations in which case all windows must be broken-up to maintain the same vertical proportion.
- (4) Windows and glass doors must be clear glass and not tinted. Samples shall be provided in advance of installation to ensure compliance with this requirement.
- (5) Double or fixed hung windows must be used in all retail applications.
- (6) Sliding windows will not be permitted in the C-3 district, while sliding doors will be permitted above the ground floor in the C-3 district provided a balcony is installed in accordance with the Building Code.
- (7) Vinyl windows in the C-3 district are strictly prohibited.
- (8) Windows and doors in the C-3 district shall maintain a uniform finish for all fenestration openings in the building they are installed, and, the windows and doors shall match the historic characteristics of the buildings in the C-3 district.
- (9) Windows and doors in all other districts shall maintain a uniform finish for all fenestration openings in the building they are installed, and, the windows and doors shall match the general characteristics of the buildings in the respective district.
- (10) Replacement windows or doors shall not be a reduction in dimension of the existing opening.
- (11) Window areas cannot be permanently blocked in a manner that obstructs views into the buildings, such as shelving, unless it is clear and used as a display case for products sold on-site.
- (12) Interior shelving shall be oriented to ensure visibility from the abutting roadway/sidewalk, and where practical shall retain no less than a three (3) foot clear walkway between the shelving and the exterior wall of the building.

Fenestration Example



(f) *General building design accent standards.*

- (1) *Front facade.* Blank walls cannot face a public street. Walls facing a public street must include pedestrian scale windows and architectural features customarily found on the front facade of a building, such as awnings, cornice work, edge detailing or other decorative finish materials. A prominent and usable public building entrance must be provided at the front of the building. Wall massing must be broken up with vertical pilasters or other architectural elements to reduce scale.

- (2) *Pedestrian orientation.* Buildings must be designed at a pedestrian scale with relationship to the street and sidewalk must include pedestrian scale windows that face the sidewalk and street. Convenient and safe pedestrian access must be provided between the public sidewalk and the building entrance.
- (3) *Awnings.* Awnings with straight sheds may supplement facades. Awnings cannot be cubed or curved except over doorways. Translucent or internally lit cloth awnings will not be permitted. However, metal awnings may be internally lit provided there is a solid metal roof and all lighting complies with section 28-109 of the city's code of ordinances. In no case may awnings be designed to cover more than thirty-five percent (35%) of the height of each story of a building.
- (4) *Canopies.* Canopies, such as over gasoline pumps or drive-through structures, must be designed to be consistent with the approved building materials and colors. Support columns must be brick or comprised of materials compatible with the principal structure. The zoning administrator (or designee) or planning commission may require a peaked roof to complement the principal building. Any canopy lighting must be flush with the canopy.
- (5) *Neon.* Exposed neon will not be permitted on a building.
- (6) *Quality and workmanship.* This section is not intended to regulate the quality, workmanship and requirements for materials relative to strength and durability.
- (g) *Building design standards for one-family and two-family dwelling units.* The following are building design standards for one-family and two-family dwelling units.
 - (1) *Applicability.* The regulations of this subsection apply to one-family and two-family dwelling unit construction under the following circumstances:
 - a. *New dwellings.* All new one-family and two-family dwelling construction that requires a building permit after the effective date of this section must fully comply with the design standards of this subsection.
 - b. *Expansions to dwellings.* For dwellings existing prior to the effective date of this section, major improvements or expansions that require a building permit may be permitted without a complete upgrade to meet the standards of this subsection. Reasonable improvements are required in relation to the scale and construction cost of the project. Major exterior renovations must be consistent with the building design standards herein to the extent deemed practical.
 - c. *Minor improvements to dwellings.* For dwellings existing prior to the effective date of this section, minor changes, improvements, and modifications that require a building permit will not be required to comply with this subsection, provided the improvements do not increase non-compliance with the requirements of this subsection.
 - (2) *Intent.* The purpose of this subsection is to establish standards and regulations governing the location and appearance of one-family and two-family dwelling units in the City of Jackson that are either developed as a new neighborhood or as in-fill housing in an existing neighborhood. It is the intent of these regulations to allow a mix of housing types and living styles in a manner that will not adversely affect existing neighborhoods. For this reason, standards have been set that will regulate the appearance of one-family and two-family dwellings, allowing only those that are compatibly similar in appearance to houses on individual lots in all zoning districts that allow one-family and two-family residences. These regulations will not apply to one-family dwellings located within a state licensed manufacturing housing community.
 - (3) *Permits.* Prior to the construction or installation of a one-family or two-family dwelling unit on a residential lot, the individual must obtain a building permit from the chief building official (or designee).
 - (4) *General appearance and site standards.* To ensure the compatibility in appearance of one-family and two-family dwelling units, such units must meet the following design and site standards:

- a. Be constructed to the most current state or federal building standards. These include the Stille-DeRossett-Hale Construction Code Act (PA 230 of 1972, MCL 125.1501 et seq.), as amended, and the National Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), as amended (regulations are at 24 CFR p 3282, 3284, 3285, 3286, 3288, and 3800).
- b. Have a minimum dimension of twenty (20) feet.
- c. Comply with the gross floor area and lot coverage standards for one-family or two-family dwelling units set forth in section 28-73 of this chapter. To ensure that neighboring dwellings are compatible in scale and mass, the city may require units to be not less than ninety (90) percent and no more than one hundred thirty-five (135) percent of the average floor area and lot coverage of other one-family or two-family dwelling units within three hundred (300) feet of the subject lot, including dwelling units on both sides of the street of the same block.
- d. Have two (2) exterior doors (front and rear, or front and side), and where there is a difference in ground elevation, steps must be permanently attached on a frost depth foundation either to the perimeter wall, as outlined in subsection 28-115(f) below, or to porches connected to the perimeter wall.
- e. Have a minimum eight-inch eave and rake (i.e., overhang), and with a drainage system that will collect and concentrate the discharge of stormwater or snow away from the sides of the dwelling. The roof must have wood shake, asphalt or other acceptable shingles, and meet the snow load standards for this portion of the State of Michigan. Metal roof systems may be permitted by the zoning administrator (or designee) or planning commission, based upon installation quality, panel design, coating quality, metal type, and metal thickness.
- f. Have an exterior finish architecturally compatible to that of other similar homes in the surrounding area. Plywood, oriented strand board (OSB), T-111 siding, and similar materials are strictly prohibited.
- g. Be firmly attached to a permanent foundation constructed on the site in accordance with chapter 5 of this Code and must have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one-family or two-family dwellings. In the event that the dwelling is a manufactured home, as defined herein, such dwelling must be installed pursuant to the manufacturer's setup instructions and must be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission and must have a perimeter wall as required above.
- h. Have a design and appearance determined to be compatible by the zoning administrator (or designee) upon review of the plans submitted for a particular dwelling. An aggrieved party may appeal the zoning administrator's decision to the Zoning Board of Appeals as required by section 28-239 of this chapter. Compatibility is based upon the character, design and appearance of one (1) or more residential dwellings within three hundred (300) feet of the subject dwelling provided the surrounding existing dwellings considered are located outside of a manufactured housing community. The foregoing will not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard design homes. However, roof mounted solar panels must be flush mounted and mounting brackets must match the color of the roof.
- i. Be connected to a public sewer or water system and/or waste treatment or potable water supply system approved by the City of Jackson, or other applicable agencies such as the Michigan Department of Environmental Quality.
- j. Orient all dwelling units toward the public right-of-way such that the facade that faces the street contains a

door, windows and other architectural features customary of the front facade of a residence.

- k. Provide concrete sidewalks in accordance with the city sidewalk policy within the dedicated right-of-way along the frontage length of all parcels. An inclined approach is required where sidewalks intersect curbs for barrier free access. The inclined approach must comply with grades established by MDOT. Required sidewalks may be installed following the construction of the dwelling unit. However, a certificate of occupancy will not be issued until the sidewalk is installed along the individual lot's frontages. If the zoning administrator determines that, due to weather conditions, sidewalk installation should be delayed, a certificate of occupancy may be issued. In which case, a performance guarantee must be provided to the city as required by section 28-165 of this chapter. The sidewalk must be installed within six (6) months of issuance of the certificate of occupancy. The zoning administrator will schedule a follow-up inspection.
 - l. All residential driveways shall have a concrete approach and a hard-surfaced driveway of concrete or plant-mixed bituminous material in accordance with specifications of the city or other applicable agencies such as the Michigan Department of Transportation. Approaches must be six (6) inches thick, concrete, with the sidewalk floating separate from approaches. The minimum asphalt depth for driveways must be three (3) inches. The minimum concrete depth for driveways must be four (4) inches. Up to two (2) dwellings may be permitted to share a driveway provided it complies with these construction standards.
 - m. The provisions of this subsection will not apply to manufactured homes situated in licensed manufactured housing communities.
 - n. Accessory structures must comply with the standards of section 28-120 of this chapter. The exterior material and roof line shall compliment the exterior material and roof style of the principle structure. The chief building official, zoning administrator (or designee) may approve a different siding that compliments the principal structure. Plywood, oriented strand board (OSB), T-111 siding and similar materials are strictly prohibited.
- (h) In addition to the building design standards outlined in sections (a) - (f), the following standards shall apply to all medical and adult use marihuana facilities:
- (1) Except when being transported by a licensed secure transporter, all medical and adult use marihuana must be in an enclosed, locked facility having a permanent foundation, walls, and a roof.
 - (2) A roof on a grow facility may consist of a sturdy transparent material, such as glass, approved by the chief building official, to allow for sunlight into the growing area of the building. If such transparent material is utilized, it must be fully covered with a non-transparent material between dusk and dawn that prevents interior lighting to escape through the roof.
 - (3) In addition to all State requirements, if any portion of a building is used as a medical or adult use marihuana facility, a partition wall of a height required by applicable building codes shall separate the marihuana from the remainder of the building. A masonry partition wall must include a door, capable of being closed and locked, for ingress and egress between the area containing marihuana and the remainder of the building.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2012.22, § 2, 9-25-12; Ord. No. 2013.09, § 2, 4-23-13; Ord. No. 2015.10, § 2, 4-14-15; Ord. No. 2016.04, § 3, 3-15-16; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2017-06, § 3, 5-2-17; Ord. No. 2018-14, § 2, 12-11-18; Ord. No. 2019-12, § 2, 9-3-19; Ord. No. 2019-14, § 2, 10-15-19; Ord. No. 2020-01, § 2, 1-28-20; Ord. No. 2020-03, § 2, 4-14-20; Ord. No. 2020-16, § 2, 10-13-20; Ord. No. 2020-21, § 2, 12-8-20)

Secs. 28-116—28-119. - Reserved.

Sec. 28-120. - Accessory structures.

Accessory structures may be erected as an integral part of the principal use or may be erected detached from such principal use.

- (1) *Integral part of principal use.* Accessory structures or garages may be considered as attached to the principal structure when the distance between structures is solidly covered by a breezeway, portico, covered colonnade or similar architectural device. These types of accessory structures shall comply in all respects with the requirements of this chapter applicable to the principal structure.
- (2) *Detached.* The following provisions apply to detached accessory structures and garages:
 - a. *Location and size.*
 1. Shall be no larger than the first floor of the principal structure and shall not occupy more than thirty (30) percent of any rear yard space or more than twenty (20) percent of any required side yard space; and
 2. Shall not be nearer to the side lot line or rear lot line than five (5) feet; and
 3. Shall not exceed fifteen (15) feet in height.
 4. Shall not be located closer than ten (10) feet to the principal structure or any other building or structure located on-site or on an adjacent parcel; and
 5. Shall not occupy any portion of the required front nor be located closer to the road right-of-way than the established front building line; and
 6. Garages/sheds are limited in quantity to two (2); and
 7. All finished materials shall complement the principal structure, inclusive of a roof mounted solar panels which must be flush mounted and mounting brackets must match the color of the roof; and
 8. All exterior utilities (i.e. A/C compressor) shall be shielded from public view at a height no less than that of the structure and constructed of a material complementary to the principal structure.
 - b. *Replacement, restoration, or reconstruction.* Notwithstanding any other provisions of this chapter, in any R district, legal, nonconforming, detached accessory structures and garages constructed prior to the adoption of this chapter may be replaced, restored, or reconstructed subject to the following limitations:
 1. The existing foundation, meeting all building code and ordinance requirements, must be used.
 2. The structure shall not be nearer to the side lot line or rear lot line than the structure being replaced, or two (2) feet, whichever is greater.
 3. The use must be in conformity with this chapter.
 - c. *Swimming pools.* Swimming pools may be erected exclusively for use of residents of the property and their guest, provided that no such portion shall be located within the portion of the prescribed front yard. Side and rear yard setback of at least eight (8) feet in depth must be maintained. Fencing must be provided in advance of utilizing the pool and designed/built as required by the most current edition of the International Building Code.
 - d. *Satellite dishes.* All satellite dishes shall be mounted on the rear wall of a structure and/or in the rear yard, and where practical fully screened from view at the road right-of-way.
 - e. *Solar panels (ground mounted).* Solar panels of up to ten (10) feet in height may be ground mounted providing they comply with the following:
 1. The solar panel may only be located within the rear yard; and
 2. The back of the solar panel must face the property line; and

3. Where located within ten (10) feet of the side or rear property line, said area shall be landscaped with evergreen equal height to the peak of the structure and spaced no greater than five (5) feet on center; and
4. If enclosing around the base of the solar panel, the material shall match/complement that of the principal structure; and
5. A permanent foundation is not required unless the enclosure exceeds 200 square feet thus requiring a building permit.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2020-03, § 2, 4-14-20)

Secs. 28-121—28-124. - Reserved.

Sec. 28-125. - Standards for fences, walls, and landscape berms.

All fences, walls, and landscape berms of any nature, type or description located in the City of Jackson must conform to the following regulations:

- (a) *Approval required.* The erection, construction or alteration of any fence, wall or other type of protective barrier must be approved by the zoning administrator (or designee) as to conformance with the requirements of the zoning district and this section.
- (b) *General fence, wall, and landscape berm standards.*
 - (1) Fence wall, or landscape berm height measurement. The height of a fence, wall, or landscape berm will be measured using the following method:
 - a. The permitted height of all fences, walls, and landscape berms will be measured from the ground elevation adjacent to the fence, wall, or berm, as determined by the zoning administrator (or designee).
 - b. Where elevations differ by more than four (4) feet within ten (10) feet of side or rear lot lines, the zoning administrator (or designee) may allow additional fence, wall, or landscape berm height for the property at the lower elevation.
 - c. The permitted height of fences or walls will not be measured from an area of the ground that has been built-up or constructed in a manner that would have the effect of allowing a taller fence than permitted by this chapter (e.g. the height of fences erected on a berm will be measured from the finished grade adjacent to the edge of the berm).
 - (2) *Masonry walls.* Masonry walls must be constructed of the same or complementary building material to that of the principal structure and must be un-pierced (except for pedestrian and vehicular connections) and have a decorative cap. Cement or slag blocks will not be permitted.
 - (3) *Visibility at intersections.* All fences in the front yards must comply with the requirements of section 28-126 of this article, visibility at intersections.
 - (4) Decorative fences, walls and landscape berms. Fences, walls, and landscape berms which are two and a one-half (2½) feet or less in height are considered decorative and do not require a permit.
 - (5) Landscape berms. Where provided, landscape berms must conform to the following standards.
 - a. Berms must comply with the height restrictions for fences and walls in subsections (c) and (d) of this section, but in no case may they be maintained at a continuous height. All berms must be undulating and include gaps where deemed necessary.
 - b. Sides of the berm must be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal.

- c. In measuring slope and height, grade elevation will be the average ground elevation adjacent to the proposed.
- d. Side slopes must be protected from erosion by sod, seed or other living ground cover. If slopes are seeded, they must be protected until the seed germinates and a permanent lawn is established.

(c) *Fences and walls in the residential districts and manufactured housing communities.*

- (1) Ornamental fences and walls located in the required and addressed front yard meeting the definition of a non-privacy fence and not intended to restrain animals of any kind may be up to three (3) feet in height, unless otherwise approved by the zoning administrator (or designee), and must be set back at least one (1) foot from the sidewalk/right-of-way line.
- (2) Fences and walls located in the required and non-addressed (secondary) front yard of a corner or double frontage lot must be setback from the property line as follows, unless otherwise approved by the zoning administrator (or designee):
 - a. No less than one (1) foot for ornamental fences and walls—meeting the definition of a non-privacy fence and not intended to restrain animals of any kind—up to three (3) feet in height;
 - b. No less than one half (1/2) of the established front yard setback for fences and walls up to four (4) feet in height with at least four (4) shrubs per each twenty (20) linear feet in the required setback.
 - c. No less than the established front yard setback for fences and walls up to six (6) feet in height with at least four (4) shrubs per each twenty (20) linear feet in the required setback.
- (3) Fences and walls located in the side and rear yards may have a maximum height of six (6) feet, unless otherwise approved by the zoning administrator (or designee), and may be located on the property line assuming the front yard fencing requirements are satisfied.
- (4) Residents are encouraged to utilize ornamental materials, including but not limited to materials such as wrought iron, brick, stone, and similar replications of these materials, such as vinyl fencing that has the appearance of one of these materials.
- (5) Fencing materials must be all weather and zero maintenance. If using treated wood (lattice design is prohibited) it must meet the American Wood Protection Association's UC4B standard for ground contact (heavy duty).
- (6) Chain link or similar fencing is permitted everywhere except within the front yard.
- (7) The finished side of a fence or wall must face outward toward any adjacent property or right-of-way.
- (8) No fences or walls are permitted within the required site clearance triangles (see [section 28-126](#) of this article). The same site clearance triangle applies to solid fences abutting detached garages located on the non-addressed frontage of a corner lot (see [section 28-126](#)).

(d) *Fences and walls in commercial and industrial districts.*

- (1) No fence or wall may exceed eight (8) feet in height, unless otherwise approved by the Zoning Administrator (or designee).
- (2) No fences or walls may be located in the required and addressed front yard unless it is part of a conditional use permit request for an automobile wrecking and salvage yard (see subsection [28-71](#) of this chapter), junkyard (see subsection [28-71](#) of this chapter), or similar use.
- (3) Fences located in the required non-addressed (secondary) front yard of a corner or double frontage lot, must be set back from the property line, unless otherwise approved by the zoning administrator (or designee), as follows:
 - a. No less than one (1) foot for ornamental fences and walls meeting the definition of a non-privacy fence

- and not intended to restrain animals of any kind up to three (3) feet in height;
- b. No less than one half (1/2) of the established front yard setback for fences up to four (4) feet in height with at least four (4) shrubs per each twenty (20) linear feet in the required setback; and
 - c. No less than the established front yard setback for fences up to eight (8) feet in height with at least four (4) shrubs per each twenty (20) linear feet in the required setback.
- (4) All fences and walls must be ornamental in nature and should be made of wrought iron, wood (excluding lattice design), brick, stone, and similar replication of these materials. However, when abutting residentially zoned and/or used property, and when used to screen parking or outdoor storage areas, the fence must be constructed of an opaque weatherproof material.
 - (5) Fencing materials must be all weather and zero maintenance. Treated wood must meet the American Wood Protection Association's UC4B standard for ground contact (heavy duty).
 - (6) Chain link or similar fencing is permitted everywhere except within the front yard and when abutting residentially zoned and/or used property.
 - (7) No fences or walls are permitted within the required site clearance triangles (see section 28-126 of this article).
- (e) *Temporary protective fencing associated with construction projects.* During construction, protective fencing must be placed around existing vegetation proposed for preservation and other site elements which cannot be easily removed or stored.
- (1) Proposed protective fencing must be clearly identified on the landscape plan. The zoning administrator (or designee) must also determine compliance with the standards contained in subsection 28-111(d)(4)b. of this chapter.
 - (2) Protective fencing cannot be located closer than one (1) foot outside the perimeter of the following, as identified on the landscape plan:
 - a. The drip lines of existing trees and shrubs; and
 - b. Planting beds and other site element.
- (f) *Prohibited fences.* The following fences are prohibited:
- (1) A fence consisting in whole or part of coils of barbed wire, concertina wire or razor wire;
 - (2) A fence with razored edges, broken glass, affixed spikes, projecting nails or other pointed instruments of any kind or description attached; fence gates cannot be constructed so as to create a hazard to the public by the projection of any pointed instrument or member when open or partially open;
 - (3) A fence charged or connected with an electrical current, provided however, this provision cannot be construed to apply to electrical fences installed below ground as elements of an animal control or security system;
 - (4) A standard barbed wire fence except upon essential service sites or industrial properties which do not abut property zoned or used for residential purposes; in such locations, standard barbed wire may be installed on the top of a fence on arms or cradles extending inward over the owner's property provided that the fence has a minimum height of six (6) feet above the adjacent grade and the combined height of the fence and barbed wire and arms does not exceed eight (8) feet above the adjacent grade;
 - (5) A chain link or similar fencing, unless otherwise permitted in this section.
 - (6) A fence which consists in whole or part of woven plastic or other similar materials utilized within a chain link fence; and

(7) A fence with all metal opaque paneling (e.g. barn siding roof material, etc.) unless it is part of a conditional use for an automobile wrecking and salvage yard (see subsection 28-71(14) of this chapter), junkyard (see subsection 28-71(15) of this chapter, or similar use. However, the zoning administrator may consider the use of these materials if deemed complementary to the primary structure.

(g) *Standards for construction.* Fencing must also comply with pertinent standards located in the city building code (chapter 5).

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2012.19, § 3, 9-11-12; Ord. No. 2013.02, § 4, 3-12-13; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2020-01, § 2, 1-28-20)

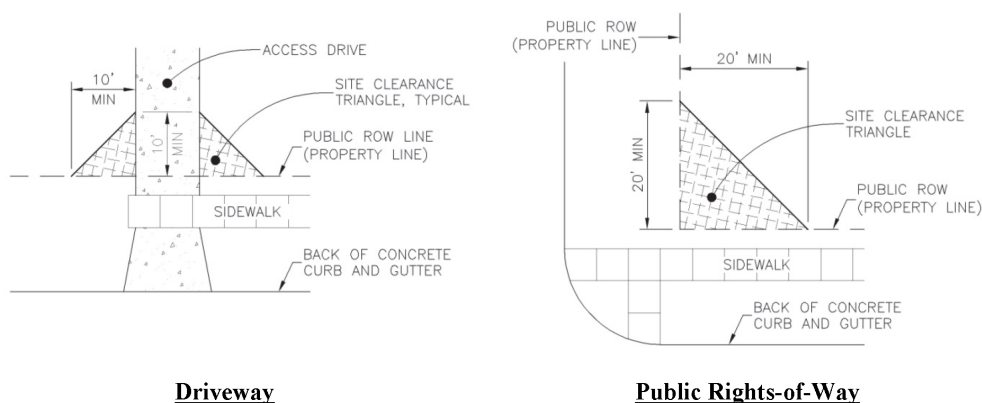
Sec. 28-126. - Visibility at intersections.

When a driveway intersects a public right-of-way or when the subject property abuts the intersection of public rights-of-way, all fences, walls, hedges, screens, structures, plantings or other landscaping within the site clearance triangle areas described below must permit unobstructed cross-visibility. Shrubs and groundcovers (see 'landscaping' under section 28-5 of this chapter for a definition and example) located in a site clearance triangle may not be permitted to grow to a height of more than two and one-half (2½) feet above the grade at the edge of the pavement. Portions of required berms located within sight clearance triangle cannot exceed a height of two and one-half (2½) feet above the pavement grade at the edge of the pavement. Canopy trees may be maintained in this area provided that all branches are trimmed to maintain a clear vision for a vertical height of ten (10) feet above the roadway surface. Other landscaping, except turf grass or ground cover maintained at a height of two and one-half (2½) feet, cannot be located closer than three (3) feet from the edge of a driveway.

The site clearance triangles referred to above are:

- (a) The area formed at the corner intersection of a public right-of-way and a driveway, two (2) sides of the triangle area being ten (10) feet in length measured along the right-of-way line and access drive line and the third side being a line connecting these two (2) sides. For the purpose of plantings located in the lawn extension/terrace, the site clearance triangle extends beyond the right-of-way line to the curb/edge of pavement at an angle perpendicular to both of those lines.
- (b) The area formed at a corner intersection of two (2) public right-of-way lines, the two (2) sides of the triangular area being twenty (20) feet in length measured along the abutting public right-of-way lines and the third side being a line connecting these two (2) sides. For the purpose of plantings located in the lawn extension/terrace, the site clearance triangle extends beyond the right-of-way line to the curb/edge of pavement at an angle perpendicular to both of those lines.

Sight Clearance Triangle Figures



(Ord. No. 2012.24, § 2, 9-25-12)

Secs. 28-127—28-129. - Reserved.

ARTICLE V. - DEVELOPMENT APPROVAL PROCEDURES

Footnotes:

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Editor's note— Ord. No. 2012.16, § 5, adopted July 17, 2012, repealed the former Art. V, §§ 28-181—28-183, and enacted a new Art. V as set out herein. The former Art. V, which pertained to district changes and amendments has been redesignated as Art. VI of this chapter. For a complete derivation see the Code Comparative Table at the end of this volume.

Sec. 28-130. - Nonconforming lots, buildings, signs, structures, and uses of buildings, structures and land.

(a) *Statement of purpose.* Within the districts established by this chapter, or amendments that may be adopted, there exist lots, buildings, structures, and uses of lots, buildings, and structures which were lawful before this chapter was passed or amended which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. The intent of this section is to permit such legal nonconformities to remain until they are discontinued, removed, or their condition degrades to such an extent that full replacement would be required, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such nonconformities to conforming status. Nonconformities cannot be enlarged, expanded, or extended, except as provided herein, and may not be used as grounds for adding other structures and uses of lots and structures that are prohibited. Such nonconformities are declared by this section to be incompatible with permitted uses in the districts involved and prevent the full realization of the goals and objectives of this chapter. The standards of this section are intended to accomplish the following:

- (1) Terminate and remove any use, building, accessory structure or any combination thereof established after this chapter was passed, or amended, that is in violation of this chapter. Such uses, buildings, and accessory structures are classified as a nuisance and will not receive any of the rights, privileges, or protection granted by this section for legal nonconformities.
- (2) Eliminate nonconforming uses that are considered to be incompatible with permitted uses, or encourage redevelopment into a more conforming use.
- (3) Permit legal nonconforming buildings, structures or uses to remain until they are discontinued, removed, or their condition degrades to such an extent that full replacement would be required.
- (4) Support the mixed residential character of the city's neighborhoods through special provisions relating to nonconforming residential structures.
- (5) Encourage gradual upgrading to a more conforming status of site and parking lot landscaping, parking (quantity and surface materials), paving/curbing, signage or other features of a site which were developed in compliance with the standards at the time of their construction, but which do not meet the current site plan or other standards of this Code and its amendments.
- (6) Encourage the combination of contiguous nonconforming lots of record to create lots that conform to current standards; are compatible with other lots in the zoning districts; promote the public health, safety, and welfare; and eliminate problems associated with the overcrowding of land.

- (7) The extension of the nonconformance is not intended to reset the period, rather, extend the period from adoption ordinance change occurring July 17, 2012. Additionally, the new period is calculated from the determined date of discontinuance or abandonment of a specific property or use even if that date predates July 17, 2012.
 - (8) Nonconforming lots, buildings or structures that do not meet the criteria as set forth shall conform to the building design standards and general maintenance specific to the property or use that predates July 17, 2012.
- (b) *Nonconforming lots.*
- (1) *Use of a nonconforming lot.* In any district, notwithstanding limitations imposed by other provisions of this Code, where an existing lot of record fails to meet the requirements for area, width, or both, that are generally applicable in the district, such lot may be used for the permitted uses of the zoning district, including permitted accessory uses. However, all yard dimensions and other requirements, not involving area or width of the lot, must conform to the regulations for the district in which such lot is located.
 - (2) *Use of nonconforming lots under single ownership.* If two (2) or more lots or combinations of lots of record with continuous frontage and in single ownership and use at the time of passage or amendment of this chapter, irrespective of whether all or part of the lots meets the chapter requirements, the lands involved will be considered to be an undivided parcel. No portion of said parcel or lot can be used or sold that does not meet lot, width, and area requirements, nor can any division of the parcel or lot be made which leaves remaining any parcel or lot with a width or area below the requirements stated in this chapter. All zoning and building requests require the formal combination of those parcels into a single lot of record (see the definition for "lot, formal combination of" in [section 28-5](#) of this chapter).
 - (3) *Discontinued or vacant nonconforming lot.*
 - a. If a nonconforming lot in a residential district has been vacant for six (6) consecutive months or more, or use of the lot has been discontinued for six (6) consecutive months or more, the lot shall not be used for any permitted use when the area or width of the lot is less than the minimum dimensional requirement as provided in [section 28-73](#) of this chapter.
 - b. If a nonconforming lot in a commercial district has been vacant for nine (9) consecutive months or more, or use of the lot has been discontinued for nine (9) consecutive months or more, the lot shall not be used for any permitted use when the area or width of the lot is less than the minimum dimensional requirement as provided in [section 28-74](#) of this chapter.
 - c. If a nonconforming lot in an industrial district has been vacant for twelve (12) consecutive months or more, or use of the lot has been discontinued for twelve (12) consecutive months or more, the lot shall not be used for any permitted use when the area or width of the lot is less than the minimum dimensional requirement as provided in [section 28-74](#) of this chapter.
 - (4) *Abandonment of nonconforming lots.*
 - a. If a nonconforming lot in a residential district is considered abandoned pursuant to subsection [28-130\(g\)](#) for more than six (6) consecutive months by the chief building official zoning administrator and city manager, the lot shall not be used for any permitted use when the area or width of the lot is less than the minimum dimensional requirement as provided in [section 28-73](#) of this chapter.
 - b. If a nonconforming lot in a commercial district is considered abandoned pursuant to subsection [28-130\(g\)](#) for more than nine (9) consecutive months by the chief building official, zoning administrator and city manager, the lot shall not be used for any permitted use when the area or width of the lot is less than the minimum dimensional requirement as provided in [section 28-74](#) of this chapter.
 - c. If a nonconforming lot in an industrial district is considered abandoned pursuant to subsection [28-130\(g\)](#) for

more than twelve (12) consecutive months by the chief building official, zoning administrator and city manager, the lot shall not be used for any permitted use when the area or width of the lot is less than the minimum dimensional requirement as provided in section 28-74 of this chapter.

- (c) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter, but could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following limitations.
- (1) *Increasing nonconformity.* No such structure may be enlarged or altered in a way that increases its nonconformity without the granting of a variance from the zoning board of appeals (see section 28-238 of this chapter). Such structures may be enlarged or altered in a way that does not increase its nonconformity.
 - (2) *Alteration or modification.* Should such structure be altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics cannot be later reestablished or increased.
 - (3) *Moving a nonconforming structure.* Should such structure be moved for any reason for any distance, it must thereafter conform to the regulations for the district in which it is located after it is moved. This does not affect the right to replace, restore, or reconstruct an accessory structure provided it meets all of the other requirements of this Code [see subsection 28-120(2)(b)].
 - (4) *Vacancy.*
 - a. *Residential structure.* The structure may not continue in its current form without complying with the current design standards if it is considered vacant for more than six (6) consecutive months by the chief building official, zoning administrator, and city manager. Also, should the same individuals determine that the vacant structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.
 - b. *Commercial structure.* The structure may not continue in its current form without complying with the current design standards if it is considered vacant for more than nine (9) consecutive months by the chief building official, zoning administrator and city manager. Also, should the same individuals determine that the vacant structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.
 - c. *Industrial structure.* The structure may not continue in its current form without complying with the current design standards if it is considered vacant for more than twelve (12) consecutive months by the chief building official, zoning administrator and city manager. Also, should the same individuals determine that the vacant structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.
 - (5) *Abandonment.*
 - a. *Residential structure.* The structure may not continue in its current form without complying with the current design standards if it is considered abandoned for more than six (6) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g). Also, should the same

individuals determine that the abandoned structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.

- b. *Commercial structure.* The structure may not continue in its current form without complying with the current design standards if it is considered abandoned for more than nine (9) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g). Also, should the same individuals determine that the abandoned structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.
 - c. *Industrial structure.* The structure may not be continue in its current form without complying with the current design standards if it is considered abandoned for more than twelve (12) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g). Also, should the same individuals determine that the abandoned structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.
- (6) *Discontinuance.*
- a. *Residential structure.* The structure may not be continue in its current form without complying with the current design standards if the use has been discontinued for more than six (6) consecutive months by the chief building official, zoning administrator and city manager. Also, should the same individuals determine that the discontinued structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.
 - b. *Commercial structure.* The structure may not be continue in its current form without complying with the current design standards if the use has been discontinued for more than nine (9) consecutive months by the chief building official, zoning administrator and city manager. Also, should the same individuals determine that the discontinued structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.
 - c. *Industrial structure.* The structure may not be continue in its current form without complying with the current design standards if the use has been discontinued for more than twelve (12) consecutive months by the chief building official, zoning administrator and city manager. Also, should the same individuals determine that the discontinued structure's condition requires complete replacement, the structure will lose its legal non-conforming status, and conformance will be required. Any subsequent use of the building referred to in this section shall also conform to the requirements of this chapter.
- (7) *Expansion of a nonconforming residential building.* A nonconforming residential building may be expanded into a required yard in a manner that does not comply with the setback standards with approval from the chief building official, zoning administrator and city manager, provided it is also in accordance with the following standards:
- a. The expansion does not extend closer to the lot line than any existing, nonconforming part of the structure;
 - b. The expansion does not create a new nonconformity on the lot or an adjacent lot.
 - c. The addition may be constructed up to the front or rear block building line (see section 28-5 of this chapter for the definition of "block building line, front or rear") when more than fifty (50) percent of the principal

structures on one (1) side of the street in any one (1) block do not meet the required front or rear yard setbacks.

- d. The addition may be constructed into the required side yard providing it remains in compliance with section 28-81, side yard exceptions in R districts.
 - e. The addition retains compliance with all other setback, lot coverage, and height requirements;
 - f. The addition will meet all minimum building code requirements;
 - g. The resultant addition, in terms of dimensions and design, would be compatible with the established character of the neighborhood;
 - h. The design of the addition must be compatible with the existing structure and not detract from the appearance of the site;
 - i. The expansion of a residential building with a nonconforming yard, not meeting the requirements above, is prohibited unless a variance is granted by the zoning board of appeals (see section 28-238 of this chapter).
- (d) *Nonconforming uses of buildings and structures.* The use of any structure existing and lawful on the effective date of the adoption or amendment of this chapter may be continued, even though such use does not conform to the provisions of this chapter, subject to the following provisions:
- (1) *Structural expansion.* No existing structure devoted to a use not permitted by this chapter in the district in which it is located may be enlarged, extended, constructed, reconstructed, moved or structurally altered except as follows:
 - a. Changing the use of the structure to a use permitted in the district in which it is located.
 - b. Granting of a conditional use permit by the planning commission (see section 28-145 of this chapter) with the goal of bringing the site into greater conformity with this chapter.
 - (2) *Expansion of the use.* Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use can be extended to occupy any land outside such building.
 - (3) *Replacement with a conforming use.* If a nonconforming use of a structure is terminated and replaced with a new use, such use must be a permitted use and must thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
 - (4) *Discontinuance or termination of nonconforming use of structure.*
 - a. When the nonconforming use of a residential structure is discontinued or ceases to exist for six (6) consecutive months, the use may not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses are exempted from this provision provided the property owner documents the pending temporary discontinuance through a formal letter to the Department of Neighborhood and Economic Operations.
 - b. When the nonconforming use of a commercial structure is discontinued or ceases to exist for nine (9) consecutive months, the use may not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses are exempted from this provision provided the property owner documents the pending temporary discontinuance through a formal letter to the Department of Neighborhood and Economic Operations.
 - c. When the nonconforming use of an industrial structure is discontinued or ceases to exist for twelve (12) consecutive months, the use may not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses are exempted from this provision

provided the property owner documents the pending temporary discontinuance through a formal letter to the Department of Neighborhood and Economic Operations.

- (5) *Abandonment.*
- a. If any such nonconforming use of residential buildings or structures is considered abandoned for more than six (6) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g), any subsequent use of such building and/or structure must conform to the requirements of this chapter.
 - b. If any such nonconforming use of commercial buildings or structures is considered abandoned for more than nine (9) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g), any subsequent use of such building and/or structure must conform to the requirements of this chapter.
 - c. If any such nonconforming use of industrial buildings or structures is considered abandoned for more than twelve (12) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g), any subsequent use of such building and/or structure must conform to the requirements of this chapter.
- (6) *Moving a nonconforming use.* No such nonconforming use can be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption, or amendment, of this chapter.
- (7) *Repair or replacement of nonconforming one-family uses.* Given the historical development pattern in the city, one-family residential uses may continue to exist in structures zoned for nonresidential use. It is the intent of this section to allow such uses to be considered conforming uses, provided the standards and procedures outlined herein apply. A nonconforming one-family detached dwelling and its accessory structures within commercial districts may be continued, replaced, or repaired if damaged by fire, vandalism, flood or other force of nature, if approved by the chief building official, zoning administrator and city manager. Such approval requires a finding that the resulting building footprint and height will be the same size or smaller than that of the building before such change. Replacement of a nonconforming one-family building must commence within one (1) year of the date of damage and work must be diligently pursued toward completion. Failure to complete replacement or diligently work toward completion, or use of the building for a conforming non-residential use for any period of time, will result in the loss of legal nonconforming status unless good cause for the delay or temporary change in use is accepted by the chief building official, zoning administrator and city manager.
- (e) *Nonconforming uses of land.* The lawful use of any land not involving a building or structure, existing and lawful on the effective date of this chapter or amendment thereto, may be continued even though such use does not conform to the provisions of this chapter or amendments, subject to the following provisions:
- (1) *Expansions.* No such nonconforming use can be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this chapter, or amendment thereto.
 - (2) *Relocations.* No such nonconforming use can be moved to any other portion of the lot occupied by such use on the effective date of this chapter, or amendments thereto.
 - (3) *Discontinuance.*
 - a. If any such nonconforming use of land, not involving a building or structure located in a residential district, is discontinued or ceases to exist for any reason for a period of more than six (6) consecutive months, any subsequent use of such land must conform to the requirements of this chapter.
 - b. If any such nonconforming use of land, not involving a building or structure located in a commercial district, is discontinued or ceases to exist for any reason for a period of more than nine (9) consecutive months, any

subsequent use of such land must conform to the requirements of this chapter.

- c. If any such nonconforming use of land, not involving a building or structure located in an industrial district, is discontinued or ceases to exist for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land must conform to the requirements of this chapter.
- (4) *Abandonment.*
- a. If any such nonconforming use of land, not involving a building or structure located in a residential district, is considered abandoned for more than six (6) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g), any subsequent use of such land must conform to the requirements of this chapter.
 - b. If any such nonconforming use of land, not involving a building or structure located in a commercial district, is considered abandoned for more than nine (9) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g), any subsequent use of such land must conform to the requirements of this chapter.
 - c. If any such nonconforming use of land, not involving a building or structure located in an industrial district, is considered abandoned for more than twelve (12) consecutive months by the chief building official, zoning administrator and city manager, pursuant to subsection 28-130(g), any subsequent use of such land must conform to the requirements of this chapter.
- (f) *Repairs, maintenance, alterations or improvements.* The following regulations apply to all nonconforming structures (see the definition in section 28-5 of this chapter) and structures devoted to nonconforming uses as regulated by this section.
- (1) Residential use: Repairs, maintenance, alterations or improvements totaling less than fifty (50%) percent of the assessed value of the building may be completed on any building or structure that is determined to be devoted to a nonconforming use or is itself a nonconforming structure. However, the work is limited to ordinary repair/maintenance, or repair or replacement of non-bearing walls, fixtures, wiring, or plumbing and requires the approval of the chief building official, zoning administrator and city manager, provided that:
 - a. The dimensional characteristics of the building as it existed at the time of passage or amendment of this chapter is not increased. This does not allow for the separation or expansion of utility systems for nonconforming residential uses; and
 - b. The building, structure or use has not lost its nonconforming status due to vacancy, discontinuance or abandonment.
 - (2) Commercial or industrial use: Repairs, maintenance, alterations or improvements totaling less than seventy-five (75%) percent of the assessed value of the building may be completed on any building or structure that is determined to be devoted to a nonconforming use or is itself a nonconforming structure. However, the work is limited to ordinary repair/maintenance, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing and requires the approval of the chief building official, zoning administrator and city manager, provided that:
 - a. The dimensional characteristics of the building as it existed at the time of passage or amendment of this chapter is not increased. This does not allow for the separation or expansion of utility systems for nonconforming commercial or industrial uses; and
 - b. The building, structure or use has not lost its nonconforming status due to vacancy, discontinuance or abandonment.
 - (3) Residential use: Repairs, maintenance, alterations or improvements totaling greater than fifty (50%) percent of

the assessed value of the building may be completed for any reason and on any nonconforming structure or structure devoted to a nonconforming use. However, such repairs, maintenance, alterations or improvements will be permitted only in conformity with the provisions of the chapter. If deemed unfeasible and/or impractical, a property owner may seek a variance from the zoning board of appeals (see section 28-238 of this chapter), assuming it can also be demonstrated that the original structure was consistent with the established character of the area.

- (4) Commercial or industrial use: Repairs, maintenance, alterations or improvements totaling greater than seventy-five (75%) percent of the assessed value of the building may be completed for any reason and on any nonconforming structure or structure devoted to a nonconforming use. However, such repairs, maintenance, alterations or improvements will be permitted only in conformity with the provisions of the chapter. However, when deemed unfeasible and/or impractical, a property owner may seek a variance from the zoning board of appeals (see section 28-138 of this chapter), assuming it can also be demonstrated that the original structure was consistent with the established character of the area.
- (5) Nonconforming landscaping and screening. Landscaping and screening must be brought into conformance with the requirements of section 28-105 of this chapter, to the satisfaction of the zoning administrator and city manager, whenever:
- a. The projected cost of repairs, maintenance, alterations or improvements exceeds fifty (50%) percent of the assessed value of the building for residential use;
 - b. The projected cost of repairs, maintenance, alterations or improvements exceeds seventy-five (75%) percent of the assessed value of the building for commercial or industrial use;
 - c. There is a change in use or occupancy of the building;
 - d. The residential use of the building has been vacant, abandoned or discontinued for more than six (6) consecutive months;
 - e. The commercial use of the building has been vacant, abandoned or discontinued for more than nine (9) consecutive months;
 - f. The industrial use of the building has been vacant, abandoned or discontinued for more than twelve (12) consecutive months.

The continuation of substandard landscaping and screening must be considered by the zoning board of appeals through the variance process (see section 28-138 of this chapter).

- (6) *Assessed value.* For the purposes of enforcing the regulations contained in this section, the value (see the definition in section 28-5 of this chapter) of the structure will be determined by the most recent valuation of the structure for the purposes of taxation.
- (7) *Ordinary repair/maintenance.* Nothing in this section prevents ordinary repair/maintenance, or the strengthening or restoring to a safe condition of any structure or part thereof deemed to be unsafe by an official charged with protecting the public safety, upon order of such official.
- (8) *Unsafe or unlawful structure.* A nonconforming structure, or portion of a structure, or a structure containing a nonconforming use that is physically unsafe or unlawful due to lack of repairs and maintenance, as determined by the chief building official, may be restored to a safe condition. Where enlargement or structural alteration is necessary to allow compliance with health and safety laws or chapters, the cost of such work will not exceed twenty-five (25) percent of the structures assessed value.
- (g) *Determination of abandonment, discontinuance and vacancy.* Nonconforming lots, nonconforming buildings and

structures, nonconforming uses of buildings and structures, and nonconforming uses of land will be considered abandoned, discontinued, or vacant if one (1) or more of the following conditions exists, and will be deemed to constitute intent on the part of the property owner to abandon, discontinue or vacate:

- (1) Utilities, such as water, gas or electricity to the property, have been disconnected;
 - (2) The property, buildings, or grounds, have fallen into disrepair thus requiring full replacement;
 - (3) Signs or other indications of the existence of the nonconforming use have been removed;
 - (4) Equipment or fixtures that are necessary for the operation of the nonconforming use have been removed; or
 - (5) Other actions, which in the opinion of the chief building official, zoning administrator and city manager constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
- (h) *Conditional uses are not nonconforming uses.* Any use for which a conditional use permit is granted as provided in this chapter will not be deemed a nonconforming use, but will, without further action, be deemed a conforming use in such district.
- (i) *Change of tenancy or ownership.* There may be a change of tenancy, ownership, or management of any existing nonconforming structures or use of structures and land in combination.
- (j) *Nonconforming signs.*
- (1) The goal is to eliminate nonconforming signs, except as otherwise specifically set forth in this section. Any lawfully erected sign, which is made unlawful by this chapter, may continue exactly as the sign existed at the time when the sign became unlawful under the provisions of this chapter. However, following ninety (90) days after the discontinuance of the previously approved use associated with the sign, sign panels shall be replaced with blank panels and any interior lighting shall be disconnected. Twelve (12) months after discontinuance, the sign structure shall be removed.
 - (2) No nonconforming sign shall:
 - a. Be changed to another nonconforming sign without a variance;
 - b. Be structurally altered so as to change the shape, size, type or design of the sign;
 - c. Be re-established after the activity, business or use to which it relates has been discontinued for ninety (90) days or longer.
 - (3) Ordinary repair/maintenance.
 - a. The provisions of this chapter shall not apply to the ordinary repair/maintenance of existing signs or changing of sign panels or to the altering of a sign specifically designed for periodic change of message without change in sign structure, such as a bulletin board or similar type of sign. The replacement of a manual changeable message sign with a digital message sign is specifically excluded from this provision.
 - b. Repairs may be done to a nonconforming sign to an extent not exceeding fifty (50%) percent of the value of the sign, provided that:
 - (i) The dimensional characteristics of the sign as it existed at the time of passage or amendment of this chapter is not increased; and
 - (ii) The sign has not lost its nonconforming status due to vacancy, discontinuance or abandonment.
 - c. In the event that any nonconforming sign requires ordinary repair/maintenance for any reason and in any manner that exceeds fifty (50%) percent of the value of the sign, such repairs shall be permitted only in conformity with the provisions of this chapter. However, if complying with this chapter is unfeasible and/or

impractical, a property owner may seek a variance from the zoning board of appeals (see [section 28-238](#) of this chapter), assuming it can also be demonstrated that the original structure was consistent with the established character of the area.

- (k) Nonconforming medical and adult use marihuana facility uses. Medical and adult use marihuana facilities, including a grower, provisioning center, retailer, safety compliance facility, secure transporter, microbusiness, or any marihuana facility or establishment of any type, other than that of a licensed caregiver operating within the limits of the Michigan Medical Marihuana Act, which may have been established prior to the effective date of this ordinance, but which have not gained a license from both the State of Michigan and the City of Jackson shall not be considered legally nonconforming uses. In addition, no marihuana facilities may be permitted as a home occupation or accessory use.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2014-25, § 2, 9-23-14, eff. 10-23-14; Ord. No. 2015.9, § 2, 4-14-15; Ord. No. 2016.07, § 2, 3-29-16; Ord. No. 2017-05, § 2, 4-11-17; Ord. No. 2017-12, § 2, 11-28-17; Ord. No. 2018-14, § 2, 12-11-18; Ord. No. 2019-14, § 2, 10-15-19; Ord. No. 2020-16, § 2, 10-13-20; Ord. No. 2020-21, § 2, 12-8-20)

Secs. 28-131—28-134. - Reserved.

Sec. 28-135. - Site plan review procedures and requirements.

- (a) *Statement of purpose.*

- (1) The site plan review procedures and standards set forth herein provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the standards contained in this chapter, other applicable chapters of this Code, standard engineering practices, and county, state, and federal rules and laws. The procedures set forth herein are further intended to:
- a. Achieve efficient use of the land;
 - b. Protect the traditional character of the city;
 - c. Minimize adverse impacts on adjoining or nearby properties;
 - d. Provide a mechanism for review of new development and redevelopment or reuse of existing site to ensure compliance with current standards; and
 - e. Encourage cooperation and consultation between the city and the applicant to facilitate development in accordance with the city's land use objectives.
- (2) Prior to the creation of a use, erection of a building, and those conditions cited below, a site plan or administrative plan must be submitted for approval, in accordance with this section. The extent of review for various types of projects is classified into three (3) types generally described below. The table of required review process provides a specific listing of review classifications:
- a. *Planning commission review (PCR).* Most new development and major expansions will require a full site plan (FSP) under subsection (b) of this section, full site plan submittal and review procedures. The establishment of a condominium project will require the submission of a comprehensive site plan (CSP) and must also comply with subsection (d), condominium and site condominium development review procedures.
 - b. *Administrative review (AR).* Select projects and expansions or changes in use to existing sites will undergo a less formal review and approval process by the zoning administrator (or designee), and any others deemed necessary. The zoning administrator always reserves the right to send any administratively reviewed plans to the planning commission for final determination, especially when it relates to aesthetics and architecture.
 1. *Full site plan (FSP).* Select medium and small scale projects and expansions, or changes in use to existing

sites, are permitted to provide less detailed information than a comprehensive site plan (CSP). The level of information is intended to be proportionate to the extent of the change and yet insure adequate review for compliance with applicable requirements.

2. *Plot site plan (PSP)*. Select projects, such as one-family and two-family dwellings on an individual lot, only require the submission of a plot plan (PP) given their relatively low level of impact on adjacent land uses, and given that compliance with applicable zoning regulations can be addressed during the building permit review process. Other applicable approvals are still required such as zoning compliance permits, building permits and inspections.

Table of Required Review Process			
	PCR	AR	
Situation/Use	FSP	FSP	PSP
<i>New Development:</i>			
Construction of any nonresidential use or building.		X	
Construction of essential public service buildings and storage areas.		X	
Construction of a multiple family dwelling.	X		
Construction of a one-family or two-family dwelling unit on one (1) lot in a residential zoning district.			X
Establishment of a condominium project, in accordance with the process outlined in the Condominium Act (PA 59 of 1978, MCL 559.101 et seq.).	X		
Minor changes during construction required by municipal, state, or federal departments or agencies.		X	
Planned Unit Developments (PUDs) in accordance with this chapter (see sections <u>28-48</u> , and <u>28-160</u>).	X		
<i>Expansions:</i>			
An increase in parking or loading area of up to fifty (50) percent or 10,000 square feet of pavement area without any building changes.		X	
An increase in parking or loading area of more than fifty (50) percent or 10,000 square feet of pavement area without any building changes.		X	

Changes to building height that do not add additional floor area nor exceed the maximum height requirements of this chapter.		X	
Expansion of a one-family or two-family dwelling unit on one (1) lot in a residential zoning district.			X
For non-residential, an increase in the floor area up to fifty (50) percent of the existing floor area in the event of no impact to other site improvements.		X	
For nonresidential, an increase in the floor area greater than that specified above.		X	
<i>Changes in Use:</i>			
A change in use to a similar or less intense use provided the site will not require any significant changes in the existing site facilities such as parking, landscaping, lighting, signs, non-motorized pathways or sidewalks.			X
A change from a nonconforming use to a conforming use, if required by the zoning administrator (or designee).			X
Any change in the use of land or a building to a more intensive use in terms of parking needs, noise, traffic volumes, and similar impacts.		X	
<i>Other Types of Projects:</i>			
Accessory buildings and structures constructed or erected accessory to a permitted one-family or two-family dwelling unit.			X
Accessory buildings associated with multiple-family and non-residential uses.		X	
Accessory open air businesses.		X	
Aesthetic and architectural changes to buildings other than one-family and two-family residential structures.		X	
Non-motorized pathways or sidewalk construction or relocation.		X	

Construction of an entrance feature associated with a residential development.		X	
Home occupations.			X
Internal construction or change in the floor plan that does not increase gross floor area, increase the intensity of use, or affect parking requirements on a site which meets all site design standards of this Chapter.			X
Landscape changes consistent with the standards of this Chapter.		X	
Modifications to upgrade a non-single family residential building to improve barrier-free design, or to comply with the Americans with Disabilities Act or other federal, state or county regulations.			X
Parking lot improvements provided the total number of spaces will remain constant.		X	
Sign relocation or replacement meeting the dimensional and location standards of this chapter.		X	
Site improvements such as installation of walls, fences, lighting or curbing consistent with the standards of this chapter.		X	
Temporary uses, sales and seasonal events.			X
Utility system improvements.			X
Waste receptacle relocation or installation of screening around the waste receptacle.		X	
Any use requiring a conditional use permit (CUP) not covered by one of the above situations/uses (see section 28-71).	X		
Murals meeting the requirements of section 28-253(g) .	X		
Key: PCR = Planning commission review; AR = administrative review; FSP = full site plan; PSP = plot site plan.			

(b) Full site plan (FSP) submittal and review procedures for planning commission review (PCR). When a full site plan (FSP)

is required for planning commission review (PCR), the following procedure will apply, unless otherwise noted in the table of required review process.

- (1) *Pre-application meeting.* For the purposes of identifying major issues related to a project and to discuss questions related to this chapter and other chapters of this Code, the applicant must attend a pre-application meeting with the zoning administrator (or designee), and any others deemed necessary. Sufficient information must be submitted prior to the meeting that describes the proposed project. Discussion at this meeting is in no way a formal approval or decision on any aspect of a proposed project.
- (2) *Application.* Any person with legal interest in a lot or parcel may apply for planning commission review (PCR) of a full site plan (FSP) by filing a completed application form, paying the review fee and providing digital (electronic) and hard copies (size and number to be determined by the zoning administrator (or designee)) of the FSP, according to the submittal schedule prepared by the zoning administrator at the beginning of every calendar year. required site plan contents are listed in subsection (e) of this section.
- (3) *Final approval of a full site plan (FSP).* A full site plan requiring approval by the planning commission must complete the following process:
 - a. *Planning commission approval.* The planning commission and appropriate city staff will review the full site plan (FSP) for compliance with the standards of this chapter and other appropriate chapters of this Code and statutes. Based upon this review the planning commission may either:
 1. Approve the FSP.
 2. Approve the FSP with conditions which the planning commission determines are reasonable and necessary to ensure conformance with applicable chapters of this Code and statutes. These conditions must be listed in the motion and noted on the FSP, with the planning commission chairperson's signature.
 3. Table the FSP upon determining that it does not meet the standards, spirit and intent of this chapter and other appropriate chapters of this Code and statutes. The planning commission will direct the applicant to make modifications and resubmit the FSP. The applicant will be required to prepare a revised FSP, accompanied by a complete list of all changes with a certification (by the applicant or his/her design professional), that no other changes have been made.
 4. Deny the FSP upon determining that it does not meet the standards, spirit and intent of this chapter and other appropriate chapters of this Code and statutes.
 - b. *Implementation of planning commission approval.* The following provisions apply to a full site plan (FSP) which has received the approval of the planning commission but not the administrative approval required by subsection (e) of this [section]:
 1. The adopted minutes of the planning commission, and the report of the zoning administrator (or designee), will serve as the official record of the planning commission's decision on a full site plan (FSP), including any conditions of approval. The applicant will be responsible for obtaining a copy of the adopted minutes, and submittal of a revised FSP and related documents which demonstrate compliance with any conditions to the zoning administrator (or designee). Any question on the decision may be made in writing to the planning commission prior to the adoption of the minutes.
 2. Upon receipt of approval of the full site plan (FSP) by the planning commission, the applicant will have up to six (6) months to submit a final FSP to the zoning administrator (or designee). However, the planning commission may grant a single one time extension of up to one (1) year provided the request is received in writing prior to the expiration date and presents reasonable evidence to the effect that the

development has encountered unforeseen non-self-created difficulties. Should neither of the aforementioned provisions be fulfilled, or an extension has expired without construction activity underway, the FSP will be considered null and void.

3. Full site plan (FSP) approval by the planning commission does not preclude the zoning administrator (or designee) from enforcing the standards of this chapter and other appropriate chapters of this Code and statutes, as well as the city's engineering standards.
- c. *Administrative approval.* Upon the receipt of approval of the full site plan (FSP) by the planning commission, the zoning administrator (or designee) will review the (FSP) for compliance with the standards of this chapter and other appropriate chapters of this Code and statutes, as well as the city's engineering standards. Based upon this review the zoning administrator (or designee) may either:
1. Approve the FSP;
 2. Refer the FSP back to the applicant or his/her design professional for revision because it does not meet the standards, spirit and/or intent of this chapter, other appropriate chapters of this Code and statutes, or the city's engineering standards. The applicant or his/her design professional will be required to prepare a revised FSP, accompanied by a complete list of all changes and certification that no other changes have been made; or
 3. Deny the FSP upon determining that the plans do not meet the standards, spirit and/or intent of this chapter, other appropriate chapters or this Code and statutes, or the city's engineering standards.

The zoning administrator (or designee) is the only city official who can approve a change to a full site plan (FSP) that has received the approval of the planning commission.

- (4) Following approval of the FSP, a digital (electronic) file determined by the zoning administrator (or designee) must be provided to the city on disk or via email.
- (5) A zoning compliance permit will also be required following approval of the final FSP, but prior to issuance of a certificate of occupancy.
- (6) Changes to a full site plan (FSP) that has received final approval. The holder of a FSP that has received final approval will notify the zoning administrator (or designee) of any proposed change to an approved site plan. Documentation outlying conditions necessitating the changes will be provided. Changes to the approved site plan will be permitted only under the following circumstances:
 - a. *Minor amendments.* Minor changes may be approved by the zoning administrator (or designee) upon determining that the proposed revisions(s) will not alter the basic design nor any specific conditions imposed as part of the FSP as originally approved. Minor changes may include the following:
 1. Change in the building size of up to twenty-five (25) percent in total floor area in the event of no impact to other site improvements;
 2. Movement of buildings or other structures by not more than twenty (20) feet;
 3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size;
 4. Changes in building materials to a comparable or higher quality;
 5. Changes in floor plans which do not alter the character of the use; and
 6. Changes required by outside agencies such as county, state or federal departments.
 - b. *Major amendments.* A proposed change not determined by the zoning administrator (or designee) to be minor must be submitted to the planning commission as a site plan amendment and will be reviewed in the

same manner as the original application.

The zoning administrator (or designee) is the only city official who can approve a change to a full site plan (FSP) that has received the approval of the planning commission.

- (7) *Performance guarantee.* The city may require a performance guarantee, as authorized by section 28-165 of this chapter, to assure the completion of any improvements shown on the site plan. For the purposes of this section, improvements subject to performance guarantees must include features and actions associated with a project that are considered necessary by the city to protect the natural resources or the health, safety, and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage.
- (c) *Administrative submittal and review procedures.* Those applications that qualify for administrative review in accordance with the table of required review process must comply with the following procedure:
- (1) *Pre-application meeting.* For the purposes of identifying major issues related to a project and to discuss questions related to this chapter and other chapters of this Code, the applicant is encouraged to attend a pre-application meeting with the zoning administrator (or designee), and any others deemed necessary. Sufficient information must be submitted prior to the meeting that describes the proposed project. Discussion at this meeting is in no way a formal approval or decision on any aspect of a proposed project.
- (2) *Application.* Any person with legal interest in a lot or parcel that qualifies for administrative review under the criteria set forth in subsection (a) of this section may apply by filing a completed application form, paying a review fee, providing a digital (electronic) file determined by the zoning administrator (or designee), and hard copies (size and number to be determined by the zoning administrator (or designee)) of the full site plan (FSP) or plot site plan (PSP) with the zoning administrator (or designee). Required plan contents are listed in subsection (e) of this section.
- (3) *Approval.* Upon review of the application, the zoning administrator (or designee) will either:
- a. Request specific revisions and re-submittal of the application upon a finding the application does not meet information requirements or does not meet the intent and regulations of this chapter;
 - b. Approve the administrative plan, with or without conditions; or
 - c. Upon determining that the administrative plan does not meet the standards, spirit and intent of this chapter and other appropriate chapters of this Code and statutes, deny the administrative plan.
- (4) *Effectiveness.* Upon administrative plan approval, each project must be under construction within six (6) months after the date of final approval by the zoning administrator and be diligently carried on towards completion. If the applicant does not fulfill this provision, the zoning administrator may grant one (1) one-year extension provided the applicant makes application in writing prior to the expiration date and presents reasonable evidence to the effect that the development has encountered non self-created unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or the one-year extension has expired without construction activity underway, the administrative plan will be considered null and void.
- (5) *Changes to the approved administrative plan.* The holder of an approved administrative plan must notify the zoning administrator of any proposed change to an approved administrative plan. Documentation outlying conditions necessitating the changes must be provided. The zoning administrator (or designee) has the authority to review and approve any changes, per subsection (3) of this subsection.
- (6) *Performance guarantee.* The city may require a performance guarantee, as authorized by section 28-165 of this chapter, to assure the completion of any improvements shown on the site plan. For the purposes of this section, improvements subject to performance guarantees must include features and actions associated with a project

that are considered necessary by the city to protect the natural resources or the health, safety, and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage.

(d) *Condominium and site condominium development review procedures.* All plans for all newly created condominiums, expansions of existing condominiums and conversion of condominiums in accordance with the Condominium Act, Public Act 59 of 1978, as amended, will be reviewed under the following procedure:

- (1) *Pre-application meeting.* For the purposes of identifying major issues related to a project and to discuss questions related to this chapter and other chapters of this Code, the applicant must attend a pre-application meeting with the zoning administrator (or designee), and any others deemed necessary. Sufficient information must be submitted prior to the meeting that describes the proposed project. Discussion at this meeting is in no way a formal approval or decision on any aspect of a proposed project.
- (2) *Application.* Any person with legal interest in a lot or parcel may apply for planning commission review (PCR) of a full site plan (FSP) for a proposed condominium or site condominium development by filing a completed application form, paying the review fee and providing digital (electronic) and hard copies (size and number to be determined by the zoning administrator (or designee)) of the FSP, according to the submittal schedule prepared by the zoning administrator at the beginning of every calendar year. Required site plan contents are listed in subsection (e) of this section.
- (3) *Preliminary approval.* A full site plan that meets the information requirements of subsection (e) and review criteria of subsection (f) of this section, must be submitted for preliminary condominium site plan approval by the planning commission. The planning commission will review the site plan according to the procedures of this article and must take action to approve, approve with conditions, or deny. If a condominium site plan is incomplete, the planning commission may table the request and direct the applicant to prepare additional information or revise the plan. Within a phased project, the final plan will constitute only that portion of the approved preliminary plan that the proprietor proposes to record and develop at that time.

An application for a final condominium site plan must be submitted within six (6) months after the date of preliminary condominium site plan approval by the planning commission, or such preliminary approval will be deemed null and void. However, the applicant may be granted one (1) one-year extension by the planning commission provided the request is received in writing prior to the expiration date and presents reasonable evidence to the effect that the development has encountered unforeseen non-self-created difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or the one-year extension has expired without construction activity underway, the preliminary condominium site plan will be considered null and void.

No installation or construction of any improvements or land balancing or grading can be made or begun until the final condominium site plan has been approved. No removal of trees and/or other vegetation can be started at this time except for minor clearing required for surveying and staking purposes.

- (4) *Agency reviews.* Upon receipt of preliminary site plan approval, the proprietor must submit the preliminary condominium site plan to all authorities for necessary permits, as required by city and state regulations, and must deliver two (2) copies of the preliminary condominium site plan to the superintendent of the school.
- (5) *Administrative final approval.* The zoning administrator (or designee), must review and approve the final site plan if in compliance with all applicable chapters of this Code, statutes, and regulations. The following information must be submitted for final condominium site plan approval by the planning commission:
 - a. A full site plan meeting the requirements of this article;

- b. Necessary county permits; and
 - c. Condominium master deed, bylaws and restrictive covenants.
- (6) *Performance guarantee.* The city may require a performance guarantee, as authorized by section 28-165 of this chapter, to assure the completion of any improvements shown on the site plan. For the purposes of this section, improvements subject to performance guarantees must include features and actions associated with a project that are considered necessary by the city to protect the natural resources or the health, safety, and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage.

(e) *Required site plan contents.* The following data must be included with, and as part of, all applications requiring site plan review:

Table of Required Site Plan Data		
	FSP	PSP
<i>Application Form:</i> The application form must contain the following information:		
Name and address of the applicant and property owner;	X	X
Address and common description of property and complete legal description;	X	X
Dimensions of land and total acreage;	X	X
Zoning on the site and all adjacent properties;	X	X
Description of proposed project or use, type of building or structures, and name of proposed development, if applicable;	X	X
Name and address of firm or individual who prepared site plan;	X	X
Proof of property ownership, or the written authorization of the property owner.	X	X
A signed statement granting the zoning administrator (or designee) permission to enter the site for the purpose of conducting site improvement inspection; and	X	X
Grid sheet for plot plans.		X
<i>Site Plan Description and Identification Data:</i>		

Site plans (not to exceed 24 inch × 36 inch) must consist of an overall plan for the entire development, drawn to an engineer's scale of not less than 1 inch = 20 feet for property less than 3 acres, 1 inch = 50 feet for property 3 acres or more in size up to 49 acres; or 1 inch = 100 feet for 50 acres or more;	X	X(1)
Title block with sheet number/title; name, address and telephone number of the applicant and firm or individual who prepared the plans; and date(s) of submission and any revisions;	X	
Scale and north-point;	X	X(1)
Location map drawn to a separate scale with north-point, showing surrounding land, water features, zoning and streets within a quarter mile;	X	
Legal and common description of property;	X	
Identification and seal of architect, landscape architect, engineer, or land surveyor who prepared the drawings;	X	
Zoning classification of petitioner's parcel and all abutting parcels;	X	X
Proximity to section corner and major thoroughfares; and	X	
Total area in acres and square feet.	X	X
<i>Site Data:</i>		
Existing and proposed lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site;	X	X
Topography on the site and within 100 feet of the site at six (6) inch contour intervals, referenced to a USGS benchmark;	X	
Location of existing drainage courses, streams and wetlands;	X	
All existing and proposed easements;	X	X
Location of exterior lighting (site and building lighting);	X	X
Location of trash receptacle(s) and transformer pad(s) and method of screening;	X	X
Recent aerial of the site and surrounding area; and	X	

Extent of any outdoor sales or display area.	X	
<i>Access and Circulation:</i>		
Dimensions, curve radii and centerlines of existing and proposed access points, roads and road rights-of-way or access agreements/easements;	X	
Opposing driveways and intersections within 250 feet of site;	X	
Cross section details of proposed roads, driveways, parking lots, sidewalks and nonmotorized paths illustrating materials and thickness;	X	
Dimensions of acceleration, deceleration, and passing lanes (see <u>section 28-100</u>);	X	
Dimensions of parking spaces, islands, circulation aisles and loading zones (see sections <u>28-100</u> , <u>28-145(d)(12)</u> , and <u>28-105</u>);	X	
Calculations for required number of parking and loading spaces (see sections <u>28-100</u> and <u>28-145(d)(12)</u>);	X(2)	X(2)
Designation of fire lanes;	X	
Traffic regulatory signs and pavement markings;	X	
Location of existing and proposed sidewalks/pathways within the site or right-of-way; and	X	X(3)
Location, height, and outside dimensions of all storage areas and facilities.	X	X
<i>Landscape Plans:</i>		
An existing vegetation survey per the requirements of subsection <u>28-105(c)(3)(e)</u> and subsection <u>28-110(c)</u> ;	X	X
The location of existing and proposed lawns and landscaped areas;	X	
Landscape plan, including location and type of proposed shrubs, trees, and other plant material;	X	
Landscape irrigation plan, per the standards contained in subsection <u>28-105(f)(3)</u> ; and	X	X

A plant schedule, per the requirements of subsection <u>28-105(e)(3)a.</u> and as defined under "landscaping" in <u>section 28-5.</u>	X	
<i>Conceptual Details of Building and Structure Details:</i>		
Location, height, and outside dimensions of all proposed buildings or structures;	X	X(3)
Building floor plans and total floor area;	X(2)	X(2)
Details on accessory structures;	X	X(3)
Location, size, height, and material of construction for all hedges, fences, wall, and berms utilized to meet the screening requirements of this chapter (see <u>section 28-125</u>);	X(3)	
Location, size, height, and material of construction for general fencing (see <u>section 28-125</u>);	X(3)	X(3)
Location and material of construction for swimming pools (see <u>section 28-120</u>);	X(3)	X(3)
Building facade elevations for all sides, drawn at an appropriate scale (see <u>Section 28-115</u>);	X(4)	X(4)
Description of exterior building materials and colors (details to be provided during the final site plan review process); and	X(4)	X(4)
Information related to hazardous materials including containment, storage, use, location and any level of involvement.	X	
<i>Conceptual Details Concerning Utilities, Drainage and Related Issues:</i>		
Location of existing sanitary sewers or septic systems and preliminary location of proposed systems;	X	
Location and size of existing water mains, well sites, water service, storm sewers loads, and fire hydrants and conceptual information for proposed water service;	X	
Preliminary site grading, finished building grades, drainage patterns;	X	
General location and size of stormwater retention and detention ponds;	X	
General location of underground storm sewers and drains;	X	

General location of above and below ground gas, electric and telephone lines;	X	
General location of transformers and utility boxes;	X	
Size, height and method of shielding for all site and building lighting; and	X(5)	
Location, size, height, and lighting of all proposed signs.	X(5)	
<i>Additional Information For Multiple-Family Residential:</i>		
The number and location of each type of residential unit (one bedroom units, two bedroom units);	X	
Density calculations by type of residential unit (dwelling units per acre);	X	
Garage and/or carport locations and details, if proposed;	X	
Mailbox clusters;	X	
Location, dimensions, floor plans and elevations of common building(s), if applicable;	X	
Swimming pool fencing detail, including height and type of fence, if applicable;	X	
Location and size of recreation and open space areas; and	X	
Indication of type of recreation facilities proposed for recreation areas.	X	
Key: FSP = full site plan and PSP = plot site plan.		

[Table notes:]

- (1) A plot plan may be drawn on the grid sheet contained in the application.
 - (2) If needed to determine park and loading requirements (see sections 28-100 and 28-145(d)(12)).
 - (3) If applicable.
 - (4) If building design standards apply.
 - (5) Requires a photometric study, to the satisfaction of the zoning administrator (or designee).
- (f) *Site plan review criteria.* In the process of reviewing a site plan, the planning commission or zoning administrator (or designee) must consider the following criteria and assure that these conditions are met to the extent practicable:
- (1) *Adequacy of information.* The site plan must include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses(s) and structures;

- (2) *Uses.* The site plan must state that all proposed uses are permitted in the zoning district in which the site is located
- (3) *Site design characteristics.* All elements of site design must be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property, and the type and size of buildings. The site must be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this chapter. The site must be designed to conform to all provisions of this chapter. Redevelopment of existing sites must be brought into conformance with all site improvement provisions of this chapter which are relative to and proportionate to the extent of redevelopment, as determined by the planning commission or zoning administrator (or designee);
- (4) *Traditional city character/historic preservation.* The City of Jackson is a traditional community with many historic characteristics and features. All site plans within the city must demonstrate that they are in keeping with the character and history of the surrounding residential, commercial, industrial, or mixed-use neighborhood;
- (5) *Buildings.* Buildings and structures will meet or exceed setback standards, height and other dimensional standards, and be consistent with applicable building design standards;
- (6) *Emergency vehicle access.* All buildings or groups of buildings must be arranged so as to permit emergency vehicle access by some practicable means to all vehicles;
- (7) *Ingress and egress.* Every structure or dwelling unit must be provided with adequate means of ingress and egress via public streets, private roads and walkways;
- (8) *Pedestrian and vehicular orientation.* The site plan must provide a system for pedestrian circulation that allows pedestrians to safely access the site, circulate within the site, and access adjacent sites and development areas such as neighborhoods. The arrangement of vehicular and pedestrian circulation must respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the city. The width of streets and drives must be appropriate for the volume of traffic they will carry;
- (9) *Drainage.* Stormwater management system and facilities must preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible. Measures must be taken to ensure stormwater management techniques follow safe practices to treat drainage before it enters the system;
- (10) *Soil erosion.* The proposed development must include measures to prevent soil erosion and sedimentation;
- (11) *Exterior lighting.* Exterior lighting must be designed so that it is aimed downward and deflected away from adjacent properties and so that it does not impede the vision of drivers on public streets, adversely impact abutting properties or adversely impact the natural evening sky. Lighting levels may not exceed half (0.5) a foot-candle beyond any perimeter (exterior) lot line;
- (12) *Preservation of natural areas.* The landscape must be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, alteration to the natural drainage courses, and the amount of cutting, filling and grading. Insofar as practical, natural features and the site topography, viewsheds, historical markers and environmental areas must be incorporated into the proposed site design;
- (13) *Public services.* The scale and design of the proposed development must facilitate the adequate provision of services currently furnished by or that may be required of the city or other public agency including, but not limited to, fire and police protection, stormwater management, sanitary sewage removal and treatment, traffic control and administrative services. All new utilities must be installed underground;
- (14) *Traffic impact.* The expected volume of traffic to be generated by the proposed use cannot adversely impact existing roads and the circulation thereon. Driveways must be located to minimize conflict with traffic operations on the adjoining road. The number of driveways must be the minimum needed to provide reasonable access to the site; and

(15) *Master plan.* Sites must be designed to be compatible with and in accordance with the goals and objectives of the C Jackson Comprehensive Plan.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2012.20, § 4, 9-11-12; Ord. No. 2016.07, § 2, 3-29-16; Ord. No. 2016-29, § 3, 11-15-16)

Secs. 28-136—28-139. - Reserved.

Sec. 28-140. - Additional development requirements for certain permitted uses.

The following minimum nondiscretionary standards must be met for the permitted uses specified in this section:

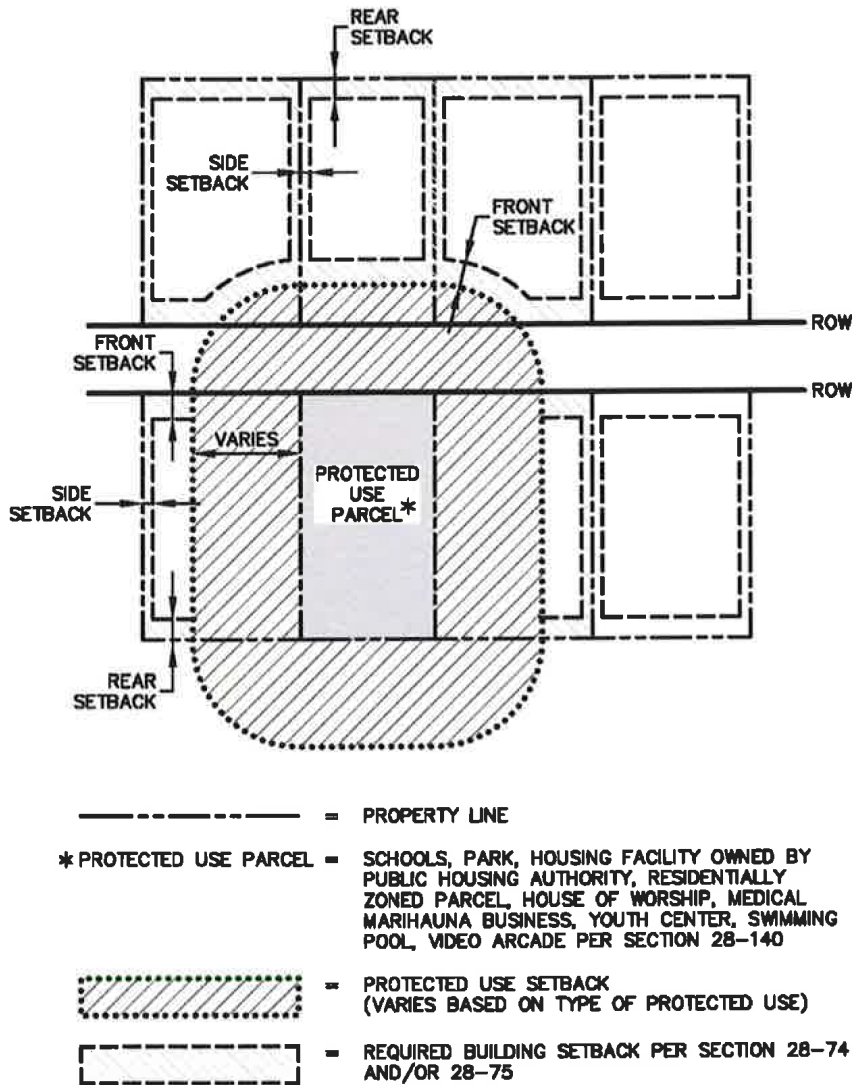
(1) *Work release (halfway) house:*

- a. Premises for such purposes shall not be less than seven hundred fifty (750) feet from any residentially zoned land except land zoned R-4 (high density apartment and office).
- b. Work release (halfway) houses shall not be less than seven hundred fifty (750) feet from a school or one thousand (1,000) feet from another premises used for work release (halfway) houses.
- c. The number of allowable beds in each work release (halfway) house shall be limited to twenty (20).

(2) *Medical and adult use marihuana facility use setbacks.* Medical and adult use marihuana facilities, excluding a provisioning center/retailer in the C-3 zoning district, transport facilities and safety compliance facilities, must comply with the following use setback requirements:

- a. Setback of five hundred (500) feet of any public or private elementary, vocational, or secondary school or a public or private college, junior college, or university or one hundred (100) feet in the C-4 zoning district;
- b. Setback of five hundred (500) feet of the physical location of any cyber school as defined in section 28-5 and as measured from door to door Or one hundred (100) feet in the C-4 zoning district;
- c. Setback of five hundred (500) feet of a park and/or playground or one hundred (100) feet in the C-4 zoning district;
- d. Setback of five hundred (500) feet of a housing facility owned by a public housing authority or one hundred (100) feet in the C-4 zoning district;
- e. Setback of five hundred (500) feet of a day care facility, including any and all accessory uses/facilities or one hundred (100) feet in the C-4 zoning district;
- f. Setback of five hundred (500) feet of a substance abuse treatment, rehabilitation, or prevention facility as defined and licensed by the Department of Licensing and Regulatory Affairs (LARA) or one hundred (100) feet in the C-4 zoning district;
- g. Setback of two hundred and fifty (250) feet of a residentially zoned parcel or one hundred (100) feet in the C-4 zoning district;
- h. Setback of five hundred (500) feet of a church or other house of worship that has received tax exempt status from the city assessor or one hundred (100) feet in the C-4 zoning district;
- i. Up to two (2) facilities may be located within five hundred (500) feet of another medical or adult use marihuana business establishment as measured from the closest building line unless co-location has been approved by the city as per section 28-140(3);
- j. Setback one hundred (100) feet of a public or private youth center, swimming pool, or video arcade facility;
- k. All distances shall be measured from property line to property line except as noted in subsection (2)b and (2)i. above;

- l. For parcels upon which the use setbacks extend inside the property lines, the building setbacks (see section 28-28-75) shall be measured from said use setback instead of the property line (see below). The remaining portion that lies within the required use setback must be returned to its natural state (no structures shall remain). All of (zoning) requirements shall apply; and



- m. All other applicable chapter 28 regulations shall apply to such uses.

- (3) *Medical and adult use marijuana facility co-location.* Medical and adult use marijuana facilities may co-locate in the same suite provided they are under the same ownership structure and each complies with the respective zoning and licensing requirements as outlined in the applicable city and state laws/rules. However, only up to two (2) comparable medical and adult uses may co-locate under one (1) city license. If not comparable, then only up to two (2) use types may [be] co-located on any one (1) parcel provided the ownership structure is identical for each and each will be considered as a separate city license.

(Ord. No. 2012-16, § 5, 7-17-12; Ord. No. 2018-14, § 2, 12-11-18; Ord. No. 2019-06, § 2, 2-12-19; Ord. No. 2019-14, § 2, 10-15-19; Ord. No. 2020-06, 6-16-20; Ord. No. 2020-16, § 2, 10-13-20; Ord. No. 2020-21, § 2, 12-8-20)

Secs. 28-141—28-144. - Reserved.

Sec. 28-145. - Conditional uses.

In addition to the "permitted" uses in each of the zoning districts, there are certain other compatible uses, as listed in this chapter that are "conditional" uses. Because of their actual or potential impact on natural resources, public utilities, traffic patterns and/or adjacent land use, there is a need to carefully regulate these uses. In these cases, a zoning compliance permit will not be issued until a conditional use permit is approved by the city planning commission. All conditional use permits are granted for a particular site and may not be transferred to a different location. A conditional use permit runs with the land, not with the applicant.

- (a) *Conditional uses authorized by the planning commission.* The city planning commission shall hear and make determinations regarding applications for conditional uses listed in the district regulations and supplemental provisions of this chapter.
 - (1) *Procedures.* An application for a conditional use shall be submitted to the planning commission for consideration and public hearing. The application must include a site plan which meets the requirements of section 28-135. Notice of such public hearing shall be given as provided for in section 28-8.
 - (2) *Content of notices.* In addition, notice shall be published in a newspaper of general circulation in the city within the time period required in this subsection. The notices required herein shall:
 - a. Describe the nature of the conditional use request.
 - b. Indicate the property which is the subject of the conditional use request.
 - c. State when and where the public hearing on the conditional use request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
 - (3) *Adjournment of hearings.* Upon the day for the hearing of any application, the city planning commission may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of such hearing, unless the city planning commission so decides.
 - (4) *Conditions upon approval.* If the planning commission determines that the proposed conditional use is appropriate, the conditional use permit shall be approved. The conditions should ensure that the proposed use meets the standards of this chapter. The conditions shall:
 - a. Be designed to protect natural resources, as well as the health, safety, welfare, and social and economic well-being of those residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - b. Be related to the valid exercise of the police power in relation to the purposes of the proposed use or activity.
 - c. Be necessary to meet the intent and purpose of this chapter; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to ensure compliance with those standards.
 - d. To the extent applicable, ensure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased facility loads caused by the land use or activity.
 - (5) *Status of conditions.* Conditions imposed with respect to the approval of a land use or activity shall be made of record at the time of approval and shall remain unchanged except upon the mutual consent of the city planning commission and the owner of the land for which approval of a conditional use has been granted. The city planning commission shall maintain a record of any changes granted in conditions imposed.
 - (6) *Decisions of the city planning commission.* The city planning commission shall decide on all applications within

thirty (30) days after the final hearing thereon. The decision shall be incorporated in a statement of findings and conclusions relative to the conditional use which specifies the basis for the decision and shall list any conditions imposed. A copy of the city planning commission's decision shall be transmitted to the applicant, the zoning official, and planning staff. The city planning commission shall have the final decision on all conditional uses.

- (7) *Rehearing on applications for conditional uses.* Whenever an application for a conditional use is denied, such application shall not be resubmitted for at least one (1) year from the date of the denial, unless it is established to the satisfaction of the city planning commission that there has been a material change in circumstances.
- (8) *Violation.* A violation of any requirement, condition, or safeguard established in the conditional use permit shall be considered a violation of this chapter and shall be punished as prescribed in section 1-18 of this Code. In addition, any such violation shall constitute a prima facie basis for the planning commission to revoke the conditional use permit.
- (b) *Standards on which decisions will be based.* The city planning commission shall review the particular circumstances and facts of each proposed use in terms of the following standards:
 - (1) Consistency with the intent and purposes of this chapter and with the objectives of the city's land use and/or comprehensive plan.
 - (2) Compatibility with the existing and future land use patterns.
 - (3) Effect on the health, safety, convenience, or general welfare of persons residing or working in the vicinity. To evaluate the use, the planning commission shall consider the following:
 - a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures.
 - b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading.
 - c. The safeguards used to prevent noxious or offensive emissions such as noise, glare, dust and odor.
 - d. The treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.
 - e. Any other pertinent factors.
 - (4) Ability of the use to be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
 - (5) Availability of essential public facilities and services, such as: streets, police and fire protection, drainage, refuse disposal. The persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such service.
 - (6) *For legal nonconformities only.* When reviewing a conditional use permit application for a nonconforming building, structure, or use, the planning commission must also consider the following standards together with such relevant facts and circumstances identified during the public hearing:
 - a. Whether restoration, reconstruction, substitution, and/or expansion would serve a useful purpose, or whether a useful purpose would be served by pursuing strict enforcement and application of the provisions and requirements of this article.
 - b. Whether the development and/or use of property in the surrounding area has materially changed in relation to the condition which existed when the use or structure was established, with the result that a continuation of the use or structure would be offensive to the area.
 - c. In considering the establishment of a condition for the approval of the substitution of a nonconforming use

of lots, structures, or any combination of lots, structures, or uses of lots and structures, the planning commission must ensure that the nonconforming use of lots and structures is not expanded, and that the substituted use of lots and structures is not of greater nonconformity in terms of its impact upon the area and surrounding properties.

(c) *Voiding of conditional use permit.*

- (1) Any conditional use permit granted under this chapter shall become null and void and fees forfeited unless:
 - a. Construction or alteration of new or modified facilities, as the case may be, is completed within three hundred sixty-five (365) days of the date of transmittal (by mail or otherwise) of the planning commission's decision to the applicant; or
 - b. The use is commenced within three hundred sixty-five (365) days of the date of transmittal (by mail or otherwise) of the planning commission's decision to the applicant, if new or modified facilities are not required.
- (2) After the passage of three hundred sixty-five (365) days during which construction has not been commenced, or during which construction has ceased, or, during which the use has not been commenced, as the case may be, the applicant must apply for a new conditional use permit following all of the procedures outlined in this chapter.

(d) *Additional development requirements for certain conditional uses.* A conditional use permit shall not be granted for the uses specified in this section unless the following minimum nondiscretionary standards are met:

(1) *Automobile service station:*

- a. Premises used for such purposes shall not be less than two hundred (200) feet from any place of public assembly including any hospital, sanitarium, or institution. Such measurement shall be along the usual lines of street travel. Hereafter no automotive service station shall be permitted if the location constitutes a hazard to public safety and welfare.
- b. Gasoline pumps or building used for automobile servicing or repair work shall not be nearer than fifty (50) feet from any R district.
- c. Any minor automobile servicing or repair work, as defined in this chapter, shall be done within the principal building on the premises.
- d. No overnight or weekend outside storage of trucks, trailers and/or tractors shall be permitted on the premises and no partially dismantled, wrecked or junked vehicles shall be stored for more than a total of eight (8) hours outside the buildings on the premises, unless the facility is also licensed as a towing and storage facility in conformance with this chapter.

These provisions do not pertain to trailers under sixteen (16) feet and trucks with beds under twenty-six (26) feet on the premises for rent. Trucks and trailers for rent must conform to all other provisions of this chapter.

- e. When such use abuts the side and/or rear line of a lot in any R district, a compact evergreen hedge, solid wall, painted board fence or weatherproof board fence not less than five (5) feet high shall be maintained at the property line.

(2) *Child care centers:*

- a. At least two hundred (200) square feet of defined play area shall be provided per child. This area shall be effectively screened.
- b. Buildings and activity areas shall not be less than fifty (50) feet away from any lot in a residential district.

(3) *Churches, synagogues and temples:*

- a. Buildings must be at least fifty (50) feet from any residential lot line.
- b. All other front, side and rear yard setback requirements of the zoning district must be met.
- c. The height limits of each district must be maintained. To exceed the maximum height, the front, side and rear yard setbacks must be increased one (1) foot for each foot of building height that exceeds the maximum height. Height limitations do not apply to church spires.
- d. All church buildings shall front on a major street as classified on the current Act 51, P.A. 251, as amended, Michigan Department of Transportation (MDOT) map for the City of Jackson. Access to church buildings shall only be provided via major streets.
- e. Off-street parking shall be provided. The parking lot shall be screened and maintained in accordance with section 28-105.
- f. All parking lots in residential zoning districts shall meet the requirements of section 28-145(d)(12) and section 28-100.
- g. A site plan shall be submitted as part of the application for a conditional use permit. The site plan shall show setbacks, access, parking lots, screening and landscaping.

(4) *Recycling collection centers in any R district:*

- a. The site is associated with schools or other public facilities.
- b. The site is located on a major street with a minimum eighty (80) feet public right-of-way.
- c. The planning commission may establish the days and hours of operation.
- d. No burning, melting or other reclamation shall be permitted.
- e. A site plan shall be submitted showing how the sign, lighting, landscaping and fencing requirements of the zoning ordinance shall be met. The site plan shall also show traffic circulation on the site.
- f. No materials shall be stored or deposited on the premises in such form or manner that they may be transferred off the premises by natural causes or forces. No storage of materials shall be allowed outside of the semitrailers, bins, barrels or other appropriate container.
- g. The site shall be kept clean and free of litter and debris. Weeds shall be controlled.
- h. Rodents and other pests shall be controlled.
- i. Activity on the site shall be at least one hundred (100) feet from any residentially zoned lot.

(5) *Recycling collection centers in any C or I district:*

- a. A site plan shall be submitted showing how the lighting, landscaping, and fencing requirements of this chapter shall be met. The site plan shall also show: (1) traffic circulation on the site; and (2) how the sign requirements of chapter 21.5 shall be met.
- b. No materials shall be stored or deposited on the premises in such form or manner that they may be transferred off the premises by natural causes or forces. No storage of materials shall be allowed outside of the semitrailers, bins, barrels or other appropriate container.
- c. The site shall be kept clean and free of litter and debris. Weeds shall be controlled.
- d. Rodents and other pests shall be controlled.
- e. Activity on the site shall be at least one hundred (100) feet from any residentially zoned lot.
- f. No burning, melting or other reclamation shall be permitted.

(6) *Resource centers:*

- a. No activity shall be conducted between the hours of 9:00 p.m. and 8:00 a.m.
- b. Noise levels shall not exceed levels customarily experienced in the R-1 and R-2 districts.
- c. Parking in any front yard shall be prohibited.

(7) *Schools:*

- a. Buildings must be at least fifty (50) feet from any residential lot line.
- b. All other front, side and rear yard setback requirements of the zoning district must be met.
- c. The height limits of each district must be maintained. To exceed the maximum height, the front, side and rear yard setbacks must be increased one (1) foot for each foot of building height that exceeds the maximum height.
- d. All school buildings shall front on a major street as defined in the current land use plan. Access to the school buildings shall be only provided via major streets.
- e. Off-street parking shall be provided. The parking lot shall be screened and maintained in accordance with section 28-105.
- f. All parking lots in residential zoning districts shall meet the requirements of section 28-145(d)(12) and section 28-100.
- g. A site plan shall be submitted as part of the application for a conditional use permit. The site plan shall show setbacks, access, parking lots, screening and landscaping.

(8) *Self-service storage facilities:*

- a. Buildings, site plans and uses of the property to be used as a self-service storage facility shall be designed and operated to be compatible in appearance and in impact with the surrounding neighborhood.
- b. No facility shall be permitted within any of the city's historic districts.
- c. All storage on the property shall be kept within an enclosed building.
- d. The facility shall be used for the storage of residential goods/property. No storage for commercial or industrial uses shall be permitted.
- e. No activity other than the rental of storage space and the deposit and pick-up of stored goods shall be allowed on the premises.
- f. The repair, construction, or reconstruction of any boat, engine, motor vehicle, or appurtenances, and the storage of any propane or gasoline engine, or propane or gasoline storage tank, is prohibited on the premises.
- g. No owner, operator or lessee of any self-storage facility or portion thereof shall offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage space or permit the same to occur upon any area designated as a self-service storage facilities.
- h. The facility shall comply with all landscaping and screening requirements of the zoning ordinance.

(9) *Radio and television broadcasting studios.* To mitigate the appearance of multiple satellite dishes and antennas in the vicinity of residential neighborhoods, the following conditions are required:

- a. Ground-mounted satellite dish antennas shall not exceed twelve (12) feet in diameter.
- b. All ground-mounted installations shall include screening treatment located along the antenna's non-reception window axes and low-level ornamental landscape treatments along the reception window axes of the antenna's base. Such treatments shall completely enclose the antenna and consist of landscape

elements.

- c. All installations shall employ, to the extent possible, materials and colors that blend with the surroundings.
- d. All ground-mounted antennas shall be considered accessory structures to the principal use of the radio or television station and shall comply with the requirements of section 28-120 (accessory structures) except that ground-mounted antennas shall be permitted to locate closer than ten (10) feet to the principal structure or any other building or structure.
- e. Satellite dishes mounted on any building shall not exceed ten (10) feet in diameter. Roof-mounted dishes and antenna shall not exceed twenty (20) feet in height as measured from the roof.

(10) *Home occupation.* A home occupation is an incidental and secondary use of a dwelling unit for business purposes. The intent of this section is to ensure compatibility of home occupations with other permitted uses of residential districts and with the residential character of the neighborhood involved. It is further the intent of this provision to ensure that home occupations are clearly secondary and incidental uses of residential buildings. The following guidelines will be considered:

- a. A home occupation must be conducted in its entirety within a dwelling unit that is the primary residence of the person conducting the business.
- b. Only persons residing at the residence may conduct a home occupation.
- c. All business activity and storage must take place within the interior of the dwelling.
- d. There can be no alteration to or activity at the exterior of the residential dwelling, accessory building, or yard that alters the residential character of the premises.
- e. The home occupation must not generate a volume or character of pedestrian or vehicular traffic beyond that normally generated by homes in the residential neighborhood.
- f. Only off-street parking facilities that are normal for residential use and located on the premises may be used.
- g. No vehicles used in the conduct of the occupation may be parked, or otherwise kept at the premises, other than as are normal for use for domestic or household purposes.
- h. One (1) non-illuminated nameplate no larger than two (2) square feet may be permitted to identify the home occupation. The nameplate must be attached to the building. No other identification is permitted.
- i. The sale, rental, or repair of goods is permitted to the extent that it is incidental to a service profession.
- j. Internet based home occupations involving the sale, rental, or repair of goods is permitted, so long as there are no on-site person-to-person exchanges.
- k. No highly explosive or combustible material can be used or stored on the premises.
- l. No activity that interferes with radio or television transmission is permitted.
- m. No offensive noise, vibration, smoke, dust, odor, heat, or glare noticeable at or beyond the property line is permitted.
- n. Not more than twenty (20) percent of the gross floor area, (or three hundred (300) square feet), whichever is greater, can be used for a home occupation.
- o. The conduct of the home occupation must not violate any of the city's ordinances concerning nuisance, fire or health, or any other city, county, state or other applicable laws or regulations.

(11) *Auto washing station.* To mitigate the environmental impacts of traffic, wastewater, and noise, the following conditions are required:

- a. All operations shall be within an enclosed building not less than fifty (50) feet from any Residential (R) district.

- b. All cars waiting for service shall be provided with off-street waiting lanes.
 - c. The requirements of section 17-82 shall be met for any blowers installed in the auto washing station.
 - d. The doors of a stall which face residentially zoned property must close automatically whenever the blower in that stall is engaged.
 - e. Any fencing used for screening must meet the requirements of section 28-105.
 - f. None of the wastewater generated by the auto washing station is allowed to flow into the city's stormwater sewer system or directly into a lake, stream, wetland, or other body of water.
 - g. The wastewater generated by the auto washing station must be connected to the city's sanitary sewer to the satisfaction of the city engineer, the city's plumbing inspector, and in accordance with all sections of the City Code pertaining to the disposal of wastewater.
 - h. If the proposal is limited to hand-washing, the CUP (Conditional Use Permit) will only allow the hand-washing of vehicles.
- (12) *Off-street lots in residential districts.* The planning commission may authorize the establishment and operation of accessory off-street parking lots in any R-3 or R-4 district as a conditional use, provided:
- a. The required number of parking spaces cannot be provided on the lot on which the principal building is located.
 - b. The parking lot shall be accessory to, and for use only in connection with one (1) or more residential, business, industrial, public assembly or institutional buildings. The lot shall be adjacent to the principal use. No charge for parking shall be made.
 - c. No sign of any kind, other than one designating entrances, exits and ownership and conditions of use, shall be maintained on such parking lot.
 - d. Such accessory parking lot shall be subject to all the requirements of section 28-100.
 - e. No parking space or spaces shall be closer to the street than the front building line of the adjoining dwellings or structures, or the established setback line and in any case not less than ten (10) feet from the street right-of-way line.
- (13) *Billboards.* Billboard structures or signs, are permitted on properties which are not otherwise used or occupied for the uses or purposes described in this chapter subject to the following restrictions:
- a. *Location.* A billboard is permitted only on property that is located on major streets and which is located in only in the I-2 district.
 - b. *Size.* The billboard may be double-faced and cannot exceed a surface area of three hundred (300) square feet per face, nor thirty-five (35) feet in height. The distance between faces shall be determined by the planning commission.
 - c. *Illumination.* The billboard shall not be back-lit but may be front-lit only if the illumination does not obscure or interfere with an official traffic control device.
 - d. *Setbacks.* The billboard must be set back not less than twenty-five (25) feet from the edge of pavement or the minimum setback for buildings and structures for the sign district within which it is located, whichever is greater; provided, however, that where it is located within one hundred (100) feet of a building, the billboard need only be set back a distance equal to the set back of the front line of the building.
 - e. *Distance from other billboards.* Each billboard must be located at least five hundred (500) feet (measured along the nearest common side of the adjacent major street) from another billboard.
 - f. *Conformance to state statutes.* An billboard must conform to all of the requirements of the Highway

Advertising Act of 1972 (PA 106 of 1972, MCL 252.301 et seq.) except where a more restrictive standard is required by this chapter, in which case such billboard must conform to the provisions of this chapter.

- g. *Impairment of adjacent property rights.* A billboard is not permitted where its size, height, location, or illumination would unreasonably impair visibility, light, or air otherwise enjoyed by adjacent property.
- h. *City-wide limited faces of billboards.* The total number of billboards with the city may not be increased from that number in existence on the effective date of this chapter. No person may construct a billboard without first removing a billboard equal in the number of faces to the number of faces to be installed. To administer this provision, the neighborhood and economic operations department will issue a replacement permit to any person who permanently removes a lawful existing billboard face. The zoning administrator will note the number of faces for every sign being removed. Replacement permits may be transferred. No billboard construction permit may be issued unless the applicant for the permit tenders a replacement permit for cancellation that has a total number of faces noted on it that equals at least the number of faces of the sign or signs to be constructed. Any billboard constructed must also comply with all other provisions of this chapter.
- (e) *Conditional use for functional equivalent family; additional persons.* The limit upon the number of persons who may reside as a functional equivalent of the domestic family may be increased or enlarged from six (6) persons upon a demonstration by the applicant of all of the following:
 - (1) There are adequate provisions on the subject property for off-street parking for each adult proposed to reside on the premises, and adequate storage for each person proposed to reside on the premises.
 - (2) The extent of increase or enlargement of the limit upon the number of persons shall not, considered cumulatively with existing and reasonably projected population concentration in the area, place an unreasonable burden upon public services, facilities and/or schools.
 - (3) There shall be a minimum of one hundred twenty-five (125) square feet of usable floor space per person on the premises.
 - (4) If the property in question is not serviced with public water and/or sewer facilities, an approval under this subsection shall be conditioned upon approval by the county health department of the number of persons on the premises in relation to sanitary sewage and water facilities.
 - (5) If the planning commission grants an application under this provision, the determination shall include the specific maximum number of persons authorized to reside on the property, and any minimum parking or storage requirements to be maintained.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2016.07, § 2, 3-29-16)

Secs. 28-146—28-149. - Reserved.

Sec. 28-150. - Manufactured housing standards.

- (a) *Mobile home park regulations.* All mobile home parks developed in the R-5 mobile home residence district shall comply with the Mobile Home Act of 1987 (MCL 125.2301 et seq.), as amended. In addition, the following standards shall apply:
 - (1) No minimum area is required for a mobile home park development.
 - (2) Mobile home sites shall be at least three thousand two hundred thirty (3,230) square feet in area. Setback requirements are determined by Rules 941 and 944 of the Mobile Home Code.

(3) Minimum widths of roadway within the park shall be as follows:

Motor Vehicle Parking	Traffic Use	Minimum Pavement Width
Parking prohibited	1-way road	13 feet
Parking prohibited	2-way road	21 feet
Parallel parking, 1 side only	1-way road	23 feet
Parallel parking, 2 sides	1-way road	33 feet
Parallel parking, 1 side only	2-way road	31 feet
Parallel parking, 2 sides	2-way road	41 feet

(b) *Procedure for obtaining mobile home park approval.*

- (1) Preapplication conferences are held with the chief building inspector and the city engineer to obtain information and guidance in preparing the application.
- (2) Applications for the mobile home park are submitted with the preliminary site plans and descriptive statement to the city clerk.
- (3) The city clerk shall distribute the copies to appropriate departments for review.
- (4) A public hearing on the preliminary site plan before the planning commission is scheduled and held.
- (5) The planning commission recommendation is sent to the city council for its consideration.
- (6) A public hearing on the preliminary site plan before the city council is scheduled and held.
- (7) Following the approval of the preliminary site plan, the applicant shall submit four (4) copies of a final site plan of the mobile home park project to the city clerk who shall forward the copies to the chief building inspector.
- (8) The chief building inspector shall determine if the site plan, as approved by the planning commission, conforms to the provisions of this chapter. A site plan certificate shall be issued if the site plan conforms to the provisions of this chapter as approved by the planning commission.
- (9) Construction of the mobile home park shall commence within five (5) years following approval by the state department of commerce.

(Ord. No. 2012.16, § 5, 7-17-12)

Secs. 28-151—28-154. - Reserved.

Sec. 28-155. - Wireless telecommunication facilities.

- (1) *Purpose.* The purpose of this section is to permit facilities within the city that are necessary for the operation of wireless communications systems.
 - a. In recognition of the public need and demand for advanced telecommunication and information technologies and services and the impacts such facilities may have on properties within the city, it is the further intent of this section to:
 1. Maximize the use of existing and future wireless communication facilities by encouraging co-location of multiple antennae on a facility where feasible.
 2. Consider public health and safety in the location and operation of wireless communications facilities, and protect residential areas, community facilities, historic sites and buildings from potential adverse impacts of such facilities.
 3. Minimize the adverse visual and other impacts of such facilities through innovative design, adequate

screening, sufficient setback area, and timely removal of facilities upon the discontinuance of use.

4. Protect the unique aesthetics and public safety of the rights-of-way of the city while meeting the needs of its citizens and businesses to enjoy the benefits of expanded wireless communication facilities without obstructing access to or use of the public rights-of-way, especially handicapped access due to the placement of wireless communication facilities.
 5. Encourage the location and collocation of telecommunication facility equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna-supporting structures.
 6. Accommodate the growing demand for wireless services and the resulting need for wireless communication facilities.
 7. Regulate wireless communication facilities in accordance with all applicable federal and state laws.
 8. It is not the intent of this section to materially limit wireless transmission or reception, or unnecessarily burden access to wireless services or competition among different communication providers.
- b. It is not the intent of this section to materially limit wireless transmission or reception, or unnecessarily burden access to wireless services or competition among different communication providers.

(2) *Application review.*

- a. *Application.* The City of Jackson shall prepare and make publicly available an application form which shall be limited to the information necessary for the City of Jackson to consider whether an application is an eligible facilities request. The application shall not require the applicant to demonstrate a need or business case for the proposed modification. In addition, site plan review applications shall be made available per section 28-135.
- b. *Type of review.* Upon receipt of an application for an eligible facilities request pursuant to this chapter, the neighborhood and economic operations department shall review such application to determine whether the application so qualifies. All applications shall be reviewed for completeness and conformance with city requirements in determining which of the following four (4) development review types apply:
 1. *Eligible facilities request:* If the application qualifies, the application shall be reviewed administratively.
 2. *Collocation or modification that is a substantial change:* Such application is a permitted use and may be reviewed administratively per section 28-135.
 3. *First location of antenna(s) on an existing structure other than a tower:* Such application is a permitted use in a non-residential district and may be reviewed administratively per section 28-135.
 4. *New facility:*
 - i. In the I-1 and I-2 districts, such application is a permitted use and may be reviewed administratively per section 28-135.
 - ii. In all other zoning districts, such application is a conditional land use and shall be reviewed in conjunction with section 28-145.
- c. *Timeframe for review.* Within sixty (60) days of the date on which an applicant submits an application seeking approval under this chapter, the City of Jackson Neighborhood and Economic Operations Department shall approve the application unless it determines that the application is not covered by the provisions in this ordinance for eligible facilities. If the application is deemed by the neighborhood and economic operations department to be a substantial change or a first location of antenna(s) on an existing tower, but not a new facility, the 60-day review timeframe shall also apply. For new facilities, the review timeline shall not exceed ninety (90) days.

- d. *Tolling of the timeframe for review.* The review period begins to run when the application is filed, and may be tolled by mutual agreement by the City of Jackson and the applicant, or in cases where the neighborhood and economic operations department determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.
1. To toll the timeframe for incompleteness, the City of Jackson Neighborhood and Economic Operations Department must provide written notice to the applicant within fourteen (14) days of receipt of the application, specifically delineating all missing documents or information required in the application.
 2. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City of Jackson's notice of incompleteness.
 3. Following a supplemental submission, the City of Jackson Neighborhood and Economic Operations Department will notify the applicant within five (5) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d) of this section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- (3) *Fees.* Review fees shall not exceed the actual review and processing fees or one thousand dollars (\$1,000.00), whichever is less.
- (4) *Collocations allowed by administrative approval or requiring site plan approval.* Any proposed collocation that is determined by the neighborhood and economic operations department to be an eligible facilities request shall be subject to final action by the neighborhood and economic operations department as an administrative approval. For eligible facilities, administrative approval shall be granted if the all of the standards of this ordinance are met. For substantial changes to a collocation or the first location of antenna(s) on an existing structure, administrative site plan approval per section 28-135(a)(2)b. shall be granted if all of the standards of this ordinance are met.
- (5) *New facilities permitted in the I-1 and I-2 districts.* Wireless communication facilities with monopole support structures shall be permitted subject to site plan review in the I-1 and I-2 districts. Such facilities and any other structures connected therewith shall be a maximum of one hundred twenty-five (125) feet in height, and shall not be located in a required front yard. Site plan approval is required, in accordance with section 28-135(a)(2)b.
- (6) *New facilities permitted as conditional land uses in all other zoning districts.* If an applicant can demonstrate to the satisfaction of the neighborhood and economic operations department that a location permitted in subsection (5) above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility on existing wireless communications support structures, a wireless communication facility with a monopole support structure not to exceed one hundred ten (110) feet in height may be permitted as a special land use. Such facilities shall not be located in a required front yard. Such facilities shall be located on a priority basis on the following sites:
- a. Municipally owned sites, but not in the public right-of-way;
 - b. Other governmentally owned sites, but not in the public right-of-way;
 - c. Public park and other large permanent open space area when compatible;
 - d. Other sites.
- (7) *New facilities that exceed maximum heights as conditional land uses.* Applications for wireless communications facilities in the I-1 and I-2 zoning districts that exceed the maximum height, up to twenty (20) percent, for this district in which it is located per subsections (5) and (6) above, may be permitted as a conditional land use, subject to the

provisions of section 28-145. The applicant shall demonstrate to the satisfaction of the neighborhood and economic operations department that the additional height is needed to provide satisfactory coverage such that additional new towers are not needed.

- (8) *Required information.* The following information shall be provided for all new wireless communication facilities permitted as special land uses in subsection (6) and (7) above:
- a. *Site plan.* A site plan shall be prepared in accordance with section 28-135 et seq., showing drawings for all proposed attached wireless communication facilities or wireless communication support structures.
 - b. *Demonstration of need.* The applicant shall demonstrate the need for the proposed wireless communication support structure due to a minimum of one of the following:
 1. Proximity to an interstate or limited-access highway or major thoroughfare.
 2. Proximity to areas of population concentration.
 3. Proximity to commercial or industrial business centers.
 4. Avoidance of signal interference due to buildings, woodlands, topography, or other obstructions.
 5. Other specific reasons.
 - c. *Map of nearby facilities.* A map showing existing or proposed wireless communication facilities within the city, and further showing existing and known proposed wireless communication facilities within a six-mile radius which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If the information is on file with the city, the applicant shall update as needed. A written request for confidentiality must be prominently stated by the applicant.
 - d. *Propagation maps.* The applicant shall illustrate, through radio frequency propagation maps, the level of coverage with and without the proposed wireless communication facility, and the coverage in relation to coverage of the provider's existing and proposed wireless communications facilities within the city and within six (6) miles of the city limits. Consideration of existing towers from others that have available collocation space shall also be reflected in the maps and analysis.
 - e. *Data on nearby facilities.* For each location identified by the applicant/provider, the applicant shall include the following data, if known, with the applicant/provider expected to exercise reasonable diligence to obtain information:
 1. The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.
 2. Evidence of property owner approvals.
 3. Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing services.
 - f. *Fall zone certification.* To determine the required setbacks, a State of Michigan registered engineer shall submit a determination and certification regarding the manner in which the proposed structure will fall. The fall zone or collapse distance as cited in the certification shall be the minimum setback required from a property line or occupied structure. In the absence of an engineer's certification, the minimum setback shall equal seventy-five (75) feet or the height of the tower, whichever is greater.
 - g. *Description of security for removal.* A performance guarantee shall be required for the wireless communication support structure to ensure removal and maintenance, in accordance with this section. The security shall be in the form of a performance bond or dedicated escrow account placed with the city for coverage of stated

purposes, and may be required as part of a development agreement between the city and the applicant. The security shall be a promise of the applicant and owner of the property to remove the facility in accordance with the requirements of this section, with the provision that the applicant and owner shall pay costs and attorney's fees incurred by the city in securing removal.

- h. *FCC and FAA approval.* The applicant shall provide proof of approval for the location and design of the wireless communication facility from the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), and Michigan Aeronautics Commission (MCC).
- i. *Lot area.* All wireless communication facilities shall be located on a minimum lot size of seven thousand five hundred (7,500) square feet and shall have direct or deeded access to a public road right-of-way. Verification of said access shall be provided upon application for approval. On developed lots, the lease area provided for the wireless communications facility may be limited to a portion of the minimum total lot area.
- j. *Screening.* All existing vegetation shall be shown on the site plan and shall be preserved during and after installation to the maximum extent possible. Furthermore, additional landscaping shall be required in accordance with the provisions of this chapter for the district in which it is located.
- k. *Security information and fencing.* All wireless communication sites shall be fully fenced. Where the site is visible from a public right-of-way or abuts property not zoned I-1 or I-2, the fence shall be decorative and adhere to the standard of section 28-125(d)(4). All accessory buildings shall be located within the fenced area. In addition, all structures shall be equipped with an anti-climbing device to prevent unauthorized access. The use of barbed wire, electric current or charge of electricity is strictly prohibited.
- l. *Setbacks from all zoning districts.* Wireless communication support structures abutting any lot zoned for other than residential purposes shall have a minimum setback in accordance with the required setbacks for the principal buildings for the zoning district in which the support structure is located. Wireless facilities shall be set back from any residential use a minimum distance equal to one-half of the proposed tower height.
- m. *Variances.* The zoning board of appeals may grant variances for the setback of a wireless communication support structure to accommodate a change that would reduce its visual impact or to meet the required collocation standards. In no case shall the setback be less than twenty (20) feet. The setback from any property zoned or used for residential purposes shall not be varied.
- n. *Compatibility of accessory structures.* Wireless communication facilities proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which they are located. The equipment enclosure may be located within the principal building or may be an accessory building, provided the accessory building conforms with all district requirements for accessory buildings and is constructed of the same or compatible building material as the principal building. Wireless communication facilities shall adhere to standards set in section 28-115 building design standards and section 28-120 accessory structures. The goal is that any equipment that is approved to be attached to a building or other accessory structure, other than a tower, shall have a "stealth" design, with a similar color to the existing structure and a harmonious design, as determined by the neighborhood and economic operations department.
- o. *Appearance of support structures.* The design of wireless communication facilities, support structures and all accessory structures and equipment shall minimize adverse visual impact, visual distraction, and reduction in visibility. Wireless communication support structures and all accessory buildings shall maximize aesthetics and ensure compatibility with its surroundings through careful design, siting, landscaping, screening, camouflaging and stealth design techniques. The following shall be complied with to minimize adverse visual impact:
 - 1. *Camouflaging, screening and stealth installations.* Wireless communication facilities, support structures and

all accessory structures and equipment shall, to the extent possible, consist of materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings. Wireless communication facilities support structures and all accessory structures and equipment and its supporting electrical and mechanical equipment, as well as any equipment mounted to existing utility poles, lights structures, traffic signals or similar structures must be stealth facilities, meaning that such facilities shall be concealed or enclosed as much as reasonably possible in an equipment box, cabinet, or other unit, which may include ventilation openings. External cables and wires on or hanging from wireless communication facilities shall be sheathed and enclosed in a conduit so that wires are protected and not visible to the extent reasonably possible. Wireless communication facilities collocated on an existing or new pole must be designed in such a way that all cabling is contained inside such pole to the extent reasonably possible.

2. *Color of wireless communication facilities.* Wireless communication facilities, support structures and all accessory structures and equipment must be of a neutral color so as to exist as visually unobtrusive as possible. Any equipment mounted to a support structure of a wireless communication facility shall also match the support structure in color and general design unless a different color is needed for public safety or service reliability reasons.
3. *Decorative light poles and other decorative structures.* Wireless communication facilities, support structures and all accessory structures and equipment shall not be located on a decorative light pole or any decorative structure or fixture that has been specifically designed for its aesthetic value. The reason for this regulation is that the purpose of the decorative light pole, decorative structure or decorative fixture (to be aesthetically pleasing) would be substantially compromised by the placement of wireless communication facilities
4. *Obstruction of the city rights-of-way.* Wireless communication facilities shall not be located anywhere that would obstruct access to or use of the public rights-of-way, especially handicapped access.
5. *Other obstructions.* Any new pole and/or equipment and other improvements associated with a new pole or an existing pole must not obstruct any: (i) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (ii) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop (including, without limitation, bus stops, streetcar stops, and bike share stations); (iii) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (iv) fire hydrant access; (v) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the right-of-way; or (vi) access to any fire escape.
6. *Historic or architecturally significant structures.* Any new wireless communication facility and/or equipment and other improvements associated with a new pole or an existing pole may not be placed on, directly in front of, or in a location that would distract or detract visually from any historic or architecturally significant structures in prominent or highly visible locations.
7. *Compliance with historic preservation laws.* Wireless communication facilities shall comply with all applicable local, state and federal historic preservation laws and requirements.
8. *Alternate structures.* Use of artificial trees, clock towers, bell steeples, church spires, light poles and similar alternative-design mounting structures that conceal and/or camouflage the presence of the wireless telecommunication facility support structures and all accessory structures and equipment are encouraged if available.
9. *Environmental compatibility.* Wireless telecommunication facility support structures and all accessory

structures and equipment must not disturb the natural aesthetics of any wetland, woodland or an environmental feature.

10. *Clear vision area.* Wireless telecommunication facility support structures and all accessory structures and equipment shall not interfere with any clear vision area or sight distance triangle and will not be a distraction to motorists due to its location, size or appearance.
 11. *Public safety.* In order to protect the public safety, wireless communication facilities shall cause no signal, frequency, nor operational interference with public safety facilities or traffic control devices, or access thereto, and shall not physically interfere with other attachments that may be located on the existing pole or structure.
 12. *Signs or lighting.* No advertising, signs, logos, or lighting shall be permitted on wireless communication facilities except for official or public notice or warning signs required by a valid and applicable federal, state, or local law or regulation, or by order of a court of competent jurisdiction.
 13. *Undergrounding.* Service and utility lines or wires serving wireless communication facilities shall be undergrounded whenever feasible and compatible with the requirements of this section.
- p. *Lighting.* Lighting on a wireless communication facility shall be prohibited unless otherwise required by the Federal Aviation Administration or Michigan Aeronautics Commission. The planning commission may require a height reduction to eliminate the need for lighting unless the applicant provides adequate technical data demonstrating the need for the requested height, including an analysis demonstrating that other sites are unavailable or inadequate for their purposes. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. Lighting required for maintenance must be shielded and directed downward, and only used when necessary.
- q. *Collocation offer required.* An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for collocation. If, during a period of thirty (30) days after the notice letters are sent to potential users, a user requests in writing to collocate on the new support structure, the applicant shall accommodate the request(s) unless collocation is not feasible based on the criteria of this section.
- r. *Removal.* When a wireless communication facility has not been used for one hundred eighty (180) consecutive calendar days, the party who owns or controls such a facility shall notify the city in writing of its discontinued use and shall undertake removal of all or parts of the wireless communication facility by the users or owners or their successors of the facility and owners of the property on which the facility is located within ninety (90) days of notifying the city.
1. The removal of antennae or other equipment from the facility, or the cessation of operations (transmission or reception of radio signals) shall be considered as the beginning of a period of non-use. The situation(s) in which removal of a wireless communication facility is required may be applied and limited to a portion of the facility.
 2. Upon the occurrence of one (1) or more of the events requiring removal, the property owner or persons who had used the wireless communication facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the facility.
 3. If the required removal of the wireless communication facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice sent by certified mail, the city may remove or secure the removal of the facility or required portions thereof,

with its actual costs and reasonable administrative charges to be drawn or collected from the security posted at the time application was made for establishing the facility or, if necessary, through appropriate judicial remedies.

- s. *Effect of approval.* Final approval for a wireless communication support structure shall be effective for a period of one hundred eighty (180) calendar days. One (1) extension of up to an additional one hundred eighty (180) calendar days may be granted, provided that a written request is submitted prior to the expiration date.
- t. *Additional obligations due to agreements and permits.* The provisions of this section are in addition to, and do not replace, any obligations an applicant may have under franchises, license, encroachments or other permits issued by the City.
- u. *Wireless communication facilities design manual.* The city manager is hereby authorized to draft a City of Jackson Wireless Communication Facilities Design Manual. Approved designs and specific design criteria contained in the City of Jackson Wireless Communication Facilities Design Manual shall apply to all wireless communication facilities.
- v. *Changes in federal or state law.* In the event that state or federal court decisions, or changes in state or federal legislation, alter the rights and/or obligations of wireless communication facilities or municipalities, the revised law shall supersede the provisions of this section.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2017-08, § 2, 6-13-17; Ord. No. 2019-07, § 2, 3-12-19)

Secs. 28-156—28-159. - Reserved.

Sec. 28-160. - Planned building group shopping centers.

In any commercial district the owner of a tract may submit to the city planning commission for its review a preliminary plan for the use and development of such tract for a planned building group shopping center.

- (a) *Preliminary development plan.* In accepting such plan for review, the city planning commission must be satisfied that the proponents of the planned building group shopping center are financially able to carry out the proposed project; that they intend to start construction within a specified time of the approval of the project and necessary change in zoning, and intend to complete it within a reasonable time as determined by the city planning commission. It shall be the duty of the city planning commission to investigate and ascertain whether the location, size and other characteristics of the site, and the proposed plan, comply with the following conditions:
 - (1) The need for the proposed center at the proposed location has been demonstrated by the applicant by means of market studies and such other evidence as the city planning commission may require.
 - (2) The proposed shopping center is adequate in size to provide shopping facilities for the population which reasonably may be expected to be served by such facilities.
 - (3) The proposed shopping center is at a location where traffic congestion can be reduced to a minimum by presently projected improvement of access thoroughfares, and the plan shows the location of entrances, exits and internal arrangement for driving lanes and parking.
 - (4) The plan provides for a shopping center consisting of one (1) or more groups of buildings of integrated and harmonious design with adequate and properly arranged traffic and parking facilities and landscaping, which will be an attractive and efficient shopping center, convenient and safe to use, and which will fit harmoniously into, and will have no adverse effects upon the adjoining or surrounding development.
 - (5) The uses permitted in the proposed shopping center shall be those of retail business and service uses and no

residential or industrial uses shall be permitted.

- (b) *Regulations.* The following regulations shall apply to a planned building group shopping center:
- (1) *Uses by right.* Any use by right in the C-3 district is also a use by right in a planned building group shopping center.
 - (2) *Conditional uses.* Upon approval by the city planning commission in accordance with section 28-145(a), an automobile service station may be operated subject to the conditions in section 28-145(d)(1).
 - (3) *Tract area and coverage.* The new land area to be included and designated as a planned building group shopping center shall be not less than one (1) acre in size and the ground area to be occupied by buildings shall not exceed twenty-five (25) percent of the net land area.
 - (4) *Building heights.* No building shall exceed four (4) stories or forty-five (45) feet in height.
 - (5) *Screening.* No building shall be setback less than twenty-five (25) feet from any R zoned parcel and no less than fifty percent (50%) of the building area shall be located within fifteen (15) feet of the road right-of-way. The center shall be permanently screened from all adjoining properties located in any R district by a solid wall or compact evergreen hedge at least six (6) feet in height. All perimeter parking areas shall also be screened with no less than a three (3) foot wall or dense evergreen plantings. Such wall or hedge shall be maintained in good condition.
 - (6) *Customer parking space.* The minimum and maximum parking requirements outline in section 28-100 shall apply to all uses within the shopping center. Customer parking areas, driving lanes, pedestrian walks and loading space shall be properly graded for drainage, surfaced with cement or asphalt pavement and maintained in good condition, free of dust, trash and debris. The outer boundary of customer parking areas shall contain curbing in accordance with section 28-100.
 - (7) *Entrances and exits.* Each entrance to and exit from the shopping center shall not be less than fifty (50) feet from any adjoining property located in any R district. Where applicable, deceleration and acceleration traffic lanes in relation to entrances and exits shall be required to ensure a minimum of traffic congestion.
 - (8) *Illumination.* Illumination facilities for the shopping center, including parking areas and open spaces, shall be so arranged as to reflect the light away from adjoining premises in any R district. Lighting shall also comply with the standards outlined in section 28-109.
 - (9) *Signs.* The signs permitted in a planned building group shopping center shall be as provided in article IX of chapter 28.
- (c) *Final development plan and hearing.* Upon determination by the city planning commission that the planned building group shopping center, as shown by the preliminary plan, appears to conform to the requirements of this section and all other applicable requirements of this chapter, a public hearing shall be held. Notice of the public hearing shall be provided as required in section 28-8. Following the public hearing, the proponents shall then prepare and submit a final development plan, which plan shall incorporate any changes required or suggested by the planning commission. If the final development is found to comply with requirements set forth in applicable requirements of this chapter, the planning commission shall submit such plan with its report and recommendations together with the required application, by the proponents, to the city council.
- (d) *Approval of adjustments.*
- (1) *Minor adjustments.* Minor changes to a previously approved development plan may be approved without the necessity of planning commission or city council action if the heads of the department of engineering and public works, fire, water, and building inspection departments certify in writing that the proposed revision constitutes a minor alteration and does not alter the basic design nor any specific conditions of the plan as approved by the

city planning commission and city council. The chief building inspection shall record all such changes on the original PUD development plan and shall advise the city planning commission and city council of all such revisions within thirty (30) days of said administrative approval. Minor adjustments under this section shall be limited to:

- a. Addition or relocation of all fire escapes.
- b. Shifting of building heights and elevations, providing such shifting does not exceed ten (10) percent of the previously approved dimension and providing such shifting does not significantly alter the conceptual integrity of the plan.
- c. Construction of additional or alteration of approved sidewalks, provided that the full intent of pedestrian movement through and around the site is not inhibited thereby.
- d. Shifting of, additions to, or changes in species of landscape materials, provided that such change does not reduce the minimum landscape requirements.
- e. Relocation of refuse collection stations.
- f. Internal rearrangement of parking lots and curb cut locations provided such functional rearrangement does not reduce the total number of parking spaces required; and further provided that the minimum landscape requirements are maintained; and further provided that such rearrangement does not inhibit good traffic flow or circulation.
- g. Any decrease in building size or changes in bedroom counts per dwelling unit in no more ten (10) percent of the total number of units.
- h. Construction and location of bus stop stations.
- i. Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.

(2) *Major adjustments.* If the nature of the proposed adjustments causes major revisions to the originally approved development plan in excess of the provisions in section 28-160(d)(1), such adjustments or rearrangements must be authorized by the city planning commission by approval of an adjusted development plan. Such amendment may be made upon application and submission of a revised development plan to the city clerk, for review by the planning commission, in accordance with the procedures provided in this chapter. The revised development plan shall be reviewed based on whether or not the revisions conform to the standards established by the final approved development plan and this chapter.

(3) *Adjustments of projects which received variances.* Notwithstanding any other provisions contained in this section, in the event a proposed change is made to a project which received a variance, the adjustments or rearrangements must be authorized by the city planning commission as required in section 28-160(d)(2).

(e) *Zoning map designation.* Once a final development plan has been approved by the city council, the location of the property for which the plan has been approved shall be designated "PB" on the official zoning map of the city.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2020-19, § 2, 10-27-20)

Secs. 28-161—28-164. - Reserved.

Sec. 28-165. - Performance guarantees for improvements.

(a) Prior to the issuance of a temporary or permanent certificate of occupancy is issued, the zoning administrator (or designee) may require, as a condition to the issuance of the certificate, the following:

- (1) A deposit with the city clerk of cash, certified check, or irrevocable letter of credit covering the cost of improvement associated with the activity or project for which the certificate is sought.
 - (2) An easement allowing the city access to the property to make the required improvement(s) associated with the activity or project for which the certificate is sought, if that becomes necessary.
- (b) The deposit requirement shall not be mandated if and to the extent a like deposit has been made pursuant to the Land Division Act (PA 288 of 1967, MCL 560.101, et seq.).
 - (c) The applicant may propose to the zoning administrator (or designee) a schedule pursuant to which portions of the deposit are to be returned in relation to the ratio of work completed on the required improvements as work progresses. The zoning administrator (or designee) will review the proposal, and, if reasonable, may establish a schedule as submitted by the applicant or as modified as the zoning administrator (or designee) deems appropriate.
 - (d) In establishing the requirement for the performance guarantee, a specific number of days for completion of the improvements and the amount of the security shall be specified by the planning commission.
 - (e) If the improvements have not been completed on or before the date specified for completion by the zoning administrator (or designee), all or part of the performance guarantee posted by the applicant, as needed for completion may be utilized upon direction by city council. Any and all costs incurred by the city in completing the improvements shall be taken from the performance guarantee. Any balance remaining following completion of the improvements shall be returned to the applicant.
 - (f) If the amount of the deposit is not sufficient to complete the project, the applicant shall be responsible for all deficiency. In addition, the applicant shall be responsible for all costs incurred by the city to enforce this section, including but not limited to court costs and reasonable attorneys fees.

(Ord. No. 2012.16, § 5, 7-17-12; Ord. No. 2013.08, § 2, 4-23-13)

Sec. 28-166. - Revocable license for signs and/or awnings in the right-of-way.

- (a) The owner of any sign, awning, canopy, or marquee that will be placed in or hang over the right-of-way must complete an application for a revocable license and pay the required fee to the clerk's office. The application is available through the department of neighborhood and economic operations or on line at the city's website: www.cityofjackson.org. The application must be returned to the department of neighborhood and economic operations along with a color rendering of the proposed sign, awning, canopy, or marquee. The application shall include a drawing of the building facade depicting height and width dimensions, the location of the sign, and the dimensions of the sign, awning, canopy, or marquee.
- (b) The application must also include a general liability insurance certificate verifying that the owner of the sign, awning, canopy, or marquee is insured against personal injury and property damage arising out of erecting, altering, adding to, repairing of, or subsequent falling of the sign, awning, canopy, or marquee or sign parts. The owner shall also provide to the City of Jackson an insurance endorsement stating that the City of Jackson is an additional insured, and it must be in a coverage amount established by the city attorney to ensure the city's protection. If a revocable license is approved, the owner of the sign, awning, canopy, or marquee shall submit a renewal certificate of insurance and an insurance endorsement annually to the department of neighborhood and economic operations to prove the sign, awning, canopy, or marquee remains properly insured.
- (c) Upon receipt of a completed application for a revocable license, the department of neighborhood and economic operations shall review the request for code compliance. The application for the revocable license, along with a recommendation from the department of neighborhood and economic operations or other city department(s), shall be placed on the next regularly scheduled city council meeting for city council action. All applications for a revocable

license must either be denied or approved and executed within sixty (60) days of receipt. If the revocable license is approved by the city council, the mayor and clerk shall execute the revocable license. Any application that is not denied within sixty (60) days of receipt shall be deemed approved.

- (d) If the owner of a sign, awning, canopy, or marquee having a revocable license seeks to enlarge, reduce in size, or change the sign, awning, canopy, or marquee, the owner must submit a new permit request and pay the required fee to the clerk's office. The sign inspector, along with legal staff, must review the new permit request to determine if a new revocable license is required. If a new revocable license is required, the new permit request must proceed under the process set forth in this section to obtain a new revocable license. A new permit shall not be required for ordinary servicing, repainting, cleaning or maintenance of an approved existing sign, and/or awning, provided that the condition of the original approval and the requirements of this chapter are not violated.
- (e) If the owner of a sign, awning, canopy, or marquee already has a revocable license and intends to relocate the sign, awning, canopy, or marquee previously approved to a different part of the existing building with equal or greater facade dimensions (width) without making any changes to the size, color, graphics, or wording, the owner shall submit a new application for a revocable license to the department of neighborhood and economic operations. The application will be processed according to the requirements set forth in this section for all new revocable license permits.
- (f) If the owner of a sign, awning, canopy, or marquee having a revocable license intends to relocate the sign, awning, canopy, or marquee previously approved to a different building, the owner shall submit a new revocable license application to the department of neighborhood and economic operations. The application will be processed according to the requirements set forth in this section for all new revocable license permits.

(Ord. No. 2016.07, § 2, 3-29-16)

Secs. 28-167—28-180. - Reserved.

ARTICLE VI. - DISTRICT CHANGES AND AMENDMENTS

Footnotes:

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Editor's note— Ord. No. 2012.16, § 6, adopted July 17, 2012, redesignated the former Art. V as Art. VI of this chapter.

Sec. 28-181. - General.

The city council may by ordinance and subject to the procedure provided by law, amend, supplement or change the regulations, district boundaries or classification of property established by this chapter or amendments thereof.

(Code 1977, § 5.260)

Sec. 28-182. - Changes and/or amendment initiation.

Changes to this chapter may be initiated by petition of one (1) or more owners of the property to be affected by the proposed amendment, or by persons with a legal interest in the property or by agents thereof, or by resolution of the city council or the planning commission.

(Code 1977, § 5.261)

Sec. 28-183. - Procedure for change.

The application for any proposed zoning change shall be directed to the planning staff on forms prescribed for such purpose, accompanied by sufficient information, so as to assure the fullest presentation of facts for the permanent record.

- (1) *By application.* Any person, firm or corporation desiring a change in the zoning classification of property shall file with planning staff an application for zoning change. When the application for zoning change appears to be in accordance with public necessity, convenience, safety and the general welfare of the city, planning staff shall refer such application to the city planning commission.
- a. *Notice of hearing.* The city planning commission shall then hold a public hearing on such proposed amendment, supplement or change as set forth in the application, notice of the time and place of the meeting shall be given as provided for in section 28-8.
- Failure to send notice.* Failure to send notice by mail to any such property owner where the address of such owner is not a matter of record in the assessor's office shall not invalidate any proceedings in connection with the proposed amendment, supplement or change.
- b. *Additional notice of hearing.* In addition to the published notice required by law, the city planning commission shall give notice of the time, place and purpose of its public hearing to be held on the proposed amendment, supplement or change, by mailing written notice of same to the last known address of the owners and occupants, as shown on the records of the assessor, of all properties lying within three hundred (300) feet of any part of the property, the zoning classification of which is proposed to be changed. Failure to send notice by mail to any such property owner where the address of such owner is not a matter of record in the assessor's office shall not invalidate any proceedings in connection with the proposed amendment, supplement or change. When such amendment, supplement or change does not include any change of district boundaries or classification of property, this additional notice of hearing shall not be required.
- c. *Public hearing.* The city planning commission shall adopt rules and regulations for the conduct of public hearings consistent with law and the provisions of this Code.
- d. *Procedure following public hearing.* After the public hearing on such amendment, supplement or change, the city planning commission shall make its report. Such report shall be by resolution of the city planning commission carried by the affirmative votes of the majority of members in attendance. Such amendment, supplement or change, with report, shall then be certified in writing to the city council and to the county register of deeds.
- e. *Action by city council.* Such amendment, supplement, or change, accompanied by the report of the city planning commission, shall then be presented by the city council. The city council shall consider the proposed amendment, supplement, and notice requirements prescribed in this section. Such amendment, supplement or change may be adopted or denied only by the affirmative votes of no less than four (4) members of the city council.
- f. Upon presentation of a protest petition meeting the requirements for this section, such amendment, supplement or change which is the object of the petition shall be passed only by a two-thirds ($\frac{2}{3}$) 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 (1) of the following:
1. The owners of at least twenty (20) percent of the areas of land included in the proposed change, excluding publicly owned land.

2. The owners of at least twenty (20) percent of the area of land included within an area extending outward on feet from any point on the boundary of the land included in the proposed change, excluding publicly owned
- g. Whenever a proposed amendment, supplement or change has not been approved by the city planning commission and the city council concurs by not adopting it, such amendment, supplement or change shall not be resubmitted to the city council for at least one (1) year from the date of the city council denial, excepting when it is established to the satisfaction of the city council that there has been a material change in circumstances justifying reconsideration.

(2) *By resolution.* Whenever deemed necessary for public convenience, general welfare or good zoning practice, the city planning commission, or the city council may initiate an amendment, supplement or change in the form of a resolution for zoning change provided it is adopted by a majority vote of the full membership of either of the respective commissions. Such proposed amendment, supplement or change to this chapter shall then be handled in accordance with the same procedure for filing an application for zoning change.

(Code 1977, § 5.262; Ord. No. 2003.20, § 1, 11-25-03; Ord. No. 2011.15, § 5, 8-16-11; Ord. No. 2016-29, § 3, 11-15-16)

Secs. 28-184—28-205. - Reserved.

ARTICLE VII. - ADMINISTRATION AND ENFORCEMENT

Footnotes:

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Editor's note— Ord. No. 2013.06, § 3, adopted April 9, 2013, deleted the former Art. VII, §§ 28-206—28-212, and enacted a new Art. VII as set out herein. The former Art. VII pertained to administration and enforcement and derived from the Code of 1977, §§ 5.270—5.276; and Ord. No. 2004.28, § 1, 11-9-04.

Sec. 28-206. - Creation of the office of zoning administrator.

The office of the zoning administrator is hereby established. In all instances throughout this chapter, where the term "zoning administrator" is used, it is assumed that the zoning administrator may appoint a "designee" for the purposes of its interpretation, administration, and enforcement.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-207. - Duties of the zoning administrator.

- (a) The provisions of this chapter are administered and enforced by the zoning administrator.
- (b) The zoning administrator has the right to enter any building or premises for the purpose of investigation or inspection.
- (c) The zoning administrator has the authority to interpret the provisions of this chapter, but at all times reserves the right to forward that right to the zoning board of appeals.
- (d) The zoning administrator has the power to grant certificates of zoning compliance; to make inspections of buildings or premises necessary to carry out duties in the enforcement of this chapter; and to interpret the provisions of this chapter.
- (e) If the zoning administrator finds that any of the provisions of this chapter are being violated, the person responsible will be notified in writing of the violation(s), indicating the nature of the violation(s), and ordering the necessary

corrective action(s). The zoning administrator will order the discontinuance of illegal use(s) of land, buildings, or structures; the removal of illegal buildings or structures; the discontinuance of any illegal work being done; or may take any other action authorized by this chapter to ensure compliance with, or to prevent the violation of, its provisions.

- [f] The zoning administrator will issue the applicable certificate, license, or permit when the applicant complies with all applicable regulations of this chapter even though violations of contracts, such as covenants or private agreements, may occur upon the issuance of such certificate or permit.
- [g] The zoning administrator will issue a zoning compliance certificate when a building, structure or premises conforms with all the requirements of this chapter. A zoning compliance certificate is required before a certificate of occupancy may be issued. No land will be used or occupied and no structure will be erected, altered or used hereafter until a zoning compliance certificate is issued by the zoning administrator.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-208. - Cooperation with other departments.

The zoning administrator will furnish to the various city departments, officials, or employees vested with the duty or authority to issue permits or licenses, the information needed for proper administration of this chapter. It will be the duty of the departments, officers and employees to cooperate with the zoning administrator. Any permit or license issued by such departments, officials, or employees in conflict with the provisions of this chapter will be null and void.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-209. - Certificate of occupancy.

Certificate required. A certificate of occupancy will not be issued until the zoning administrator issues a zoning compliance certificate. Site inspection may be necessary prior to issuance of a zoning compliance certificate. Certificates of occupancy are required by chapter 5 (buildings and building regulations) of this Code for new buildings or structures or parts thereof, or for alterations to existing buildings or structures. Any person who uses, occupies, or permits the use of a building or structure without a zoning compliance certificate and a certificate of occupancy, when applicable, will be in violation of this chapter or chapter 5 punishable under chapter 2.5 (administrative hearings bureau) of this Code.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-210. - Zoning permit.

- (a) *Issuance of certificate.* The zoning administrator shall issue a zoning compliance certificate when a building, structure or premises conforms with all the requirements of this chapter. A zoning compliance certificate is required before a certificate of occupancy may be issued. No land shall be used or occupied and no structure shall be designed, erected, altered or used hereafter until a zoning compliance certificate is issued by the zoning administrator.
- (b) *Permits required.* It is unlawful for any person or entity to commence excavation for or construction of any building or structure or commence the structural alteration, or repair of any existing building without first obtaining a zoning compliance permit from the zoning administrator and building permit, as applicable, from the building official. No permit will be issued for the construction, alteration, or repair of any building or structure until an application has

been submitted in accordance with the provisions of this chapter showing that the construction proposed is in compliance with the provisions of this chapter, with chapter 5 (building regulations), and with other applicable ordinances.

"Alteration" or "repair" of an existing building or structure, includes any changes in structural members, stairways, basic construction type, kind or class of occupancy, light or ventilation, means of egress or ingress, or any other changes affecting or regulated by chapter 5, chapter 14, various construction codes, or this chapter except for minor repairs or changes not involving any of the aforesaid provisions.

- (c) *Applicability.* The types of buildings, structures, and uses subject to a zoning permit include, but are not limited to the following: external modifications/additions that require a building permit (including temporary dwellings), changes of use, landscape modifications, one-story detached accessory structures of less than two-hundred (200) square feet, fences/walls/protective barriers, sidewalks, driveways, and off-street parking/loading areas, and lighting.
- (d) *Zoning permit.* The zoning permit signifies that in the opinion of the zoning administrator, the intended use, building, or structure complies with all provisions of this chapter. When a building permit is required, such permit will not be issued unless the zoning permit has been issued. In all other cases in which a building permit is not required, the application for a zoning permit will be made prior to the date when construction or installation is intended to begin. Zoning permits may only be issued to the property owner(s) of record, or to an authorized representative(s) of the property owner of record.
- (e) *Zoning compliance certificate.* The zoning compliance certificate signifies that, in the opinion of the zoning administrator, the intended use, building, or structure complies with the approved zoning permit and all provisions of this chapter. The building official will not issue a certificate of occupancy for any lot, building, or structure without a zoning compliance certificate.
 - (1) *Temporary zoning compliance certificate.* A temporary zoning compliance certificate may be issued by the zoning administrator, with the following conditions when it is determined that the applicant, to the fullest extent possible, has complied with the approved zoning permit and all provisions of this chapter.
 - a. In the event that work cannot be completed as submitted on the approved zoning permit due to extraordinary circumstances that are not a result of the applicant's or property owner's own negligence or due to weather conditions which will not allow the work to be completed, the zoning administrator may issue a temporary zoning compliance certificate. The following provisions must be met:
 - 1. The zoning administrator will specify a date of expiration of the temporary zoning compliance certificate:
 - i. For projects that do not exceed two million dollars (\$2,000,000.00), the zoning administrator may enter into a development agreement with the applicant which allows the project to be developed in phases over time. The agreement will include a site plan meeting the standards of section 28-135 of this chapter that denotes the phases of development and the proposed dates of completion for each phase. The city reserves the right to send any development agreement to city council for consideration.
 - ii. For projects that exceed two million dollars (\$2,000,000.00), the city council may enter into a development agreement with the applicant which allows the project to be developed in phases over time. The agreement will include a site plan meeting the standards of section 28-135 of this chapter that denotes the phases of development and the proposed dates of completion for each phase.
 - 2. The zoning administrator may require a performance guarantee for improvements in accordance with section 28-165 of this chapter.
 - b. The applicant will have until the specified date(s) on the temporary zoning compliance certificate and/or

development agreement to complete all work as approved on the zoning permit and in accordance with this chapter. In the event that:

1. The zoning administrator determines that all work has been completed on or before the specified date for completion, a zoning compliance certificate will be issued.
2. The zoning administrator determines that the applicant has failed to comply with the approved zoning permit or the requirements of this chapter, the zoning administrator may revoke the temporary zoning compliance certificate.

(2) *Zoning compliance certificate.* A zoning compliance certificate will be issued by the zoning administrator when it is determined that the development is in compliance with the approved zoning permit and all provisions of this chapter.

(f) *Validity and expiration.* All zoning permits will be valid for a period of one (1) year (unless otherwise specified in this chapter) or until a zoning compliance certificate is issued or a certificate of occupancy is issued by the building official. A zoning permit may be revoked at any time if the zoning administrator finds that the applicant is in violation of this chapter or that the development is not in compliance with the approved zoning permit.

(1) An applicant may request an extension of the zoning permit for up to one (1) additional year. The zoning administrator may grant an extension under the following circumstances:

- a. The applicant must indicate the extraordinary condition(s) which justifies the need for the extension of the zoning permit.
- b. The scale or complexity of the project will not reasonably permit the applicant to be able to complete the entire project within the permitted time-frame.
- c. There are outstanding environmental conditions that are not the result of the applicant's own negligence that will require attention prior to the completion of the development of the site.

(2) Should the holder of a zoning permit fail to complete the work for which the permit was issued within the time limit as set forth above, any unfinished structure is hereby declared a nuisance and may be abated by appropriate action before the circuit court of the county. The zoning administrator, the city council, any person designated by the city council, or any party aggrieved may institute an action to have the nuisance abated (See Section 605 of PA 110 of 2006, MCL 125.3605 et seq., as amended).

(g) *Submittal requirements.* An application for a zoning compliance permit will be accompanied by a plot site plan (PSP) or a full site plan (FSP) meeting the standards of section 28-135 of this chapter.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-211. - Inspection.

The applicant will notify the zoning administrator when inspection is required. Certificates and permits will be issued within fifteen (15) business days after receipt of such application if the building or structure, or part thereof, or the use of land complies with the provisions of this chapter. If issuance of such certificate is refused, the applicant therefore will be notified of such refusal and cause thereof, within the fifteen (15) business day period.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-212. - Records.

(a) The zoning administrator will maintain a record of all certificates and permits in accordance with Section 5 of the Michigan Historical Commission (PA 271 of 1913, MCL 399.5), as amended, Section 491 of the Michigan Penal Code

(PA 328 of 1931, MCL 750.491), as amended, and the Retention and Disposal Schedule for Cities and Villages as maintained by the Michigan Department of Technology, Management and Budget.

- (b) Said record must be open for public inspection in accordance with the Michigan's Freedom of Information Act (PA 442 of 1976, MCL 15.231 et seq.) as amended.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-213. - Fees.

- (a) The city council will establish by resolution a schedule of fees for administering this chapter. The schedule of fees will be posted on public display in the office of the zoning administrator.
- (b) The zoning administrator may reduce fees for projects that may require several approvals from various boards and commissions in the event there may be a cost savings to the city which can be passed on to the applicant. This includes:
- (1) Combined public notices when possible to reduce the number of mailings being sent.
 - (2) Reviews of the same site plan which may require approval by more than one authority, but do not necessarily require separate reviews by the zoning administrator.
- (c) No certificate or permit will be issued unless required fees have been paid in full.
- (d) Denial of zoning applications for nonpayment of fines and costs. An individual, partnership, corporation, association, governmental entity, or any other legal entity shall not be eligible to apply to the city for a rezoning, site plan approval, special land use approval, planned unit development approval, variance, or other zoning authorization if that person is delinquent in paying civil fines, costs, or justice system assessments imposed by the City of Jackson's Administrative Hearings Bureau.

Pursuant to Michigan law, this subsection shall not apply to an applicant if the applicant became the owner of the property by foreclosure or by taking a deed in lieu of foreclosure and is one of the following: a government sponsored enterprise, financial institution, mortgage servicer, or credit union as defined by MCL 125.3406(3)(a), (b), (c), and (d).

Additionally, this subsection shall not apply to a zoning authorization if the authorization will correct, in whole or in part, the blight violation that was the subject of the administrative hearings bureau's action.

(Ord. No. 2013.06, § 3, 4-9-13; Ord. No. 2014-17, § 2, 5-13-14)

Sec. 28-214. - Compliance with plans.

Zoning compliance certificates issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction which deviates from that authorized will be deemed a violation of this chapter and punishable as provided by section 28-216, herein.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-215. - Methods of enforcement.

When any building or land is located, erected, constructed, reconstructed, enlarged, changed, maintained or used in violation of this chapter, the zoning administrator will have the authority to do any of the following:

- (a) The zoning administrator may serve notice requiring the removal of any use in violation of this chapter upon the

owner, agent or tenant of the building or land, or upon the architect, builder, contractor or other person who commits or assists in any such violation.

- (b) The zoning administrator may call upon the city attorney to institute any necessary legal proceedings to enforce the provisions of this chapter, and the city attorney is hereby authorized to institute appropriate actions to that end.
- (c) The zoning administrator may call upon the chief of police (or designee) to assist in the enforcement of this chapter. In addition to the authority vested in the zoning administrator, the city attorney and chief of police may institute appropriate legal proceedings to restrain, abate, or cause the correction or removal of any violation of this chapter.

(Ord. No. 2013.06, § 3, 4-9-13)

Sec. 28-216. - Violations and penalties.

- (a) *Violations.* Violations will be issued by the zoning administrator.
- (b) *Penalties.* Any person, firm, or corporation violating any of the provisions of this chapter, or any amendment thereto, is responsible for a blight violation and, upon adjudication thereof, is subject to the penalty provided for under chapter 2.5 of this Code. Each and every day such violation is committed or permitted to continue is a separate offense and is punishable as such hereunder.
- (c) *Effective date.* This amendment does not affect any existing litigation and does not abate any action or proceeding pending under or by virtue of this chapter as it existed before this amendment if such litigation or proceeding was filed before May 9, 2013.
- (d) *Compliance required.* The imposition of any fine will not exempt the violator from compliance with the provisions of this chapter.
- (e) *Public nuisance per se.* A use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of this chapter or a regulation adopted under the authority of the Michigan Zoning Enabling Act (PA 110 of 2006, MCL 125.3101 et seq.) as amended, is a nuisance and may be abated by order of any court of competent jurisdiction.

(Ord. No. 2013.06, § 3, 4-9-13)

Secs. 28-217—28-235. - Reserved.

ARTICLE VIII. - ZONING BOARD OF APPEALS

Footnotes:

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Editor's note— Ord. No. 2012.16, § 6, adopted July 17, 2012, redesignated the former Art. VII as Art. VIII of this chapter.

Sec. 28-236. - Establishment.

The zoning board of appeals as provided in Section 5 of Act No. 207 of the Public Acts of Michigan of 1921 (MCL 125.585) as amended, is hereby continued.

(Code 1977, § 5.280)

Sec. 28-237. - Duties.

The zoning board of appeals shall hear and decide only such matters as the board is specifically authorized to pass on as provided in this chapter. The board has the power to grant variances, decide appeals on administrative decisions and to interpret the boundary lines of the zoning map. The board shall not have the power to alter or change the zoning district classification of any property; nor to make any changes in the terms of this article.

(Code 1977, § 5.281)

Sec. 28-238. - Variances.

- (a) Where the literal enforcement of the provisions of this chapter would cause practical difficulty or unnecessary hardship, the zoning board of appeals shall have the power to grant a dimensional, supplemental, and/or use variance. For the purpose of this section, a variance means a modification of the strict requirements of this chapter. The board can grant a variance from the following:
- (1) Dimensional requirements (e.g. yard, height, lot area).
 - (2) Supplemental requirements (e.g. parking, landscaping, signs).
 - (3) Use requirements (e.g. residential uses in non-residential districts).
- (b) The board shall not grant a variance for the expansion of a use otherwise prohibited (except for as set forth in subsection (a)(3) above) and shall not grant a variance because of the presence of nonconformities in the zoning district.
- (c) In authorizing a variance with conditions, the board shall require such evidence and bond as it may deem necessary to ensure that the conditions are being and will be complied with. No variance in the provisions or requirements of this chapter shall be authorized by the board unless the board finds, by a preponderance of the evidence that all of the following facts and conditions exist:
- (1) There are exceptional or extraordinary conditions applying to the property that do not apply to other properties or classes of uses in the same zoning district.
 - (2) The exceptional or extraordinary conditions do not result from the actions of any person with a current interest in the property.
 - (3) Strict compliance with this chapter would unreasonably prevent the applicant from using the property for a permitted purpose or would create practical difficulties in conforming to the requirements of this chapter.
 - (4) The authorizing of such variance will not be of substantial detriment to adjacent property, alter the essential character of the area, and will not impair the purposes of this chapter or the public interest.
 - (5) The variance is the minimum variance possible for reasonable use of the property.
 - (6) The variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in public streets or increase the danger of fire or endanger the public safety or substantially diminish property values within the area.
 - (7) Such variance shall in no manner or guise be construed to allow a change of use but shall allow only a variation or modification from the provisions of this chapter.
- (d) standards: the zoning board of appeals may grant a use variance only upon finding that an unnecessary hardship exists. A use variance is a variance that permits a use that is otherwise not provided for in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of the following:
- (1) The property cannot be reasonably used for any purpose permitted in the zoning district. There must be

financial proof of the applicant's inability to realize any reasonable return; speculation or a qualitative assessment is inadequate;

- (2) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district. The applicant must demonstrate that there are certain features that make it impossible to earn a reasonable return without some adjustment. In those situations where others share the difficulty, the zoning board of appeals may find that relief should be accomplished by an amendment to the zoning ordinance, not a variance;
- (3) The problem and resulting need for the variance has not been self-created by the applicant;
- (4) The variance will not alter the essential character of the area. In determining whether this criteria has been met, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area shall be considered.

(Code 1977, § 5.282; Ord. No. 2011.15, § 6, 8-16-11; Ord. No. 2014-9, § 2, 4-8-14; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2017-06, § 3, 5-2-17)

Sec. 28-238.1. - Approval period.

No variance granted by the zoning board of appeals permitting the erection or alteration of a building or structure shall be valid for a period longer than six (6) months, unless such erection or alteration is started and proceeds to completion within three hundred sixty-five (365) days from the date the variance became effective, in accordance with the terms of such permit.

- (1) Any variance granted under this article shall become null and void and fees forfeited unless construction or alteration of new or modified facilities, as the case may be, is completed within three hundred sixty-five (365) days of the date of transmittal (by mail or otherwise) of the zoning board of appeal's decision to the applicant.
- (2) After the passage of three hundred sixty-five (365) days during which construction has not been completed, or during which construction has ceased, as the case may be, the applicant must apply for a new variance following all of the procedures outlined in this article.

(Ord. No. 92-12, § 1, 7-28-92)

Sec. 28-239. - Administrative appeal.

Where it is alleged that there is an error in any order, requirement, decision, grant or refusal made by the zoning inspector or other administrative official in the interpretation of this chapter, the zoning board of appeals shall have the power to hear and decide appeals, filed as provided herein.

(Code 1977, § 5.283)

Sec. 28-240. - Interpretation of zoning text and map.

Where there is a question as to the location of any boundary line between zoning districts or in the interpretation of the text, the zoning board of appeals shall interpret the text and map in such a way as to carry out the intent and purpose of this chapter.

(Code 1977, § 5.284)

Sec. 28-241. - Public utility buildings.

The zoning board of appeals shall have the power to hear and make determinations regarding applications for variances regarding the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes in a greater height or larger area than the district requirements permit. The board may permit the location in any use district of a public utility building, structure or use if the board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service.

(Code 1977, § 5.285)

Sec. 28-242. - Appointment and membership.

- (a) The zoning board of appeals shall consist of five (5) members and two (2) alternate members appointed by the mayor with the approval of the city council for three-year terms. All persons serving on this board shall be residents of the city. No elected official or employee of the city may be appointed to the board of appeals. Members of the board shall be removable upon a finding of misfeasance, malfeasance or nonfeasance. Such findings may occur only after specific written charges have been filed with the city council and after the accused member has been afforded a hearing regarding such charges. Vacancies shall be filled by the mayor with the approval of the city council within thirty (30) days and shall be for the unexpired term.
- (b) Alternate members may be called on a rotating basis to sit as members of the zoning board of appeals in the absence of a member. An alternate member may also be called to serve in the place of a member for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a member.

(Code 1977, § 5.286; Ord. No. 2011.15, § 6, 8-16-11; Ord. No. 2016-29, § 3, 11-15-16)

Sec. 28-243. - Meetings.

The zoning board of appeals shall adopt rules and procedures for its meetings, which shall be held at the call of the chair and at such times as the board may determine. Such meetings shall be open to the public. A record of its proceedings, showing the action of the board and the vote of each of the members on every question considered at its meetings shall be kept. The presence of a majority of its members shall be necessary to constitute a quorum.

(Code 1977, § 5.287; Ord. No. 2016-29, § 3, 11-15-16)

Sec. 28-244. - Applications, appeals, hearings and stay of proceedings.

- (a) *Application.* An appeal to the zoning board of appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city aggrieved by any decision of the zoning official. Such appeal shall be taken within ten (10) days after the decision, by filing with the zoning official and the board of appeals a notice of appeal specifying the grounds thereof. The zoning official shall transmit the appeal with the appealing party's payment to the city clerk.
- (b) *Hearings.* The board of appeals shall fix a reasonable time for the hearing of the application or appeal and give as required under section 28-8. At the hearing any party may appear in person or by agent or by attorney.
- (c) *Adjournment of hearings.* On the day of the hearing of any appeal, the board may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners or occupants as it decides may be substantially interested in such application or appeal.

In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of such hearing, unless the board so decides.

- (d) *Decisions of the board.* The board shall decide all appeals within thirty (30) days after the final hearing thereon.
- (1) A certified copy of the board's decision shall be transmitted to the appellant and to the zoning inspector. Such decision shall be binding upon the zoning inspector and shall be incorporated into the terms and conditions of the same in the permit to the appellant, whenever a permit is authorized by the board.
 - (2) A decision of the board shall not become final until the expiration of five (5) days from the date such decision is made, unless the board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and so certifies on the record.
 - (3) The board may attach any condition to its approval that it finds necessary to accomplish the reasonable application of the standards in section 28-238.
- (e) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from unless a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order which may, on due cause shown, be granted by the board of appeals on application, after notice to the zoning inspector, or by judicial proceedings.
- (f) *Review by circuit court.* Any party aggrieved by any order, determination or decision of any officer, agency, board, commission, or board of appeals may obtain a review thereof both on the facts and law, in the circuit court for the county wherein the subject property or some part thereof is located; provided that the application must be made to the court within thirty (30) days after delivery of a copy of such order, determination or decision by any method permissible under the rules and practices of the circuit courts of this state. On such review, the courts shall have jurisdiction to make such further orders in respect thereto as justice may require.

(Code 1977, § 5.288; Ord. No. 2011.15, § 6, 8-16-11)

Secs. 28-245—28-249. - Reserved.

ARTICLE IX. - SIGN REGULATIONS

Sec. 28-250. - Intent.

The purpose of this article is to regulate signs and outdoor advertising within the City of Jackson to protect public safety, health, and welfare; minimize abundance and size of signs to reduce motorist distraction and loss of visibility; promote public convenience; preserve property values; support and complement strategies of the City of Jackson Master Plan; and enhance the aesthetic appearance and quality of life within the city. Additional objectives, above and beyond those found within this article, are as follows:

- (a) Protect the public right in accordance with the First Amendment of the United States Constitution.
- (b) Recognize that the principal intent of commercial signs is to serve the public interest, for providing accurate information to the public, not for creating visual blight, and not for compromising traffic safety.
- (c) Recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents.
- (d) Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.

- (e) Enable the public to locate goods, services, and facilities without excessive difficulty and confusion by restricting the placement of signs.
- (f) Prevent placement of signs which will conceal or obscure signs of adjacent uses.
- (g) Preserve and improve the aesthetics and character of the city by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.
- (h) Provide a predictable form-based ordinance that focuses on regulating the time, place, manner, and physical characteristics of signs, but not focus on regulating the message content of signs.

(Ord. No. 2016.07, § 2, 3-29-16)

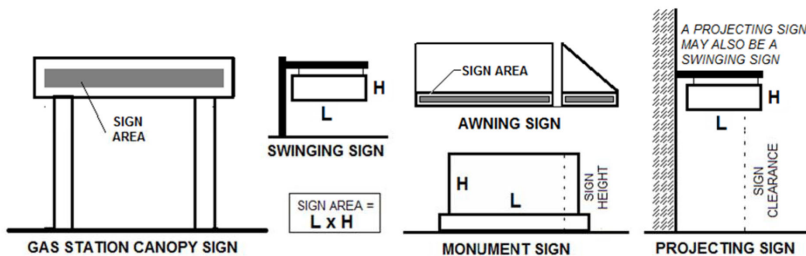
Sec. 28-251. - Interpretation.

Please refer to section 28-4 regarding how the wording utilized in this and the other articles which comprise this chapter shall be interpreted.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-252. - General provisions.

- (a) *Character.* All signs must be designed, constructed, and maintained to be appropriate in appearance with the existing or intended historic character of the city and to maintain the essential character of the area. Signs must be discernible and easy to read for both pedestrian and vehicular traffic.
- (b) *Location/projection.* Unless otherwise permitted herein, no signs, except those established by the city, county, state, or federal government, may be located in, projected onto, or overhang any city-owned public right-of-way unless a revocable license is issued by the neighborhood and economic operations department (see section 28-166). Signs cannot extend above the roof or parapet of the structure to which it is attached. Signs cannot be located within ten (10) feet of a fire hydrant.
- (c) *Enlargement, alteration or relocation.* Signs cannot be enlarged, structurally altered, or relocated except to increase their conformity to the provisions of this chapter.
- (d) *Calculation of total sign area.* The area of a sign is limited to the size of the cabinet or structure (excluding the base) except awnings and gas station canopies (see section 28-253 and the following diagram).



- (e) *Setbacks.* All signs, unless otherwise provided for, shall be located outside any public street right-of-way line, unless a revocable license is granted, and shall comply with section 28-262, visibility at intersections.
- (f) *Substitution.* The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent the favoring of commercial

speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message.

- (g) *Illumination.* Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign (i.e. front lit signs) or internal to it (i.e. back lit signs). No sign shall be illuminated by any open spark or flame, intermittent, or flashing illumination, except as otherwise permitted by this chapter.
 - (1) *Front lit signs.* "Front lit signs" are signs that are illuminated by an external light source. An example of a front lit sign is a monument sign that is illuminated by a spot light that is located several feet in front of the sign. The background of front lit signs may be any color, provided they are not reflective at night. However, such signs may use light reflecting lettering and messaging.
 - (2) *Back lit signs.* "Back lit signs" are signs that are illuminated by an internal light source. An example of a back lit sign is a monument sign that is illuminated by several fluorescent bulbs that are located within the sign cabinet. The background of back lit signs may be any color—which complements the character of the surrounding area (except white)—provided the background is blacked out at night so that only the lettering and message is illuminated.
 - (3) *[Illumination of signs.]* Illumination of signs shall meet the standards included in section 28-109; and shall be directed or shielded downward, so that no direct ray from such illumination shall interfere with the vision of persons on the adjacent streets or of adjacent property owners. The use of colored lights that could reasonably be confused with traffic signals shall not be permitted. Underground wiring shall be required for all illuminated signs not attached to a building.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-253. - Signs subject to permit or other approval.

The signs outlined in the following table are subject to a permit or other approval as indicated. Unless stated otherwise within the article, all other sign types are exempt from the permit requirements. The design requirements and other provisions for such sign are also prescribed. Permit application requirements are found in section 28-254. These signs include the following and are defined in section 28-5.

Table of Sign Standards for Signs Subject to a Permit Unless Otherwise Specified (in this Table)			
	Sign Types, Districts Permitted, Required Approvals	Size Restrictions	Additional Restrictions

(a)	<p><i>Awning Signage.</i> Permitted in the R-4, R-6, C-1, C-2, I-1 and I-2 Districts, subject to the sign permit.</p>	<p><i>Number.</i> One (1) per property or business entrance. <i>Total Sign Area.</i> Message shall not cover more than 1/3 of the apron of each awning.</p>	<p>All or a portion of the permitted awning signage area may be used towards wall signage. The apron of the awning must be at least nine (9) feet above ground level or sidewalk. Awnings must meet the building design standards (see <u>section 28-115(f)(3)</u>). Sign materials and sign colors must complement the building(s) located on the site and emulate the neighborhood. Awnings that overhang a public right-of-way require a revocable license (see <u>section 28-166</u>).</p>
(b)	<p><i>Billboards.</i> Permitted only in the I-2 Zoning District, subject to a Conditional Use Permit (see <u>section 28-145</u>).</p>		
(c)	<p><i>Construction Site Signs.</i> [Permitted] in the R-4, R-5, R-6, C-1, C-2, C-3, C-4, I-1 and I-2 Districts, subject to the sign permit.</p>	<p><i>Total Sign Area.</i> Nonresidential construction site sign size shall not exceed an aggregate of sixty-four (64) square feet; no one sign shall exceed thirty-two (32) square feet. <i>Height.</i> Shall not exceed ten (10) feet.</p>	<p>All signs shall be erected during the construction period. Such signs shall be removed no more than fourteen (14) days after the date that development or phase is completed. The developer may request a permit renewal from the zoning administrator, or his/her designee, following all of the pertinent procedures of the original approval if additional time is needed for the project or for additional phases. In addition to permit requirements, permit renewal requests will consider the current condition and quality of the existing sign and whether replacement or repair is necessary. No construction site signs shall be located in the public right-of-way.</p>

(d)	<p><i>Electronic and Other Changeable Message Board.</i> Permitted in the R-4, R-6, C-1, C-2, C-3, C-4, I-1 and I-2 Districts, subject to a sign permit. Electronic Message Boards are only allowed on lots with at least one hundred (100) feet of continuous street frontage.</p>	<p><i>Number.</i> One (1) per lot. <i>Total Sign Area.</i> The electronic or other changeable message board sign shall not exceed twenty-five percent (25%) of the total monument sign area proposed.</p>	<p>Only permitted as part of a permitted monument sign, cannot stand alone. An electronic or other changeable message board located on street frontage shall only have a static message or image that changes if the rate of change between two (2) static messages or images does not exceed more than one (1) change per five (5) minutes, each change is complete in one (1) second or less, and the maximum daylight sign luminance level does not exceed sixty-two thousand (62,000) candelas per meter squared at forty thousand (40,000) lux illumination beginning one-half (½) hour after sunrise and continuing until one-half (½) hour before sunset and does not exceed three hundred seventy-five (375) candelas per meter squared at four (4) lux illumination at all other times. In addition, any sign permitted to have this changeable copy, must configure to default to a static display in the event of mechanical failure.</p>
(e)	<p><i>Gas Station Canopy Signage.</i> Only permitted in the C-4, I-1, and I-2 Districts, subject to a sign permit.</p>	<p><i>Number.</i> Up to three (3). <i>Total Sign Area.</i> Shall not exceed eight (8) square feet per sign and each sign shall be contained in the canopy facade.</p>	<p>The face of the canopy shall not be internally illuminated, if proposed as such, the entire canopy area will be considered part of the sign, unless the canopy is a dark color and the letters are light and illuminated.</p>

<p>(f)</p>	<p><i>Monument (Ground) Signs.</i> Permitted in the R-4, R-6, C-1, C-2, C-3, C-4, I-1, and I-2 Districts subject to a sign permit. Permitted in the R-1, R-2, and R-3 Districts subject to conditional use approval (section 28-147)</p>	<p><i>Number.</i> One (1) monument/ground sign per lot in addition to permitted wall, awning, and window signage. <i>Total Sign Area.</i> Twenty (20) square feet per sign face in the R-4 and R-6 Districts, forty (40) square feet in the C-1, C-2 and C-3 Districts, and sixty (60) square feet in the C-4, I-1 and I-2 Districts. <i>Height.</i> Five (5) feet above grade in the R-1 through R-3, R-4, R-6, C-1, and C-2 Districts and six (6) feet above grade in the I-1 and I-2 Districts.</p>	<p>No part of monument sign may be placed within five (5) feet of a front lot line or within five (5) feet of a side lot line. In no case may the sign violate the provisions of <u>section 28-126</u>, visibility at intersections. Sign materials and sign colors must complement the building(s) located on the site and emulate the high quality traditional character of the city.</p>
<p>(g)</p>	<p><i>Murals Without Signage.</i> Permitted only in R-4, R-6, C-1, C-2, C-3, C-4, I-1 and I-2 Districts and public parks, subject to site plan approval (see <u>section 28-135</u>). A mural can be a portion of a construction site sign as defined by this chapter. Murals must be constructed of appropriate materials and reasonably maintained.</p>	<p><i>Number.</i> No more than two (2) walls per building address may contain a mural. <i>Total Sign Area.</i> While up to 100% of the wall area may contain a mural no more than fifty (50) percent of any one wall area may contain business signage.</p>	<p>Colors and design shall complement the structure and neighborhood. This determination shall be made by the Jackson Public Arts Commission.</p>

<p>(h)</p>	<p><i>Projecting Signs.</i> Only permitted in the C-3 District, subject to a sign permit.</p>	<p><i>Total Sign Area.</i> The sign shall not exceed sixteen (16) square feet in area with a maximum width of two (2) feet measured from the inside edge of the sign which shall be no more than six (6) inches from the exterior wall of the structure.</p> <p><i>Height.</i> Projecting signs must be affixed to the front façade of the business and allow a nine (9) foot clearance from the bottom of the sign to the sidewalk. The top of the sign shall not be installed at a height taller than the bottom of the second floor or between the parapet and the windows of a single story structure.</p>	<p>The applicant is permitted a projecting sign in place of one (1) of the allowable wall signs. A revocable license is needed if the sign projects into a public right-of-way (see section 28-166).</p>
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<p>(i)</p>	<p><i>Sandwich Boards (A-Frame Signs).</i> Permitted in the C-1, C-2, and C-3 Districts subject to a sign permit.</p>	<p><i>Number.</i> One (1) per building, regardless of the number of tenants. <i>Total Sign Area.</i> Shall not exceed a length of two (2) feet and a height of three (3) feet.</p>	<p>Each sign shall be placed outside only during the hours of operation and shall be stored indoors at all other times. Signs shall not be physically secured to light poles, vegetation, street furniture, or other permanent structures. Each sign shall be placed next to the building wall or adjacent to the curb in a manner which provides four (4) feet of free passage for pedestrians and does not interfere with normal pedestrian or automobile traffic. No sign shall be in the sight clearance triangle. No revocable license is required if the sandwich board is placed in a public right-of-way. The owner of the sandwich board shall provide a certificate of insurance and insurance endorsement listing the City of Jackson as an additional insured, and this certificate must be in a coverage amount established by the city attorney to ensure the city's protection. All sign frames shall be constructed of a weatherproof material and shall be kept in good repair.</p>
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(j)	<p><i>Temporary Banners.</i> Permitted in all districts subject to a sign permit.</p>	<p><i>Number.</i> One (1) per street front. <i>Total Sign Area.</i> Shall not exceed an area of thirty-two (32) square feet.</p>	<p>Shall be permitted to be displayed for up to thirty (30) days. Signs are limited to no more than three (3) events per calendar year. If mounted to the ground, a two sided sign is permitted but shall not exceed the maximum sign dimensions. No sign shall be in the sight clearance triangle. Any banner positioned within or suspended above a public right-of-way requires a revocable license (see section 28-166).</p>
(k)	<p><i>Temporary Event Signs.</i> Permitted in all districts subject to a sign permit.</p>	<p><i>Number.</i> One (1) per event. <i>Total Sign Area.</i> Shall not exceed an area of twelve (12) square feet. Signs in the right-of-way may not be more the four (4) feet tall or four (4) feet wide.</p>	<p>Shall be permitted to be displayed for up to thirty (30) days. Signs are limited to up to three (3) events per calendar year. If mounted to the ground, a two sided sign is permitted but shall not exceed the maximum sign dimensions. No sign shall be in the sight clearance triangle. Any sign projecting greater than fifteen (15) inches into a public right-of-way requires a revocable license (see section 28-166).</p>

<p>(l)</p>	<p><i>Wall Signs.</i> Permitted in the R-4, R-6, C-1, C-2, C-3, C-4, I-1 and I-2 Districts, subject to a sign permit.</p>	<p><i>Number.</i> One (1) wall sign or projecting sign per façade as permitted below. <i>Total Sign Area.</i> The sign's surface shall not exceed two (2) square feet for each lineal foot of the length of the primary building façade up to a maximum of one hundred (100) square feet. <i>Height.</i> Signs to be placed on the wall below the roof line for one story buildings and below the bottom of the second floor for multiple story buildings in the downtown (C-3 district) and as a conditional land use when located above the second floor of a building.</p>	<p>Wall signs may be placed anywhere on a building or accessory structure (such as a gas station or drive-through window canopy) provided it meets the height requirements. All or a portion of the permitted wall sign area may be used towards awning signage provided the proposed area meets the size restrictions of this chapter and the awning meets design standards of <u>section 28-115(f)(3)</u>. Any sign projecting greater than fifteen (15) inches into a public right-of-way requires a revocable license (see <u>section 28-166</u>).</p>
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(Ord. No. 2016.07, § 2, 3-29-16; Ord. No. 2016-29, § 3, 11-15-16; Ord. No. 2020-19, § 2, 10-27-20)

Sec. 28-254. - Permit requirements.

It shall be unlawful for any person to erect, structurally alter, or relocate any sign as defined herein unless specifically exempted hereunder, without first obtaining a permit from the zoning administrator and making payment of any fee required by the city. The zoning administrator shall review the sign permit applications for conformance with the requirements of this chapter. The zoning administrator shall not issue a permit for erection of a proposed sign that is not in conformance with the requirements of this chapter unless a variance is otherwise issued by the zoning board of appeals.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-255. - Application procedures.

Application for sign permits shall be made upon forms provided by the city and shall have attached thereto the following information:

- (a) Applicant must fill out a city sign application form obtained from the zoning administrator.
- (b) Information that must be included in the application is:

- (1) *Location.* A written description of the sign as well as an adequate staking of the requested sign location that wo on-site inspection.
 - (2) A drawing of the sign and any structural supports, which gives all dimensions of the sign and structure (i.e., length, width, and height).
 - (3) A schematic sketch or drawing of the site showing its relationship to the roadway and adjacent land uses and any landscaping to be used in conjunction with the sign. The sketch shall be drawn at a readable scale with a scale bar.
 - (4) A schematic sketch or drawing of the building façade with dimensions (width) and schematic sketch or drawing with dimensions (length, width, and height) of all other signs on the property.
 - (5) Information to confirm the sign will be installed or altered by a contractor registered with the city. No person shall engage in the business of erecting or installing signs without registering with the city to conduct such operations.
- (c) Signs shall conform to all aspects of this chapter.
 - (d) Application shall be made to the zoning administrator.
 - (e) Where it is alleged that there is an error in any order, requirement, decision, grant or refusal made by the zoning administrator in the interpretation of this chapter, the zoning board of appeals shall have the power to hear and decide appeals, filed as provided in section 28-244.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-256. - Permit fees.

A fee shall be paid for the issuance of a sign permit or renewal in accordance with a schedule of fees, which shall be adopted by the city council. Such schedule of fees shall be designed to reimburse the city for all reasonable costs incurred to process, review, inspect, administer, and any other act that is necessary for the zoning administrator to make a decision.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-257. - Signs that do not require a permit.

The following signs do not require a permit but remain subject to the conditions and limitations set forth herein:

Table of Sign Standards for Signs That Do Not Require a Permit (in this Table)			
	Sign Types, Districts Permitted, Required Approvals	Size Restrictions	Additional Restrictions
(a)	<i>Drive-Thru Boards.</i> Permitted in the C-1, C-2, C-3, C-4, I-1 and I-2 Districts.	<i>Total Sign Area.</i> Total surface area not to exceed forty-eight (48) square feet. <i>Height.</i> No sign shall exceed a maximum height of six (6) feet from grade.	Direct illumination is prohibited.

(b)	<p><i>Flags.</i> Permitted in all districts.</p>	<p><i>Total Sign Area.</i> Aggregate of all signs shall not exceed thirty-two (32) square feet</p>	
(c)	<p><i>Incidental Signs.</i> <i>Permitted in all districts.</i></p>	<p><i>Total Sign Area.</i> Total number of signs shall not exceed an aggregate side face area of six (6) square feet. <i>Single Sign Area.</i> The total sign's surface for a single sign shall not exceed two (2) square feet.</p>	<p>Any sign located in a public right-of-way requires a revocable license (see section 28-166). Direct illumination is prohibited.</p>
(d)	<p><i>Ingress/Egress Signs.</i> Permitted in all districts.</p>	<p><i>Total Sign Area.</i> Total surface area not to exceed three (3) square feet per sign face. <i>Height.</i> No sign shall exceed a maximum height of five (5) feet from grade if mounted to the ground.</p>	<p>Such signs must be attached to existing sign posts if available or as otherwise allowed the zoning administrator. The plan for the location of such signage must be approved by the zoning administrator. Any sign located in a public right-of-way requires a revocable license (see section 28-166). Direct illumination is prohibited.</p>
(e)	<p><i>Murals Without Signage.</i> Permitted only in R-4, R-6, C-1, C-2, C-3, C-4, I-1 and I-2 Districts and public parks. A mural can be a portion of a construction site sign as defined by this chapter. Murals must be constructed of appropriate materials and reasonably maintained.</p>	<p><i>Number.</i> No more than two (2) walls per building address may contain a mural. <i>Total Sign Area.</i> Up to 100% of the wall area may contain a non-signage mural</p>	<p>Colors and design shall complement the structure and neighborhood. This determination shall be made by the Jackson Public Arts Commission.</p>

(f)	<p><i>Parking Lot Signs.</i> Permitted in all districts.</p>	<p><i>Total Sign Area.</i> Total surface area shall not exceed sixteen (16) square feet per sign face. <i>Height.</i> No sign shall exceed a maximum height of six (6) feet from grade if mounted to the ground.</p>	<p>Any sign located in a public right-of-way requires a revocable license (see section 28-166). Direct illumination is prohibited.</p>
(g)	<p><i>Temporary Freestanding Commercial and Industrial Yard Signs and Swinging Signs.</i> Permitted in the C-1, C-2, C-3, C-4, I-1 and I-2 Districts.</p>	<p><i>Number.</i> Total number of signs shall not exceed an aggregate side face area of twenty (20) square feet. <i>Single Sign Area.</i> The total sign's surface for a single sign shall not exceed eight (8) square feet. <i>Height.</i> No sign shall exceed a maximum height of four (4) feet.</p>	<p>No sign shall be in place for a period exceeding six (6) consecutive months. Swinging signs may be wall or ground mounted and only in the C-3 district. Any sign located in a public right-of-way requires a revocable license (see section 28-166). Direct illumination is prohibited.</p>
(h)	<p><i>Temporary Freestanding Residential Yard Signs and Swinging Signs.</i> Permitted in the R-1, R-2, R-3, R-4, R-5 and R-6 Districts</p>	<p><i>Number.</i> Total number of signs shall not exceed an aggregate side face area of eighteen (18) square feet. <i>Total Sign Area.</i> The total sign's surface for a single sign shall not exceed six (6) square feet. <i>Height.</i> No sign shall exceed a maximum height of four (4) feet.</p>	<p>No sign shall be in place for a period exceeding three (3) consecutive months. Swinging signs may be wall or ground mounted and only in the R-4 and R-6 districts. Any sign located in a public right-of-way requires a revocable license (see section 28-166). Direct illumination is prohibited.</p>

<p>(i)</p>	<p><i>Warning Signs.</i> Permitted in all districts.</p>	<p><i>Total Sign Area.</i> For warning signs located in the R-1, R-2, R-3 and R-5 Districts, the total surface area for a single sign face shall not exceed three (3) square feet. For warning signs located in the R-4 and R-6 Districts, the total surface area for a single sign face shall not exceed four (4) square feet. For warning signs located in the C-1, C-2, C-3, C-4, I-1 and I-2 Districts, the total surface area for a single sign face shall not exceed six (6) square feet.</p>	<p>When required by local, state or federal law, the sign shall be placed in a conspicuous location that is reasonably expected to notify persons of potential hazard. Unless state or federal law requires a different size. Any sign located in a public right-of-way requires a revocable license (see <u>section 28-166</u>). Direct illumination is prohibited.</p>
<p>(j)</p>	<p><i>Window Signs.</i> Permitted in all districts.</p>	<p><i>Total Sign Area.</i> In total the message shall cover no more than ¼ of the front window area.</p>	<p>Signs shall be affixed directly to the window. Front lit illumination is prohibited in all districts. Back lit illumination is allowed in the C-1, C-2, C-3, C-4, I-1, and I-2 districts.</p>

(Ord. No. 2016.07, § 2, 3-29-16; Ord. No. 2020-19, § 2, 10-27-20)

Sec. 28-258. - Similar sign determination.

It is recognized by the city that not all sign types can be identified within the scope of this chapter. Therefore, the city's zoning administrator has the authority to make a "similar sign determination." The zoning administrator shall evaluate the physical characteristics, location, and other relevant factors in determining which sign type defined in this chapter is most similar. Based on that determination, this sign type shall always be included in the comparable sign category.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-259. - Nonconforming signs.

The goal is to eliminate nonconforming signs, except as otherwise specifically set forth in this section. Any lawfully erected sign, which is made unlawful by this chapter, may continue exactly as the sign existed at the time when the sign became unlawful under the provisions of this chapter.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-260. - Prohibited signs.

Unless otherwise permitted by this chapter, it shall be unlawful for any person to erect, structurally alter, restore, or relocate any of the following signs:

- (a) A sign which copies or imitates or in any way approximates an official highway sign or any word phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic; any sign which obscures a sign displayed by a public authority for the purpose of giving traffic instruction or direction or other public information; or any sign that is erected in such a manner as to interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal or device.
- (b) Any sign that has been unlawfully erected, structurally altered, or relocated in violation of any of the provisions of this chapter or of any other chapter of the City Code shall be prohibited and removed in accordance with the provisions of section 28-130.
- (c) A sign which displays flashing or intermittent lights or lights of changing degrees of intensity, or a sign that moves either by mechanical means or reaction to air currents, other than as noted in this chapter.
- (d) A sign that obstructs any window or door opening used as a means of egress or a sign that interferes with an opening required for legal ventilation.
- (e) A sign or illumination that causes any direct glare into or upon any building other than the building to which the sign is accessory.
- (f) Off-premises signs and billboards, except as otherwise specified in this chapter.
- (g) Swinging signs, except in the C-3 District.
- (h) Abandoned signs (see section 28-5).
 - (1) Any text or images displayed upon the face(s) of an abandoned sign must be removed or replaced with blank faces.
 - (2) Abandoned nonconforming signs, including the structure, shall be removed immediately.
 - (3) The zoning administrator shall require the removal of other abandoned signs which have fallen into disrepair.
- (i) Signs which contain statements, words, or pictures of an obscene or pornographic nature.
- (j) Signs which emit audible sound.
- (k) Exterior string lights including rope lights, fiber optics or other similar types of lights intended to draw attention to a sign.
- (l) Non-regulatory signs (e.g., posters, notices, advertisements, etc.) placed in any public right-of-way, attached to a utility pole, meter posts or affixed to a tree in or along any street right-of-way within the city.
- (m) Portable signs, as defined, unless otherwise provided for in this chapter.
- (n) Signs affixed to a parked vehicle or truck trailer which is being used principally for advertising purposes and parked in a location that is selected for that purpose (e.g., a vehicle parked close to a street in a large commercial

parking lot, etc.).

- (o) Banners, balloons, pennants, festoons, spinners, or streamers, unless specifically permitted in this chapter.
- (p) Inflatables.
- (q) Roof signs.
- (r) Shingled roof signs.
- (s) Any sign which:
 - (1) Is structurally unsafe;
 - (2) Is constructed of a material that is determined by the permit issuing authority to be temporary in nature or a weak material such as oriented strand board (OSB), tarp, canvas, large balloon, banner, or plastic;
 - (3) Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
 - (4) Constitutes a hazard to safety or health by reason of blocking views;
 - (5) Is capable of causing electric shock to a person who comes in contact with it;
 - (6) Is located in public street or utility right-of-way, except where expressly permitted herein; or
 - (7) Is not kept in good repair, such that it has broken or missing parts, missing letters or panels, or nonoperational lights.
 - (8) Is attached to a tree or other vegetation.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-261. - Construction and maintenance requirements for signs.

- (a) Signs shall be designed to be compatible with the building materials and landscaping used on the property to promote an overall unified and aesthetic effect in accordance with the standards set forth herein.
- (b) Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.
- (c) All monument signs shall have a combination of low shrubbery and annual plantings at the base.
- (d) The maximum distance between parallel sign faces on a double-faced sign shall be twenty (20) inches, excluding billboards.
- (e) Every sign shall be constructed and maintained in a manner consistent with Michigan Building Code provisions and maintained in good structural condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal parts and supports. All lighting shall be functional.

(Ord. No. 2016.07, § 2, 3-29-16)

Sec. 28-262. - Visibility at intersections.

In no case shall the sign violate the provisions of section 28-126, visibility at intersections.

(Ord. No. 2016.07, § 2, 3-29-16)