

APPENDIX A - ZONING^[1]

Footnotes:

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Editor's note— Printed herein is the city's zoning ordinance as adopted February 28, 2001, and as subsequently amended. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform, and the same system of capitalization, citations to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Cross reference— Any ordinance pertaining to zoning, including, but not limited to, the basic zoning ordinance and or ordinances rezoning property or amending the zoning map saved from repeal, § 1-11(17); buildings and building regulations, ch. 14; community development, ch. 22; streets, sidewalks and other public places, ch. 46; subdivisions and other divisions, ch. 50; telecommunications, ch. 54; vegetation, ch. 66.

State Law reference— Zoning, MCL 125.581 et seq.

ARTICLE I. - SHORT TITLE AND PURPOSE

1.0101. - Short title.

This chapter [appendix A] shall be known as the Zoning Ordinance of the City of Sturgis, under the powers provided by Public Act No. 207 of 1921 (MCL 125.581 et seq.) and Public Act No. 285 of 1931 (MCL 125.31 et seq.), as amended.

1.0102. - Purpose.

In interpretation and application, the provisions of this zoning code shall be held to be minimum requirements to provide adequate light, air, access, circulation, open yard spaces, off-street parking areas, and protection to property values from incompatible uses; to limit and restrict the height, size, and location of buildings and uses; to secure safety from fire and other dangers; to lessen congestion in the streets; to limit the density and intensity of use of land; to promote the most appropriate and compatible uses of land in various districts of the city; to provide for enforcement of and variations to these provisions; and to impose penalties for violations thereof.

1.0103. - Intent.

Pursuant to the authority conferred by the public acts of the State of Michigan in such case, made and provided and for the purpose of promoting, and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the city by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land, preventing overcrowding the land and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan; now therefore.

ARTICLE II. - DEFINITIONS

1.0201. - General.

When not inconsistent with the context, words in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the

singular. The word "shall" is always mandatory and not merely directive. The word "building" includes the word "structure" or vice versa. Terms not herein defined shall have the meaning customarily assigned to them.

1.0202. - Specific terms.

For the purpose of this section the following definitions shall apply unless context clearly indicates or requires a different meaning.

Abandonment. The cessation of activity in, or use of a dwelling, structure, or lot, other than that which would normally occur on a seasonal basis, for a period of 12 months or longer. For purposes of mineral extraction operations, "abandonment" at any particular site shall be determined by the planning board giving consideration to any specific site plan.

Abutting. Having property or district line in common e.g., two lots are abutting if they have property lines in common.

Access. A way of approaching or entering a property.

Accessory building. A type of structure that has a roof which is supported by columns or walls, is intended for the shelter or enclosure of persons, animals, goods or property, and is further intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot as the principal use to which it is exclusively related. Examples of accessory buildings include but are not limited to: garages, storage sheds, gazebos, play houses, greenhouses, pump houses, garden sheds, pergolas and dog houses.

Accessory structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having such location, and that is intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot as the principal use to which it is exclusively related. Examples of accessory structures include but are not limited to: accessory buildings, swimming pools and decks around pools, play structures, HVAC units, generators, television antennas not installed on principal building, residential kennels, solar panels, trampolines, storage unit and tennis courts.

Accessory use. A use which is clearly incidental to, customarily found in connection with, and located on the same zoning lot, unless otherwise specified, as the principal use to which it is related. When [the term] "accessory" is used in this text, it has the same meaning as [the term] "accessory use." An accessory use includes, but is not limited to, the following:

- A. Accommodations for servants and/or caretakers;
- B. Outdoor swimming pools, hot tubs and saunas for the use of occupants of a residence, or their guests;
- C. Domestic or agricultural storage in a barn, shed, toolroom, or similar accessory building or other structure;
- D. A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays;
- E. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations;
- F. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations;
- G. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located;
- H. Uses clearly incidental to a main use, such as but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex;

- I. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located;
- J. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located;
- K. Common household gardening in a residential district when located only in the rear yard and/or non-required side yard areas. For purposes of this title, common household gardening shall include the growing of fruits and vegetables for consumption, solely by members of the family residing in the dwelling unit located on the same zoning lot; [and]
- L. Solar panels, wind generators, television reception antenna and air conditioning units.
- M. Any structure or area designed and used specifically for the boarding or exercise of pet or pets (dogs, cats, rabbits, etc.), including but not limited to houses, pens, kennels, and dog/pet runs shall be considered as accessory structures.

Addition. A structure added to the original structure at some time after the completion of the original.

Adjoining lot or land. A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land.

Adult entertainment facilities.

- A. *Adult bookstore.* An establishment having more than 50 percent of its stock in trade, magazine and other periodicals with an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material and which excludes minors by virtue of age.
- B. *Adult motion picture theater.* An enclosed building, with a capacity of 50 or more persons, used for presenting material with an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), for observation by patrons therein and which excludes minors by virtue of age.
- C. *Adult minimotion picture theater.* An enclosed building with a capacity for less than 50 persons, used for presenting material with an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), for observation by patrons therein and which excludes minors by virtue of age.
- D. *Adult cabaret.* An establishment in which alcoholic beverages are not served and which provides dancers or other live entertainers who display or describe "specified sexual activities" or "specified anatomical areas" (as defined herein), for observation by patrons therein and which excludes minors by virtue of age.

Adult foster care home. A private home licensed by the Department of Consumer and Industry Services for care of sick, elderly or handicapped adults. A family home is defined as having one to six adults; a group home seven to 20.

Airport. A place where aircraft land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodation for passengers.

Aisle. The traveled way by which cars enter and depart parking places.

Alley. A public way which affords only secondary access to abutting property, and not intended for general traffic circulation.

Alterations. Any change, addition or modification in construction or type of occupancy, or in the structural members of a building such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to in this [zoning] ordinance as "altered" or "reconstructed."

Amusement arcade. [The term] "amusement arcade" means any place, premises, or establishment, or any room or floor space set aside in a commercial establishment, in or at which four or more mechanical amusement devices as defined in this [zoning] ordinance are located.

Animal hospital. An indoor commercial establishment where animals are treated by a veterinarian and animals may be provided overnight kenneling.

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

Apartment, efficiency. A dwelling unit consisting of not more than one room in addition to kitchen, dining and necessary sanitary facilities.

Appeals. The process, as prescribed in the [zoning] ordinance, for contesting a zoning interpretation made by the building department or a decision made by the planning board.

Applicant. A person or entity submitting an application for review and action by the city or any of its departments or commissions.

Approved plan. A plan which has been granted final approval by the appropriate approving authority.

Approving authority. The agency, board, group, or other legally designated individual or authority which has been charged with review and approval of plans and applications.

Architectural authority. Window sills, belt courses, brick and/or wrought iron wing walls, chimneys, architraves, pediments.

Attached. Any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to same.

Attached garage. An outbuilding customarily used for the storage of vehicles, which outbuilding is attached to a residential dwelling as either an integral part thereof, or, at minimum, connected to the dwelling by a completely enclosed breezeway.

Attention-getting device. A device designed or intended to attract; by noise, sudden intermittent or rhythmic movement physical change or lighting change; such as banners, flags, streamers, balloons, propellers, whirligigs, searchlights, and flashing lights.

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

Automobile repair, major. The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collisions service, such as body, frame or fender straightening, and overall painting of automobiles.

Automobile repair, minor. Repairs other than major repair, including engine tune-up, muffler shops, shock absorber replacement shops, undercoating shops.

Automobile sales area. An area used for the display, sales and rental of new and used motor vehicles, boats, trailers, farm equipment, construction equipment or mobile homes all in operable condition.

Automobile service station. A building used for the retail sale of fuel (stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water, and other commodities designed for motor vehicles, aircraft and boats. Such an operation includes space and facilities for selling, installing, or adjusting tires, batteries, parts and accessories within a building provided that such repair and installation are of minor repair nature and may include convenience store merchandise primarily sold to patrons purchasing gasoline.

Automobile washing establishment. A building or portion thereof, where motor vehicles are washed as a commercial enterprise, or where facilities are available for the self-service cleaning of motor vehicles.

Banks, credit unions or similar uses. Banks, credit unions, or similar uses are companies engaged in the business of dealing with financial and monetary transactions, such as deposits, loans, investments and currency exchange.

Banquet halls. A banquet hall is a room or building for the purpose of hosting a party, banquet, wedding, reception, or other social event.

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

Bed and breakfast operations. The use of a dwelling unit as a single-family dwelling unit, in which transient guests are provided a sleeping room and board in return for payment, and which does not provide separate cooking facilities for such guests.

Berm, obscuring. An earthen mound of definite height and location to serve as an obscuring device in carrying out the requirements of this [zoning] ordinance.

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

Board of appeals. The zoning board of appeals of the city.

Boardinghouse house or roominghouse. A dwelling having one kitchen and used for the purpose of providing meals and lodging for pay or compensation of any kind to more than two persons other than members of the family occupying the dwelling.

Buffer. A strip of land used to visibly separate one land use from another, or to shield or block noise, lights, or other nuisances.

Buildable area. The space remaining on a lot or lots of record after the minimum setback and open space requirements have been met.

Building. Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattel or property of any kind.

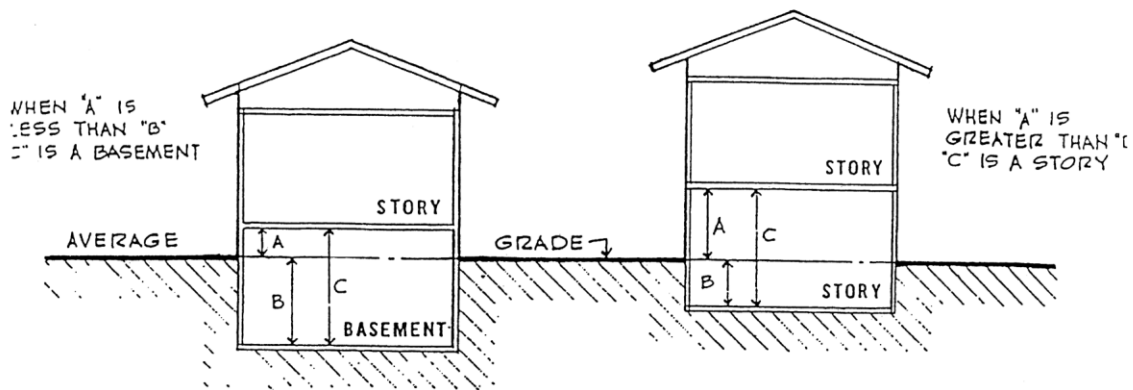
Building height.

- A. The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the decline of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs.
- B. Any extension of a mansard, gambrel, hip or gable roof below a wall shall require building height measurements to take place at the average height between the top of the building wall and the ridge line and the established grade of the building.

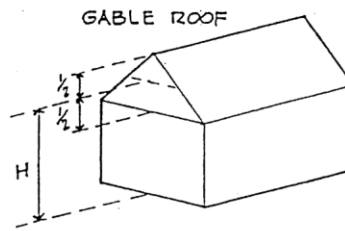
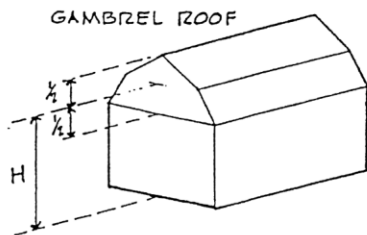
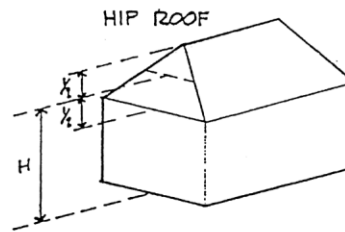
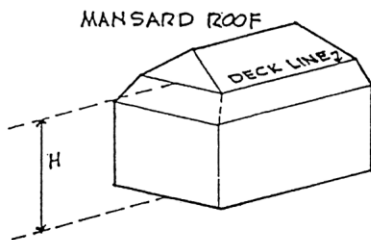
Building line. A line formed by the face of the building, and for the purposes of this [zoning] ordinance, a minimum building line is the same as a front setback line.

Building department. City staff appointed by the city manager and licensed pursuant to Public Act No. 230 of 1972 (MCL 125.1501 et seq.) to enforce and administer the zoning ordinance.

Building, main or principal. A building in which is conducted the principal use of the lot on which it is situated.



BASEMENT & STORY



H = HEIGHT OF BUILDING

BUILDING HEIGHT

Basement and Story and Building Height

Building permit. A permit signifying compliance with the provisions of this [zoning] ordinance as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in the City of Sturgis.

Caliper. The diameter of a tree trunk measured at breast height.

Canopy. A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a door-way or window from the elements.

Catering facility. An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption. Food and meals maybe served on site if the catering facility is in combination with a banquet hall or full service eating and drinking establishment.

Certificate of occupancy. A document issued by the proper authority (building department) allowing the occupancy or use of a building and certifying that the structure or use has been constructed and/or will be used, in compliance with all applicable municipal codes and ordinances and approved plans and specifications.

Change of use. Any use which substantially differs from the previous use of a building or land, or which imposes, other special provisions of law governing building construction, equipment, egress or ingress, off-street parking, etc.

Child care organization. A facility for the care of children under 18 years of age, as licensed and regulated by the state under Public Act No. 116 of 1973 (MCL 722.111 et seq.) and the associated rules promulgated by the Michigan Department of Consumer and Industry Service. Such organizations shall be further defined as follows:

- A. [The term] "child care center" or "day care center" means a facility, other than a private residence, receiving more than six preschoolage or schoolage children for group care for periods of less than 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 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, pay group, or drop-in center. [The term] "child care center" or "day 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.
- B. [The term] "foster family home" is a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and super-vision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- C. [The term] "foster family group home" means a private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
- D. [The term] "family day care home" means a private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.
- E. [The term] "group day care home" means a private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. it includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

Church, temple or mosque. A building or structure, or groups of building or structures, which by design and construction are primarily intended for organized religious services and accessory uses associated therewith.

Clear vision. An area along each street at its intersection with another street, drive or alley where no visual obstruction of sight may exist.

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

Club, social. A club, group or organization created for recreational, artistic, athletic, academic, political, charitable, or other social purpose, and whose activities are not conducted primarily for profit or material gain and do not involve merchandising, vending, or other commercial activities, except as required incidentally for the membership and purpose of the social club.

Commercial. A term relating to the use of property in connection with the purchase, sale or trading of goods or service.

Condominium definitions. The following definitions are related to condominiums:

- A. [The term] "condominium act" means Act 59, public acts of 19 78, as amended.
- B. [The term] "condominium documents" means the master deed, recorded pursuant to the condominium act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.
- C. [The term] "condominium subdivision (site condominium)" means a method of subdivision where land ownership of sites is regulated by the condominium act (MCL 559.101 et seq.), as opposed to the Land Division Act (MCL 560.101 et seq.). Condominium subdivision shall be equivalent to the term "subdivision" as used in this title and the city subdivision regulations ordinance.
- D. [The term] "condominium subdivision plan" means the drawings and information prepared in accordance with section 66 of the condominium act (MCL 559.166). Such drawings and information typically include the site, survey and utility plans, floorplans and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land.
- E. [The term] "condominium unit" means the portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential office, industrial, business, recreational, use as a timeshare unit, or any other type of use.
- F. [The term] "consolidating master deed" means the final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.
- G. [The term] "contractible condominium" means a condominium project from which any portion of the submitted land or building may be withdrawn in accordance with this title [zoning ordinance] and the condominium act (MCL 559.101 et seq.).
- H. [The term] "conversion condominium" means a condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under section 71 of the condominium act (MCL 559.171).
- I. [The term] "expandable condominium" means a condominium project to which additional land may be added in accordance with this title and the condominium act (MCL 559.101 et seq.).
- J. [The term] "master deed" means the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by section 8 of the condominium act (MCL 559.108).
- K. [The term] "notice of proposed action" means the notice required by section 71 of the condominium act (MCL 559.171), to be filed with the city and other agencies.
- L. [The term] "site condominium" means a developmental concept for a condominium development containing residential, commercial, office, industrial or other structure for uses permitted in the

zoning district in which located; in which each co-owner owns exclusive rights in a condominium unit as described in the master deed.

M. Lot shall mean the same as homesite and condominium unit in site condominium developments.

Contiguous. Next to, abutting, or touching and having a common boundary or portion thereof, which is co-terminus.

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

Deck. A horizontal structure of a single elevation or varying elevations, commonly used as a floor attached or adjacent to the main building.

Density. The intensity of development in any given area, measured in this [zoning] ordinance by the number of dwelling units per acre.

Density, high residential. Five or more dwelling units per acre.

Density, low residential. Less than three dwelling units per acre.

Density, medium residential. Not more than five dwelling units per acre.

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

Dish-type satellite signal-receiving antennas. [The term "dish-type satellite signal-receiving antennas,"] also referred to as "earth stations" or "ground stations," shall mean one, or a combination of two or more of the following:

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

[The term] "dish" shall mean that part of satellite signal receiving antenna characteristically shaped like a saucer or dish.

District (zoning). A portion of Sturgis in which certain building and activities are permitted and in which certain regulations, in accordance with the [zoning] ordinance, are applicable.

Dog house. A structure that has a roof and walls intended for the shelter or enclosure of a pet or pets (dogs, cats, rabbits, etc.).

Drive-in. Where food, frozen desserts or beverage are sold to the customers in a ready-to-consume state and where the customer consumes food, frozen desserts or beverages in an automobile parked upon the premises or at other facilities provided for customers which are located on the premises outside the building.

Drive-through. An establishment so developed that some portion of its retail or service character is dependent upon providing a driveway approach and staging area specifically designed for motor vehicles so as to serve patrons while in their motor vehicles rather than within a building or structure, for carryout and consumption or use after the vehicle is removed from the premises.

Dwelling unit. [The term] "dwelling unit" means a building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.

Dwelling, one-family. [The term] "one-family dwelling" means a building designed exclusively for and occupied exclusively by one family.

Dwelling, multiple family. [The term] "multiple-family dwelling" means a building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

Dwelling, two-family. [The term] "two-family dwelling" means a building designed exclusively for occupancy by two families living independently of each other.

Elderly housing, dependent. [The term] "elderly housing dependent" means a multiple-family housing form with central dining facilities provided as a basic service to each dwelling unit. Each dwelling unit shall not contain cooking facilities, but must contain sanitary facilities.

Elderly housing, independent. [The term] "elderly housing independent" means a multiple-family housing form with full facilities for self-sufficiency in each individual dwelling unit.

Egress (exit). An exit from a building or site.

Electronic message display. A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Electronic message display sign. A sign on which the message changes automatically through the use of changing lights to form a text message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic process. Electronic message display or changeable copy signs do not include graphic display (i.e. static pictures, with or without text) or video display (i.e. moving pictures, with or without text).

Emission. A discharge of pollutants into the air.

Environmentally sensitive area. An area with one or more of the following characteristics:

- A. Slopes in excess of 20 percent.
- B. Floodplain.
- C. Soils classified as having a high water table.
- D. Soils classified as highly erodible, subject to erosion, or highly acidic.
- E. Land incapable of meeting percolation requirements.
- F. Land formerly used for landfill operations or hazardous industrial uses.
- G. Fault areas.
- H. Stream corridors.
- I. Estuaries.
- J. Mature stands of native vegetation.
- K. Aquifer recharge and discharge areas.
- L. Wetlands.

Erected. As used in this [zoning] ordinance, [the term] "erected" signifies the construction, alteration, reconstruction, placement upon, or any physical alteration to a piece of land, including the excavating, moving and filling of earth.

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

Essential services. The erection, construction, alteration, or maintenance of railroads, public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by the public utilities or municipal departments or commissions or for the public health or safety or general welfare, but not including - buildings other than the buildings as are primarily enclosures or shelters of the mentioned equipment.

Excavation. The removal of rock, sand, soil, or fill material below the average grade of the surrounding land and/or road grade, whichever is highest. This does not include alterations for farming or gardening purposes.

Exceptions. An exception is a use permitted only after review of an application by the board of appeals other than the administrative official (building department), such review being necessary because the provisions of this [zoning] ordinance covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review by this [zoning] ordinance.

Family.

- A. A domestic family, that is, one 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 additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling unit.
- B. The functional equivalent of a domestic family, that is, 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 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 arrangements 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. For the purposes of enforcement, the building department shall presume that a functional equivalent of a domestic family is limited to six or fewer persons. A property owner may rebut this presumption to allow more than six persons by submitting an application for special land use approval subject to the standards set forth in this [zoning] ordinance.

Farm. Any area of two acres or more, used for agricultural purposes and uses incidental thereto, but not to include the raising or keeping of livestock or fowl. However, the incidental uses shall be subordinate to normal agricultural uses and shall not include commercial feeding of offal or garbage to animals.

Fast food restaurant. Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carryout with the consumption off the premises, and whose design or principal method of operation includes one or both of the following:

- A. Food, frozen desserts, or beverages usually served in edible containers or in paper, plastic, or other disposable containers;
- B. More than 45 percent of the available floor space devoted to food preparation, related activities and other floor space not available to the public.

Fence. A permanent or temporary partition or structure erected as a divider, barrier, or enclosure between two or more properties.

Fence, ornamental. A manmade structure the surface area of which is more than 65 percent open. Ornamental fences shall not be chainlink or of wire construction.

Fence, privacy. An obscuring fence or planting such as a hedge or trees and shrubbery of definite height and location to serve as a screening device.

Final approval. The last official action of the planning board or board of zoning appeals taken on a development plan which has been given preliminary approval, after all conditions and requirements have been met, the required improvements having been installed or guarantees properly posted for their installation, or approval conditioned upon the posting thereof.

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

- A. Contiguous areas paralleling a river stream or other body of water that constitute at their maximum edge the highest flood levels experienced in a period of 100 years.
- B. Principal estuary courses of wetland areas that are part of the river flow system.
- C. Contiguous area paralleling a live stream or other body of water that exhibit unstable soil conditions for development.

Floor area, usable. That area of a nonresidential building used for or intended to be used for the sale of merchandise or services. Such floor area which is used for or intended to be used primarily for the storage or processing of merchandise which may include hallways, breezeways, stairways, and elevator shafts, or for utilities and sanitary facilities, shall be excluded from the computation of usable floor area.

Floor area. The area of all floors computed by measuring the dimensions of the outside walls, excluding attic and basement floors, porches, patios, breezeways, carports, and garages, or portions of rooms with less than seven feet six inches (T-6") of space between the floor and ceiling.

Fraternal organization. A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meeting, rituals and formal written membership requirements.

Full service eating and drinking establishment. An establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes the following:

- A. Customers are normally provided with an individual menu; are served their foods, frozen desserts, or beverages by a restaurant employee at the same table or counter at which the items are consumed; or
- B. Cafeteria-type operation where foods, frozen desserts, or beverages are generally consumed within the restaurant building.

Funeral homes and mortuary establishment. A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

Garage, private. A detached accessory building or portion of a main building used for the storage of four or less passenger vehicles including not more than one truck of a rated capacity of one ton or less, without provision for repair or servicing such vehicles for profit.

Glare. The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Grade. For purposes of this [zoning] ordinance, the level of the ground adjacent to the walls. In the case of lots with a sloping terrain, the grade shall be the average elevation of the ground adjacent to the walls.

Greenbelt. A planting of trees and shrubs to serve as a screening device between abutting land uses.

Greenhouse, retail. A retail business whose principal activity is the selling of plants with or without outside storage, growing, or display. Retail greenhouses shall include a building or structure which exceeds 150 square feet, that is designed for the cultivation or protection or retail sale of flowers, shrubbery, produce, trees, and other horticultural products tender plants for retail sale.

Group dwellings (congregate living). A building or group of buildings, designed and used for residential habitation where joint and/or separate sleeping rooms share common living, kitchen, eating and bathroom facilities, housing persons unrelated by blood or marriage.

Guarantee. A cash deposit, certified check, irrevocable bank letter of credit, surety bond or such other instrument acceptable to the city.

Hazardous materials. Any materials that have been declared to be hazardous by any agency of the State of Michigan or of the United States, including but not limited to toxic materials and metal hydroxides.

Home occupation. An occupation carried on for gain by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

Horticulture. The art of cultivating gardens producing vegetables, fruits, flowers or ornamental plants.

Hospice. A home-like facility for the care of the critically ill, with acute care facility capabilities.

Hotel. A building or part of a building with a common entrance or entrances in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk services, and bellboy service. A hotel may contain a restaurant or cocktail lounge, public banquet halls, ballrooms or meeting rooms.

Ingress. Access or entry.

Institutional or public uses. Churches, schools, hospitals, convalescent or nursing homes, public or quasi-public nonprofit uses, parks and playgrounds.

Improvements. Those features and actions associated with a project which are considered necessary by the municipality to protect 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 parking areas, landscaping, roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project which is the subject of zoning approval.

Inoperable motor vehicle. An automobile, truck, or other motor vehicle which has been damaged to such an extent that it cannot be operated under its own power, and will require major repairs before being made usable; or such a vehicle which does not comply with state or city laws or ordinances.

Junkyard. An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard includes automobile wrecking yards and includes any open area of more than 200 square feet for storage, keeping or abandonment of junk.

Kenel. Any building or land used for the sale, boarding, or breeding of dogs, cats, or other household pets for remuneration.

Kenel, residential. Any structure or area designed and used specifically for the boarding or exercise of a private individual's own pet or pets (dogs, cats, rabbits, etc.), including but not limited to dog houses, pens, outdoor cages, and dog/pet runs.

Land use plan. A plan showing the existing and proposed location, extent and intensity of development of land to be used for varying types of residential, commercial, industrial, agricultural, recreational, educational, and other public and private purposes or combination of purposes and is a part of the City of Sturgis comprehensive plan (master plan).

Laundry and dry cleaning. A commercial establishment where clothes can be washed or dried.

Legislative body. The city commission.

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

Lot. A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this [zoning] ordinance. A lot may or may not be specifically designated as such on public records. [The term] "lot" means the same as "homesite" and "condominium" in site condominium developments.

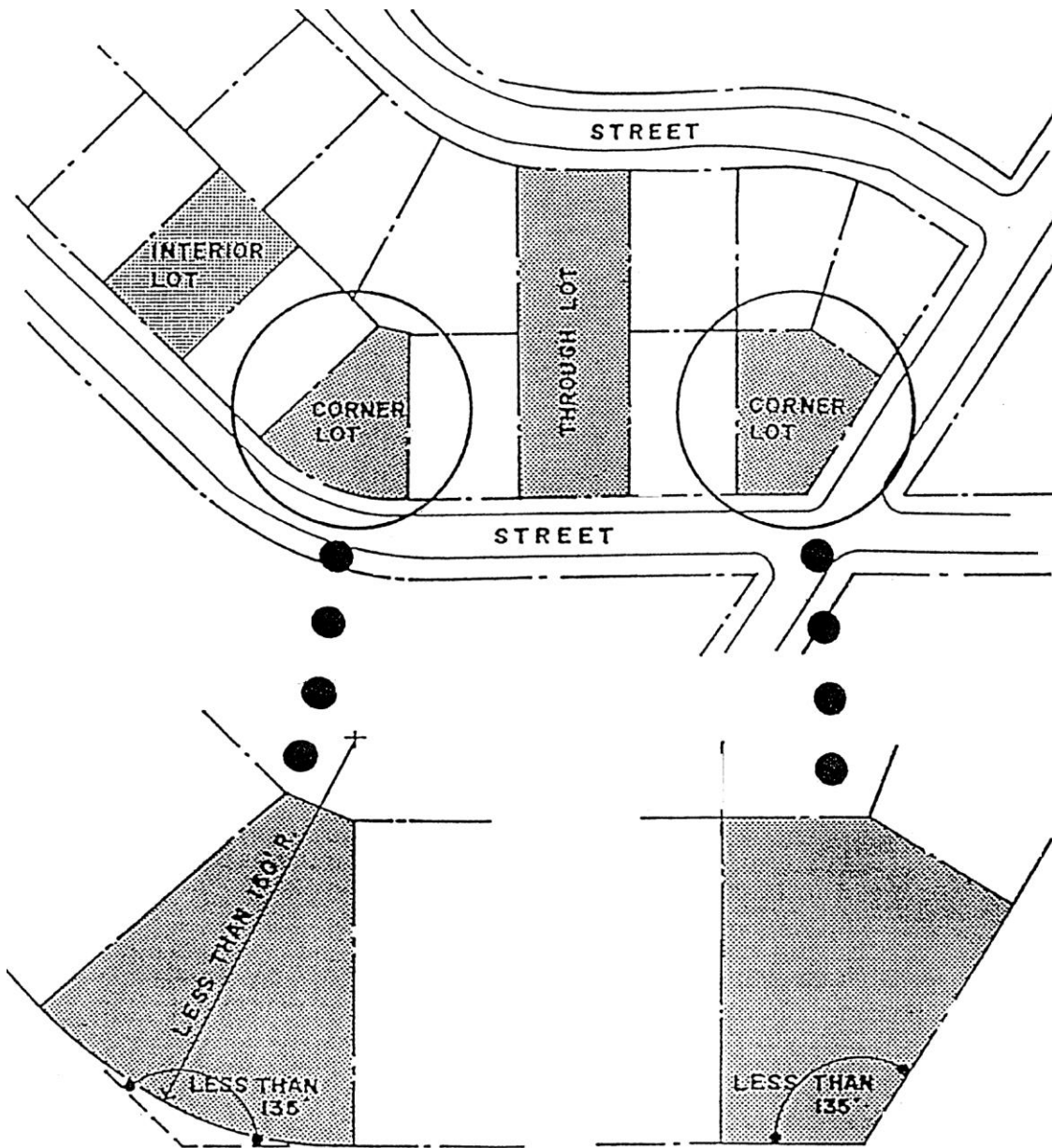
Lot area. The total horizontal area included within lot lines.

Lot, corner. A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this title if the arc is of less radius than 150 feet and the tangents to the curve at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

Lot coverage. The part or percent of the lot occupied by buildings or structures.

Lot depth. The horizontal distance between the front and rear lot lines measured along the median between the side lot lines.

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



INTERIOR, THROUGH & CORNER LOTS

Interior, Through and Corner Lots

Lot lines. Any lines bounding a lot, including the following:

- A. *Front lot line.* In the case of an interior lot, it is that line separating the lot from the street. In the case of through lot or corner lot, it is that line separating the lot from each street.
- B. *Rear lot line.* The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot. On curved streets or on cul-de-sac turn

around, the rear yard shall be opposite the front set back line at ninety 90' degrees from such set back line.

- C. *Side lot line.* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot, through. [A through lot] is any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

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

Lot width. The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

Lot zoning. A single tract of land, located within a single block, which at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot may not coincide with a lot of record but may include one or more lots of record.

Lumber and building supply yards. Lumber and building supply yards are businesses that sell building materials and/or lumber in large quantities, and includes a significant portion of its product storage outdoors or in warehouse portions of the building and then sells them retail form to customers.

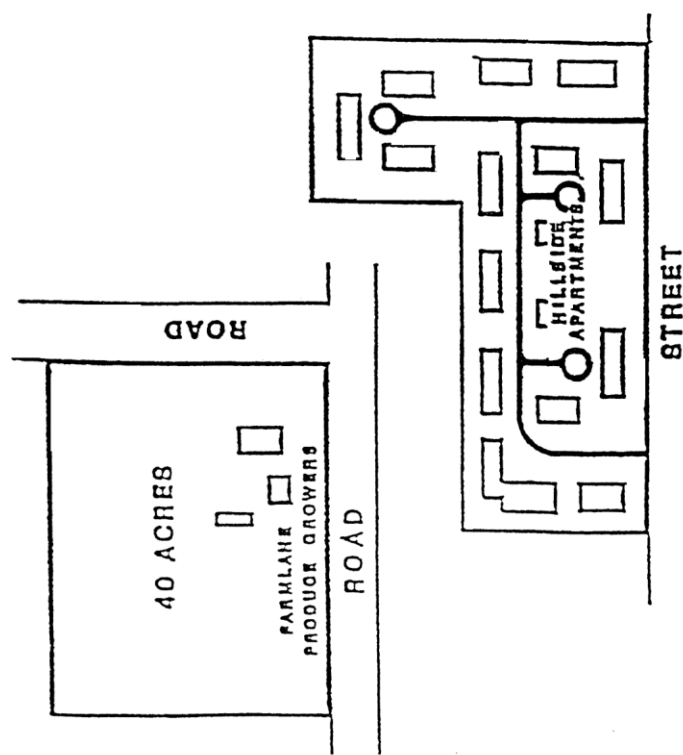
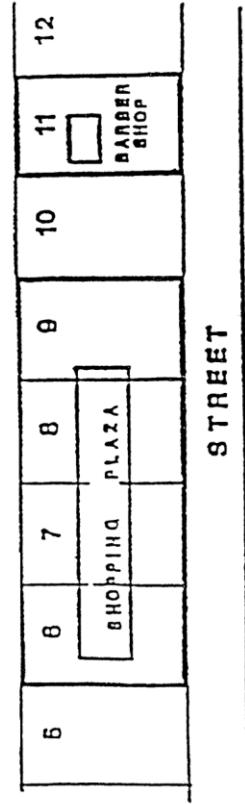
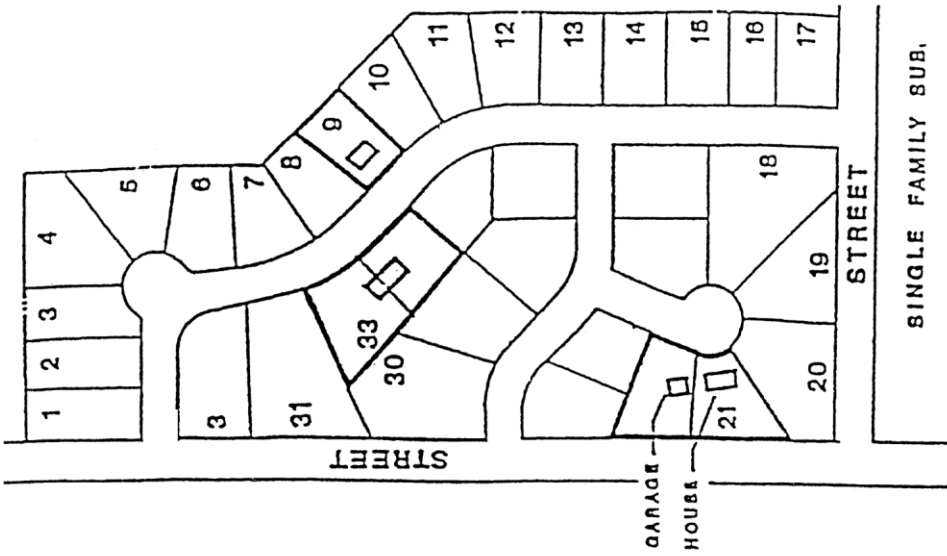
Main building. [The term] "main building" means a building in which is conducted the principal use of the lot upon which it is situated.

Main use. The principal use to which the premises are devoted and the principal purposes for which the premises exist.

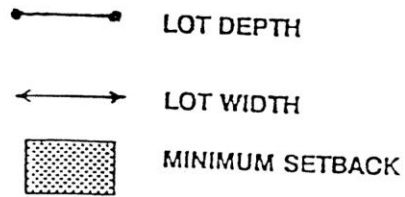
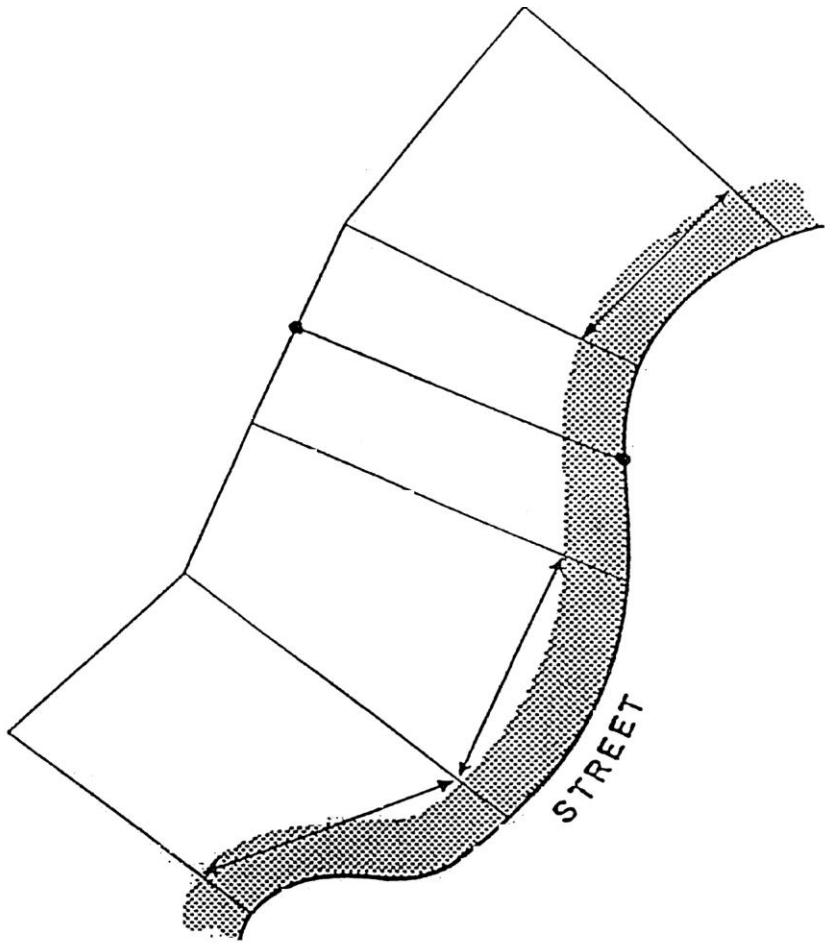
Major street (primary road). A street or highway so designated on the thoroughfare plan of the city master plan which is designed and intended to carry heavy traffic volumes.

Master plan (comprehensive plan). A comprehensive, long-range plan intended to guide the growth and development of a community or region and one that includes analysis, recommendations, and proposals for the community's population, economy, housing, transportation, community facilities and land use. Such plan may or may not be adopted the planning board or city commission.

Examples of Zoning Lots



EXAMPLES OF ZONING LOTS



LOT WIDTH, DEPTH AND SETBACK

Lot Width, Depth and Setback

Mechanical amusement device. Any machine or device which, upon the insertion of a coin, slug, token, plate or disc, operates or may be operated as a game of contest, of skill or amusement when the

element of skill in such operation predominates over chance or luck. It includes mechanical, electrical, or electronic video games, mechanical grabbing devices, pinball games, mechanical, electrical, or electronic baseball, football, basketball, hockey or similar sports-type games, mechanical, electrical or electronic card games, shooting games, target games, card games or any other machine, device or apparatus which may be used as a game of skill and wherein the player initiates, employs or directs any force generated by such machine.

Mezzanine. An intermediate floor in any story occupying not to exceed one-third of the floor area of such story.

Mineral. Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

Mineral extraction. The removal of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or part thereof for the extraction or removal of minerals from their original location and/or the preparation, washing, cleaning, crushing, stockpiling, or other processing of minerals at the subject location so as to make them suitable for commercial, industrial or construction use.

Ministorage units. Storage buildings for lease to the general public for storage of personal household effects and for dry storage of office or business effects not including the warehousing of products or supplies.

Minor or local street. A dedicated public way or recorded private street which affords access to abutting properties and is designed primarily to serve immediate neighborhood needs.

Mobile home. A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, and which includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. [The term] "mobile home" does not include a recreational vehicle.

Mobile home park. A parcel of land upon which three or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose, regardless whether a change is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

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

Mobile home subdivision. A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 288 of 1967, as amended.

Modular and sectional home. A dwelling unit consisting of two or more transportable factory-fabricated units designed to be assembled as a single residential structure on a foundation as required for conventional residences.

Motel. Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient trade for transient occupancy.

Municipality. The City of Sturgis.

Mural. A wall painting containing no elements of a sign and which does not advertise or promote the interest of any person, business or product.

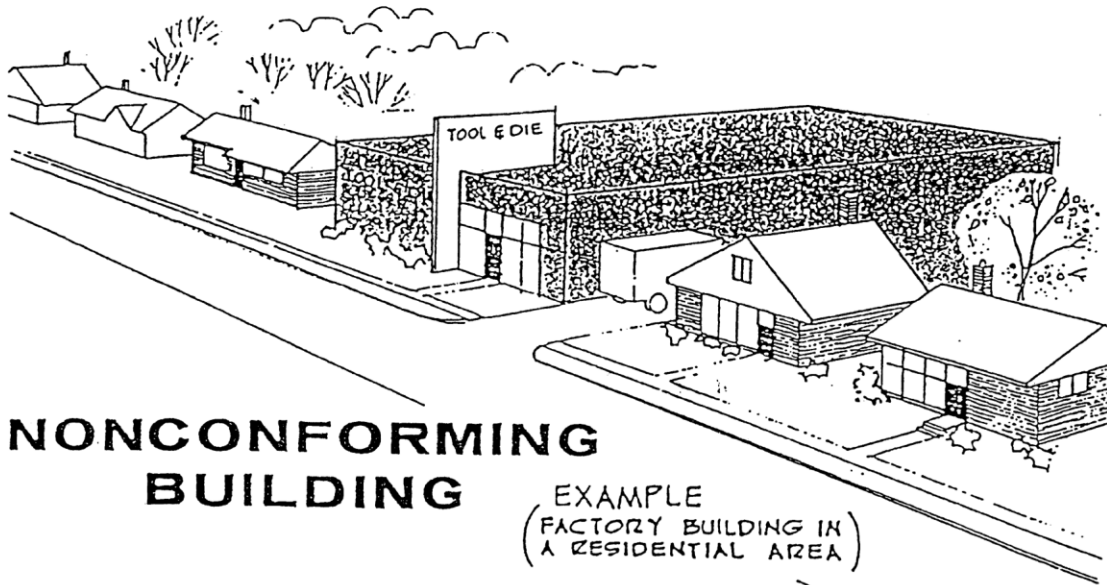
Nonconforming structures. Any building or portion thereof lawfully existing at the time this [zoning] ordinance became effective and which now does not comply with its regulations.

Nonconforming lot. A lot, the area, dimensions or location of which was lawful prior to the adoption, revisions, or amendment of the zoning code; but which fails, by reason of such adoption, revisions, or amendment, to conform to current requirements of the zoning district.

Nonconforming sign. Any sign lawfully existing on the effective date of an ordinance, or amendment thereto, which renders the sign nonconforming, because it does not conform to all the standards and regulations of the adopted or amended ordinance.

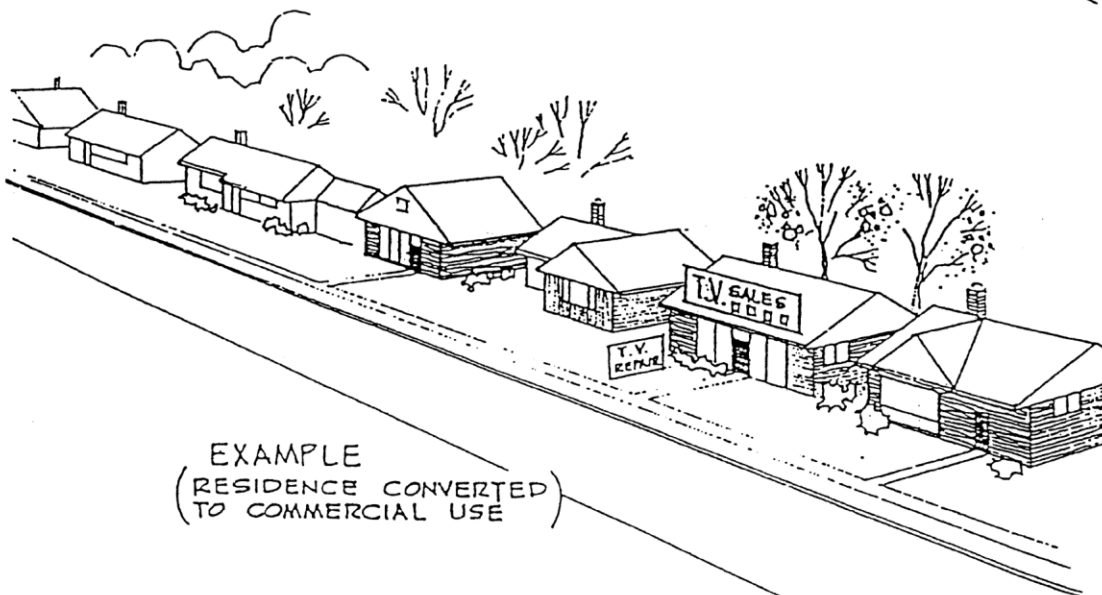
Nonconforming use. Any property use which was lawful at the time this [zoning] ordinance became effective and which now does not comply with its regulations.

Nonconforming use or structure, class A. A nonconforming use or structure which has been designated to be allowed to be perpetuated and improved under the provisions of this [zoning] ordinance.



NONCONFORMING BUILDING

EXAMPLE
(FACTORY BUILDING IN
A RESIDENTIAL AREA)



EXAMPLE
(RESIDENCE CONVERTED
TO COMMERCIAL USE)

NONCONFORMING USE

Nonconforming Building and Use

Nonconforming use or structure, class B. A nonconforming use or structure which has been designated to be allowed to be perpetuated within the restricted provisions of this [zoning] ordinance.

Nuisance. An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat electronic or atomic radiation, objectionable effluent, noise or congregation of people, particularly at night, passenger traffic, invasion of nonabutting street frontage by traffic, a burned-out structure, a condemned structure.

Nursery, plant materials. Any lot or structure used for the growing, harvesting, processing, storing, and/or selling of plants, shrubs, trees and flowers, including products used for gardening and landscaping, but not including fruit, vegetable and Christmas tree sales.

Nursery school. A daytime facility which has as its main objective a development program for preschool children and whose staff meets the educational requirements established by the state.

Nursing home. A structure with sleeping rooms where persons are housed or lodged and are furnished with meals, nursing and medical care.

Occupancy permit. A required permit allowing occupancy of a building or structure after it has been determined that the building meets all of the requirements of applicable ordinances.

Off-street parking lot. [The term] "off-street parking lot" means a facility providing off-street vehicular parking spaces and drives or aisles for the parking of more than three vehicles.

Office building. A group of tenant spaces in one building with a minimum 400 square feet per tenant.

Open storage. The storage of any materials or objects outside the confines of a building.

Outdoor sales area. A temporary outdoor event which offers for sale goods and merchandise by a business other than an established indoor business at the site.

Outdoor gathering area. Any defined area used for the purpose of stationing people in an organized fashion during the course of a business or public activity outside of a building. Includes activities such as outdoor dining spaces, areas licensed by Michigan Liquor Control for outdoor service, music dancing areas, festival locations, and other similar uses.

Parking access. The area of parking lot that allows motor vehicles ingress and egress from the street to the parking aisle or parking space.

Parking aisle. The area behind the parking space used for backing and turning into and out of the parking space.

Parking bay. A parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave spaces.

Parking lot. An off-street, ground level area, surfaced and improved, for the temporary parking of motor vehicles.

Parking space. An area of definite length and width; such area shall be exclusive of drives, aisles or entrances giving access thereto and shall be fully accessible for the parking of permitted vehicles.

Performance standards. A set of criteria or limits relating to nuisance elements which, a particular use or process may not exceed.

Permitted use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Personal service. Establishments primarily engaged in providing services involving the care of a person or his or her apparel.

Pet shop and sales. Pet shop means a place where animals are offered for sale, exchange, or transfer. No person shall operate a pet shop unless he has first received a license from the department of agriculture.

Photovoltaic device. A system of components that generates electric energy from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the electric energy produced for later use.

Planned unit development or PUD. An area of minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasipublic, commercial, or industrial areas in such range or ratios of nonresidential to residential uses as shall be specified and in accord with the goals and objectives of the master plan.

Planning board. The planning board of the City of Sturgis.

Political sign. A temporary sign announcing or supporting political candidates, parties, or issues in connection with any national, state or local election, movement or cause.

Preliminary plan. A preliminary map indicating the proposed layout of the subdivision, PUD, or site plan, which is submitted to the proper review authority for consideration and preliminary approval.

Principal building. A building in which is conducted the principal use allowed of the lot in the district in which it is situated.

Principal use. The primary or predominate use of the premises.

Printing or publishing. Establishments such as non-industrial commercial printers, businesses that publish newspapers, books and periodicals (whether or not they do their own printing), and copy shops.

Professional services. Services offered to the general public by the traditional professions, such as law, medicine, engineering, accounting, and architecture.

Public facilities. Facilities which are owned and operated by a municipality, government agency, or publicly owned utility.

Public hearing. A meeting announced and advertised in advance and open to the public, with the public given opportunity to speak or participate.

Public utility. 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, communication, telegraph, transportation, water, sanitary sewer and storm sewer. Wireless communication devices and facilities are not defined as a public utility.

Public way. A highway, street, avenue, boulevard, road, lane, alley or other areas specifically designated and continuously maintained for public access.

Quasipublic agency. A service-owned and operated by a nonprofit, religious, or missionary institution and providing educational, cultural, recreational, or similar types of public programs.

Reasonable accommodation use. Housing accommodation for handicapped persons in residential districts.

Recreation facility. A commercial establishment which is designed to provide the user with the opportunity to relax, engage in athletic activities or engage in other leisure pursuits, including but not limited to driving ranges, golf courses, swimming pools, water parks, tennis courts, personal fitness, outdoor racquetball courts, motorized cart and motorcycle tracks, and batting cages.

Recreational equipment. Includes travel trailers, pickup campers, motor homes, ice fishing houses, tent trailers, tents, boats and boat trailers, and similar equipment and cases or boxes used for transporting recreational equipment, whether occupied by the equipment or not.

Recreational vehicle. A vehicle primarily designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Residential, residential use, or residential district. The use of land parcels for human habitation under the terms of this [zoning] ordinance. [The term] "residential" shall not be construed or interpreted to mean the storage, sale (wholesale or retail), trade, transfer, fabrication, production, manufacture, or development of goods and services.

Restrictive covenant. A restriction on the use of land usually set forth in a deed or other appropriate document.

Retail sales and retail services. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such goods.

Retail trade. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such goods.

Retaining wall. A wall designed to resist the lateral displacement of soil or other material.

Riding academy or stable. Any establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch, similar establishment or business.

Right-of-way line. The boundary of a dedicated street or highway.

Right-of-way. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation, and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary and storm sewers or other similar uses.

Ringelmann chart. A device to measure the opacity of smoke emitted from stacks and other sources.

Road frontage. The length of the lot line which borders a public road.

Road or street, private. An irrevocable easement running with the land to one or more owners of adjacent, properties which provides access to those adjacent properties and which is not dedicated for general public use.

Road or street, public. Any public right-of-way which provides vehicular access to adjacent properties.

Roof. The top outside covering of a building.

Room. For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing one-, two- or three-bedroom units and including a den, library, or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Rubbish. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

Salvage yard. A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, disassembled, cleaned, or handled, including house and vehicle wrecking yards, used lumber yards, and places or yards for use of salvaged house and vehicle parts, and structural steel materials and equipment. [The term] "salvage yard" shall not include uses conducted entirely within a completely-enclosed building; pawnshops and establishments for the sale, purchase, or storage of used cars in operable condition, salvaged machinery, used furniture, and household equipment; and the processing of used, discarded, or salvaged materials as part of manufacturing operations.

Scale. The relationship between distances on a map and actual ground distances.

School, business. A business school, same as trade school, is a postsecondary educational institution designed to train students for a specific job in a skilled trade career. Examples include business, beauty, cooking, language or trade school of a non-recreational nature which charges a fee for attendance.

School, elementary. Any school licensed by the state and which meets the state requirements of elementary education.

School, parochial. A school supported and controlled by a church or religious organization.

School, private. Any building or group of buildings the use of which meets the state requirements for primary, secondary, or higher education and which does not secure a major part of its funding from any governmental agency.

School, secondary. Any school licensed by the state and which is authorized to award diplomas for secondary education.

Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berm, or densely planted vegetation.

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

Setback. The distance required to obtain minimum front, side or rear yard open space provisions of this [zoning] ordinance. Setbacks from a public street shall be measured from the existing or proposed right-of-way lines, whichever is greater unless otherwise provided in this [zoning] ordinance.

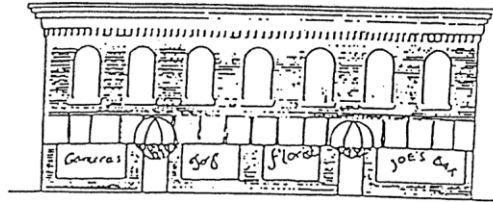
Sign definitions. The following definitions are related to signs:

- A. The term "sign" means any announcement, declaration, display, billboard, illustration and insignia when designed and placed so as to attract general public attention. Such shall be deemed to be a single sign whenever the proximity, design, content or continuity reasonably suggest a single unit, notwithstanding any physical separation between parts. The term "sign" includes any banner, bulbs or other lighting devices, streamer, pennant, balloon, propeller, flag and any similar device of any type or kind, whether bearing lettering or not.
1. *Accessory sign.* A sign which pertains to the principal use of the premises.
 2. *Air-blown device.* Any device not otherwise specifically defined in this article that is designed to inform or attract, whether or not such device carries a message, and which all or part of the device is set in motion by mechanically forced air. This definition specifically includes but is not limited to those devices referred to commercially as "air puppets" and "air dancers".
 3. *Awning or canopy.* A sign mounted on or painted onto, an awning, marquee, or canopy.
 4. *Banner.* A temporary sign of fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework that must be hung or temporarily affixed to the tenant space.
 5. *Billboard.* A sign other than an off-premises directional sign, which does not pertain to the principal use of the premises.
 6. *Decorative display.* A decorative, temporary display designed for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising content.
 7. *Feather sign.* A temporary freestanding sign, typically consisting of a single pole or shaft of plastic, metal or other rigid material, imbedded or otherwise fastened in the ground at the base, with a vertically elongated pennant made of fabric, vinyl or other flexible material in the shape of a feather, tear drop or similar configuration attached along the pole. This type of sign may attract attention by waving and/or fluttering from natural wind currents.
 8. *Flag sign.* A device generally made of flexible material, usually cloth, paper or plastic, which is normally attached to a flagpole or to a building. The term flag does not include feather signs.

9. *Freestanding sign.* A sign other than a portable sign which is not attached to a building.
10. *Ground sign.* A display sign supported by one or more columns, uprights or braces or mounted directly upon the ground surface and having a height not in excess of six feet.
11. *Development ground sign.* An entrance sign identifying a development and/or the occupants of a development in which more than one tenant or use occupies a site or sites in the development.
12. *Inflatable sign.* A temporary sign consisting of flexible material or fabric that takes on a three dimensional shape when filled with a sufficient volume of air or other gas.
13. *Marquee sign.* A display sign attached to or hung from a marquee, canopy or other covered structure projecting from and supported by the building and extending beyond the building wall, building line or street lot line.
14. *Non-accessory sign.* A sign which does not pertain to the principal use of the premises.
15. *Non-accessory temporary development sign.* A sign advertising a real estate development consisting of five or more lots or parcels in one ownership.
16. *Off-premises directional sign.* A sign which provides direction to a location in the city.
17. *Pylon sign.* A display sign supported by one or more columns, uprights or braces in the ground surface and having a height in excess of six feet.
18. *Portable sign.* A sign and sign structure which is designed to facilitate the movement of the sign from one zoning lot to another. The sign may or may not have wheels, changeable lettering and/or hitches for towing. A sign shall be considered portable only if such sign is manifestly designed to be portable to facilitate its movement from one zoning lot to another. Signs utilized to be moveable, other than from one zoning lot to another, shall be considered freestanding signs under this [zoning] ordinance.
19. *Projecting sign.* A sign, other than a marquee, awning, or canopy sign which is attached directly and perpendicularly to the building wall, not on the same plane as the wall, where any part of which extends beyond the building wall more than 12 inches.
20. *Roof sign.* A display sign which is erected, constructed and maintained in or above the roof of the building.
21. *Sandwich board sign.* A temporary freestanding sign, consisting of two sign faces of equal size hinged at the top and placed on the ground.
22. *Temporary promotional materials.* Any posters, banners, flags, etc. displayed inside business windows, so as to be visible and attract attention of the general public to advertise products, goods or services provided on premises for a specified period of time.
23. *Temporary sign.* A display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays or public demonstration.
24. *Wall sign.* A display sign which is painted on or attached directly to the building wall.
25. *Window sign.* A sign affixed to a window so as to be observable from the opposite side of the window to which such sign is affixed.
26. *Vehicle sign.* A sign attached to a vehicle or placed within or upon such vehicle which advertises products for sale other than the identification of the vehicle owner or operator.
27. *Yard sign.* A temporary freestanding sign placed on private property facing a street or parking area.
 - a. *Rigid frame:* A temporary yard sign, consisting of a frame or skeleton made of steel, wood or similar sturdy material placed into the ground, that resists bending or

movement and is capable of withstanding wind turbulence while supporting a sign of permitted size.

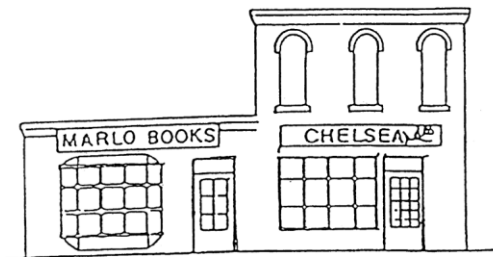
- b. *Wire frame*: A temporary yard sign, typically consisting of a fairly pliable "H" shaped metal frame, one end of which is typically inserted into a plastic sign and the other end is inserted into the ground.



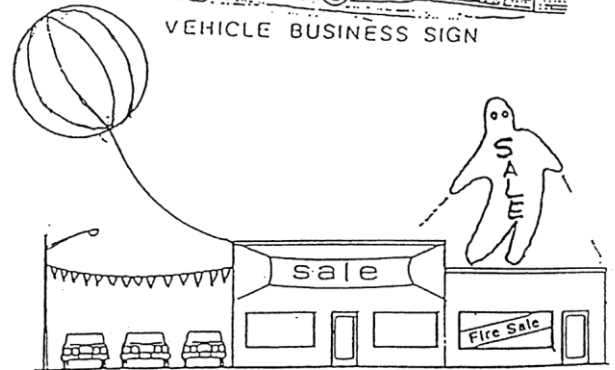
WINDOW SIGN



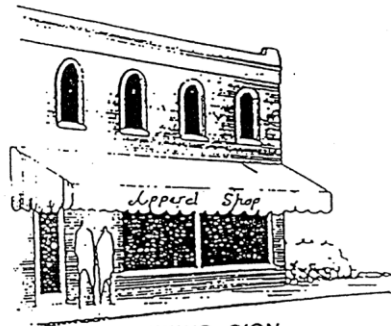
VEHICLE BUSINESS SIGN



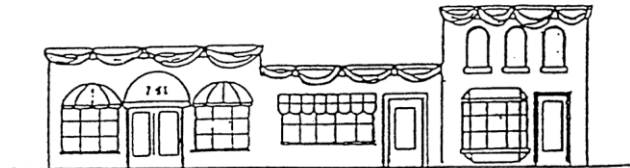
WALL SIGNS



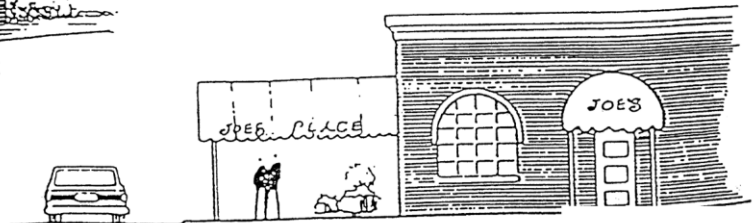
TEMPORARY SIGNS



AWNING SIGN

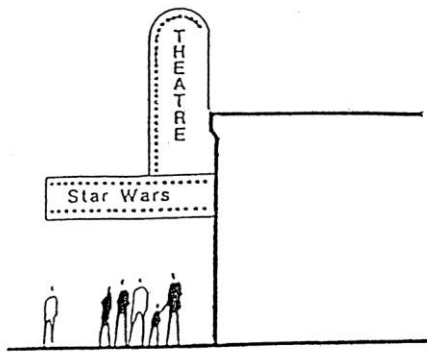


DECORATIVE DISPLAY



CANOPY SIGNS

Window sign, etc.



MARQUEE SIGN



PYLON SIGN



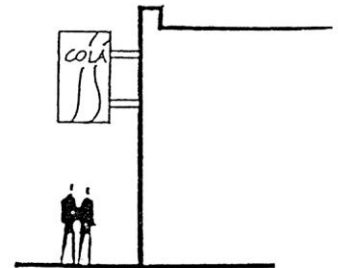
NON ACCESSORY SIGN



GROUND SIGN



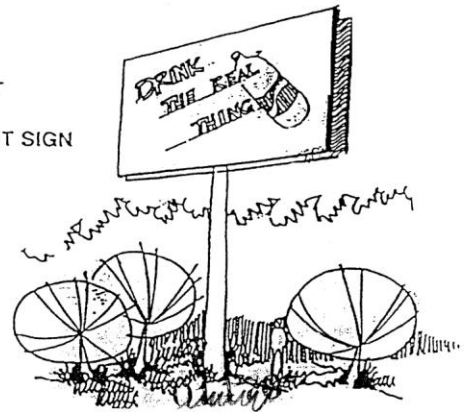
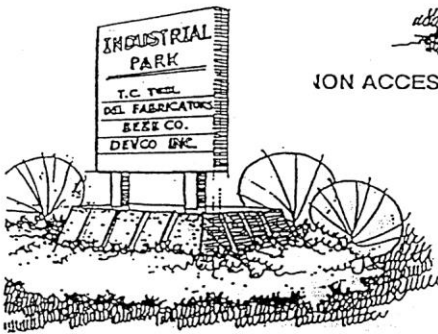
PORTABLE SIGN



PROJECTING SIGN



NON ACCESSORY DEVELOPMENT SIGN



Marquee sign, etc.

- B. [The term] "sign area" [means] the gross surface area within a single continuous perimeter enclosing the extreme limits of a sign, and in no case passing through or between any adjacent elements of same. Such perimeter shall not include any structural or framing elements, lying outside the limits of such sign, and not forming an integral part of the display. For computing the area of any wall sign which consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all the letters and descriptive matter.

- C. [The term] "erect" [means] to build, construct, attach, hang, place, suspend, affix or paint.
- D. [The term] "noncombustible material" [means] any material which will not ignite at or below a temperature of 1,200 degrees Fahrenheit and will not continue to burn or glow at that temperature.
- E. [The term] "sign face" [means] the area of display surface used for the sign message.

Single housekeeping unit. [The term] "single housekeeping unit" [means] all of the associated rooms in a dwelling unit available to and occupied by all of the occupants with a single set of cooking facilities also available to and utilized by all of the occupants of the dwelling unit.

Site condominium (condominium subdivision). A method of subdivision where land ownership of sites is regulated by the condominium act (MCL 559.101 et seq.) as opposed to the Land Division Act (MCL 560.101 et seq.). [The term] "condominium subdivision" shall be equivalent to the term "subdivision" as used in this [zoning] ordinance.

Site. Any plot or parcel of land or combination of contiguous lots or parcels of land.

Site plan. The development plan for one or more lots, on which is shown the existing and proposed conditions of the lot under the terms of article XII of this [zoning] ordinance.

Site plan review and approval. The submission of plans for review and approval, as required by this [zoning] ordinance, and special use permits.

Sketch plan. A rough map of the proposed subdivision or site plan, of sufficient accuracy to be used for the purpose of discussion and classification.

Sleeping room. Attached room which is intended, arranged, or designed to be occupied by one or more persons primarily for sleeping purposes and shall have an area of not less than 70 square feet or be less than seven feet in any dimension.

Small engine repair. A business that offers sales and/or service for a wide range of small-displacement, low-powered internal combustion engines used to power lawn mowers, generators, concrete mixers and many other machines that require independent power sources.

Social clubs. A club, group or organization created for recreational, artistic, athletic, academic, political, charitable, or other social purpose, and whose activities are not conducted primarily for profit or material gain and do not involve merchandising, vending, or other commercial activities, except as required incidentally for the membership and purpose of the social club.

Solar array. Any number of photovoltaic devices connected together to provide a single output of electric energy or other energy, including items such as solar modules, inverters, racking, energy storage devices, substations, and balance of system components.

Solar energy system, large. A utility-scale solar energy system where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by photovoltaic devices or other conversion technology, for the sale, delivery or consumption of the generated energy. The system shall have a capacity greater than one megawatt (MW) and be located on one or more parcels with an aggregate area of ten acres or greater.

Special land use. A use permitted in a given zone when the use is specified in article VI [of this zoning ordinance] and has been reviewed by the planning board, after application, to assure that all specified conditions are met.

Specified anatomical areas.

- A. Less than completely and opaquely covered:
 - 1. Human genitals, pubic region and buttock:
 - 2. Female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernible [discernibly] turgid state, even if completely and opaquely covered.

Specified sexual activities.

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Spot zoning. Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses, and not for the purpose or effect of furthering the objectives of the Sturgis master plan.

Stable, private. Any building for shelter of horses or other animals not kept for remuneration, hire, or sale.

Stall, parking. The parking space in which vehicles park.

Storage. Something kept for future use.

Story. That part of a building included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above.

Story, half. An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches.

Street. A public right-of-way which has been dedicated to the public and accepted for the purpose of providing access to abutting lots or land, including space for curb, gutter, paving, and sidewalks.

Street classifications. The classification of streets based upon their location and their present and expected future traffic volume and relative importance and function as follows and as designated in the master plan of the City of Sturgis:

- A. *Local street.* A road intended to provide access to collector roads from individual properties and described in the master plan of the City of Sturgis (master plan of thoroughfares).
- B. *Collector street.* A road intended to collect traffic from local streets to distribute to secondary and primary arterial streets.
- C. *Secondary arterial.* A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic generating areas such as community commercial areas, primary and secondary educational buildings, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.
- D. *Primary arterial.* A road intended to move traffic to and from major attractions such as shopping centers, central business districts, regional shopping malls, colleges and universities, military installations and similar traffic generators within the local unit of government, and/or as a route for traffic between neighboring communities.

Strip mall area. Multiple commercial establishments developed on the same parcel under one site plan.

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Structure changes or alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial change in the roof.

Studio. A building or portion of a building used as a place of work by an artist, photographer or artisan, musician, yoga or martial arts, or used for radio, podcast or television broadcasting.

Subdivide or subdivision. The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or for building development, that results in one or more parcels of land, of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of Public Act No. 288 of 1967 (MCL 560.101 et seq.). [The term] "subdivide" or "subdivision"

does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of Public Act No. 288 of 1967 (MCL 560.101 et seq.).

Temporary building or use. A structure or use permitted by the building department, to exist during periods of construction of the main building or for special events.

Temporary certificate of occupancy. A certificate of occupancy which is issued for a fixed time period to allow occupancy, because seasonal conditions make it impossible to complete all needed external improvements.

Temporary outdoor gathering area. Any outdoor gathering area used during a festival or community event.

Theater. A building used primarily for the presentation of live stage productions, performances, or motion pictures.

Tourist home. A residential private home or condominium that is not occupied by an owner or manager and is rented, leased or furnished in its entirety to guests on a daily or weekly basis.

Transient. Occupancy of a sleeping room or dwelling unit for not more than 30 days.

Transition. For the purposes of this [zoning] ordinance one or more of the following [constitute a transition]:

- A. A zoning district which may serve as a district of transition, i.e., a buffer zone between various land use districts or land use types;
- B. A residential rear or side yard lot or land parcel arrangement abutting a land use of more intense development character; [or]
- C. A device such as an earth berm, wall, screening fence, heavy shrub and tree planting or a combination of such devices providing a buffer between land use types.

Transportation services. Train, bus, taxi terminal, dispatching center or any similar uses.

Truck. Automotive vehicle for hauling.

Truck and railroad terminals.

- A. A place where transfer between modes of transportation takes place.
- B. A terminating point where goods are transferred from a track to a storage area or to other trucks, or picked up by other forms of transportation.

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

Use, lawful. The use of any structure or land that conforms with all of the regulations of this [zoning] ordinance or any amendment hereto and which conforms with all of the codes, ordinances, and other legal requirements that exist at the time of the enactment of this [zoning] ordinance or any amendment thereto.

Used car lot. A lot or portion thereof to be used only for the display and sale of automobiles that are in condition to be driven off the lot. A used car lot shall not be used for the storage of wrecked automobiles, the dismantling of automobiles, the repair of automobiles or the storage of automobile parts.

Variance. A modification of the required provisions of the physical development or land use standards or the zoning ordinance granted when strict enforcement of the [zoning] ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of the variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

Vehicle, motor. A self-propelled device used for transportation of people or goods over land surfaces, and licensed as a motor vehicle.

Vehicle repair shop. A building used for the painting or repair of damaged motor vehicles, boats, mobile housing facilities, or trailers.

Vehicle sales area. An outdoor area, where no repair work is done, used for the display, sale, or rental of new or used motor vehicles, boats, mobile housing facilities, or trailers in operable condition.

Veterinary hospital. A structure designed for the care and treatment of animals.

Wall, obscuring. A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this [zoning] ordinance.

Warehouse. A building primarily used for the storage of goods and materials.

Wetlands. Lands generally or intermittently covered with water which, by nature of their surface and/or subsurface soil characteristics either contribute to the replenishment of subsurface water supply, or are self-contained water resources, including marshes, swamps and bogs.

Wholesale trade. Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

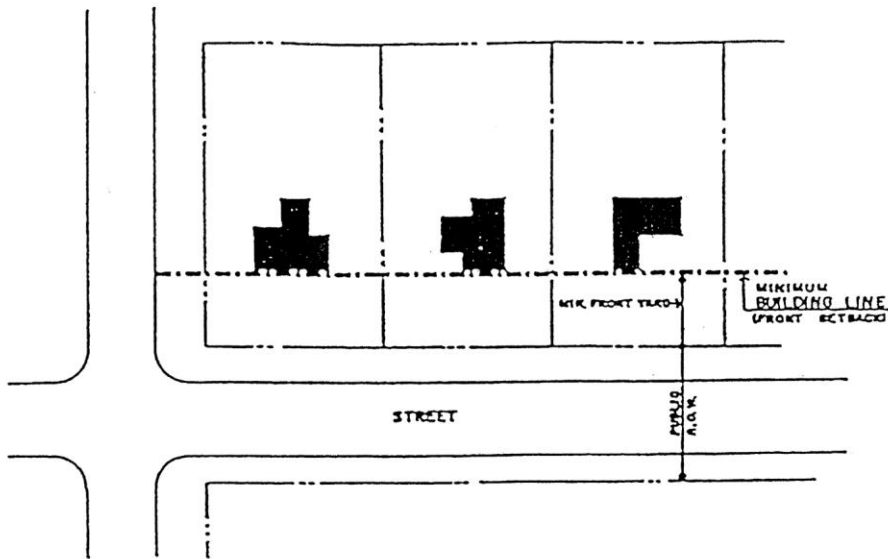
Yards. Open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward except as otherwise provided in this [zoning] ordinance and as defined in this section.

- A. [The term] "front yard" [means] an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
- B. [The term] "rear yard" [means] an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- C. [The term] "side yard" [means] an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

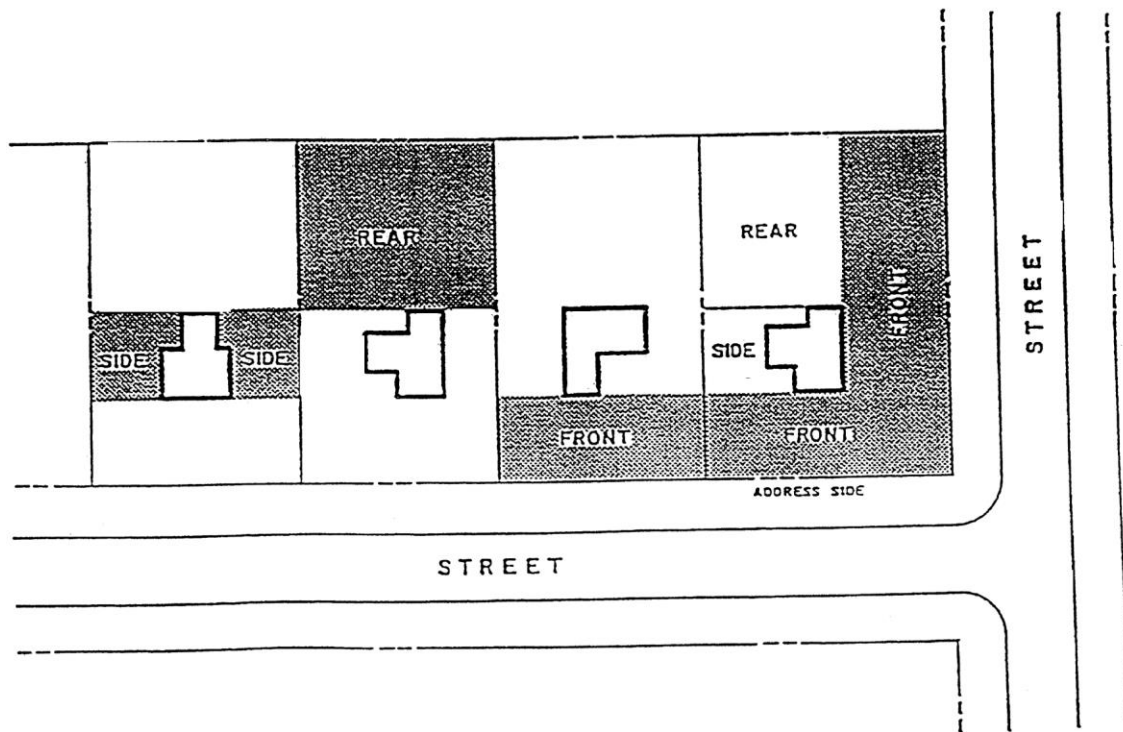
Zero lot line. The location of a building in such a manner that one or more of the building's sides rest directly on a lot line.

Zoning envelope. The three-dimensional space within which a structure is permitted to be built on a lot, which is defined by maximum height regulations and yard setbacks.

(Ord. of 2-23-2005; Ord. of 4-13-2005; Ord. of 5-22-2013; Ord. of 6-24-2014; Ord. of 11-11-2015; Ord. of 5-9-2018(2); Ord. of 9-26-2018(1); Ord. of 10-10-2018(1); Ord. of 11-14-2018(1); Ord. of 11-14-2018(2); Ord. of 1-9-2019(1); [Ord. of 3-25-2020\(1\)](#))



BUILDING LINE



YARDS

ARTICLE III. - DESIGNATION AND PURPOSE OF ZONING DISTRICTS²

Footnotes:

--- (2) ---

State Law reference— Zoning districts authorized, MCL 125.581, 125.582.

1.0301. - Zoning districts.

The following zoning districts are hereby established and the city is divided into the following districts.

- (A) R-1 rural residential.
- (B) R-2 subdivision residential.
- (C) R-3 residential.
- (D) R-4 apartment.
- (E) R-5 residential.
- (F) B-OS business office service.
- (G) B-C central business.
- (H) B-H 1 business highway 1.
- (I) B-H 2 business highway 2.
- (J) M manufacturing.
- (K) P parking.
- (L) PD planned development.

(Ord. of 5-22-2013)

1.0302. - Zoning map.

- (A) *Zoning map incorporated.* The zoning map delineating the zoning districts set out in [section] 1.0301 is hereby declared to be a part of this section. Except where reference is shown on the map to a street line or other line designated by dimensions, the district boundary lines follow lot lines or the centerlines of streets, alleys and railroads as they existed at the time of the adoption of this section.
- (B) *Lot divided by zone line.* Where a district boundary line, as established in this section, or as shown on the zoning map, divides a lot shown or recorded as being in single ownership at the time of enactment of this section, the district regulations and uses shall be observed on the respective side of the district line to which they apply.

1.0303. - Zoning text interpreted.

Where uncertainty exists with respect to uses permitted in any district, or any condition set forth in this [zoning] ordinance, the following rules shall apply.

- (A) No use of land shall be permitted in any use district except those uses specifically permitted in a zoning district.
- (B) Uses or structures not specifically permitted in a zoning district shall be prohibited in such district.
- (C) Unless otherwise provided for in this [zoning] ordinance, where uses of yard areas are indicated as being permitted, the use of any yard area for any use other than that permitted shall be prohibited.

1.0304. - Zoning of annexed areas.

Any area annexed or transferred to the city shall, immediately upon such annexation or transfer, automatically be zoned the same as the adjacent zoning district. Upon recommendation of the zoning official or referral by the city commission as provided in section 1.1406, the planning board shall recommend appropriate zoning for such area within three months after the matter is recommended by the zoning official or referred by the city commission.

([Ord. of 8-14-2019\(3\)](#))

1.0305. - Zoning of vacated lands.

Whenever any street, alley or other public way within the city shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zone district as the property to which it attaches.

1.0306. - District requirements.

All buildings and uses in any district shall be subject to all of the applicable provisions of article[s] I through XIV of this [zoning] ordinance.

ARTICLE IV. - DESCRIPTION OF DISTRICTS

1.0401. - R-1 rural residential.

(A) *Intent.* The R-1 rural residential district is composed of certain land in outlying areas presently of rural character. The land within this district is used primarily for agricultural purposes. The regulations of this district are designed to stabilize and protect the essential characteristics of the district without unduly restricting its use solely to that of an agricultural nature. To these ends, development is limited to low density uses which are not detrimental to future development.

(B) *Permitted uses.* The following uses are permitted in the R-1 district:

- (1) One-family detached dwellings.
- (2) Farming or horticulture.
- (3) Greenhouses.
- (4) Farm employee accessory dwellings.
- (5) Institutional or public uses.
- (6) Essential services.
- (7) Country clubs, golf courses, and similar uses.
- (8) Child care facilities limited to foster family homes, foster family group homes, family day care homes and group day care homes.

State Law reference— Mandatory permitted use, MCL 125.583b.

(9) Home occupations subject to the following:

a. Home occupations that create the following conditions shall not be permitted:

1. Changes the outside appearance of the dwelling or is visible from the street;
2. Generates traffic, parking, sewerage, or water use in excess of what is normal in the residential neighborhood;

3. Creates noise, vibration, glare, fumes, odors or results in electrical interference, or becomes a nuisance;
 4. Results in outside storage or display of anything other than a sign in accordance with Section 1.1002;
 5. Requires the employment of more than one person in the home other than the dwelling occupants;
 6. Requires exterior building alterations to accommodate the occupation;
 7. Occupies more than 25 percent of the floor area of the dwelling, or 50 percent of a detached garage;
 8. Requires parking for customers that cannot be accommodated on the site. Required parking may include not exceeding one parking space at curbside on the street; [and]
 9. Requires the delivery of goods or the visit of customers before 6:00 a.m. and after 8:00 p.m.
- b. The following are permitted home occupations provided they do not violate any of the provisions of the previous paragraph [subsections (B)(9)a.1. through (B)(9)a.9. of this section]:
1. Dressmaking, sewing and tailoring;
 2. Painting, sculpturing or writing;
 3. Telephone answering;
 4. Home crafts, such as model making, rug weaving and lapidary work;
 5. Tutoring limited to four students at a time;
 6. Computer application including software and not including sale of computers;
 7. Salespersons office or home office of a professional person;
 8. Laundering and ironing;
 9. Repair of clocks, instruments or other small appliances which do not create a nuisance due to noise, vibration, glare, fumes, odors or results in electrical interference;
 10. Barbershops and beauty parlors, limited to one operator;
 11. Dance studios, limited to four students;
- c. The following are prohibited as home occupations:
1. Private clubs;
 2. Repair shops which may create a nuisance due to noise, vibration, glare, fumes, odors or electrical interference;
 3. Restaurants;
 4. Boarding, stables, kennels;
 5. Tourist homes;
 6. Motor vehicle repair or paint shops;
 7. Retail sales that require visits of customers to the home.
- d. Any proposed home occupation that is neither specifically permitted by subsection (b) [(B)(9)a.] of this section nor specifically prohibited by subsection (c) [(B)(9)c.] of this section shall be considered a special use and be granted or denied upon consideration of those standards contained in section[s] 1.0602 and 1.0603(A) of this [zoning] ordinance.

State Law reference— Mandatory home occupations, MCL 125.583c.

- (10) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the R-1 district, under the conditions of article VI [of this zoning ordinance].
- (1) Farm animal or fowl husbandry.
 - (2) Riding stables.
 - (3) Animal hospitals.
 - (4) Functional equivalent family.
 - (5) Reasonable accommodation use.
 - (6) Child care center or day care center in accord with section 1.0602 and section 1.0603(M).
 - (7) Mineral extraction operations.
- (D) Required conditions. The following conditions shall be required in all R-1 districts:
- (1) *Site plan review.* Site plan review and approval must be obtained for all new construction, other than farm buildings and single-family dwellings.
 - (2) *Dwelling unit review.* All dwelling units shall be reviewed by the building official subject to the following conditions:
 - a. Dwelling units shall conform to all applicable city codes and ordinances. Any such local requirements are not intended to abridge applicable state or federal requirements with respect to the construction of the dwelling.
 - b. Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the dwelling, then a perimeter wall shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area.
 - c. Dwelling units shall be provided with exterior finish materials similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.
 - d. Dwelling units shall be provided with roof designs and roofing material similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.
 - e. Dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed 3:1, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.
 - f. The dwelling shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
 - g. Any such home shall be anchored by an anchoring system approved by the city.
 - h. The building official may request a review by the planning board of any dwelling unit with respect to this section. The building official or planning board shall not seek to discourage architectural variation, but seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large. In reviewing any such proposed dwelling unit, the

building official may require the applicant to furnish such plans, elevations and similar documentation as he deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling unit, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, then the nearest 25 dwellings shall be considered.

- (3) *Area and bulk requirements.* See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setbacks requirements.

(Ord. of 2-23-2005)

1.0402. - R-2 subdivision residential.

- (A) *Intent.* The R-2 Subdivision residential district is established to create and preserve single-family home neighborhoods free from other uses except those which are both compatible with and convenient to the residents of this district. These districts will be developed as lower-density single-family neighborhoods.
- (B) *Permitted uses.* The following uses are permitted in the R-2 district.
- (1) One-family detached dwellings.
 - (2) Institutional or public uses.
 - (3) Essential services.
 - (4) Country clubs, golf courses, and similar uses.
 - (5) Home occupations as provided for and controlled in section 1.0401(B)(9).
 - (6) Child care facilities limited to foster family homes, foster family group homes, family day care homes and group day care homes.

State Law reference— Mandatory permitted use, MCL 125.583b.

- (7) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the R-2 district, under the conditions of article VI [of this zoning ordinance].
- (1) Farming or horticulture.
 - (2) Functional equivalent family.
 - (3) Reasonable accommodation use.
 - (4) Nonresidential parking.
 - (5) Child care center or day care center in accord with section 1.0602 and section 1.0603(M).
- (D) *Required conditions.* The following conditions are required in all R-2 districts.
- (1) *Site plan review.* Site plan review and approval must be obtained for all new construction other than single-family dwellings in accordance with the provisions of article XII [of this zoning ordinance].
 - (2) [*Dwelling unit review.*] Dwelling unit review as provided for in section 1.0401(D)(2).

- (3) *Area and bulk requirements.* See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of building, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

1.0403. - R-3 residential.

- (A) *Intent.* The R-3 residential district is composed of low- and medium-density single-family residential areas where medium-density development has occurred and where additional development at these densities is proposed. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life. (With the exception of sections 1.0501 and 1.0502 all provisions applicable to R-3 are applicable to R-3 A throughout this text.)
- (B) *Permitted uses.* The following uses are permitted in the R-3 district:
 - (1) One-family detached dwellings.
 - (2) Institutional or public uses.
 - (3) Essential services.
 - (4) Country clubs, golf courses, and similar uses.
 - (5) Home occupations as provided for and controlled in section 1.0401(B)(9).
 - (6) Child care facilities limited to foster family homes, foster family group homes, family day care homes and group day care homes.

State Law reference— Mandatory permitted use, MCL 125.583b.

- (7) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the R-3/R-3 A districts, under the conditions of article VI of the zoning ordinance:
 - (1) Nonresidential parking.
 - (2) Functional equivalent family.
 - (3) Reasonable accommodations use.
 - (4) Child care center or day care center in accord with section 1.0602 and section 1.0603(M).
 - (5) Vacant commercial type buildings conditional use permit.
- (D) *Required conditions.* The following conditions are required in the R-3/R-3 A districts.
 - (1) *Site plan review.* Site plan review and approval must be obtained for all new construction other than single-family dwellings, in accordance with the provisions of article XII [of this zoning ordinance]:
 - (2) [*Dwelling unit review.*] Dwelling unit review as provided for in section 1.0401(D)(2).
 - (3) *Area and bulk requirements.* See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. of 12-17-2003, § 1.0403; Ord. of 7-22-2015; [Ord. of 7-24-2019](#).)

1.0404. - R-4 apartment.

- (A) *Intent.* The R-4 Apartment district is composed of certain areas within the municipality where multifamily residential development at high densities has occurred and where additional development at these densities is proposed. To these ends development is restricted to residential use and uses which are compatible with this type of development.
- (B) *Permitted uses.* The following uses are permitted in the R-4 district:
- (1) One-family detached dwellings in compliance with article V, schedule of regulations, [of this zoning ordinance] for R-3 districts.
 - (2) An apartment building of two to 12 dwelling units including two-family dwellings (duplexes).
 - (3) Two attached apartment buildings divided by a fire wall.
 - (4) Institutional or public uses.
 - (5) Essential services.
 - (6) Country clubs, golf courses, and similar uses.
 - (7) Home occupations as provided and controlled in subsection 1.0401(B)(9).
 - (8) Child care facilities limited to foster family homes, foster family group homes, family day care homes and group day care homes.

State Law reference— Mandatory permitted use, MCL 125.593b.

- (9) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the RA district, under the conditions of article VI [of this zoning ordinance].
- (1) High-density apartments.
 - (2) Office buildings.
 - (3) Rooming, boarding, and motel accommodations.
 - (4) Mortuaries and professional offices.
 - (5) Nonresidential parking.
 - (6) Conversion of a dwelling for up to four dwelling units.
 - (7) Bed and Breakfast operations.
 - (8) Child care center or day care center in accord with section 1.0602 and section 1.0603(M).
 - (9) Functional equivalent family.
 - (10) Reasonable accommodation use.
 - (11) Group dwellings.
 - (12) Vacant commercial type buildings conditional use permit.
- (D) *Required conditions.* The following conditions are required in the R-4 district:
- (1) *Area and bulk requirements.* See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
 - (2) *Floor area.* For purposes of this section, the floor area of all dwellings or dwelling units in a building shall average not less than 600 square feet per dwelling unit, exclusive of the floor area for hallways, stairs, laundries, utilities, or other commercial uses.
 - (3) [*Dwelling unit review.*] Dwelling unit review as provided for in section 1.0401(D)(2).

- (4) *Site plan review.* Site plan review and approval must be obtained for all new construction other than single-family dwelling, in accordance with the provisions of article XII [of this zoning ordinance].

([Ord. of 7-24-2019](#))

1.0405. - R-5 residential.

- (A) *Intent.* The R-5 residential district is established to provide for medium density residential use including mobile home developments as mobile home parks and mobile home subdivisions designed for that purpose and including recreation facilities, churches, schools and necessary public utilities,
- (B) *Permitted uses.* The following uses are permitted in R-5 districts:
 - (1) One-family detached dwellings.
 - (2) Institutional or public uses.
 - (3) Essential services.
 - (4) Country clubs, golf courses, and similar uses.
 - (5) Home occupations as provided for and controlled in section 1.0401(B)(9).
 - (6) Child care facilities limited to foster family homes, foster family group homes, family day care home and group day care homes.

State Law reference— Mandatory permitted use, MCL 125.583b.

- (7) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the R-5 district, under the conditions of article VI [of this zoning ordinance].
 - (1) Low-density apartments.
 - (2) Two-family dwellings.
 - (3) Mobile home parks.
 - (4) Mobile home subdivisions.
 - (5) Nonresidential parking.
 - (6) Functional equivalent family.
 - (7) Reasonable accommodation use.
 - (8) Child care center or day care center in accord with section 1.0602 and section 1.0603(M).
 - (9) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.
- (D) *Required conditions.* The following conditions are required in the R-5 districts:
 - (1) *Site plan review.* Site plan review and approval must be obtained for all new construction other than single family dwellings, in accordance with the provisions of article XII [of this zoning ordinance].
 - (2) [*Dwelling unit review.*] Dwelling unit review as provided for in section 1.0401(D)(2).

- (3) *Area and bulk requirements.* See article V, schedule of regulations, [of the zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setbacks requirements.

1.0406. - B-OS business office service.

- (A) *Intent.* The B-OS Business Office Service district is established to create and preserve areas for those commercial facilities which are especially useful in close proximity to residential areas as a land use buffer, while minimizing the undesirable impact of the uses on the neighborhoods which they service.
- (B) *Permitted uses.* The following uses are permitted in the B-OS district:
 - (1) Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales.
 - (2) Medical office and dental offices, including clinics.
 - (3) Facilities for human care such as hospitals, rest and convalescent homes.
 - (4) Banks, credit unions, savings and loan associations, and similar uses; drive-through facilities as an accessory use only.
 - (5) Laundry and dry cleaning.
 - (6) Institutional or public services.
 - (7) Personal service establishment including barber shops, beauty shops and health salons.
 - (8) Off-street parking lots.
 - (9) Business schools or private schools operated for profit.
 - (10) Essential services.
 - (11) Home occupations as provided and controlled in section 1.0401(B)(9).
 - (12) Existing housing.
 - (13) Mortuaries.
 - (14) Catering facility.
 - (15) Accessory structures and used customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the B-OS district, under the conditions of article VI [of this zoning ordinance].
 - (1) Bed and breakfast.
 - (2) Functional equivalent family.
 - (3) Reasonable accommodation use.
 - (4) Ministorage and warehousing.
 - (5) Child care centers or day care center in accord with section 1.0602 and section 1.0603(M).
 - (6) Banquet hall.
- (D) *Required conditions.* The following conditions are required in the B-OS district.
 - (1) [*Use parameters.*] All uses shall be conducted within the confines of a building or within an enclosures which screens any outdoor storage of materials from the view of adjoining residential streets or residential properties. A chainlink or decorative fence of sufficient density (1-1/4" x 1-1/4") to keep discarded debris within the confines of a site shall be provided for uses which are likely to have debris.

- (2) *Area and bulk requirements.* See article V, schedule of regulations, [of the zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
- (3) *Site plan review.* Site plan review and approval must be obtained for all new construction in accordance with the provisions of article XII [of this zoning ordinance].

(Ord. No. 9-12-2018(2); [Ord. of 4-10-2019](#); [Ord. of 3-25-2020\(1\)](#))

Cross reference— Businesses, ch. 18.

1.0407. - B-C central business district.

- (A) *Intent.* The B-C central business district is established to create and preserve a central business district convenient and attractive for a wide range of retail uses and business, government and professional offices, and places of amusement in a setting conducive to and safe for pedestrian traffic. The regulations listed in 1.0407(B)(1)(a)—(d) are restricted to properties on Chicago Road between Jefferson Street on the West and Monroe Street on the East ("restricted zone"), and will not affect the rest of the central business district.
- (B) *Permitted uses.* The following uses are permitted in the B-C district.
 - (1) The following uses are permitted provided they are located either above the first floor, or below the first floor.
 - (a) Professional offices including: executive, administrative, legal, accounting, writing, clerical, drafting, engineering, architectural.
 - (b) Medical and dental offices, including clinics.
 - (c) Business schools or private schools operated for profit.
 - (d) Bed and breakfast.
 - (2) Stores for retail sales and retail services.
 - (3) Theaters and social clubs.
 - (4) Laundry and dry cleaning.
 - (5) Printing or publishing.
 - (6) Drink and restaurant establishments.
 - (7) Train, bus, or taxi terminal or dispatching.
 - (8) Institutional or public uses.
 - (9) Essential services.
 - (10) Hotels and motels.
 - (11) Uses similar to the above uses.
 - (12) Catering facility in combination with a full service eating and drinking establishment.
 - (13) Accessory structures and used customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the B-C district under the conditions of article VI [of this zoning ordinance].
 - (1) Professional offices in the restricted zone in accord with section 1.0602 and section 1.0603(KK).
 - (2) Marquee Signs.

- a) Marquee signs are permitted only for use on theaters as defined in section 1.0202 of this ordinance.
 - b) All marquee signs must be submitted to the design review committee regardless of what zone they are to be installed.
 - c) Proper scale and architectural compatibility will be crucial elements when marquee signs are reviewed by the planning commission.
 - d) Marquee signs are allowed to be internally lighted.
- (3) Apartments above stores.
 - (4) Murals.
 - (5) Child care centers and day care centers in accord with section 1.0602 and section 1.0603(M).
 - (6) Sidewalks cafes.
 - (7) Outdoor sale areas.
- (D) *Required conditions.* The following conditions are required in the B-C district.
- (1) *[Design review.]* Design review as provided for in article XIII [of this zoning ordinance].
 - (2) *Dwellings.* Existing dwellings, transient rooming houses and apartments shall meet the provision of the R-4 apartment district and special land uses within the R-4 apartment district, as set out in section 1.0404
 - (3) *Demolition of buildings.* Before a demolition permit is issued for a building located in the B-C district, the building department shall refer the request to the downtown development authority which will review the request, hold a public-hearing, and make recommendations to the property owner for alternate potential uses of the property or to proceed with demolition. If the property owner does not withdraw the request for a demolition permit within 30 days after it is submitted, the building department shall proceed to analyze the request and issue appropriate permits based upon the building and zoning ordinance requirements.
 - (4) *Screening dumpsters.* All areas of trash storage and disposal including dumpsters must be screened as provided under section 1.1106.
 - (5) *Site plan review.* Site plan review and approval must be obtained for all new construction in accordance with the provisions of article XII [of this zoning ordinance].
 - (6) *Area and bulk requirements.* See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. of 12-17-2003, § 1.0407; Ord. of 5-22-2013; Ord. of 11-11-2015; Ord. No. 9-12-2018(2); [Ord. of 4-10-2019](#) ; [Ord. of 3-25-2020\(1\)](#).)

Cross reference— Businesses, ch. 18.

1.0408. - B-H 1 business highway 1.

- (A) *Intent.* The B-H 1 business highway 1 uses are typically automobile-oriented and cater to patrons traveling through a particular location. Example uses include drive-through restaurants and banks, car washes, strip retail centers, gas stations, sit down restaurants, and similar uses.
- (B) *Permitted uses.* The following are permitted in the B-H 1 district:
 - (1) Stores for retail sales and retail services.
 - (2) Full service eating and drinking establishment.

- (3) Fast food restaurant.
- (4) Strip mall areas.
- (5) Hotels and motels.
- (6) Personal services.
- (7) Banks, credit unions, or similar uses.
- (8) Professional service offices.
- (9) Clinic, dental or medical.
- (10) Lumber and building supply yards.
- (11) Laundry and dry cleaning.
- (12) Recreational facilities.
- (13) Studio.
- (14) Banquet halls.
- (15) Greenhouse, retail.
- (16) Theaters.
- (17) Funeral homes and mortuary establishments.
- (18) Off-street parking lot(s).
- (19) Essential services.
- (20) Uses similar to the above uses.
- (21) Institutional or public uses.
- (22) Catering facility in combination with a full service eating and drinking establishment.
- (23) Accessory structures and used customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with permitted use.

(C) *Special land uses.* The following special land uses are permitted in the B-H 1 district, under the conditions of article VI [of this zoning ordinance].

- (1) Automobile service stations.
- (2) Automobile repair shop(s), minor.
- (3) Automobile repair shop(s), major.
- (4) Vehicle sales area.
- (5) Automobile carwash.
- (6) Small engine repair.
- (7) Billboards.
- (8) Pet shop and sales.
- (9) Outdoor sales area.
- (10) Child care center and day care center in accord with sections 1.0602 and 1.0603(M).
- (11) Provisioning centers.
- (12) Marquee signs.
- (13) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.

(14) "Marihuana retailers" as defined in article IV section 38-93(b).

(D) *Required conditions.* The following conditions are required in the B-H 1 district.

- (1) *Use parameters.* All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor storage of materials from the view of adjoining streets or properties. A chain-link or decorative fence of sufficient density (one and one-quarter inches by one and one-quarter inches) to keep discarded debris within the confines of a site for uses which are likely to have debris shall be provided.
- (2) *Drive-through operations.* All permitted uses with a drive-through operation must meet the following conditions:
 - a. Required off-street parking for a drive-through as stated under [section] 1.0902.
 - b. Each stacking space shall be measured at not less than 20 feet in length and ten feet in width. In no instance, shall stacking spaces interfere with required parking or maneuvering lanes.
- (3) *Dwellings.* Existing dwellings, existing transient rooming houses, and existing apartments shall meet the provisions of the R-4 apartment district and special land uses within the R-4 apartment district, as set out in section 1.0404.
- (4) *Screening of trash receptacles.* All areas of trash storage including dumpsters shall be screened by a six-foot screen fence, but in no case less than six inches in height over the top of the trash or dumpster.
- (5) *Site plan review.* Site plan review and approval must be obtained for all new construction or in accordance with the provisions of article XII [of this zoning ordinance].
- (6) *Compatibility with adjacent properties.* The following conditions shall apply to permitted uses in the B-H 1 zone when those uses are adjacent to residential uses or residentially zoned property:
 - a. Rear and sideline setbacks from residential property shall be 45 feet.
 - b. Screening of residential uses to restrict view from residential property shall be provided by a solid fence of wood stained, sealed or painted eight feet in height, or a solid planting strip 15 feet in width and six feet in height at planting.
 - c. All exterior doors on the sides of buildings adjacent to residential property shall be for emergency exit only.
 - d. All shipping and deliveries to and from the above shall occur between the hours of 7:00 a.m. and 9:00 p.m.
 - e. All exterior lighting shall be directed along exterior building walls and away from residential property.
 - f. All outside storage of vehicles shall be screened from any adjacent residential property, and occur only within lighted areas secured by fencing.
 - g. All of the requirements of section 1.0408(D)(3) must be met by the use.
 - h. The use must fit into the size, scale, height, texture, material and landscaping pattern of the existing neighborhood.

Area and bulk requirements. See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirement.

(Ord. of 5-22-2013; Ord. of 9-12-2018(2); Ord. of 9-26-2018(1); [Ord. of 12-11-2019\(2\)](#); [Ord. of 3-25-2020\(1\)](#))

Cross reference— Businesses, ch. 18.

1.0409. - B-H 2 business highway 2.

- (A) *Intent.* The B-H 2 business highway 2 uses typically have fewer customers visiting the site and generate fewer trips per day.
- (B) *Permitted uses.* The following uses are permitted in the B-H 2 district:
- (1) Stores for retail sales and retail services. 20,000 square feet or less.
 - (2) Full service eating and drinking establishment.
 - (3) Fast food restaurant.
 - (4) Strip mall areas.
 - (5) Hotels and motels.
 - (6) Personal services.
 - (7) Banks, credit unions, or similar uses.
 - (8) Professional service offices.
 - (9) Clinic, dental or medical.
 - (10) Laundry and dry cleaning.
 - (11) Recreational facilities.
 - (12) Studio.
 - (13) Banquet halls.
 - (14) Greenhouse, retail.
 - (15) Theaters.
 - (16) Funeral homes and mortuary establishments.
 - (17) Private schools.
 - (18) Business schools.
 - (19) Convalescent homes.
 - (20) Printing or publishing.
 - (21) Office building(s).
 - (22) Off-street parking lot(s).
 - (23) Home occupations as provided and controlled in section 1.0401(B)(9).
 - (24) Essential services.
 - (25) Uses similar to the above uses.
 - (26) Existing housing.
 - (27) Institutional or public uses.
 - (28) Catering facility.
 - (29) Accessory structures and used customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the B-H 1 district, under the conditions of article VI of this zoning ordinance.

- (1) Animal hospitals.
- (2) Automobile service stations.
- (3) Automobile repair shop(s), minor.
- (4) Automobile repair shop(s), major.
- (5) Vehicle sales area.
- (6) Automobile carwash.
- (7) Small engine repair.
- (8) Pet shop and sales.
- (9) Outdoor sales area.
- (10) Child care center and day care center in accord with sections 1.0602 and 1.0603(M).
- (11) Ministorage units.
- (12) Reserved.
- (13) Lumber and building supply yards.
- (14) Warehousing.
- (15) Bed and breakfast operations.
- (16) Tourist homes.
- (17) Boarding houses.
- (18) Transportation services.
- (19) Social clubs.
- (20) Marquee signs.
- (21) Apartments above stores.
- (22) Reasonable accommodation use.
- (23) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.

(D) *Required conditions.* The following conditions are required in the B-H 2 district.

- (1) *Use parameters.* All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor storage of materials from the view of adjoining streets or properties. A chain-link or decorative fence of sufficient density (one one-quarter inches by one and one-quarter inches) to keep discarded debris within the confines of a site for uses which are likely to have debris shall be provided.
- (2) *Dwellings.* Existing dwellings, existing transient rooming houses, and existing apartments shall meet the provisions of the R-4 apartment district and special land uses within the R-4 apartment district, as set out in section 1.0404.
- (3) *Screening of trash receptacles.* All areas of trash storage including dumpsters shall be screened by a six-foot screen fence, but in no case less than six inches in height over the top of the trash or dumpster.
- (4) *Site plan review.* Site plan review and approval must be obtained for all new construction or in accordance with the provisions of article XII of this zoning ordinance.
- (5) *Compatibility with adjacent properties.* The following conditions shall apply to permitted uses in the B-H 2 zone when those uses are adjacent to residential uses or residentially zoned property:
 - a. Rear and sideline setbacks from residential property lines shall be 45 feet from any structure.

- b. Screening of residential uses to restrict view from residential property shall be provided by a solid fence of stained, sealed or painted eight feet in height, or a solid planting strip 15 feet in width and six feet in height at planting.
- c. All exterior doors on the sides of buildings adjacent to residential property shall be for emergency exit only.
- d. All shipping and deliveries to and from the above shall occur between the hours of 7:00 a.m. and 9:00 p.m.
- e. All exterior lighting shall be directed along exterior building walls and away from residential property.
- f. All outside storage of vehicles shall be screened from any adjacent residential property, and occur only within lighted areas secured by fencing.
- g. All of the requirements of section 1.0409(D)(2) must be met by the use.
- h. The use must fit into the size, scale, height, texture, material and landscaping pattern of the existing neighborhood.

Area and bulk requirements. See article V, schedule of regulations, of this zoning ordinance limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. of 5-22-2013; Ord. of 9-12-2018(2); Ord. of 11-14-2018(1); [Ord. of 4-10-2019](#); [Ord. of 3-25-2020\(1\)](#))

1.0410. - M manufacturing.

- (A) *Intent.* The M manufacturing district establishes and preserves areas for industrial and related uses of a nature so that they do not create serious problems of compatibility with other kinds of land uses. This district is intended to make provisions for certain kinds of business uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of the people in these areas. The general goals of this district includes, among others, the following:
 - (1) To provide sufficient space, in appropriate locations, to meet the needs of the municipality's expected future economy for all types of manufacturing and related uses;
 - (2) To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development;
 - (3) To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and other objectionable influences; [and]
 - (4) To protect the most desirable use of land in accordance with a well-considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the municipality's tax revenue base.
- (B) *Permitted uses.* The following uses are permitted in the M district:
 - (1) Industrial uses and manufacturing.
 - (2) Equipment servicing.
 - (3) Storage and warehousing.
 - (4) Accessory retail sales connected with an industrial or manufacturing use.
 - (5) Laboratories.

- (6) Institutional and public uses.
 - (7) Essential services.
 - (8) Ministorage.
 - (9) Commercial kennels.
 - (10) Greenhouses.
 - (11) Trade or industrial schools.
 - (12) Airports subject to all state and federal regulations and subject to all city codes and ordinances.
 - (13) Farming.
 - (14) Other uses of a similar and no more objectionable character to the above uses.
 - (15) Catering facility.
 - (16) Accessory structures and used customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with permitted use.
- (C) *Special land uses.* The following special land uses are permitted in the M district, under the conditions of article VI [of this zoning ordinance].
- (1) Billboards.
 - (2) Minor and major automobile repair shops.
 - (3) Salvage yard and resource recovery facilities.
 - (4) Storage of waste hauling vehicles and operations.
 - (5) Adult entertainment facilities.
 - (6) Office buildings.
 - (7) Child care centers and day care centers in accord with section[s] 1.0602 and 1.0603(M).
 - (8) Social clubs.
 - (9) Accessory structures and uses customarily incidental to any of the above permitted uses, provided such structures and uses are located on the same zoning lot with a permitted use.
 - (10) Mineral extraction operations.
 - (11) Medical marihuana manufacturing and distribution facilities for primary caregivers and qualifying patients.
 - (12) Automobile carwash.
 - (13) Commercial medical marihuana facilities as defined in article IV section 38-92.
 - (14) Provisioning centers as defined in article IV section 38-92(b).
 - (15) Large solar energy systems.
 - (16) Indoor vehicle sales area.
 - (17) "Marihuana establishments" as defined in article IV section 38-93(b).
 - (18) Banquet hall.
- (D) *Required conditions.* The following conditions are required in the M district.
- (1) *Enclosures.* All operations shall be conducted wholly within the confines of a building, provided that necessary accessory outdoor processes or the outdoor storage of equipment, and material may utilize required side yard or rear yard space if screened from any public street or residential zone by either a six-foot uniformly painted or preserved fence or wall at least 50 percent solid,

kept in good condition, or by planting of evergreen trees or hedges. The height of stored materials shall not exceed the height of the fence or wall screening such materials.

- (2) *Performance standards.* Before the issuance of any building or occupancy permit the applicant shall sign an agreement stating that the use of the property will meet the following performance standards and that any violation of these standards in subsequent operations will be corrected. The costs of inspection by experts to determine compliance shall be borne by the applicant.
 - (a) *Fire and explosion hazards.* All activities shall be carried on only in buildings conforming to the city building code, except for outdoor processes or storage permitted under [subsection] (D)(1) [of this section] above. The operation shall be carried on in a manner required by the city fire prevention code and with any precautions so as to produce no explosion hazard, as determined by the state department of labor, to a use on an adjacent property. Flammable liquids or explosive chemicals or materials, other than fuels used for heating, shall be stored in a separate building or tank, provided the building or tank is not closer than 80 feet to any building occupied by more than one human or closer than 40 feet to any property line.
 - (b) *Smoke, fumes, gasses, dust, odors.* There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by the use in a manner so to create a public nuisance, cause damage or inconvenience to other buildings or properties, or imperil the health of animals or humans.
 - (c) *Liquid or solid waste.* No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond, or lake. All methods of sewage and industrial waste treatment and disposal shall be approved by the city and state health departments or department of natural resources.
 - (d) *Vibration.* There shall be no vibration which is discernable to the human sense of feeling beyond the immediate site on which the use is conducted.
 - (e) *Noise.* The emission of measurable noises from the premises shall not exceed 70 decibels as measured at the property lines, between the hours of 7:00 a.m. to 10:00 p.m. The measurable noises shall not exceed 60 decibels as measured at the property lines between 10:00 p.m. and 7:00 a.m. Where normal street traffic noises exceed the established noise levels during such periods, the measurable noise emanating from the premises may equal, but not exceed traffic noises.
 - (f) *Glare.* There shall be no direct or sky-reflected glare which would be damaging to the human eye at the property line of the lot occupied by the use. This regulation shall not apply to lights for site or street.
 - (g) *Appearance.* No storage of waste from off-site outside a building, and no loose blowing papers shall be permitted at any time. All noxious activities shall be screened by an eight-foot solid fence, or by berm with plantings.
- (3) *Site plan review.* Site plan review and approval must be obtained for all new construction in accordance with the provisions of article XII [of this zoning ordinance].
- (4) *Area and bulk requirements.* See article V, schedule of regulations, [of this zoning ordinance] limiting height and bulk of buildings, minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. of 2-23-2005; Ord. of 5-24-2010; Ord. of 5-22-2013; Ord. of 12-20-2017(1); Ord. of 2-28-2018(1); Ord. of 9-12-2018(2); Ord. of 11-14-2018(2); [Ord. of 7-10-2019](#) ; [Ord. of 8-14-2019\(1\)](#) ; [Ord. of 12-11-2019\(2\)](#) ; [Ord. of 3-25-2020\(1\)](#))

Cross reference— Businesses, ch. 18.

1.0411. - Parking district.

- (A) *Intent.* The vehicular parking districts are intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided by petition or request to serve a use district which has developed without adequate off-street parking facilities.
- (B) *Permitted uses.* Premises in such districts shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to such regulations as provided in this [zoning] ordinance.
- (C) *Required conditions.* [The] following are the required conditions for the P districts:
 - (1) The parking area shall be accessory to, and for use in connection with one or more businesses, or industrial establishments, located in adjoining business or industrial districts, or in connection with one or more existing professional or institutional office buildings or institutions.
 - (2) Parking area shall be used solely for parking of private passenger vehicles, for a period of less than one day, and shall not be used as an off-street loading area.
 - (3) No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in the parking area.
 - (4) No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on the parking area.
 - (5) No building other than those for shelter of attendants shall be erected upon the premises, and they shall not exceed 15 feet in height.
 - (6) P vehicular parking districts shall be developed and maintained in accordance with the requirements of section[s] 1.0904 and 1.0905.
 - (7) Applications for P district rezoning shall be made by submitting a dimensional layout of the area requested, showing the intended parking plans in accordance with section 1.0905.
- (D) *Minimum distances and setbacks.* [The] following are the minimum distances and setbacks for P districts:
 - (1) *Side and rear yards.* Where the P district is contiguous to the side or rear lot lines of premises within a residentially zoned district, a six-foot wall shall be located along the side and rear lot line.
 - (2) *Front yards.* Where the P district is contiguous to a residentially zoned district which has a common frontage in the same block with residential structures or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for such residential district, or a minimum of 25 feet, or whichever is the greater. A required four-foot wall shall be located on this minimum setback line unless, under unusual circumstances, the planning board finds that no good purpose would be served. The land between the setback and street right-of-way line shall be kept free from refuse and debris and shall be planted with shrubs, trees or lawn and shall be maintained in a healthy, growing condition, neat and orderly in appearance.

(Ord. of 5-22-2013)

Cross reference— Stopping, standing and parking, § 58-131 et seq.

1.0412. - PDD planned development district.

- (A) *Intent.* Planned development districts are promoted as special land uses in the city as a way for the city to encourage high quality development with an emphasis on enhanced architectural and site design, landscaping, pedestrian, motorized and nonmotorized activities.

In creating a "win-win" situation, the developer may expect a cooperative working relationship with the city by receiving relief from typical zoning ordinance standards, such as setbacks and parking requirements. Planned development districts are not intended to be used for circumventing the more specific standards in the zoning ordinance. Rather, these provisions are intended to result in a higher level of development, which may not be feasible with traditional zoning regulations. If this improved level of development is not clearly apparent upon city review, a site shall not qualify for the modifications allowable under this article.

- (1) A planned development district (PDD) may be established as a zoning district when approved by the city commission and planning board in accordance with the procedures specified herein. It is the intent of this district to:
 - (a) Provide for flexibility in the regulation of land development;
 - (b) To encourage innovation in land use and variety in design, layout, and type of structures;
 - (c) To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; and
 - (d) To encourage useful open space; and to create better living, working, and shopping environments.
 - (2) In order to accomplish these objectives, this provision permits the relaxation of the conventional requirements found in the zoning districts. The use of land and the construction and use of buildings and other structures as planned development districts shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this article.
- (B) *Eligibility criteria.* Any development which fails to meet the following qualifying conditions, at a minimum, shall not be considered for a PDD:
- (1) The PDD site shall not be less than three acres of fully contiguous property not separated by a public road, railroad, or other such feature or barrier. The planning board may consider a PDD on lesser acreage if it is clear that the proposed PDD substantially promotes the intent of a PDD as stated above. In addition, the planning board may use the same intent section of the zoning ordinance when considering a PDD with property that may be separated by a public road, railroad, or other such feature or barrier (e.g. if the applicant owned property on the north and south sides of LaFayette Street, the applicant would need to prove why the separation would not restrict their ability to develop a cohesive PDD).
 - (2) All PDDs shall be served by public water and sanitary sewer facilities.
 - (3) The tract(s) of land for which a PDD application is received must be individually owned, jointly owned and jointly filed with all participating properties, or filed with legal option agreements relating to the property(ies) in question.
 - (4) The PDD shall provide for integrated, safe and abundant pedestrian access and movement within the PDD and to adjacent properties.
 - (5) The PDD shall provide for coordinated and innovative architectural styles, building forms and building relationships.
 - (6) The PDD shall provide for enhanced landscaping within the development. Examples include efforts to preserve the natural landscape, tree lined streets, decorative landscaping around structures and focal landscape areas.
 - (7) The proposed development shall not have an adverse impact on future development as proposed in the city's master plan for future land use.
 - (8) Open space requirements:
 - (a) The PDD development shall contain usable open space in an amount equal to at least 20 percent of the total PDD site. The planning board may consider a PDD with a lesser amount of open space if it is clear that the proposed PDD substantially promotes the intent of this

article. It is noted that open space is a very important element of a PDD and reductions to the open space provision should be granted only as a result of specific reasons.

- (b) Useable open space shall not include required yards or buffers, parking areas, drives, rights-of-way, utility or road easements, stormwater detention ponds, and structures.
 - (c) Such open space shall be permanently set aside for the benefit, use, and enjoyment of present and future occupants of the PDD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the city; or, if agreed to by the city commission, the open space may be conveyed to the city for the use of the general public.
- (C) *Permitted uses.* Any permitted or special land uses otherwise allowed in the underlying district(s) in which the PDD is to be located may be approved within a PDD. A mixed use PDD may be allowed in a residential district allowing for a minimal amount of commercial uses as determined by the planning board that relate to the project (e.g. 15 percent). At least 30 percent of the residential uses in the PDD would need to be provided prior to developing the commercial portion of a mixed use PDD. In a mixed use PDD, the applicant must demonstrate that the proposed use(s) would enhance the development and be compatible with surrounding and nearby uses.
- (D) *PDD design standards.*
- (1) *General standards.*
 - (a) Signs, lighting, landscaping, building architecture and materials, and other features of the project, shall be designed to achieve an integrated and controlled development.
 - (2) *Dimensional requirements.* To encourage flexibility and creativity consistent with the intent of the PDD, specific departures may be permitted from the requirements of the zoning ordinance as a part of the approval process. Any regulatory modification shall be approved through a finding that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards.
 - (3) *Parking.*
 - (a) To encourage a true integration of mixed uses and improved efficiency in land use, the overlap in parking requirements may be permitted between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips. The planning board should use caution when considering parking requirements for certain commercial uses due to potential tenant changes that may require more parking than a previous tenant. The district regulations should be used as a guide. All parking requirements shall be written into the final site plan.
 - (b) Parking lot landscaping. Site design and landscaping should diminish the prominence of parking lots as viewed from public streets.
 - (4) *Signs.* Residential and commercial entrance signs may deviate from the district requirements and shall be approved as part of the final site plan.
 - (5) *Driveway access and circulation.*
 - (a) Large PDD developments shall have limited access to major arterial routes. Access drives shall have limited access onto major and arterial roads. Additional access drives onto a major or arterial road should only be considered if spaced at least 500 feet apart. The planning board may require the PDD applicant to provide a traffic impact study prior to any approvals, if deemed necessary.
 - (b) Site design considerations should take into account vehicle stacking and queuing depths, traffic flows focused on main access points, peak hour volumes, internal site circulation, delivery routes, refuse pick-up/dumpster locations, etc.
- (E) *Planned development district; approval process.*
- (1) *PDD zoning district.*

- (a) A property meeting the eligibility criteria may be rezoned to a PDD district, based on the requirements of this section and appropriate requirements contained elsewhere in this ordinance. Unless initiated by the city, the rezoning shall be concurrent with the approval of a preliminary PDD site plan.
 - (b) Rezoning requested to the recorded development agreement shall be submitted foings initiated by the city shall not be required to have an approved sketch plan or development agreement. No development shall take place within the PDD until a final site plan and development agreement has been submitted and approved in accordance with the provisions of this article.
 - (c) Once rezoned, the PDD designation shall be noted on the official zoning map.
- (2) *Pre-application process.* To help facilitate a more streamlined process, PDD candidates are encouraged to take full advantage of pre-application meetings and workshops.
- (a) *Pre-application staff meetings.* An applicant is encouraged to schedule PDD concept meetings through the zoning administrator. In order to establish a more productive PDD concept meeting, the applicant may want to consider submitting concept plans in advance of the meeting. Regardless, city staff will diligently work to help facilitate an open collaborative process allowing the applicant to best understand city staff desires for the PDD, along with any utility and infrastructure opportunities or concerns. City planning board or commission members may be requested to assist in the process. These meetings do not infer approvals and no formal action is taken.
 - (b) *Pre-application planning board workshop.* An optional pre-application workshop with the planning board may be requested by the applicant to discuss a PDD concept, solicit feedback and receive requests for additional materials supporting the proposal. No formal action is taken at a workshop.
- (3) *PDD preliminary plan application.* The applicant shall prepare and submit to the city a written request for PDD rezoning that shall include a PDD preliminary plan meeting the requirements of section 1.1203. The zoning administrator can determine the necessity of all the requirements in section 1.1203. A suitable number, as determined by the zoning administrator, of the preliminary plan shall be provided. The PDD application and preliminary plan shall be submitted in advance of any planning board meeting within the time established by the zoning administrator. The extensiveness of the project will determine the amount of time necessary, realizing that the preliminary plan will need to be reviewed by city staff. An applicant that utilized the pre-application process should have a clear indication of city staff thoughts, concerns, etc. by the time the application is submitted. Additional items to be included on the PDD preliminary plan include:
- (a) Phases of development, anticipated start and completion dates of construction and approximate time frame for each phase (if a phased project);
 - (b) Proposed deed restrictions, covenants, or similar legal instruments to be used within the PDD;
 - (c) Location, type, and size of areas to be dedicated for common open space.
- (4) *Planning board public hearing and recommendation.* The planning board shall review the PDD rezoning request, the PDD preliminary plan, and conduct a public hearing. Following the public hearing, the planning board shall make a recommendation to the city commission based on the following standards:
- (a) The PDD complies with the intent of this article;
 - (b) The PDD satisfies the eligibility criteria of this article;
 - (c) The PDD complies with the requirements of this article, other applicable requirements of the zoning ordinance and applicable requirements of the subdivision or condominium requirements of the city.

- (d) The PDD conforms to the criteria for review of site plans, section 1.1206 of this ordinance or section 1.1300(E)(1-4), except as noted above in 1.0411(E)(3).
 - (e) The PDD is designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area.
 - (f) The PDD is adequately served by essential public facilities and services, such as roads, pedestrian or bicycle facilities, police and fire protection, drainage systems, water supply and sewage facilities.
 - (g) The proposed PDD does not have a significant adverse effect on the quality of the natural environment.
- (5) *City commission; preliminary PDD decision.* Following receipt of the planning board's recommendation and comments from the public hearing, the proposed PDD preliminary plan shall be considered by the city commission. The city commission, following the second reading, shall take one of the following actions on the request:
- (a) *Table.* If the application is determined to be insufficient, does not fully respond to planning board issues or more information is required, then the request may be tabled. The city commission shall direct the applicant to prepare additional information, revise the PDD plan or direct the city staff to conduct additional analysis.
 - (b) *Reconsideration.* If the city commission believes there is new information which might modify the recommendation of the planning board, the city commission may return the application with the new information to the planning board for reconsideration. The planning board shall provide a recommendation within 30 days.
 - (c) *Approval.* Upon determination that a PDD preliminary plan is in compliance with the standards and requirements of this ordinance and other applicable ordinances and laws, the city commission shall approve the PDD preliminary PDD plan. The city commission may impose reasonable conditions with the approval of a preliminary PDD. Conditions of any approval are attached to the land and will remain through subsequent owners. Approval conditions will be established into a development agreement drafted by the city and to be signed by the applicant.
 - (d) *Denial.* Upon determination that a PDD preliminary plan does not comply with standards and regulations set forth in this ordinance, or requires extensive revision in order to comply with said standards and regulations, the city commission shall deny the application. Re-submittal of an application which was denied shall be considered a new application.
- (F) *PDD preliminary plan; approval validity.* Approval of the preliminary plan by the city commission shall be effective for a period of two years and the accepted plan may be extended for one year upon expiration of the two-year period provided conditions have not changed that would be cause for denial of the extension. The two-year period for preliminary PDD approval may be extended for one year, if applied for by the petitioner and granted by the city commission.
- (G) *PDD final plan application.*
- (1) Prior to any development of the PDD, final site plans shall be submitted for review and approval in accordance with article XII, site plan review. If final site plans meeting the requirements of section 1.1204 for at least the first phase of the project are not submitted and approved during the approval period, the right to develop under the approved PDD preliminary plan shall terminate and a new application must then be filed and processed. In reviewing final site plans, the following shall apply:
 - (a) Site plans shall be in substantial conformance with the PDD preliminary plan.
 - (b) Each site plan shall either individually or in combination with previously approved contiguous project areas, meet the standards of this article and the approved PDD preliminary plan regarding layout, open space and land use.

- (c) If the plan consists of phases, then the site plan review process is only required for the specific phase(s) being presented for final approval to the planning board. Each subsequent phase shall be reviewed in the same manner.

(H) *PDD final plan approval.*

- (1) The planning board shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions of the PDD rezoning. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures mentioned for preliminary plan review of this article.
- (2) If the final development plan is consistent with the approved preliminary development plan, the planning board shall review the final plan in accordance with the standards for approval stated in article XII, site plan review.
- (3) The planning board shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- (4) Any zoning ordinance regulatory modification (e.g. setbacks) may be approved through a finding by the planning board that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. A table shall be provided on the final site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this PDD section.

(I) *PDD development agreement.*

- (1) Prior to issuance of any building permits or commencement of construction on any portion of the PDD, the applicant shall enter into an agreement with the city in recordable form, setting forth the applicant's obligations with respect to the PDD. The agreement shall describe all improvements to be constructed as part of the PDD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PDD, and all attached conditions. Approval shall be effective upon recording. At a minimum, the agreement shall provide:
 - (a) A survey of the acreage comprising the proposed development;
 - (b) The manner of ownership of the developed land;
 - (c) The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space;
 - (d) Open space provisions assuring open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose. The city may require conveyances or other documents to accomplish this purpose;
 - (e) Satisfactory provisions to provide for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the city. The city may require a performance guarantee to accomplish this purpose;
 - (f) Provisions to ensure adequate protection of natural features;
 - (g) A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase;
 - (h) The agreement shall also establish the remedies of the city in the event of default by the applicant in carrying out the PDD, and such remedies shall be binding on all successors in interest to the applicant.

- (2) Any amendment requested to the recorded development agreement shall be submitted for review by the city attorney and approved by the zoning administrator.
 - (3) All documents shall be executed and recorded in the county register of deeds.
- (J) *Revisions to an approved PDD plan.* Approval of the final site plan confers upon the zoning administrator the authority to approve certain minor deviations in accordance with the requirements of this article. The zoning administrator shall determine whether the change is major, warranting review by the planning board, or minor, allowing administrative approval, as noted below:
- (1) The holder of an approved PDD final development plan shall notify the zoning administrator of any desired change to the approved PDD.
 - (2) Minor changes. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PDD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - (a) Reduction of the size or height of any building;
 - (b) Movement of buildings and/or signs by no more than ten feet if consistent with required setbacks, open space and other standards;
 - (c) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
 - (d) Changes in floor plans, of up to five percent of the total floor area, which do not alter the character of the use or increase the amount of required parking;
 - (e) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design;
 - (f) Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate;
 - (g) Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the building official and zoning administrator;
 - (h) Grade change of up to one foot, reviewed by the city engineer;
 - (i) Modification of entry design, sign placement or reduction in size of signs, which is consistent with the approved sketch or final PDD plan;
 - (j) Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design;
 - (k) Changes to the location of accessory buildings and structures only when the new location will be consistent with the building envelope identified on the approved plan; and
 - (l) Changes required or requested by the city, county, or other state or federal regulatory agency in order to conform to other laws or regulations which do not substantially modify the plan.
 - (3) *Major changes.* A proposed change not determined by the zoning administrator to be minor shall be submitted as an amendment to the PDD and shall be processed in the same manner as the original PDD application for the final development plan.
- (K) *Limitations on variances from zoning board of appeals.* Regulatory modifications are not subject to variance approval of the zoning board of appeals. No part of a PDD plan may be appealed to the zoning board of appeals. This provision shall not hamper an individual lot owner from seeking a variance (e.g. a residential detached garage variance related to setbacks) following final approval of the PDD, provided such variance does not involve alterations to open space areas as shown on the approved PDD site plan.

- (L) *PDD preliminary final plan approval validity.* Each approved final PDD or PDD phase must be under construction within 12 months after the date of approval of the PDD final development plan(s), except as noted in this section.
- (1) The planning board may grant one extension of up to one additional 12-month period from the expiration date of the PDD or a PDD phase if the applicant applies for such extension prior to the date of the expiration of the PDD or PDD phase and provided that:
 - (a) The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and
 - (b) The PDD requirements and standards, including those of the zoning ordinance, that are reasonably related to the development have not changed.
 - (2) Should neither of the above two provisions be fulfilled, or an extension has expired without construction underway, the PDD preliminary plan approval(s) shall be null and void. This does not include any phases that may have received final PDD approval.
 - (3) Should the PDD district become null and void, the subject property remains zoned as a PDD, but the preliminary or final PDD plans previously approved become null and void. In order to utilize the property as a PDD, an applicant would have to resubmit plans for preliminary and final PDD site plan approvals as stated in this chapter, but would not require PDD rezoning action from the board, unless the proposed PDD project includes different land uses other than previously approved (i.e. commercial verses residential).

(Ord. of 2-9-2005; Ord. of 5-22-2013)

Cross reference— Businesses, ch. 18.

State Law reference— Planned unit developments, MCL 125.584b, 125.584c.

1.0412.1. - PDD-2 planned development district.

- (A) *Intent.* The PDD-2 planned development district is established to create a planned development district convenient and attractive for a wide range of retail uses, business, residential, government and professional offices, and places of amusement in a setting conducive to and safe for pedestrian traffic.
- (B) *Permitted uses.* The following uses are permitted in the PDD-2 district.
- (1) Professional offices including: executive, administrative, legal, accounting, writing, clerical, drafting, engineering, architectural.
 - (2) Medical and dental offices, including clinics.
 - (3) Business schools or private schools operated for profit.
 - (4) Bed and breakfast.
 - (5) Stores for retail sales and retail services.
 - (6) Theaters and social clubs.
 - (7) Laundry and dry cleaning.
 - (8) Printing or publishing.
 - (9) Drink and restaurant establishments.
 - (10) Train, bus, or taxi terminal or dispatching.
 - (11) Institutional or public uses.
 - (12) Essential services.

- (13) Hotels and motels.
 - (14) Uses similar to the above uses.
 - (15) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.
 - (16) Multifamily residential uses as found in the R-4 district.
 - (17) Condominiums.
 - (18) Apartments above stores.
 - (19) Sidewalks and cafes provided that they do not restrict pedestrian travel paths to less than 60 inches wide.
 - (20) Outdoor sale areas provided that they do not restrict pedestrian travel paths to less than 60 inches wide.
- (C) *Special land uses.* The following special land uses are permitted in the PDD-2 district under the conditions of article VI [of this zoning ordinance].
- (1) Murals.
 - (2) Child care centers and day care centers in accord with section 1.0602 and section 1.0603CM1.
 - (3) Outdoor video display boards greater than greater than 100 inches measured diagonally and 400 square feet overall and mounted on an assembly that when combined with the video display board results in a structure no higher than 40 feet above grade.
- (D) *Required conditions.* The following conditions are required in the PDD-2 planned development district.
- (1) *[Use parameters.]* All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor storage of materials from the view of adjoining residential streets or residential properties. A chain-link or decorative fence of sufficient density (1¼ inch by 1¼ inch) to keep discarded debris within the confines of a site for uses which are likely to have debris shall be provided.
 - (2) *Dwellings.* Existing dwellings, transient rooming houses and apartments shall meet the provision of the R-4 apartment district and special land uses within the R-4 apartment district, as set out in section 1.0404.
 - (3) *Screening dumpsters.* All areas of trash storage and disposal including dumpsters must be screened by a six-foot screen fence, but in no case less than six inches in height over the top of the trash or dumpster.
 - (4) *Site plan review.* Site plan review and approval must be obtained for all new construction in accordance with the provisions of article XII [of this zoning ordinance].
 - (5) *Area and bulk requirements.* See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

(Ord. of 11-13-2013; Ord. of 5-13-2015)

1.0412.2. - PDD-3 planned development district 3.

- (A) *Intent.* The PDD-3 planned development district is established to create a planned development district that accommodates high density apartments in the central business district, provides for a wide range of compatible uses for non-apartment space, and is compatible with the look, feel, and pedestrian nature of the downtown area.
- (B) *Permitted uses.* The following uses are permitted in the PDD-3 district.

- (1) Banks credit unions, or similar uses.
- (2) Business schools.
- (3) Clinic, dental or medical.
- (4) Fast food restaurant.
- (5) Full service eating and drinking establishment.
- (6) High density apartments.
- (7) Hotels and motels.
- (8) Institutional or public uses.
- (9) Laundry and dry cleaning.
- (10) Personal services.
- (11) Printing or publishing.
- (12) Professional service offices.
- (13) Social clubs.
- (14) Stores for retail sales and retail services.
- (15) Studio.
- (16) Essential services.
- (17) Uses similar to the above uses.
- (18) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.

Special land uses. The following special land uses are permitted in the PDD-3 district under the conditions of article VI [of this zoning ordinance].

- (1) Child care centers and day care centers in accord with section 1.0602 and section 1.0603(M).
- (2) Murals.
- (3) Outdoor sale areas.
- (4) Sidewalk cafes.
- (5) Transportation services.

(C) *Required conditions.* The following conditions are required in the PDD-3 district.

- (1) *Design review.* Design review as provided for in article XIII of this zoning ordinance.
- (2) *Demolition of buildings.* Before a demolition permit is issued for a building located in the PDD-3 district, the building department shall refer the request to the downtown development authority which will review the request, hold a public hearing, and make recommendations to the property owner for alternate potential uses of the property or to proceed with demolition. If the property owner does not withdraw the request for a demolition permit within 30 days after it is submitted, the building department shall proceed to analyze the request and issue appropriate permits based upon the building and zoning ordinance requirements.
- (3) *Screening dumpsters.* All areas of trash storage and disposal including dumpsters must be screened as provided under the B-C district provisions of section 1.1106.
- (4) *Site plan review.* Site plan review and approval must be obtained for all new construction in accordance with the provisions of article XII of this zoning ordinance.

- (5) *Area and bulk requirements.* See article V of this zoning ordinance, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
- (6) *Compatibility with adjacent properties.* The following conditions shall apply to permitted and special land uses in the PDD-3 district when those uses are adjacent to residential uses or residentially zoned property:
- (a) Rear and sideline setbacks to buildings from residential property lines shall be 45 feet.
 - (b) Off street parking areas shall be screened on all sides that abut a residential property or residential zoning district by a solid fence that is maintenance free, stained, sealed or painted six feet in height, or a solid planting strip 15 feet in width and six feet in height at planting.
 - (c) All exterior lighting shall be directed along exterior building walls and away from residential property.

([Ord. of 3-25-2020\(3\)](#))

ARTICLE V. - SCHEDULE OF REGULATIONS

1.0501. - Table—Schedule of Regulations.

This section delineates the height, bulk, density and area limits pertaining to the zoning districts defined in this ordinance.

Minimum Zoning Lot Size Per Unit (k)(l)			Maximum Height of Structure (k)(l)		Minimum Yard Setback (Per Lot In Feet) (k)(l)(n)(o)(p)			Percentage of Lot Area Covered (By All Buildings)
Zoning District	Area in Square Feet	Width In Feet	In Stories	In Feet	Front	Each Side	Rear	
R-1 rural residential	35,000(a)	165(a)	2	30	40(b)	20(n) (c)(b)	30(b)	40
R-2 subdivision residential	11,000(a)	85(a)	2	30	30(b)	11(n) (c)(b)	30(b)	40
R-3 residential	7,500	60	2	30	25(b)	5(n) (c)(b)	30(b)	50
R-3 A	7,500	70	2	30	25(b)	5/8(d)	30(b)	50
R-4 apartment	1,500 (d)(e)	(d)(e)	3	40	25(b)	5(b)(n)	30(b)	65
R-5 residential	6,000	50	2	30	25(b)	5(n) (c)(b)	30(b)	50
B-OS business office service	—	—	2	30	25(g)	15 (h)(f)	25(i)	40

B-C central business	—	—	3	40	0	0	12(i)	—
B-H business highway	—	—	2	30	60(g)	0 (h)(j)	25(i)	—
M manufacturing	—	—		50	(g)(m)	10 (j)	10	50
P parking	See article IX [of this zoning ordinance] for applicable standards.							
PD planned development	See section 1.0412 for applicable standards.							
PDD-2 planned development district	—	50	—	70	0	0(q)	0(q)	100
PDD-3 planned development district	—	50	4	45	0	0(r)	0(r)	80

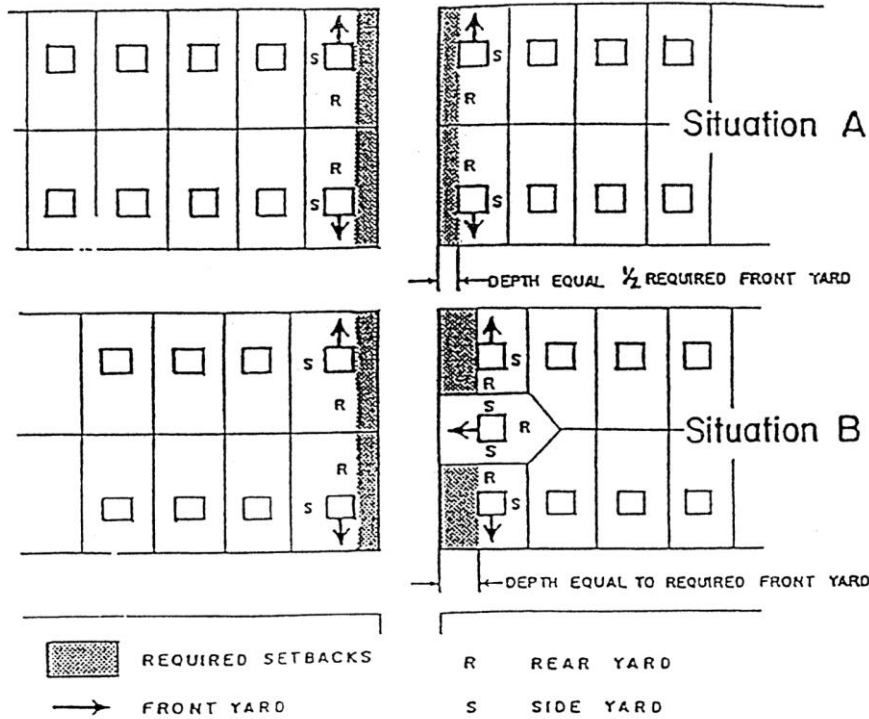
Note: All footnotes in parentheses () apply as designated in columns above (see section 1.0502).

(Ord. of 12-17-2003, § 1.0501; Ord. of 5-22-2013; Ord. of 11-13-2013; Ord. of 5-13-2015; [Ord. of 3-25-2020\(3\)](#))

1.0502. - Schedule of regulations.

This section delineates the height, bulk, density and area limits pertaining to the zoning districts defined in this [zoning] ordinance. [The] following are notes to section 1.0501, table—schedule of regulations:

- (a) See Section 1.0503, average lot size, and section 1.0504, subdivision open space plan, regarding flexibility allowances.
- (b) For all uses permitted other than single-family residential, the setback shall equal the height of the main building or the setback required in this section, whichever is the greater.
- (c) The side yard abutting upon a street shall not be less than one-half the required front yard setback where lots have a common rear yard. In case of a rear yard abutting a side yard of an adjacent lot, the side yard abutting a street shall not be less than the required front yard of the district.



SIDE YARDS ABUTTING A STREET

- (d) R-3/R-3 A.
- (1) For all lots platted or developed as site condominium homes sites prior to January 1, 2003, all lots with dwellings with side yards of not less than five feet in width shall be considered as conforming with side yard setback requirements of this section.
 - (2) For all lots platted or developed as site condominium home sites after January 1, 2003, side yards shall be a minimum of eight feet on one side of a lot and five feet on one side of a lot for a combined total of 13 feet.
 - (3) For all lots platted or developed as site condominium home sites after January 1, 2003 dwellings shall be located with the eight foot side yard abutting the side yard of the adjacent lot when the adjacent dwelling is within five feet or less of the side lot line of the lot being built upon.
 - (4) For all lots platted or developed as site condominium home sites after January 1, 2003 in those instances where dwellings on both sides of a lot being built upon have side yards of five feet or less the dwelling being constructed may provide side yards of not less than 6½ feet on each side of such lot.
 - (5) For all lots platted or developed as site condominium home sites after January 1, 2003 where two or more vacant lots are abutting in a row all homes shall be constructed on such lots providing side yards between homes totaling 13 feet. Where existing homes may exist at the end of such row of vacant lots the side yard for the new home, abutting a five foot side yard on the existing home lot may be five feet in width.
- (e) In an R-4 apartment districts, the total number of rooms (not including kitchen, dining and sanitary facilities) shall not be more than the area of the parcel, in square feet, exclusive of public road right-of-way, divided by 1,500. In all instances where wetlands exist on the site, such wetlands shall not be utilized for determining the number of rooms allowed on the site. All units shall have

at least one living room and one bedroom, except that not more than ten percent of the units may be of an efficiency apartment type. For the purpose of computing the permitted number of dwelling units per acre, the following room assignments shall control:

Efficiency = 1 room

One bedroom = 2 rooms

Two bedroom = 3 rooms

Three bedroom = 4 rooms

Four bedroom = 5 rooms

Plans presented showing one-, two- or three-bedroom units and including a den, library or other extra room shall count such extra room as a bedroom for the purpose of computing density.

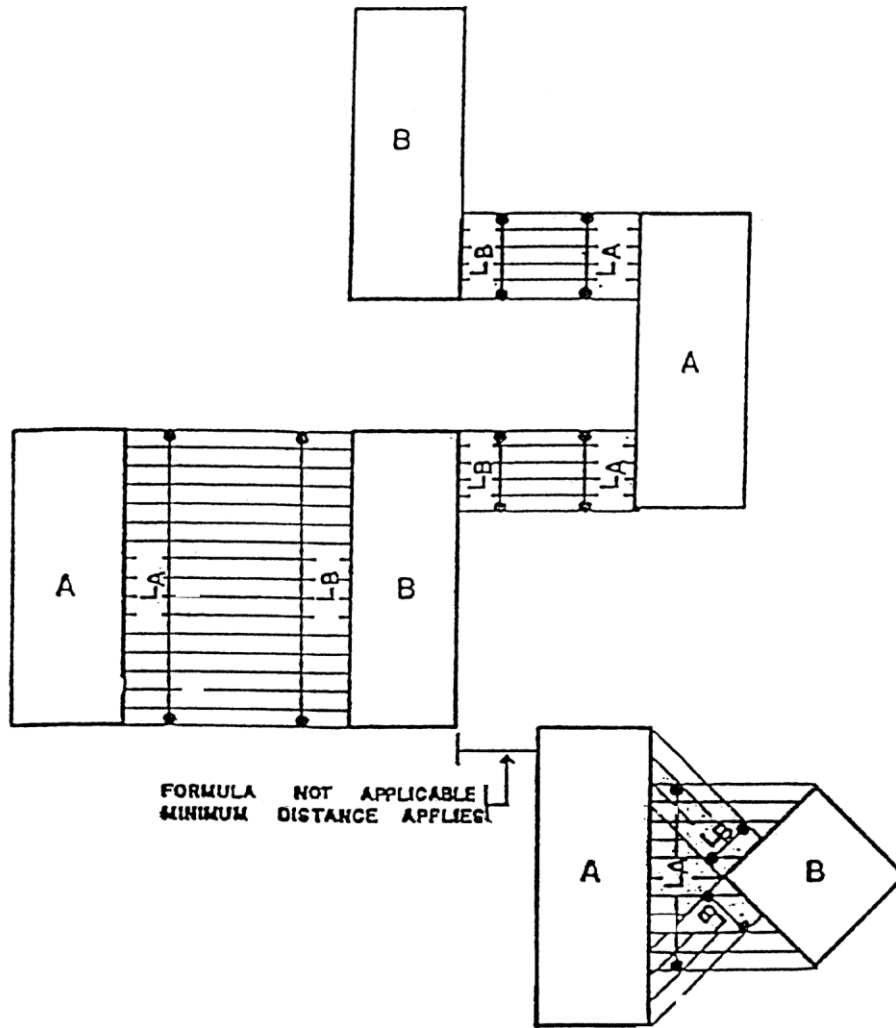
- (f) In R-4 districts, the minimum distance between any two buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than 30 feet. Parking may be permitted within a required side or rear yard but shall not cover more than 30 percent of the area of any required side or rear yard or any minimum distance between buildings. Yards abutting major thoroughfares shall have a minimum depth of 50 feet. The formula regulating the required minimum distance between two buildings as follows:

S	$=$	$\frac{L_A + L_B \cdot 2(H_A + H_B)}{6}$
-----	-----	--

where:

S	$=$	Required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.
L_A	$=$	Total length of building A. The total length of building A is the length of a wall or walls of building A which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.
L_B	$=$	Total length of building B. The total length of building B is the length of that portion or portions of a wall or walls of building B from which, when viewed directly from above, the lines drawn perpendicular to building B will intersect any wall of building A.
H_A	$=$	Height of building A. The height of building A at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building A. Natural grade level shall be the mean level of the ground immediately adjoining the portions or portions of the wall or walls along the total length of the building.

H B	=	Height of building B. The height of building B at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building B. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the length of the building.
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MIN. DISTANCE BETWEEN BUILDINGS

$$S = \frac{L_A + L_B + 2(H_A + H_B)}{6}$$

DISTANCE SPACING FOR MULTIPLE DWELLINGS

Distance Spacing for Multiple Dwellings

- (g) Off-street parking shall be permitted to occupy a portion of the required front yard provided that there is maintained a minimum obstructed landscaped setback of 10 feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line.

- (h) No side yards are required along the interior side lot lines of the district, except as otherwise specified in the building code, provided that if walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than 10 feet shall be provided.

On a corner lot which has a common lot line with a residential district, there shall be provided a setback of 20 feet on the side or residential street. Where a lot borders on a residential district or a street, there shall be provided a setback of not less than 10 feet on the side bordering the residential district or street.

- (i) Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements, except in the instance of B-OS districts loading may take place in undesignated places in parking lots provided such loading is of a short-term nature. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley. All loading and unloading areas shall be screened from public view.
- (j) Off-street parking shall be permitted in a required side yard setback.
- (k) Single-family detached condominiums in condominium subdivisions shall meet all minimum requirements and standards of the district in which such dwellings are to be constructed.
- (l) Minimum yards for site condominiums shall be provided in accord with this section and shall be computed as follows:
 - (1) Minimum front yard setbacks shall be equal to the distance between the front yard area line and the condominium dwelling.
 - (2) Minimum rear yard setbacks shall be equal to the distance between the rear yard area line and the condominium dwelling.
 - (3) Minimum side yard setbacks shall be equal to the distance between the side yard area line and the condominium dwelling.
- (m) Front yard setback shall be 40 feet for local street, 50 feet for collector streets and secondary arteries, and 60 feet for primary arteries.
- (n) On lots with a width of less than 60 feet and recorded as less than 60 feet prior to the date of adoption of this section, the minimum width of each of the side yards shall be five feet, except side street yards shall be a minimum width of 15 feet.
- (o) The front yard shall be the address side of the lot or parcel for setbacks purposes.
- (p) See section 1.0710 for yard exceptions.
- (q) Where the PDD-2 district is adjacent to a residential district the setbacks at the shared property lines shall be as stated in the Schedule for the corresponding residential zoning district. Where the PDD-2 district is adjacent to a property utilized exclusively for residential purposes as of September 1, 2013, the setbacks at the shared property lines shall be as stated for zoning district R-3 residential.
- (r) Off-street parking shall be permitted to occupy a portion of the required front, side and rear yards provided that there is maintained a minimum obstructed landscaped setback of five feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line.

(Ord. of 12-17-2003, § 1.0502; Ord. of 11-13-2013; Ord. of 5-13-2015; [Ord. of 3-25-2020\(3\)](#).)

1.0503. - Average lot size.

The intent of this section is to permit the subdivider or developer to vary his lot sizes and lot widths so as to average the minimum size of lot per unit as required in the Schedule of Regulations, for R-1, R-2 and R-3 residential districts. If this option is selected, the following conditions shall be met:

- (A) In meeting the average minimum lot size, the subdivision or site condominium shall be so designed as not to create lots having an area or width more than ten percent below that area or width required in the schedule of regulations and shall not create an attendant increase in the number of lots. In determining the maximum number of lots permitted, all calculations shall be predicated upon the single-family districts having the following gross densities (including roads):
 - (1) R-1: one dwelling unit per acre;
 - (2) R-2: 3.2 dwelling units per acre;
 - (3) R-3: 4.4 dwelling units per acre.
- (B) All computations showing lot area and the average, resulting through this technique shall be indicated on the print of the preliminary subdivision plat or proposed site condominium plan. The computations shall include the dimensions and area of each lot proposed, the total square foot lot area in all proposed lots, and the resultant average square foot area per lot. The average square foot area per lot shall not be less than the minimum lot size area as required for the district in which the development is located nor shall the average width of lots in the aggregate be less than the minimum lot width as required in the district in which the development is located.
- (C) The modifications permitted wider this section 1.503, average lot size, shall not be applied in conjunction with the modifications permitted under section 1.0504, subdivision [and site condominium] open space plan.

1.0504. - Subdivision and site condominium open space plan.

The intent of the subdivision open space plan is to promote the following objectives:

- (A) Provide for moderate-density development of residential areas and thereby assist an overall city effort to provide for efficiency of city services, a reduction of transportation needs, and to provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brook, hills and similar natural assets;
- (B) Encourage property owners to use a more creative approach in the development of residential areas;
- (C) Encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and allowing the property owner to bypass natural obstacles on the site;
- (D) Encourage the provision of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreational facilities;
- (E) Modifications to the standards as outlined in the schedule of regulations may be made in the R-2 one-family residential district when the following conditions are met:
 - (1) The lot area in all R-2 one-family residential districts which is served by a public sanitary sewer system may be reduced in area up to 20 percent. This reduction may be accomplished in part by reducing lot widths up to 10 feet. Lot area reductions shall be permitted, provided that the dwelling unit density is not greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required under section 1.0502, Schedule of regulations. Dwelling unit densities shall not utilize, storm water detention or retention basins nor more than 25 percent of any wetlands in computing the maximum number of dwelling units allowed.
 - (2) Lot depth shall not be less than 120 feet, except when such lots border on land dedicated for park, recreation and/or open space purposes, and provided that the width of such

dedicated land shall not be less than 100 feet measured at the point at which it abuts the rear yard of the adjacent lot, such lot depth may be reduced to 100 feet.

- (3) Under the provisions of subsection (E)(1) of this section, for each square foot of land gained within a residential subdivision or site condominium through the reduction of lot size below the minimum requirements as outlined in the schedule of regulations, at least equal amounts of land shall be dedicated to the common use of the lot owners in a manner approved by the municipality, or may, if approved by the municipality, be dedicated to the municipality.
 - (4) The area to be dedicated for open space purposes shall in no instance be less than three acres and shall be in a location and shape approved by the planning board.
 - (5) Access shall be provided to areas dedicated for open space for those lots not bordering on such open space by means of streets or pedestrian access ways.
 - (6) Lands set aside to meet minimum requirement of this section may include, but not exceed, 25 percent of any wetland. In those instances where such lands are utilized to meet minimum requirements, such lands shall be shown to be able to support uses suitable for residents of the development for recreational purposes or other lands on the site shall be developed for the common use of residents.
 - (7) This open space plan shall be permitted only if it is mutually agreeable to the legislative body and the subdivider or developer.
 - (8) This plan, for reduced lot sizes, shall be started within one year after having received approval of the final plat or final site condominium plan and must be completed in a reasonable time. Failure to start within this period shall void all previous approval.
 - (9) Under this open space plan, the developer or subdivider shall dedicate the total park area at the time of filing of the final plat or final site condominium plan on all or any portion of the plat or plan.
 - (10) Under this plan, provisions satisfactory to the city commission shall be made to provide for financing any improvements shown on the plan for the open space areas, and common use areas which are to be included within the development and that maintenance of such improvements is assured by means satisfactory to the city commission.
- (F) The standards as set forth in the Schedule of Regulations shall be modified at the option of the land-owner, to allow the number of dwelling units that would be permitted in R-1 one-family residential districts on a total development parcel, to be located on eighty (80) percent of the land area (including street right-of-way) being developed, provided that, the twenty (20) percent of the land area remains in an undeveloped state in perpetuity, by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land. Such modification shall be subject to the following conditions.
- (a) Lands set aside to meet minimum requirement of this section may include, but not exceed, twenty-five (25) percent of any wetland. In those instances where such lands are utilized to meet minimum requirements, such lands shall be shown to be able to support uses suitable for residents of the development for recreational purposes or other land on the site shall be developed for the common use of residents.
 - (b) The area to be dedicated for open space purposes shall be in a location and shape approve by the Planning Board.
 - (c) Access shall be provided to areas dedicated for open space for those lots not bordering on such open space by means of streets or pedestrian access ways.
 - (d) Under this open space plan, the developer or subdivider shall dedicate the total park area at the time of filing of the final plat or final site condominium plan on all or any portion of the plat or plan.
 - (e) Under this plan, provisions satisfactory to the City Commission shall be made to provide for financing any improvements shown on the plan for the open space areas, and common use

areas which are to be included within the development and the maintenance of such improvements is assured by means satisfactory to the City Commission.

Cross reference— Subdivisions and other divisions, ch. 50.

1.0505. - One-family cluster option.

(A) *Intent.*

- (1) The intent of this section is to permit the development of one-family residential patterns which, through design innovation, will provide for an alternative means for development of single-family areas. To accomplish this, modifications to the one-family residential standards, as outlined in this schedule of regulations (section 1.0502) may be permitted in the R-1, R-2 and R-3 districts.
- (2) In R-1, R-2 and R-3 one-family residential districts, the requirements of the schedule of regulations may be waived and the attaching of one-family dwelling units may be permitted subject to the standards of this section.

(B) *Conditions and qualifications.*

- (1) The planning board may approve the clustering or attaching of buildings on parcels of land under single ownership and control which, in the option of the planning board, have characteristics that would make sound physical development under the normal subdivision approach impractical because of parcel size, shape or dimension or because it is located in a transitional use area or the site has natural characteristics which are worth preserving or which make platting difficult. In approving an area for cluster development, the planning board shall find at least one of the following conditions to exist:
 - a. The parcel contains floodplain or wetland soil conditions that result in a substantial portion of the total area of the parcel being unbuildable. In no instance shall soil condition constitute less than 20 percent of the parcel.
 - b. The parcel contains natural assets that would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land that serves as a natural habitat for wildlife, unique topographic features or other natural assets that should be preserved.
 - c. The parcel to be developed has frontage on a secondary or primary artery and is generally parallel to the thoroughfare and is of shallow depth as measured from the thoroughfare.
 - d. The parcel has frontage on a primary artery and is narrow in width, as measured along the thoroughfare, which makes platting difficult, provided that the depth of the parcel is not greater than three times the width. The planning board may vary this ratio if this would be in the best interests of the city.
 - e. The parcel is shaped in such a way that the angles formed by its boundaries make a subdivision difficult to achieve and the parcel has frontage on a secondary or primary artery.
 - f. The parcel has vehicular access to a secondary or primary artery and a substantial portion of the parcel's perimeter is border by land that is located in an R-4, R-5, B-OS or P district.
 - g. A substantial portion of the parcel's perimeter is bordered by land that is located in a B-OS, B-H or M district and the parcel has vehicular access to a secondary or primary artery.
- (2) In order to qualify a parcel for development under subsections (B)(1)a. or (B)(1)b. of this section, the planning board shall determine that the parcel has these characteristics and the request shall be supported by written and /or graphic documentation, prepared by a landscape architect, engineer, professional community planner, architect or environmental design professional. Such documentation shall include the following as appropriate: soil test borings, floodplain map, topographic map of maximum two-foot contour level, inventory of natural assets', including plant material.

- (3) This option shall not apply to those parcels of land which have been split for the apparent purpose of coming within the requirements of this cluster options section. The zoning map effective at the date of adoption of the [zoning] ordinance shall be utilized to determine property lines where a question arises regarding a parcel split.

(C) *Permitted densities.*

- (1) Dwelling unit densities shall not utilize stormwater detention basins nor more than 25 percent of any wetland in computing the maximum permitted densities. The maximum permitted densities including streets are as follows:

- a. For those areas qualifying under subsections (B)(1)d.:

R-1 district	1 dwelling unit/acre
R-2 district	3.2 dwelling unit/acre
R-3 district	4.4 dwelling unit/acre

[For those areas qualifying under subsections] (B)(1)a. or b.:

R-1 district	1.5 dwelling unit/acre
R-2 district	3.7 dwelling unit/acre
R-3 district	4.4 dwelling unit/acre

[For those areas qualifying under subsections] (B)(1)c., e. or f.:

R-1 district	2 dwelling unit/acre
R-2 district	4.2 dwelling unit/acre
R-3 district	5.1 dwelling unit/acre

[For those areas qualifying under subsections] (B)(1)g.:

R-1 district	2.5 dwelling unit/acre
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R-2 district	4.7 dwelling unit/acre
R-3 district	5.6 dwelling unit/acre

- b. Water areas within the parcel may be included in the computation of density provided that land adjacent to the water is substantially developed as open space.
- c. In those instances where a parcel qualifies under subsections (B)(1)a. or (B)(1)b. as well as under one or more of the remaining subsections (B)(1) through (g), the higher densities may be permitted provided that the planning board finds that such density is reasonable and does not result in the destruction or removal of the natural assets enumerated under subsections (B)(1)a. and b.

(D) *Development standards and requirements.*

- (1) In areas meeting the criteria of subsection (B)(1) of this section, the minimum yard setback and minimum lot sizes per unit as required by section 1.0502, schedule of regulations, may be waived and the attaching of dwelling units may be accomplished subject to the following:
 - a. The attaching of one-family dwelling units, one to another, may be permitted when the homes are attached by means of one of the following:
 - i. Through a common party wall forming interior room space which does not have over 75 percent of its length in common with an abutting dwelling wall, excluding garage;
 - ii. By means of an architectural wall detail that does not form interior room space;
 - iii. Through abutting garage party walls of adjacent structures;
 - iv. No other common party wall relationship is permitted and the number of units attached in this manner shall not exceed four.
- (2) Yard requirements shall be provided as follows:
 - a. Spacing between groups of attached buildings or between each group of four unattached buildings shall be equal to at least 35 feet in an R-1 district, 30 feet in an R-2 district, 24 feet in an R-3 district, measured between the nearest points of adjacent buildings. The minimum distance between any single detached unit and any adjacent building shall be 15 feet.
 - b. Off-street parking lots (more than two spaces) shall have setbacks of not less than 50 feet from any public street or from any abutting one-family residential district.
 - c. Building setbacks from streets shall be equal to the front yard setback of the district.
 - d. Buildings shall not be closer than 25 feet to the pavement edge of interior private drives.
- (3) The area in open space (including recreation areas and water) accomplished through the use of one-family clusters shall represent at least 20 percent of the horizontal area of a one-family cluster development that qualifies under subsections (B)(1)a. through (B)(1)f. of this section and 15 percent in those qualifying under subsections (B)(1)g. [of this section]. The provision of walks, trails and recreation facilities is required within the open space areas.
- (4) In order to provide an orderly transition of density, where the parcel proposed for use as a cluster, development abuts a one-family residential district, the planning board shall determine that the abutting one-family district is effectively buffered by means of one of the following within the cluster development:
 - a. Single-family lots subject to the standards of section 1.0502, schedule of regulations.

- b. Detached one-family buildings with setbacks as required by the schedule of regulations for the applicable residential district.
- c. Open or recreation space not less than 100 feet deep.
- d. Significant changes in topography which provide an effective buffer and a building setback of not less than 75 feet.
- e. A secondary or primary artery.
- f. A similar means of providing a transition.
- g. The transition area shall be free of any building, parking spaces or drives unless the planning board finds that very unusual circumstances require such placement.

(E) *Procedures.*

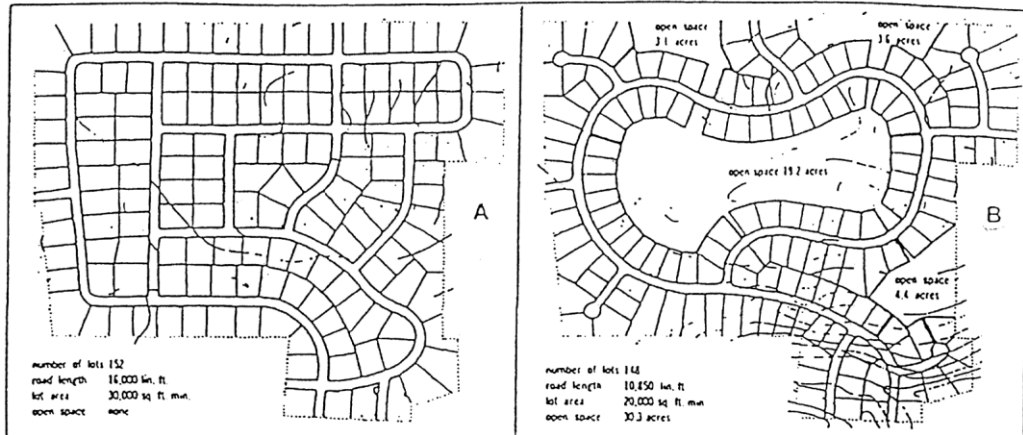
- (1) In making application for approval under this section, the applicant shall file a sworn statement indicating the date of acquisition of the parcel by the present owner and that the provisions of subsection (B)(3) of this section are complied with.
- (2) Qualification for cluster development.
 - a. Application to the planning board for qualification of a parcel for cluster development shall include documentation substantiating one or more of the characteristics outlined in subsection (B) of this section, conditions for qualification.
 - b. The planning board may make a preliminary determination as to whether or not a parcel qualifies for the cluster option under one of the provisions of subsection (13)(1) of this section based upon the documentation submitted. Such review is not a requirement but may be requested by the sponsor.
 - c. A preliminary determination by the planning board that a parcel qualifies for cluster development does not ensure approval. It does, however, give an initial indication as to whether or not a petitioner should proceed to prepare a site plan.
- (3) Preliminary site plan and cluster approval.
 - a. A preliminary site plan shall be submitted to the planning board and city commission for review in two stages:
 - i. An initial review of the plan concept but including the information called for in subsection (E)(3)b. of this section,
 - ii. Review of the plan at a public hearing, including information called for in subsection (E)(3)c. of this section.
 - b. In submitting a proposed layout under this section, the applicant of the development shall include, along with the site plan, typical building elevations and floorplans, topography drawn at two-foot contour intervals, all computations relative to acreage and density, a preliminary grading plan, and any other details that will assist in reviewing the proposed plan.
 - c. Site plans submitted under this option shall be accompanied by information as required in the subdivision regulations of the city provided, however, that:
 - i. Submission of an open space plan and project cost estimates for the initial review of the preliminary site plan shall be submitted at the option of the applicant.
 - ii. The open space plan and cost estimate shall be submitted for review at the public hearing.
 - d. The planning board shall give notice of the public hearing in accordance with provisions of section 1.1405(G) of this [zoning] ordinance.
 - e. If the planning board is satisfied that the proposal meets the letter and spirit of the city zoning ordinance and should be approved, it shall set forth any conditions upon which such approval

is based. If the planning board is not satisfied that the proposal meets the letter and spirit of this title, or finds that approval of the proposal would be detrimental to existing development in the general area and should not be approved, it shall record the reasons therefor in the minutes of the planning board meeting. Notice of recommendation of approval or disapproval of the proposal together with copies of all layouts and other relevant information shall be forwarded to the city clerk.

- f. The city commission shall review the action of the planning board together with relevant material submitted by the applicant. The city commission shall take action to approve or disapprove the preliminary plan or may refer such plan back to the planning board with direction for further review.

(4) *Final site plan.*

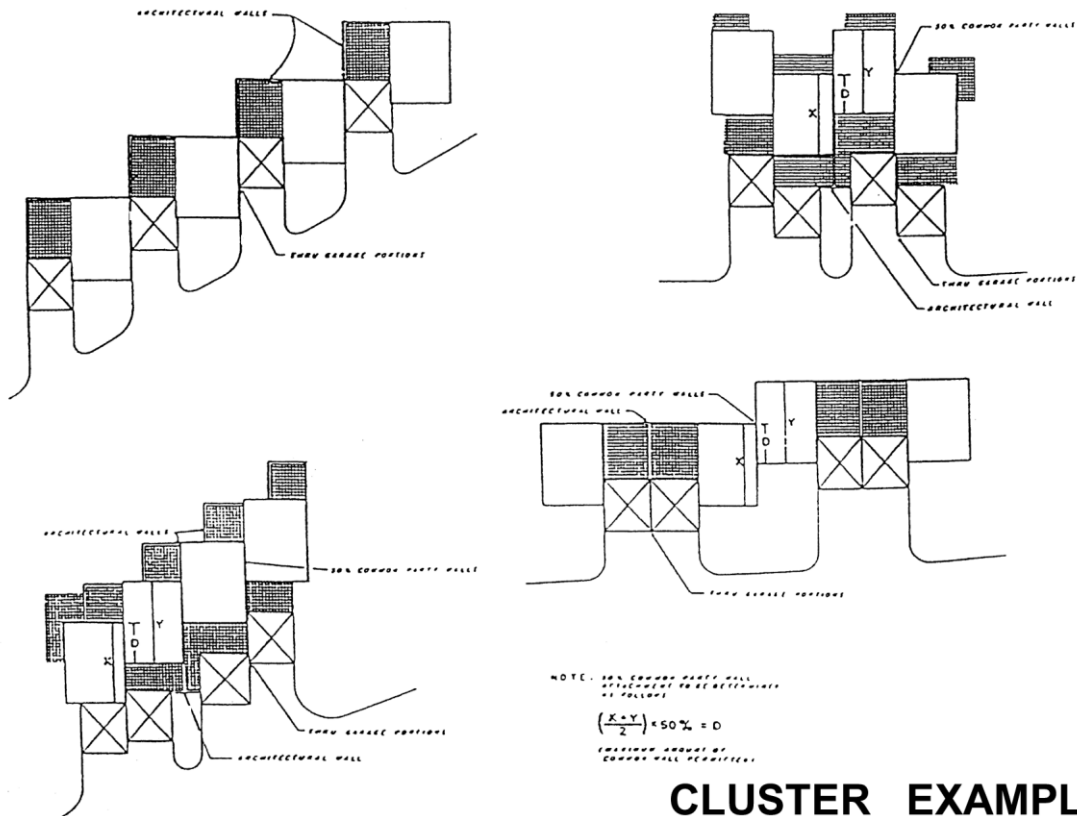
- a. After approval of a preliminary plan and cluster option, final site plan shall be submitted in accordance with the requirements of article XII [of this zoning ordinance].
- b. If the final site plan is recommended for approval, such plan shall be submitted to the city attorney for the preparation of agreements setting forth the conditions upon which the approval is based. Such agreement shall be finalized and approved by the city commission prior to the issuance of any building permits.
- c. As a condition for the approval of the final site plan and open space plan, the applicant shall deposit cash, irrevocable letters of credit, or other equivalent forms of security as approved by the city commission, after review by the city attorney, in the amount of the estimated cost of the proposed improvements to the open land guaranteeing the completion of such improvements within a time to be set by the planning board. Actual development of the open space shall be carried out concurrently with the construction of dwelling units. The city may require landscape improvement for the entire site frontage where such site abuts public streets as an initial site improvement even through such frontage is not part of any early stage of project development.



CONVENTIONAL

OPEN SPACE

OPEN SPACE SUBDIVISION EXAMPLE



CLUSTER EXAMPLE

Open Space Subdivision and Cluster Example

ARTICLE VI. - SPECIAL LAND USES AND STRUCTURES^[3]

Footnotes:

--- (3) ---

State Law reference— Special land uses, MCL 125.584a, 125.584c.

1.0601. - Purpose.

The development and execution of this section is based upon the division of the city into districts within which the uses of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are special uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighborhood land. These uses include uses publicly operated or traditionally affected with a public interest and uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

1.0602. - General provisions.

- (A) *Initiation of special land use.* Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, and which is specifically enforceable, may file an application to use the land for one or more of the special uses provided for in this section in the zoning district in which the land is located.
- (B) *Application of special land use.* An application for special land use shall be filed with the building department on a form prescribed by the building department. The application shall be accompanied by any plans or data prescribed by the building department and shall include as a minimum the requirements for site plan review as noted in article XII [of this zoning ordinance]. The application shall also include a statement in writing by the applicant and adequate evidence showing that the proposed special land use will conform to the standards set forth in this section. The application shall also be accompanied with a fee to cover the expense of public hearing. The fee to be determined by resolution of the city commission shall be based upon the cost of processing the review. The resolution shall be on file with the city clerk for public information.
- (C) *Public hearing.* Upon receipt of an application for a special land use which requires a decision on discretionary grounds, a public hearing shall be held. One notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The notice shall be given not less than five and not more than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four 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. The notice shall contain the following information:
 - (1) Description of the nature of the special land use request.
 - (2) Indication of the property which is the subject of the special land use request.
 - (3) Statement of when and where the special land use hearing will be considered.
 - (4) Indication of when and where written comments will be received concerning the request.

- (D) *Standards.* No special land use shall be recommended by the building department or approved by the planning board unless it shall find the following:
- (1) The establishment, maintenance, or operation of the special land use will not be detrimental to or endanger the public health, safety, or general welfare, or the natural environment.
 - (2) The special land use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor shall it substantially diminish and impair property values within its neighborhood.
 - (3) The establishment of the special land use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (4) Adequate utilities, access roads, drainage, and necessary facilities have been or are being provided.
 - (5) Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
 - (6) The special land use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in article VI [of this zoning ordinance].
- (E) *Conditions and guarantees.* Prior to the granting of any special land use, the planning board shall stipulate the conditions and restrictions upon the establishment, location, construction, maintenance, and operations of the special land use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this section. In all cases in which special land uses are granted, the planning board shall require any evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Any conditions imposed shall remain unchanged except upon the mutual consent of the planning board and the landowner. The planning board shall maintain a record of changes granted in the conditions.
- (F) *Effect of denial of a special land use.* No application for a special land use which has been denied wholly or in part by the planning board shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the building department and the planning board.
- (G) *Revocation.* In any case where a special land use has not been established within one year after the date of granting authorization for the use, the special land use authorization shall automatically be null and void without further action by the planning board.
- (H) *Revoke special land use.* A special land use can be revoked by the planning board, under the same procedure as the section used to approve it, if it is found that it no longer meets the standards of this [zoning] ordinance.

1.0603. - Special land use designated.

The following are those uses identified as special land uses and the provisions or conditions that must be met so as to be approved in whole or conditionally.

- (A) *Home occupations.* Home occupations not specifically permitted may be permitted in all residential districts as a special land use under the following procedures and conditions and subject further to all conditions specified in section 1.0401(9).
- (1) The exterior appearance of the structure shall not be altered or the occupations within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations.
 - (2) No more than one person other than members of the immediate family occupying the dwelling shall be employed.

- (3) The occupations shall occupy no more than 25 percent of the floor area of the dwelling, or 50 percent of a detached garage.
 - (4) There shall be no outside storage of any kind related to any home occupation.
 - (5) The use may not increase vehicular traffic flow and parking by more than one additional vehicle at a time, unless off-street parking as set forth in the off-street parking regulations in article IX [of this zoning ordinance] is provided.
 - (6) Mechanical or electric equipment employed by the home occupations shall be comparable to the machinery or equipment customarily found in the home associated with a hobby or avocation.
 - (7) Only one nameplate shall be allowed, in accordance with the sign regulations at 144 square inches. It may display the name of the home occupations, for example, John Doe, Realtor, and must be attached to the principal building.
 - (8) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- (B) *Two-family dwelling.* [Two-family dwelling] may be permitted as a special use under the following provisions and conditions.
- (1) A lot area of not less than 10,000 square feet for each two-family dwelling shall be provided.
 - (2) A lot width of not less than 100 feet for each two-family dwelling shall be provided.
 - (3) Building setbacks and height requirements shall comply with the requirements for single-family dwellings as required for the R-3 district.
 - (4) Two paved parking spaces shall be provided for each dwelling unit and shall further comply with article IX [of this zoning ordinance] as applicable.
 - (5) Buildings shall be of substantially similar appearance as other residential buildings on adjacent properties and in the neighborhood.
- (C) *Low-density apartments.* Low-density apartments may be permitted as a special land use under the following provisions and conditions.
- (1) The density (lot area per dwelling unit) of the zone shall be complied with.
 - (2) All apartment regulations and requirements of this [zoning] ordinance shall be complied with.
 - (3) All yard requirements of the zone district shall be increased 50 percent.
 - (4) All dwelling units shall be supplied with public sewer and water.
 - (5) No building shall exceed 120 feet in length, width, or depth and all buildings shall be of substantially similar appearance as other residential uses in the neighborhood.
- (D) *High-density apartments.* High-density apartments may be permitted according to the following provisions and conditions.
- (1) The site requirements shall include 15 percent open space of the site to be landscaped.
 - (2) All yard provisions of the district shall be complied with.
 - (3) No minimum lot area per dwelling unit is required, provided that off-street parking requirements shall be complied with upon the same lot.
 - (4) All buildings shall comply with the fire prevention code of the city.
- (E) *Mobile home parks.*

- (1) All mobile home park development shall further comply with Public Act No. 96 of 1987 (MCL 125.2301 et seq.). Public Act No. 96 of 1987 (MCL 125.2301 et seq.) shall supersede any requirements of this [zoning] ordinance where this [zoning] ordinance may provide more restrictive standards.
- (2) Access to any mobile home park shall be to other than a single-family residential street. The intent being to avoid higher-density traffic movements through existing or planned single-family developments. An emergency means of ingress and egress to a mobile home park, not used for general access, may be permitted to other than a major thoroughfare.
- (3) Mobile home parks shall not be permitted on parcels of less than 20 acres in area.
- (4) Mobile home parks shall provide land for open space use by residents of the park. These areas shall be so located and arranged that they functionally serve the residents to be served and meet or exceed mobile home commission rules, as adopted.
- (5) The outside storage of household effects, other than normal patio furniture, etc., is prohibited. The storage of recreational vehicles, e.g., boats, campers, trailers, motor homes, snowmobiles on mobile home sites and/or required, parking spaced for longer than 48 hours is prohibited.
- (6) The mobile home park developer is encouraged to provide trees and other landscape improvements on the individual mobile home sites and in the open space areas which will create an aesthetically pleasing and functional environment.
- (7) The proposed site plan for the mobile home park shall be submitted to the planning board for their review and approval prior to any consideration. The suggestion of any changes or modifications shall be based on such reasonable requirements as are applied to the review and approval of all other uses in the city. Any items determined to be undesirable or inadequate shall be made known to the applicant and a copy of such objections shall immediately be forwarded to the state mobile home commission for their consideration in reviewing the proposed mobile home park plans.

(F) *Mobile home subdivisions.*

- (1) The requirements for mobile home subdivisions, in addition to the requirements contained in the Land Division Act (MCL 560.101) are:
 - (a) Minimum lot size: single-wide area, 5,000 square feet; width, 50 feet; doublewide area, 7,200 square feet; width, 60 feet.
 - (b) Maximum building height: 25 feet.
 - (c) Minimum yard setback: front, 25 feet; side, ten feet; rear, 25 feet.
 - (d) Maximum lot coverage by all buildings: 30 percent.
 - (e) In a mobile home subdivision, a corner lot which abuts upon a street on the same side of which other residential lots front in the same block, any building shall have a minimum side setback equal to the front setback of the district in which it is located.

(G) *Apartments above stores.*

- (1) No dwelling unit shall occupy any portion of the building at ground level or below ground level. Businesses may occupy any number of total floors.
- (2) Such dwellings shall meet all applicable codes and ordinance of the city, county, or state.
- (3) Floorplans drawn to scale of all floors to be utilized for dwelling purposes shall be submitted to the building and zoning department.
- (4) Approved smoke detectors shall be provided in each dwelling unit and in common hallways and shall be provided as required in the building code.

- (5) Emergency egress lighting shall be provided to assure continued illumination for a duration of not less than one hour in case of emergency or primary power loss in any common hallway area as may be required in the building code.
 - (6) An approved fire extinguisher shall be provided in the common hallway accessible to all occupants as may be required in the building code.
 - (7) In those instances where residential uses are proposed to occupy the same floor as a business use the planning board shall review such mixed use and may approve such mixed use based on findings that compatibility of the business with residential occupancy will occur. Such findings may include but are not limited to:
 - a) Compatible hours of operation.
 - b) Noise of operation or occupancy that would be detrimental to the business operation or vice-versa.
 - c) Excessive foot traffic.
 - (8) Off-street parking shall be provided in accord with article IX [of this zoning ordinance] and shall be provided in designated off-street parking areas within 1,000 feet of the dwelling unit they are to serve.
- (H) *Conversion of a dwelling unit for up to four units.* Conversion may be permitted provided the following conditions are maintained:
- (1) The existing floor area of the building shall not be increased by more than 10 percent.
 - (2) Outside storage shall be limited by the restrictions set forth in section 1.1115.
 - (3) Two paved parking spaces for each dwelling unit shall be provided.
 - (4) All exposed mechanical and electrical equipment which services the dwelling shall be screened from view and free from casual entry by nonresidents.
 - (5) A minimum lot area of 2,000 square feet for each dwelling unit shall be maintained.
 - (6) The minimum floor area for each dwelling unit shall be 600 square feet.
 - (7) All refuse containers shall be stored in an area located on a paved surface and shall be screened with solid fencing on all unenclosed sides all of which shall approximate the size of the containers.
- (I) *Rooming, boarding, and motel accommodations.* Rooming houses, boarding houses, and motels for transient guests may be permitted on any lot in any R-4 Apartment district facing upon a marked state or federal highway, provided that the total lot coverage shall not exceed 75 percent.
- (J) *Bed and breakfast operation.* [Bed and breakfast operation] may be permitted subject to the following provisions and conditions:
- (1) Such dwelling shall meet all applicable codes and ordinances of the city, county, and state.
 - (2) Floorplans drawn to scale of all floors to be utilized for bed and breakfast activities shall be submitted.
 - (3) Dwellings shall be suitable in character for the use proposed and shall not cause a change in character of the neighborhood.
 - (4) The dwelling shall be the permanent residence of the bed and breakfast operator.
 - (5) Each leasable sleeping room shall have a separate operating smoke detector alarm.
 - (6) Lavatory and bathing facilities shall be available to all persons using any leasable sleeping room.
 - (7) There shall not be separate cooking facilities provided for the bed and breakfast occupants.

- (8) A guest registry indicating name, address, phone number and vehicle license number shall be available to the city for inspection upon request.
 - (9) A unlighted sign not exceeding six square feet in area per sign face may be provided. Such sign may be provided as a ground sign or wall sign.
 - (10) Off-street parking shall be provided based upon the following: one space for each rental room, one space for the owner/operator of the facility, and one space for each employee. It is the city's intent to not encourage yards to be destroyed, landscaping removed, or the integrity of the neighborhood altered in order to provide parking. In those instances where parking requirements cannot be met, the applicant may request special consideration from the planning board. In such a case the applicant shall submit an analysis of parking required and parking provided within a 300-foot radius of the subject parcel. After analyzing this data, the planning board may lower the number of required parking spaces based on the fact that sufficient off-street parking exists in the neighborhood.
 - (11) Such bed and breakfast dwelling shall not be located within 300 feet as measured from the nearest property lines, of another such facility.
 - (12) The operations of the dwelling unit shall not be permitted to endanger, offend, or otherwise interfere with the safety or rights of others so as to constitute a public nuisance.
- (K) *Functional equivalent family—additional persons.* The limit upon the number of persons who may reside as functional equivalent of the domestic family may be increased or enlarged 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 premises;
 - (2) The extent of increase or enlargement of the limit upon the number of persons shall not, when 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 125 square feet of usable floor space per person on the premises;
 - (4) If the planning board 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.
- (L) *Reasonable accommodation use.* This section is intended to authorize the grant of relief from the strict terms of the [zoning] ordinance in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under law and to encourage innovation in land use and variety in design and layout. In the event state or federal law, e.g., The Federal Fair Housing Amendments Act of 1988, requires the city to make "reasonable accommodation" for a particular proposed user of property, the following shall apply:
- (1) As a condition to approval of a special accommodation use, the applicant must comply with all of the terms of this section, and must demonstrate all of the following:
 - (a) The ultimate residential user or users of the property shall be persons for whom state or federal law mandates the city to make reasonable accommodations in connection with proposed uses of land.
 - (b) Taking into consideration the needs, facts, and circumstances which exist throughout the community, and within the population to be served by the use, including financial and other conditions, making the proposed reasonable accommodation shall be necessary to afford such persons equal opportunity to the proposed use and enjoyment within the community.

- (c) Approval of the proposed housing shall not require or will likely result in a fundamental alteration in the nature of the land use district and neighborhood in which the property is situated, considering cumulative impact of one or more other uses and activities in, or likely to be in the area, and shall not impose undue financial and administrative burden. The interests of the community shall be balanced against the need for accommodation on a case-by-case basis.
 - (d) No other specific ordinance provision exists and is available to provide the relief sought.
- (2) The application for a special accommodation use shall include the following:
 - (a) A plan drawn to scale showing the proposed use and development.
 - (b) A separate document providing a summary of the basis on which the applicant asserts entitlement to approval of a special accommodation use, covering each of the requirements of paragraphs 1(a) through 1(d) [subsections (L)(1)(a) through (L)(1)(d)], above.
 - (c) The information required for site plan review, provided, upon a showing by the applicant that the inclusion of specified information generally required for site plan review would be irrelevant, the city may waive the requirement to include such material in the application.
 - (d) All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply.
- (M) *Child care or day care center.*
 - (1) [A child care or day care center] may be permitted as the principal use of a property or may be permitted as an accessory use to an approved use, such as a church, school, office or other place of employment upon review and approval as a special use.
 - (2) A valid registration or license as required by the state shall continually be on file with the city.
 - (3) The facility shall be brought into compliance with all building codes.
 - (4) One parking space per care giver and/or employee plus drop off space off the street right-of-way for delivery and pick-up of children shall be provided.
 - (5) The site shall comply with the sign provisions of article X [of this zoning ordinance].
 - (6) The building shall have an appearance which is non-intrusive and consistent in color materials, roofline and architecture with the district in which it is located, as determined by the planning board.
 - (7) The lot shall be at least 800 feet from another child care center or day care center.
- (N) *Farming or horticulture.* [Farming or horticulture] may be permitted subject to the provisions of this [zoning] ordinance and the following conditions:
 - (1) Field crop farming and horticulture shall be done on parcels of five acres or more.
 - (2) The raising of livestock shall be a minor part of a farming operation.
- (O) *Riding or boarding stables.* [Riding or boarding stables] may be permitted subject to the provisions of this [zoning] ordinance and the following conditions.
 - (1) A land parcel of not less than ten acres shall be provided.
 - (2) Stables shall be located no nearer than 100 feet to any dwelling on an abutting property.
 - (3) Shelter shall be available for all horses boarded.
 - (4) Animal refuse shall be disposed of at regular intervals and shall be kept in such a manner as to minimize odor and insect nuisance to neighboring properties.

- (P) *Animal hospitals.* [Animal hospitals] may be permitted subject to the provisions of this [zoning] ordinance and the following conditions:
- (1) A land parcel of not less than five acres shall be provided.
 - (2) All on site animal treatment and all kennels shall be within enclosed buildings.
 - (3) No outdoor animal runs shall be permitted.
- (Q) *Mortuary and office buildings.* Mortuary establishments and their customary accessory buildings; offices for realty, professional, insurance, or similar occupations customarily carried on in an office; beauty salons; and barber shops are permitted as a special land use on any lot located upon a major street as designated on the master plan of the city if located in an R-4 apartment district within 700 feet of the B-C central business district. However, the use shall not involve the sale or repair of products or equipment upon the premises.
- (R) *Sidewalk cafes.* Sidewalk cafes occupying public sidewalks or a public space may be permitted subject to the following:
- (1) A site drawing showing the detailed plan of the outdoor cafe must be submitted to and approved by the planning board.
 - (2) Plans for setting up the sidewalk cafe must be approved by the city engineer to provide for the free passage of pedestrians along the sidewalks and by the police department to provide for traffic and pedestrian safety.
 - (3) The sidewalk cafe must be part of a licensed restaurant and meet all the requirements of the department of health.
 - (4) Liability insurance and property damage coverage naming the City of Sturgis as an insured party, in an amount approved by the city, must be provided before an outdoor cafe may be set up on any public space.
 - (5) Approval of the city commission is required for the use of any public area or facility.
- (S) *Murals.* [Murals] may be permitted as a special land use provided the following conditions are met:
- (1) The mural shall not contain advertising to promote the interest of any person, business, or product.
 - (2) The mural shall provide historic or civic interest.
 - (3) No mechanical animation or intermittent lighting shall be allowed as a part of any mural such as to distract drivers on public streets.
 - (4) Provision for the maintenance of any mural shall be required.
 - (5) A time period for removal of any mural may be specified should maintenance of such mural not be carried out.
- (T) *Outdoor sales area.* The temporary outdoor sale and display of merchandise may be permitted as an accessory use for any retail business whose principal activity is the sale of merchandise within an enclosed building, subject to the following requirements:
- (1) Any materials displayed outside of an enclosed building shall not extend into or occupy any required parking or maneuvering areas for vehicles.
 - (2) Display of materials on sidewalks shall not obstruct the free passage of pedestrians and shall provide not less than six feet of clear sidewalk passage area.
 - (3) Lighting of outdoor display areas shall be shielded so as to deflect light away from any residential use or district. Such lighting shall also be deflected away from any adjacent street so as not to interfere with traffic.

- (U) *Service stations and vehicle repair shops.* Service stations and vehicle repair shops may be permitted in accord with the following requirements:
- (1) The lot is at least 100 feet in width and depth.
 - (2) All aboveground or underground structures other than permitted signs or drives are at least 20 feet from any lot line, and at least 25 feet from any residential zone line.
 - (3) The area for outdoor parking servicing or storage of vehicles is paved and conforms to sections 1.0904 and 1.0905.
 - (4) Driveways shall be at least 24 feet from any intersecting street rights-of-way or residential zone lines.
 - (5) All proposed structures shall be located at least 300 feet from any property which is used as a public or private school, a church, hospital, theater, playground, fire station, place of public congregation.
 - (6) A paved or enclosed area for the storage of inoperable or damaged vehicles awaiting repair is provided which is screened from any public street or residential zone.
 - (7) A six-foot completely obscuring wall shall be provided abutting a residential district.
 - (8) Under canopy lighting shall have fixture mounted flush with the surface of the underside of the canopy and shall not be of such intensity as to be distracting to traffic on abutting streets.
- (V) *Vehicle sales area.* Vehicle sales areas may be permitted subject the following:
- (1) No vehicle sales area shall be accessory to a service station.
 - (2) The plot plan for proposed vehicle sales area shall show the following requirements:
 - (a) The provisions of divisions [subsections] (U)(1) through (U)(5) [of this section] above must be complied with, provided that no vehicles or equipment shall be located closer than ten feet to any side or rear property line nor closer than 25 feet to any front street right-of-way.
 - (b) No major repair work or refinishing shall be done on the lot.
 - (c) Display lighting shall be screened from any public street or residential zone.
 - (d) A six-foot completely obscuring wall shall be provided abutting a residential district.
- (W) *Automobile carwash.* An automobile carwash may be permitted subject to the following:
- (1) All buildings shall have a front yard setback of not less than 50 feet.
 - (2) All washing facilities shall be within a completely enclosed building.
 - (3) Vacuuming and drying areas may be located outside the building and shall not be closer than 25 feet from any residential district.
 - (4) All cars required to wait for access to the facilities shall be provided space off the street right-of-way and parking shall be provided in accordance with article IX [of this zoning ordinance].
 - (5) Ingress and egress points shall be located at least 24 feet from the intersection of any two streets.
 - (6) All off-street parking and waiting areas shall be paved.
 - (7) All lighting shall be shielded and directed away from adjacent residential districts.
 - (8) A six-foot completely obscuring wall shall be provided where abutting a residential district.
- (X) *Ministorage.* [Ministorage] may be permitted provided the conditions below are met:
- (1) No parking shall be allowed within 15 feet of a residence, or residential district.

- (2) The site shall be screened from a residential district or residence.
 - (3) No exterior lighting shall shine or illuminate beyond the property line onto adjacent property.
 - (4) All refuse containers shall be screened on all sides and located on a concrete pad.
 - (5) No outdoor storage of any kind shall occur in the parking or site area.
 - (6) No toxic, hazardous, flammable, explosive materials shall be stored or allowed on-site.
 - (7) Security entry shall be required, restricting access to operators and users of the facility.
- (Y) *Pet shop and sales.* Pet shops and sales may be permitted subject to the following:
- (1) All pets shall be located and cared for in a totally enclosed building:
 - (2) No continuous noise level higher than 45 decibels shall be allowed that is discernable outside the building.
- (Z) *Small engine repair.* Small engine repair such as lawn mower repair and servicing may be permitted subject to the following:
- (1) Outdoor storage of parts or materials shall be prohibited unless such storage is within a fenced and obscured area which meets all setback requirements.
 - (2) Areas for off-street parking required for customer use shall not be utilized for the storage of equipment awaiting repair.
 - (3) All vehicle servicing or repair shall be conducted within a building.
 - (4) Suitable containers shall be provided and utilized for the disposal of used parts and such containers shall be screened from public view.
 - (5) A six-foot completely obscuring wall shall be provided abutting any residential district.
- (AA) *Storage of waste disposal vehicles and operations.* Storage of waste disposal vehicles and operations may be permitted subject to the following:
- (1) No outdoor storage of waste hauling vehicles or equipment is permitted.
 - (2) All vehicles and equipment shall be regularly washed and maintained.
- (BB) *Salvage yards.* Salvage yards may be permitted as a special land use providing that the following requirements are complied with:
- (1) Plans and specifications shall be submitted to the planning board and shall include the following:
 - (a) Specific locations of the facility shown on a vicinity map.
 - (b) Location of public roadways, habitable structures, and places of public use on the site and other properties influenced by the project.
 - (c) Legal description and site boundaries.
 - (d) Means of limiting access including fencing, gates, natural barriers, or other methods.
 - (e) Details of the method of treating or disposing of liquid waste resulting from operation of the facility as it relates to the city's waste water treatment facility.
 - (f) The location of all structures and equipment.
 - (g) A detailed description and statement of appurtenances and procedures intended to handle heavy or bulky items, store refuse beyond the end of the working day, and control dust, odors, and fire as they comply with state and federal regulations.
 - (h) The location of existing proposed utilities available to the site.

- (i) The method of final reduction, such as compacting, grinding, shredding, compression, or tamping equipment.
 - (j) Daily clean-up procedures.
 - (k) Other details necessary as required by the planning board.
- (2) A facility shall be located not less than 500 feet from the nearest residential zone and must be screened by a fence of not less than eight feet in height and not less than 90 percent solid. It must also be screened by fences from streets, roads, or highways open to public vehicle travel.
 - (3) The site must be located on major arterial roads and not on residential- or collector-type roads. Roadways on the property shall be all-weather roads and shall maintain a condition to prevent a dust nuisance.
 - (4) Dust and odor resulting from unloading and operation of the facility shall be reasonably controlled at all times. Operation of the facility shall be carried on in a manner to prevent noise and vibration, or a nuisance to an adjoining property.
 - (5) Highly flammable or explosive materials shall not be accepted unless approved by the fire department.
 - (6) The salvage yard site shall not be less than five acres in size.
 - (7) Open burning shall not be carried on in a salvage area facility.
 - (8) The salvage yard area shall be maintained in a sanitary manner at all times so as not to create general unsightliness or health and safety hazards.
 - (9) Necessary operations of the salvage yard shall be carried out promptly in a systematic manner so that conditions are unfavorable for harborage and production of insects and rodents.
 - (10) Adequate provisions shall be made for routine operational maintenance of the facility and all appurtenances.
- (CC) *Adult entertainment facilities.* [Adult entertainment facilities] may be permitted provided the conditions below are met:
- (1) No adult entertainment facility shall be permitted within 1,000 feet of a church or a public or private school property.
 - (2) No adult entertainment facility shall be permitted within 1,000 feet of a residence or a district zoned for residential use.

The distances provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property line upon which the proposed use is to be located, and the zoning district boundary, property or residence from which the proposed land use is to be separated.

- (DD) *Nonresidential parking in a residential district.* Nonresidential parking areas may be permitted providing that the following provisions and conditions are met.
- (1) Nonresidential parking in a residential district shall be limited to lots one of whose side lot lines is immediately adjacent to a B business or M manufacturing zone, with no less than 100 percent common side lot lines to the lot on which the building intended to be served is located. In no case shall the parking for a nonresidential use be located beyond the first such adjacent lot or the first 150 feet of the adjacent lot, which ever is lesser.
 - (2) All entrance and exit drives shall be a distance of at least 20 feet from any adjoining property line in a residential district.
 - (3) All Parking areas shall be screened on all sides abutting either a residential district, a street, or an existing residence, with an ornamental fence, compact hedge, or wooden screen fence,

not less than six feet in height, of the type which will obscure vision at all seasons from adjoining premises and the street. No such parking areas shall be located in any required front yard or side yard setback areas in accordance with those provisions of the residential district in which they are located.

- (4) No commercial repair work, commercial servicing or selling of any kind shall be conducted on the parking areas in residential districts.
 - (5) No sign of any kind other than those indicating entrances and exits and the condition of use of the parking area shall be erected upon the parking area parcel or adjoining residential parcels.
 - (6) All parking areas shall provide parking spaces a minimum of nine feet by 18 feet with an access drive behind the parking space 24 feet in width.
 - (7) No outdoor storage of any kind shall occur in the parking area, including abandoned vehicles, storage of materials or supplies. All parking areas must be free of litter, dust, papers, and other items which could blow onto adjacent properties. Operation of the parking area shall be carried on in a manner to prevent dust, odor, noise, vibration, and other nuisances to adjoining properties.
 - (8) No loud noises shall be allowed in the parking area, above 45 decibels after 10:00 p.m. or before 8:00 a.m., or above 70 decibels during the hours of 8:00 a.m. to 10:00 p.m. No continual noise shall be permitted in the parking area.
 - (9) Flammable or explosive materials shall not be permitted in the parking area.
 - (10) In no instance shall vehicular parking be allowed within 15 feet of adjoining residential districts, residences, or residentially zoned properties.
 - (11) All parking areas created under this section shall be constructed in compliance with sections 1.0904 and 1.0905.
 - (12) No exterior lighting shall shine or illuminate beyond the property line of the parking areas, onto adjacent residential property.
 - (13) In addition to the above requirements of this section, other requirements may be deemed necessary or desirable by the planning board for the protection of the adjoining residences in a residential district, in which such parking areas may be located. These requirements shall be presented by resolution of the planning board after a duly held public hearing.
 - (14) Notwithstanding the foregoing, the planning board has the right to deny a special land use because of the adverse impact which the development would have on adjacent residential areas. [The term] "adverse impact," as used in the section, includes but is not limited to such possible or potential problems such as:
 - (a) Increased traffic.
 - (b) Interruption of residential continuity.
 - (c) Decreased safety and welfare within the given area.
- (EE) *Office buildings.* Office buildings may be permitted subject to the following:
- (1) Locations for office buildings shall be limited to sites abutting a primary or secondary artery as designated on the City of Sturgis Master Plan of Thoroughfares.
 - (2) Lot yard, height and area requirements of the R-4 districts shall apply.
 - (3) Off-street parking for office uses as provided for in article IX [of this zoning ordinance] shall apply.
- (FF) *Billboards.* Billboards may be permitted subject to the following:

- (1) No person shall erect or cause to be erected within the city limits of Sturgis any billboard, or other like structure or any fence to be used for the posting of bills or signs thereon, until the person so doing shall have secured a permit from the City of Sturgis.
- (2) An application in writing accompanied by plan and specifications of the structure drawn to scale shall be submitted. The applicant shall address all items in this [sub]section (FF).
- (3) The billboard cannot be so located, constructed as, or contain advertising messages, which divert the attention of drivers from the roadway.
- (4) Billboards cannot exceed 300 square feet in area per side from edge of billboard construction.
- (5) Billboards cannot be installed within 300 linear feet of a residence, or 750 linear feet of historic sites, parks, schools, churches, hospitals, cemeteries or government buildings.
- (6) Billboards shall not be constructed or installed within 1,500 linear feet of another billboard, on either side of a roadway and/or intersecting streets.
- (7) Billboards shall not be installed on roofs or sides of other structures and buildings.
- (8) Billboards shall be a minimum distance of 200 linear feet from the road right-of-way and limited in height to 25 feet.
- (9) Billboards shall not be illuminated if they are within sight/view of a residence.

(GG) *Group dwellings.* Group dwellings may be permitted subject to the following:

- (1) Existing buildings and new buildings constructed to be utilized as group dwellings shall be of a design compatible with existing residential dwellings on adjacent properties and in the immediate neighborhood.
- (2) Off-street parking for all supervisory personnel shall be provided and off-street parking for dwelling occupants shall be provided at not less than five-tenths parking spaces per resident.
- (3) All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply.

(HH) *Social clubs.* Social clubs may be permitted subject to the following:

- (1) Social clubs shall not be permitted in any planned industrial parks.
- (2) Social clubs shall be located only on primary or secondary arteries.
- (3) Off-street parking shall be provided in accord with section 1.0902(B)(g).
- (4) Outdoor activity areas shall be screened with planting and/or shall be so located as not to impact on abutting properties.
- (5) The schedule of regulations (section 1.0502) shall apply for the district in which such social club is located.

(II) *Mineral extraction operations.* Mineral extraction operations shall be subject to the following requirements in addition to those of the district in which the use is located, as well as all other applicable conditions, standards and regulations regarding site design and development:

- (1) *Special land use approval.* No mineral shall be removed from any land within the city without special land use approval, except for in the following circumstances:
 - (a) When the earth removal is incidental to an operation for which a building permit has been issued by the city;
 - (b) When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
 - (c) The earth removal involves less than 100 cubic yards;

- (d) The earth removal will not be in violation of any other section of this ordinance, other city ordinances, the Soil Erosion and Sedimentation Control Act of 1972, or any other applicable state or federal law.
- (2) *Review and approval criteria.* Planning board review and approval of a special land use request for a mineral extraction operation shall be in accordance with all applicable provisions of this ordinance; and shall also be based on consideration of the following factors:
- (a) Review and approval criteria:
 - (1) Confirmed presence of large volumes of high-quality, mineral resource deposits that will sustain an operation over a specified period of time. If deemed necessary by the planning board, the presence of such resource deposits shall be confirmed by the appropriate governmental agency having regulatory authority over any respective mineral industry (e.g. the department of natural resources);
 - (2) The most practical use of the land, resources and property;
 - (3) The protection and preservation of the general health, safety and welfare of the city;
 - (4) Adequacy of state and local transportation systems, and private access and haul road(s), to accommodate heavy equipment and truck traffic;
 - (5) Compatibility with existing or planned land use patterns in the area;
 - (6) Presence of fish and habitat and/or threatened and endangered species;
 - (7) Impacts to air and water quality and the natural environment, including critical areas (i.e. sensitive environmental lands);
 - (8) Proximity to major transportation corridors and market areas;
 - (9) Existence of the operations prior to the adoption of the provisions of this ordinance and the extent and character of such previous operations; and
 - (10) The mineral excavation operation will not result in very serious consequences to surrounding properties for the community in general.
 - (b) Conditions of approval: In making any decision, the planning board reserves the right to impose such additional conditions and safeguards as it deems necessary to limit the length of time the special land use is to be effective and may provide for a periodic review of the proposed operations to determine compliance with the conditions and limitations imposed upon the same. The planning board may renew or extend a special land use approval where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists, in accordance with this ordinance. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of a mined or disturbed area.
- (3) *Site plan approval.* Site plan approval is required with the special land use approval in accordance with article XII. Mining site/operations shall be conducted in accordance with an approved site plan and conditions of permit approval. In addition to required application items listed in section 1.1204, the site plan shall indicate the location of all mining activities, including excavation, processing, stockpiling, batching, product manufacture and sales areas, equipment maintenance and storage areas, truck routes and haul roads, as well as any excluded areas resulting from setbacks and other requirements of local, state and/or federal law. The application must also specify the duration of the mineral extraction operation.
- (4) *Necessary studies.* The planning board may require an environmental impact statement, engineering data, traffic impact study or other such documentation supporting the need for and/or identifying the consequences of such extraction operations.
- (5) *Use establishment.* All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subsection are less restrictive than applicable state statutes, the state requirements shall prevail.

- (6) *Location.* No machinery shall be erected or maintained within 150 feet of any property or street line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line or property line in order to ensure sublater support to surrounding property. The setback area shall not be used in conjunction with mineral extraction, except for access, berms, fencing, landscaping and/or signs. All excavation operations, processing plants and accessory structures shall be set back a minimum 250 feet from the banks of any lake, stream or other watercourse. The planning board may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located in or within 200 feet of any residential or commercial use or district.
- (7) *Safety.* Safety measures shall be implemented in accordance with state and federal requirements to protect the public from harm during utility construction, improvements, location or relocation.
- (8) *Screening.* As determined by the planning board, all operations visible from any roadway or developed adjacent land use shall be screened by an evergreen planting established at least six feet in height, obscured decorative fencing at least six feet in height, or landscaped berm of at least six feet in height with decorative landscaping placed along the top of the berm at a level determined by the zoning administrator. If determined appropriate by the planning board, a combination of the above screening methods may be used.
- (9) *Fencing.* All areas of the operation shall be secured with fencing adequate to prevent trespass at a minimum height of six feet. Any excavation operation which results in, or produces for a period of at least one month during the year, collections of water or severe slopes, as described below, shall be subject to the following safety requirements:
 - (a) Where an excavation leaves standing water with a depth of greater than one foot for any period of at least one month, and occupying an area of 200 square feet or more, the applicant shall erect a fence completely surrounding the portion of the site where the body of water extends, and shall be placed no closer than 50 feet to the top or bottom of any slope. The fence shall not be less than six feet in height complete with gates, which gates shall be kept locked when operations are not being conducted.
 - (b) Where slopes 3-1 horizontal to vertical or steeper exist for a period of one month or more, access to such slopes shall be barred by a fence at least six feet high and at least 50 feet outside the edge of the excavation, with suitable gates controlling access to the excavation area.
- (10) *Operational buildings.* No building shall be erected or placed on the premises except as may otherwise be permitted in the zoning ordinance or except as temporary shelter for machinery or for a field office, subject to approval by the planning board. All such buildings must be shown on the approved site plan.
- (11) *Access routes.* The planning board shall determine routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the planning board to minimize dust, mud, and debris being carried onto the public street. There shall not be more than one entranceway from a public road for each 660 feet of front lot line. Each entranceway shall be located not less than 500 feet from an intersection of two or more public roads.
- (12) *Welfare.* All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to property, individuals, or to the community in general.
- (13) *Nuisance.* Proper measures, as determined by the zoning administrator shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site. Stockpiles of mineral resource extractions shall not exceed 100 feet in height as measured from ground level before excavation, and shall be setback from all parcel boundary lines the

greater of 150 feet or twice the height of the stockpile. The setback distance shall be measured from the edge of the stockpile.

Equipment shall be installed, used and maintained so that noise and vibration emitted from the site do not exceed the level reasonably necessary for the operation of the equipment. Noise from the site shall conform with the standards listed in section 1.0409(D)(2)(e).

- (14) *Environmental protection.* All fuels, chemicals and other hazardous materials to be contained on site shall be noted in the application, including material, quality, use, and method or primary and secondary containment. All containment structures or devices shall be designed and operated to prevent groundwater pollution. The applicant shall provide a written spill response plan, in the event that a hazardous materials spill occurs on site. The spill response plan shall indicate how any and all contaminated material will be collected and properly disposed. Mineral resource extraction operations shall not:
- (a) Create erosion problems or alter the groundwater table of the area;
 - (b) Cause the creation of sand blows, stagnant water pools, or stagnant swampy areas; or
 - (c) Cause a permanent adverse affect to the environment, natural topography, or any natural resource, other than the earth materials involved.
- (15) *Operation.* All uses shall be conducted according to the following operational timelines:
- (a) Mineral resource extraction operations shall not operate prior to 7:00 a.m. or after 7:00 p.m., Monday through Friday. Saturday operations shall not operate prior to 8:00 a.m. or after 3:00 p.m. Operations shall not operate any time on Sundays or holidays as observed by the city. The planning board may further limit the days and hours of operation pursuant to article VI, section 1.0602;
 - (b) Inactivity of mineral resource extraction operations for a 12-month consecutive period shall constitute termination of such activities.
- (16) *Rehabilitation plan.* A rehabilitation plan toward reclamation of a mining area is also required and shall be submitted in conjunction with the site plan review. Such plan shall include:
- (a) A statement of planned rehabilitation, including methods of accomplishment, phasing and timing. The plan must comply with the following:
 - (1) Ensure final contours of the reclaimed property are consistent with the natural contours of adjacent lands. All portions of the site shall be graded so that no gradients in disturbed earth shall be steeper than a slope of 6:1 (horizontal-vertical);
 - (2) Remove all debris, temporary structures and stockpiles;
 - (3) A layer of arable topsoil, of a quality approved by the zoning administrator, shall be spread over the excavated area, except exposed rock surfaces or areas lying below natural water level, to a minimum depth of four inches in accordance with an approved reclamation plan. The area shall be seeded with a suitable native ground cover sufficient to control erosion and maintained until the area is stabilized for a specific reclaimed use and approved by the planning board;
 - (4) Water accumulating upon the site may be retained after the completion of such operation when, due to the excavation, such water cannot reasonably be drained by gravity flow; provided, that provisions shall be made to avoid stagnation (with the exception of man-made lakes), pollution and improperly controlled releases of such water that may endanger the public. Where excavation operation results in a body of water, the owner or operator shall place appropriate "Keep Out Danger" signs around said premises not more than 150 feet apart;
 - (5) Perform final restoration to conform to zoning regulations in effect at the time of implementation; and

- (6) Identify the possible or potential end use of the rehabilitated area.
- (b) A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
- (c) Reclamation timing must comply with the following:
 - (1) Rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation, including grading, debris removal and revegetation, shall be achieved within one year of termination of mining or excavation activity.
 - (2) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a time not to exceed 12 months, shall remove all structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located may be retained.
 - (3) Restoration shall be completed within two years from the date of completion or abandonment of the subject site or portion of the site.
- (17) *Explosives.* The use of explosives shall be done in accordance with the "Regulations for Storage and Handling of Explosives," as published by the state police, fire marshal division, and local applicable ordinance requirements.
- (18) *Performance bond.* The planning board shall require a performance bond or other guarantee as deemed necessary to ensure that the requirements of this ordinance are fulfilled, and may revoke the special land use approval at any time if specified conditions are not met.
- (19) *Liability insurance.* All owners/operators of property involved in mineral resource extraction operations shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists, in the amount of not less than \$1,000,000 per incident. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be submitted annually with the city clerk.
- (20) *Inspections.* A mining permit will be issued upon approval of a special land use and renewed by the owner/operator on an annual basis. To insure compliance with the permit, the zoning administrator shall conduct periodic inspections and shall file a written annual report to the planning board.
- (21) *Allowance for associated uses.* Approval of mineral extraction activities as a special land use may include allowance for related types of uses, including but not limited to, concrete mixing and asphalt plants, situated and operated in conjunction with such activities, subject to compliance with all the preceding provisions. Such associated activities and uses are subject to separate special land use review and approval.
- (JJ) *Medical marihuana manufacturing and distribution facilities for primary caregivers and qualifying patients.* Medical marihuana manufacturing and distribution facilities for primary caregivers and qualifying patients as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in subsection 38-91(d)(4) and (e)(7) are met.
- (KK) *Professional offices.* Professional offices may be permitted in the restricted zone subject to the following provisions and conditions:
 - (1) The location at which the professional office is to be located has been unoccupied for a minimum of six months; and
 - (2) The existence of one or both of the following conditions:

- (a) At the time of application a minimum of five percent of the front footage of all properties within the restricted zone are unoccupied properties; or
- (b) At the time of application the total front footage of all professional offices within the restricted zone is less than or equal to 35 percent of all front footage properties, including unoccupied properties.

(LL) *[Marquee signs]*. Marquee signs may be permitted subject to the following requirements:

- (1) Marquee signs are permitted only for use on theaters as defined in section 1.0202 of this ordinance.
- (2) All marquee signs must be submitted to the design review committee regardless of what zone they are to be installed.
- (3) Proper scale and architectural compatibility will be crucial elements when marquee signs are reviewed by the planning commission.
- (4) Marquee signs are allowed to be internally lighted.

(MM) *Commercial medical marijuana facilities*. Commercial marijuana facilities as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in section 38-92 are met.

(NN) *Provisioning centers*. Provisioning centers as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in section 38-92 are met.

(OO) *Large solar energy systems*. The following requirements shall apply to all large solar energy systems.

- (1) *Purpose and intent*. The purpose and intent of this section is to establish standards for the siting, installation, operation, repair, decommissioning and removal of large solar energy systems as a special land use.
- (2) *[Preliminary site plan.]* The following items must be shown on a preliminary site plan drawing for special land use approval:
 - (a) All lot lines and dimensions, including a legal description of each lot or parcel comprising the large solar energy system.
 - (b) Names of owners of each lot or parcel within the City of Sturgis that is proposed to be within the large solar energy system.
 - (c) Vicinity map showing the location of all surrounding land uses.
 - (d) Location and height of all proposed solar array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with a large solar energy system.
 - (e) Horizontal and vertical (elevation) to scale drawings with dimensions that show the location of the proposed solar array(s), buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.
 - (f) Proposed setbacks from the solar array(s) to all existing and proposed structures within the large solar energy system.
 - (g) A written description of the maintenance program to be used for the solar array and other components of the large solar energy system, including decommissioning and removal. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the large solar energy system is decommissioned.
 - (h) Additional detail(s) and information as required by the special land use requirements of the zoning ordinance, or as required by the planning commission.

- (3) *Final site plan requirements.* All site plans submitted must be drawn to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan. In addition to all items required in article XII, Site Plan and article XV section 1.1505 Groundwater Protection Section, the following must be provided for final site plan approval:
 - (a) Access driveways within and to the large solar energy system, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway.
 - (b) Planned lightning protection measures.
 - (c) Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the large solar energy system and within 100 feet of all exterior property lines of the large solar energy system.
 - (d) Land elevations for the solar array(s) location and the relationship to the land elevations of all existing and proposed structures within the large solar energy system at a minimum of five foot contours.
 - (e) Screening and/or landscaping details.
 - (f) Planned security measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance or repair of the large solar energy system.
 - (g) All items submitted for preliminary special land use approval must be submitted in final detail. Any major change may result in a review of the special land use by the planning commission.
- (4) *Compliance with the State Construction Code and the National Electric Safety Code.* Construction of a large solar energy system shall comply with the National Electric Safety Code and the State Construction Code (as shown by approval by the city) as a condition of any special land use permit under this section. In the event of a conflict between the State Construction Code and National Electric Safety Code (NESC), the NESC shall prevail.
- (5) *Certified solar array components.* Components of a solar array shall be approved by the Institute of Electrical and Electronics Engineers ("IEEE"), Solar Rating and Certification Corporation ("SRCC"), Electronic Testing Laboratories ("ETL"), or other similar certification organization if the similar certification organization is approved by the city, which approval shall not be unreasonably withheld.
- (6) *Height.* Maximum height of a solar array, other collection device, components or buildings of the large solar energy system, excluding substation and electrical transmission equipment, shall not exceed 15 feet (as measured from the natural grade at the base of improvements) in height at any time or location on the property. Substation and electrical transmission equipment shall not exceed 100 feet in height or height restrictions if within the airport glide path area.
- (7) *Lot size.* A large solar energy system shall be located on one or more parcels with an aggregate area of ten acres or greater.
- (8) *Setbacks.* A setback of 100 feet shall be required where the large solar energy system is abutting to any residence or district zoned for residential use. Refer to section 1.0501 for all other front, side and rear yard setback requirements.
- (9) *Lot coverage.* A large solar energy system is exempt from maximum lot coverage limitations.
- (10) *Driveways and parking areas.* All driveways and parking areas within the front yard setback area shall be provided with a minimum four inch asphaltic or concrete surfacing. All other access drives shall be minimum gravel or stone materials.
- (11) *Fencing.* A large solar energy system shall be completely enclosed by perimeter fencing to restrict unauthorized access. The applicant will submit a fencing style type included in the site plan for approval by the city.
 - (a) Fencing shall be no greater than six feet tall. An additional two feet of height can be added for security wire.

- (b) Electric fencing is not permitted.
- (12) *Screening.* The perimeter of large solar energy systems shall be screened and buffered when it is located within 100 feet of a residence or district zoned for residential use. Screening shall occur by installed evergreen or native vegetative plantings whenever existing natural vegetation does not otherwise reasonably obscure the large solar energy system, subject to the following requirements:
- (a) The large solar energy systems shall be exempt from the other landscape requirements of the zoning ordinance.
 - (b) The evergreen or native vegetative buffer shall be composed of native or evergreen trees that at planting shall be a minimum of four feet in height and shrubs two feet in height. The evergreen trees shall be spaced no more than 15 feet apart on center (from the central trunk of one plant to the central trunk of the next plant), native trees shall be placed no more than 30 feet apart on center and shrubs shall be spaced no more than seven feet apart on center. All unhealthy 60 percent dead or greater) and dead material shall be replaced by the applicant within one year, or the next appropriate planting period, whichever occurs first.
 - (c) To the extent practicable, all plant materials shall be installed between March 15 and November 15. If the applicant requests a final certificate of occupancy from the city and the applicant is unable to install required landscaping because of the weather, the city may issue a temporary certificate of occupancy for no longer than six months duration. A temporary certificate of occupancy may only be issued if the applicant submits a financial guarantee (an irrevocable letter of credit, surety, corporate guarantee or cash) for an amount equal to one and one-half times the cost of any approved planting and landscape work. Upon the applicant's completion of required landscaping work, the city shall return the financial guarantee, less any city costs incurred. If the applicant does not complete the required landscape work within six months of the city's issuance of the temporary certificate of occupancy, as approved by the city, the city has the right, upon 72 hours' notice to the applicant, to call the guarantee and arrange completion of the work, the cost of which shall be covered by the financial guarantee.
 - (d) Failure to install or continuously maintain the required vegetative buffer shall constitute a violation of this section. Any violation of a special land use condition may result in the planning commission determining that the special land use has been violated and may result in the revocation of the permit, provided however that applicant shall have 90 days from notification by the planning commission to cure any violation.
- (13) *Signage.* A ground or wall sign that is accessory to the business conducted on the property is permitted. The sign shall not exceed 32 square feet in area and six feet in height. No advertising or non-project related graphics shall be on any part of the solar arrays or other components of the large solar energy system. Directional signage will be permitted as per section 1.1001(J). This exclusion does not apply to entrance gate signage or notifications containing points of contact or any and all other information that may be required by authorities having jurisdiction for electrical operations and the safety and welfare of the public.
- (14) *Noise.* The emission of measurable noises from the premises shall not exceed 70 decibels as measured at the property lines, between the hours of 7:00 a.m. to 10:00 p.m. The measurable noises shall not exceed 60 decibels as measured at the property lines between 10:00 p.m. and 7:00 a.m. Where normal street traffic noises exceed the established noise levels during such periods, the measurable noise emanating from the premises may equal, but not exceed traffic noises.
- (15) *Lighting.* All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
- (16) *Distribution, transmission and interconnection.* All collection lines and interconnections from the solar array(s) to any electrical substations shall be located and maintained underground inside

the large solar energy system, except in areas where technical or physical constraints make it preferable to install equipment above ground. This requirement excludes transmission equipment meant to connect the project substation to the local transmission system.

- (17) *Abandonment and decommissioning.* Following the operational life of the project, the applicant shall perform decommissioning and removal of the large solar energy system and all its components. The applicant shall prepare a decommissioning plan and submit it to the planning commission for review and approval prior to issuance of the special land use permit. Under this plan, all structures, concrete, piping, facilities, and other project related materials above grade and any structures below-grade shall be removed offsite for disposal. Any solar array or combination of photovoltaic devices that is not operated for a continuous period of 12 months shall be considered abandoned and shall be removed under the decommissioning plan. The ground must be restored to its original topography within 365 days of abandonment or decommissioning.
- (18) *General standards.* The planning commission shall not approve any large solar energy system special land use permit unless it finds that all of the general standards for special land use of this section are met.
- (19) *Approval time limit and extension.* Special land use permits and site plan approvals or permits under this section shall be established within one year after the granting authorization for the use. The applicant may request a one year extension to establishing the special land use by applying in writing to the planning commission. The applicant shall appear before the planning commission to explain why such extension should be granted. Once construction of a project as per an approved site plan has been completed, the special land use shall have effect until the use is abandoned or per condition of the special land use permit, whichever is shorter.
- (20) *Conditions and modifications.* Any conditions and modifications approved by the planning commission shall be recorded in the planning commission's minutes. The planning commission may, in addition to other reasonable conditions, require landscaping, walls, fences and other improvements that are reasonable in relation to and consistent with the nature of the applicable or adjacent zoning districts.
- (21) *Inspection.* The city shall have the right at any reasonable time, and upon providing reasonable notice to the applicant (a minimum of 48 hours) to inspect the premises on which any large solar energy system is located. The city may hire one or more consultants to assist with inspections. Inspections must be coordinated with, and escorted by, the applicant's operations staff at the large solar energy facility to ensure compliance with the Occupational Safety and Health Administration (OSHA), NESC and all other applicable safety guidelines.
- (22) *Maintenance and repair.* Each large solar energy system must be kept and maintained in good repair and condition at all times. If the city zoning administrator determines that a large solar energy system fails to meet the requirements of this section and the special land use permit, or that it poses a safety hazard, the zoning administrator, or his or her designee, shall provide notice to the applicant of the safety hazard. Applicant shall keep a maintenance log on the solar array(s), which shall be available for the city's review within 48 hours of such request. Applicant shall keep all sites within the large solar energy system neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.
- (23) *Roads.* Any material damages to a public road located within the city, township or county resulting from the construction, maintenance or operation of a large solar energy system shall be repaired at the applicant's expense. In addition, the applicant shall submit to the appropriate city or county agency a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries. The applicant shall abide by all city and county requirements regarding the use and/or repair of city and county roads and also specifically agrees to be bound by any city or county special assessment regarding road improvements.
- (24) *Continuing security.* If any large solar energy system is approved for construction under this section, applicant shall post decommissioning security prior to the start of construction in a

mutually agreed upon form ("Option 1"). Alternatively, if applicant can demonstrate the presence of a long-term power purchase commitment from a credit-worthy entity, then the decommissioning security shall be posted prior to the date five years prior to the expiration of such power purchase commitment ("Option 2"). Prior to posting decommissioning security, the applicant shall solicit a decommissioning cost estimate from a third party engineering firm or contractor approved by the city. This cost estimate will be the basis for the amount of decommissioning security. The amount shall be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the large solar energy system. Such financial security shall be kept in full force and effect during the required time, and such financial security shall be irrevocable and non-cancelable.

- (a) In the event applicant elects Option 2, applicant agrees to provide the following as additional decommissioning security:
 - i. *Mortgage.* Applicant shall provide a mortgage to the city, on terms acceptable to the city, pledging the real estate upon which the large solar energy system is to be located securing applicant's obligations to the city to properly decommission the large solar energy system.
 - ii. *First right of refusal.* Applicant shall provide a right of first refusal to the city, on terms acceptable to the city, to purchase, in the event the large solar energy system has been abandoned, the property upon which the large solar energy system has been constructed.

Other requirements. Each large solar energy system shall also comply with all applicable federal, state and county requirements, in addition to other applicable city ordinances. The applicant should contact the Michigan Department of Agriculture and Rural Development (MDARD) to verify the impact of a large solar energy system on a property's enrollment and/or participation in PA 116 (Farmland Preservation).

(PP) *Vacant commercial type buildings conditional use permit.*

- (1) *Eligible parcels.* A new commercial use may only be permitted if all of the following conditions are met.
 - (a) A commercial use must have been permitted in the building based on assessing records.
 - (b) The structure has been vacant for six months or longer.
- (2) *Use conditions.*
 - (a) The use must not be reasonably expected to negatively affect, or create any nuisance to, the surrounding neighbors.
 - (b) Hours of operation should not intrude on the neighborhood in which they are located.
- (3) *Requirements.*
 - (a) The applicant must meet with the zoning administrator to determine whether the parcel and the use qualify for a vacant commercial type buildings conditional use permit.
 - (b) If the proposed use is determined to be a qualifying use, the applicant must provide all properties within 300 feet of the proposed property with a description of the intended use. The applicant must submit to the city the signatures of all owners along with an indication of whether each owner approves or disapproves of the proposed use. In cases where the applicant cannot reach an owner, an affidavit shall be submitted.
 - (c) Parking and means of egress shall be indicated on a sketch plan for review by engineering, police, fire and community development departments.

(QQ) *Indoor vehicle sales area.*

- (1) Two vehicles are allowed to be displayed on the outside of the building on an approved parking surface that meets the parking requirements in article IX-off street parking.

- (2) To calculate the number of vehicles allowed inside a building, a floor plan must be submitted showing the area inside of the building which will be used for vehicle display. For each vehicle, both of the following minimum area standards must be met:
 - (a) 25' × 30' floor area per vehicle.
 - (b) Minimum of five feet clearance on all sides of the vehicle.
 - (3) Required parking.
 - (a) Two parking spaces shall be provided for staff.
 - (b) One parking space shall be provided per two vehicles spaces permitted inside the building.
 - (4) Building must meet all applicable building, electrical, mechanical, plumbing, fire prevention code and fire safety requirements.
 - (5) Applicant must provide the city with state issued license.
- (RR) *Marihuana establishments.* Marihuana establishments as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in section 38-93 are met.
- (SS) *Marihuana retailers.* Marihuana retailers as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in section 38-93 are met.

(Ord. of 2-23-2005; Ord. of 5-24-2010; Ord. of 5-22-2013; Ord. of 2-28-2018(1); Ord. of 9-12-2018(2); Ord. of 11-14-2018(2); [Ord. of 5-8-2019\(1\)](#); [Ord. of 7-24-2019](#); [Ord. of 8-14-2019\(1\)](#); [Ord. of 12-11-2019\(2\)](#).)

ARTICLE VII. - GENERAL EXCEPTIONS

AREA, HEIGHT AND USE EXCEPTIONS

The regulations in this title shall be subject to the following interpretations and exceptions.

1.0701. - Essential services.

Essential services serving the city and essential transportation services authorized by state and federal law shall be permitted as authorized and regulated by law and other ordinances of the municipality.

1.0702. - Voting place.

The provisions of this [zoning] ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

1.0703. - Height limit.

The height limitations of this [zoning] ordinance shall not apply to farm buildings, chimneys, church spires, flag poles, public monuments, wireless transmission towers or approved wireless communication towers; provided, however, that the board of appeals may specify a height limit for any such structure when such structure required authorization as a special use and unless otherwise specified in this [zoning] ordinance.

1.0704. - Lot area.

Any lot existing and of record on the effective date of the [zoning] ordinance may be used for any principal use permitted in the district in which such lot is located.

1.0705. - Lots adjoining alleys.

In calculating the area of a lot that adjoins an alley for the purpose of applying lot area and setback requirements of this [zoning] ordinance, one-half the width of such alley abutting the lot shall be considered as part of such lot.

1.0706. - Yard regulations.

When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.

1.0707. - Porches and decks.

An open, unenclosed and uncovered porch or paved terrace may project into a required front yard for a distance not exceeding ten feet. Decks not exceeding 24 inches in height above the grade upon which placed may project into a required side or rear yard not to exceed a depth of 30 percent of the depth of the required side or rear yard.

1.0708. - Access through yards.

For the purpose of this [zoning] ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other surface servicing a like function, and not in excess of 12 inches above the grade upon which placed shall, for the purpose of this title, not be considered to be a structure, and shall be permitted in any required yard.

1.0709. - Projections into yards.

Architectural features, including gutters, soffits, eaves, cornices, and roof overlaps, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three feet.

Bay windows, chimneys, cantilevered floors, and other similar projections of up to ten feet in length, and not occupying more than 30 percent of the length of the wall on which they are located, may project into required side yard not more than two inches for each one foot of width of such side yard (up to a maximum of two feet of projection), and may project into a required front or rear yard not more than three feet.

1.0710. - Yard exceptions.

(A) *Front yards.*

- (1) Exceptions for existing alignment of building setbacks, in any residential district, the front yard requirements of a lot may be modified so as to equal the average depth of existing developed front yards on lots within 100 feet of the lot and within the same block front. The front depth shall not be less than ten feet.

(B) *Side yards.*

- (1) On lots with a width of less than 60 feet and recorded as less than 60 feet prior to the date of adoption of this section, the minimum width of each of the side yards shall be five feet, except side street yards shall be a minimum width of 15 feet.

(C) *Rear yards.*

- (1) Rear yards can be reduced in the following cases.
- (2) In all residential districts any platted and recorded lot less than 120 feet deep may have three inches deducted from the required rear yard depth for every foot the lot is less than 120 feet deep. However, no rear yard shall be less than ten feet.

(D) *All yards.*

- (1) When determining yard types for setback purposes any wall of any building can be the front, rear, or side so long as the rear is opposite the front and the sides to each other. The address side of the lot shall be considered the front yard side of the lot unless otherwise determined by the board of appeals.

1.0711. - Class A nonconforming use status.

Class A nonconforming use status, only, is hereby granted without further action to any two family dwelling located in the R-3 residential district which is properly registered as required pursuant to the City Property Maintenance Code as of the effective date of this ordinance amendment. For the purpose of this Section, only the use, and not the structure, is granted Class A status. If a structure does not meet conforming status, it may be granted Class A status on a case by case basis by the planning board as provided in Sections 1.0802 and 1.803 of the Zoning Ordinance.

(Ord. of 7-22-2015)

ARTICLE VIII. - NONCONFORMING USES AND STRUCTURES^[4]

Footnotes:

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State Law reference— Nonconforming uses and structures, MCL 125.583.

1.0801. - Nonconforming uses established.

Within the districts established by this [zoning] ordinance or amendments that later may be adopted, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this [zoning] ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this [zoning] ordinance or future amendments. It is the intent of this [zoning] ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

It is further recognized that certain nonconforming uses and structures do not significantly depress the value of nearby properties and are not contrary to the public health, safety, and welfare and that such use or structure was lawful at the time of its inception and that no useful purpose would be served by the strict applications or requirements for nonconformities under this [zoning] ordinance and, therefore, two classes of nonconforming use and structure are designated, being class A and B.

1.0802. - Class A nonconforming uses or structures.

Those nonconforming uses or structures which have been so designated by the planning board after hearing shall be designated as class A, providing findings that the following conditions exist with respect to the use or structure:

- (A) The use or structure was lawful at its inception.
- (B) Continuance of the use or structure does not significantly depress property values of nearby properties.
- (C) Continuance of the use or structure would not be contrary to the public health, safety, or welfare or the spirit of the [zoning] ordinance.
- (D) No useful purpose would be served by strict application of the provisions of this [zoning] ordinance with which the use or structure does not conform.

(E) An improvement to an existing nonconforming use will result.

1.0803. - Class A conditions.

The decision to grant a class A designation shall be made in writing setting forth the findings and reasons on which it is based. Conditions may be attached, including time limits where deemed necessary to assure the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this [zoning] ordinance and further to assure that at least the following standards are met:

- (A) Screening and landscaping may be required in keeping with community standards to provide compatibility with adjacent uses.
- (B) Effects which may have a negative impact such as lighting, noise or visual impact should be minimized.
- (C) Where such use is in close proximity to homes, parking should not be permitted to utilize curbside parking to an extent greater than the immediate property frontage of the nonconforming use.
- (D) New signage should meet zoning district requirements. Existing nonconforming signs shall be required to be eliminated or reduced in size and number as the planning board may, in its judgment, determine.
- (E) The exterior building materials utilized in any alteration to the building shall be harmonious with materials on abutting properties whenever practical.
- (F) Enlargement of a building may be allowed provided such enlargement does not create a more nonconforming yard setback condition which would impact on conforming properties in the immediate vicinity.
- (G) The planning board may require such other safeguards and improvements as it may deem necessary to protect conforming uses in the surrounding area.

Once the planning board has conducted a hearing and designated a nonconforming use of structure to the person, firm, or partnership requesting the designation, said class A designation shall be deemed temporary until the planning board has received written verification from the building department that the party requesting the class A designation has complied with all of the conditions set forth by the planning board.

Once the planning board has received written verification from the building department that the party requesting the class A designation has complied with said conditions, the class A designation shall become final, subject to other provisions of this [zoning] ordinance as hereinafter prescribed.

No class A nonconforming use or structure shall be resumed if it has been discontinued for six consecutive months or 18 months in any three-year period. No class A nonconforming use or structure shall be used, altered or enlarged in violation of any condition imposed in its designation.

No temporary class A nonconforming use or structure which has not met with all the conditions set forth by the planning board within six months from the date the nonconforming use or structure received a temporary class A designation shall receive final approval unless a request for extension of time in which to fulfill all of the conditions set forth by the planning board is submitted in writing to the planning board along with sufficient reasons as to why the temporary class A designation should be extended.

Upon a showing of good cause the planning board may extend the temporary class A designation for the nonconforming use or structure for another six months.

1.0804. - Revocation of class A designation.

Any class A designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for class A designation.

1.0805. - Class B nonconforming uses or structures.

All nonconforming uses or structures, not designated class A, Shall be class B nonconforming uses or structures. Class B nonconforming uses and structures shall comply with all the provisions of this [zoning] ordinance relative to nonconforming uses and structures.

1.0806. - Nonconforming lots.

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this [zoning] ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this [zoning] ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimension's and other requirements not involving area or width or both of the lot shall conform the regulations for the district in which such lot is located.

1.0807. - Nonconforming uses of land.

Where, at the time of the passage of this [zoning] ordinance, a lawful use of land exists which would not be permitted by the regulations imposed by this [zoning] ordinance and where the uses involve individual structures, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) No nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this [zoning] ordinance, except bringing the land parcel into compliance with federal ADA requirements shall be permitted.
- (B) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective date of adoption or amendment of this [zoning] ordinance.
- (C) If any nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent uses of the land shall conform with the regulations specified by the [zoning] ordinance for the district in which the land is located.
- (D) No additional structure not conforming to the requirements of this [zoning] ordinance shall be erected in connection with the nonconforming use of land.

1.0808. - Nonconforming structures.

Where a lawful structure exists or is lawfully under construction at the effective date of adoption or amendment of this [zoning] ordinance that could not be built under the terms of this [zoning] ordinance by reason of restriction on area, height, yards, its location on the lot, or other requirements concerning the structure, the structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- (A) No nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered in a way that does not increase its nonconformity.
- (B) Any nonconforming structure which has been damaged or destroyed by any means to an extent of more than 50 percent of its true cash value as determined by the city assessor at the time of damage or destruction, shall not be reconstructed except in case of unusual hardship for which the zoning board of appeals may grant conditional approval for reconstruction.
- (C) Any nonconforming structure can be brought into federal ADA compliance at any time, and all work to alter the structure to bring it into conformance shall begin with ADA compliance.
- (D) Should the nonconforming structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

1.0809. - Nonconforming use of structures or of structures and land in combination.

If a lawful use involving individual structures or a structure and land in combination exists at the effective date of adoption or amendment of this [zoning] ordinance that would not be allowed in the district under the terms of this [zoning] ordinance, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (A) No existing structure devoted to a use not permitted by this [zoning] ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (B) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for the use at the time of adoption or amendment of this [zoning] ordinance, but no use shall be extended to occupy any land outside the building.
- (C) Any structure, or structure and land in combination, in or on which a nonconforming use is changed to a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- (D) When a nonconforming use of a structure or structure and land in combination is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises or if it is a seasonal-type use), the structure, and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- (E) When nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this division is defined as damage to an extent of more than 50 percent of the true cash value as determined by the city assessor at the time of destruction.
- (F) The use of a nonconforming building may be changed to another nonconforming use if the zoning board of appeals finds that the new use would markedly decrease the degree of nonconformance and would enhance the value and desirability of adjacent conforming uses.

1.0810. - Repair or replacement.

- (A) During any consecutive 12-month period the extent of repair or replacement shall not exceed 25 percent of the true cash value as determined by the city assessor of the nonconforming structure.
- (B) The cubic contents of the structure shall not be increased.
- (C) Nothing in this [zoning] ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of the official.
- (D) There may be a change of tenancy, ownership or management of any existing nonconforming uses of land or structures or of structures and land in combination. A change of ownership between private parties does not remove the nonconformity nor extend time limits.

1.0811. - Removal of nonconforming status.

- (A) Any nonconforming structure or land may be made conforming by appropriate action or modifications which cause the structure or land to fulfil the requirements of the district in which it is located.
- (B) In case of a nonconforming use which is a use designated as a special land use by this [zoning] ordinance, the nonconforming status may be removed upon issuance of a special land use permit after the appropriate action has been taken in accordance with the provisions of this section. It shall be the responsibility of the owner or person requesting the special land use permit to initiate the request in accordance with sections 1.0601 through 1.0602.

1.0812. - Elimination of nonconforming structures or land.

The city may acquire by purchase, condemnation, or otherwise, private property for the removal of nonconforming uses and structures. The city commission may in its discretion provide that the cost and expense of acquiring the private property be paid from general funds, or the cost and expense or any portion thereof may be assessed to a special district. The elimination of any nonconforming uses and structures in a zoned district as herein provided is hereby declared to be for a public purpose and for a public use. The city commission shall have authority to institute and prosecute proceedings for the condemnation of nonconforming uses and structures under the power of eminent domain in accordance with the laws of the state or provisions of the city charter relative to condemnation.

ARTICLE IX. - OFF-STREET PARKING AND LOADING REQUIREMENTS⁽⁵⁾

Footnotes:

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Cross reference— Stopping, standing and parking, § 58-131 et seq.

1.0901. - General parking requirements.

- (A) There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile, off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building use, shall be provided prior to the issuance of a certificate of occupancy as prescribed in this [zoning] ordinance.
- (B) Application for parking lot construction. Any person desiring to establish or change a parking area shall submit plans to the building department showing the locations, design, size, shape, landscaping, surfacing, marking, fighting, drainage, curb cuts, entrances, exits, and any other features of the parking lot. Any curb cuts, entrances, exits, drainage, and design shall have the written approval of the city engineer and chief of police and shall be presented for site plan approval by the planning board. The location, number and signage of physical handicapped parking space shall be under the jurisdiction of the building department.
- (C) Minimum required off-street parking areas shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.
- (D) Off-street parking existing at the effective date of the [zoning] ordinance in connection with the operation of an existing building or use, shall not be reduced to any amount less than that required in this [zoning] ordinance for a similar new building or new use.
- (E) Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- (F) In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the board of appeals may grant an exception.
- (G) The placement of materials, merchandise, motor vehicles, trucks, trailers, recreational vehicles or equipment in designated off-street parking area of a property for the purpose of sale, rental or repair is prohibited, except as may be provided in this [zoning] ordinance.
- (H) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the planning board considers is similar in type.
- (I) When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

- (J) For the purpose of computing the number of parking spaces required, the definition of [the term] "usable floor area" in section 1.0200 shall govern.
- (K) For all residential buildings and institutional, public, or essential services in a residential district, the required parking area shall be provided on the same lot with the buildings or on a lot immediately adjacent, under the same ownership.
- (L) Parking in residential districts shall not be permitted in any required front yard area or in the street side yard area of a corner lot except in a driveway or a defined parking area. The aggregate area of the driveway or defined parking area shall not exceed the lesser of 35 percent of the front yard or 26 feet in width. Within the required front yard setback, a minimum of 25 feet, the driveway or defined parking area shall be provided with a minimum four-inch asphaltic or concrete surfacing.
- (M) Required off-street parking for single-family dwellings may be provided in a stacking configuration in a driveway or garage or combination thereof. Lawn areas shall not be utilized for off-street parking.
- (N) Within a residential district all parking areas, except for single-family dwellings, shall be screened on all sides that abut upon (1) a single-family residence, (2) a residential district, or (3) a street, with an ornamental fence or compact hedge which shall not be less than four feet six inches high, of a type which will obscure vision at all seasons from adjoining premises, except where it may block clear vision for traffic movement it shall be 30 inches in height.
- (O) No commercial repair work, commercial servicing, or selling of any kind shall be conducted on parking areas in residential districts. A resident may repair vehicles of the resident on the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicles of other than a resident of the dwelling unit on said property, and such repair shall be conducted in not to exceed seven consecutive days in any 30-day period.
- (P) A resident of a dwelling unit may have not more than one motorized vehicle for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of vehicles. In no instance shall a vehicle for sale be displayed in a front yard other than on the driveway portion of the yard.
- (Q) Within all residential districts parking shall be limited to passenger vehicles, recreational vehicles ("RV"), as provided below, recreation equipment and trucks with a load capacity of 2½ tons or less.
 - (1) The occupant of a residential property is allowed to park or store one recreational vehicle on his or her property if the following provisions are met.
 - (a) The RV must be owned by the occupant.
 - (b) The RV must be licensed (if applicable) and operable.
 - (c) The RV must be maintained and in good repair.
 - (d) The area around and under the RV must be kept free of any tall grass or weeds.
 - (e) The RV will not encroach on the required front yard setback, see table 1.0501, by more than 15 feet, and in no case nearer than ten feet to the front property line.
 - (f) The RV will not encroach on a required side yard that is the street side of a corner lot.
 - (2) One RV may be parked in developed driveways/parking spaces for a period of two days for purpose of loading and or unloading.

The occupant is allowed to have guests park and sleep in one RV for a period not to exceed two weeks in any 30-day period and not to exceed six weeks in any calendar year.

- (R) The building official shall require execution of a performance agreement in the amount of \$300.00/parking space, in the form, manner, and amount, as in his discretion may be required to compel compliance with and performance of all off-street parking requirements of this article.

(Ord. of 9-10-2003; Ord. of 7-27-2011)

1.0902. - Required off-street parking.

(A) *Residential.*

(1)	Use	Number of Minimum Parking Spaces Per Unit of Measure
(a)	Residential, one-family	2 for each dwelling unit.
(b)	Residential, multiple-family	2 for each dwelling unit having 2 or less bedrooms and 2½ for each dwelling unit having 3 or more bedrooms.
(c)	Elderly housing—dependent	0.75 for each dwelling unit.
(d)	Elderly housing— independent	1.25 for each dwelling unit.
(e)	Mobile home park	2 for each mobile home site, 1 for each employee of the mobile home park and 1 for each 3 mobile homes for visitor parking.

(B) *Institutional.*

(1)	Use	Number of Minimum Parking Spaces Per Unit of Measure
(a)	Churches temples	1 for each 3 seats or 6 feet of pews in the main unit of worship.
(b)	Mosques	1 for each 30 sq. ft. of floor space in the main unit of worship.
(c)	Hospitals	1.25 for each bed plus parking for related uses.
(d)	Convalescent and/or nursing homes	1 for each 4 beds.
(e)	Elementary and junior high schools	1 for each teacher, employee or administrator, in addition to the requirements of the auditorium or stadium.

(f)	Senior high schools	1 for each teacher, employee or administrator, in addition to the requirements of the auditorium or stadium.
(g)	Private clubs or lodge halls	1 for each 75 sq. ft. of usable floor area.
(h)	Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	1 for each 2 member individuals.
(i)	Golf courses open to the general public, except miniature or par-3 courses	4 for each golf hole and 1 for each employee, plus spaces required for each accessory use, such as a restaurant or bar.
(j)	Stadium, spots, arena or similar place of outdoor assembly	1 for each 3 seats or 5 feet of benches.
(k)	Theaters and auditoriums	1 for each 3 seats plus 1 for each 2 employees.
(l)	Nursery schools, day nurseries or child care centers	1 space for each caregiver or teacher and off-street dropoff and child pickup space.
(m)	Library, museum, post office	1 for each 150 square feet of usable floor area.

(C) *Business and commercial.*

(1)	Use	Number of Minimum Parking Spaces Per Unit of Measure
(a)	Auto wash (automatic)	1 for each employee. In addition, reservoir parking spaces equal in number to 4 times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by 20.
(b)	Auto wash (self-service or coin-operated)	3 for each washing stall in addition to the stall itself.

(c)	Beauty parlor or barbershop	2 spaces for each of the first 2 beauty or barber chairs, and 1½ spaces for each additional chair.
(d)	Bowling alleys	5 for each bowling lane plus parking for accessory uses.
(e)	Dance halls, pool or billiard parlors, roller skating rinks, exhibition halls, and assembly halls without fixed seats	1 for each 30 square feet of usable floor area.
(f)	Drive-in restaurant	1 for each employee and 1 for each 25 square feet of usable floor area.
(g)	Drive-through	1 for each employee and 4 stack-up spaces for each drive-through window or station.
(h)	Carry-out (with no eating on premises)	1 for each employee and 1 for each 60 square feet of usable floor area with a minimum of 4 spaces.
(i)	Establishment for sale and consumption on the premises of beverages, food or refreshments	1 for each 75 sq. ft. of usable floor area or 1 for each 2 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, whichever is greater.
(j)	Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician	1 for each 800 square feet of usable floor area. (For floor area used in processing, 1 additional space shall be provided for each 2 persons employed therein.)
(k)	Gasoline service stations	1 parking space for each 50 sq. ft. of floor area in the cashier and office areas in addition to space provided at each fuel pump dispenser. In no instance shall such facility provide fewer than 3 spaces for cashiers and office use. Gasoline service stations providing carwash facilities, lubrication facilities, sale of food, beverages and other products shall provide additional off-street parking spaces based upon the requirements for such uses.

(l)	Laundromats and coin-operated dry cleaners	1 for each 2 washing and dry cleaning machines.
(m)	Miniature or par-3 golf courses	2 for each hole plus 1 for each employee.
(n)	Ministorage rental	1 space for each employee and 1 space for each 50 storage rental units.
(o)	Mortuary establishments	1 for each 50 square feet of each assembly room.
(p)	Motel, hotel or other commercial lodging establishments	1 for each occupancy unit plus 1 for each employee.
(q)	Motor vehicle sales and service establishments	1 for each 100 square feet of usable floor area of sales room or 3 for each auto service stall in the service areas, whichever is the greater.
(r)	Oil change and lubrication station	1 for each employee plus reservoir parking spaces equal in number to 3 times the maximum capacity of service stalls provided at the facility.
(s)	Retail stores, except as otherwise specified herein	1 for each 155 square feet of usable floor area.
(t)	Public utility structures	1 for each employee on the maximum work shift.
(u)	Indoor tennis facility	4 for each court plus spaces as required for each permitted accessory use.
(v)	Amusement arcade	1 for each game table and 1 for each amusement device.
(w)	Athletic clubs, exercise establishments, health clubs, sauna baths, judo clubs and other similar uses	1 parking space for each 3 persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes, plus 1 space per employee. In those instances where memberships are provided for, not less than 1 space per each 4 memberships shall be provided, plus 1 space per employee.

(D) *Office.*

(1)	Use	Number of Minimum Parking Spaces Per Unit of Measure
	(a) Banks	1 for each 100 sq. ft. of usable floor area.
	(b) Banks (drive-in)	1 for each employee. In addition, reservoir waiting spaces at each service window or station shall be provided at the rate of 4 for each service window or station. Each waiting space shall measure not less than 20 feet in length.
	(c) Business offices or professional offices, except as indicated in [subsection (D)(1)](d) [of this section]	1 for each 250 sq. ft. of usable floor area.
	(d) Professional office of doctors, dentists and similar professions	1 for each 50 sq. ft. of usable floor area in waiting rooms, and 1 for each examining room, dental chair, office, laboratory, X-ray therapy room or similar use area.

(E) *Industrial.*

(1)	Use	Number of Minimum Parking Spaces Per Unit of Measure
	(a) Industrial or research establishments and related accessory offices	5 plus 1 for every 1½ employees in the largest working shift or 1 for each 450 sq. ft. of usable floor area whichever is greater. Space on site shall also be provided for all construction workers during periods of plant construction.
	(b) Warehouses and wholesale establishments and related accessory offices	5 plus 1 for every employee in the largest working shift, or 5 plus 1 for every 1,700 sq. ft. of usable floor space, whichever is the greater. Space on site shall also be provided for all construction workers during periods of construction.

(F) *Parking for handicapped—all districts.*

- (1) Off-street parking facilities required for physically handicapped-accessible buildings shall be based on the provisions of Public Act No. 230 of 1972 (MCL 125.1501 et seq.).

1.0903. - Required off-street loading.

- (A) Loading and unloading spaces shall be provided in all B business and M manufacturing districts in connection with all commercial and industrial uses, except in cases where adequate space, as determined by the building department, is or can be provided on adjacent public property, as set forth below:
 - (1) For 10,000 to 20,000 square feet of floor area, one space.
 - (2) For 20,000 to 50,000 square feet of floor area, two spaces.
 - (3) For 50,000 to 100,000 square feet of floor area, three spaces.
 - (4) One additional space for each additional 100,000 square feet of floor area or part thereof. All loading and unloading space shall be subject to the following provisions:
 - (a) Each loading space shall be at least 12 feet in width, 88 feet in length, and have a height clearance of 14 feet above grade.
 - (b) The space may occupy all or any part of any required yard or court space, excluding front yard area.
 - (c) No space shall be located closer than 50 feet to any lot in any residential district, unless wholly within a completely-enclosed building or unless enclosed on all sides facing residential zones by a wall or uniformly painted solid board or masonry fence of uniform appearance which is not less than eight feet in height.

1.0904. - Design and construction.

- (A) Off-street parking lots shall be so arranged and marked with adequate drives and aisles for safe and convenient maneuvering giving access to parking spaces, and in no case shall a parking space be permitted which would necessitate the backing of a motor vehicle into a street or over a public walk.
- (B) Each nonresidential parking space shall be served by a drive or aisle. Design and construction of drives and aisles must be approved by the city engineer.
- (C) There shall be a curb or wheel stop or bumper rail provided wherever an off-street parking and loading area adjoins a public sidewalk right-of-way, or adjoining property line. The curb, wheel stop shall be designed to prevent any portion of a vehicle from encroaching upon the sidewalk, right-of-way, or adjoining property.
- (D) Any lighting used to illuminate any off-street parking and loading area shall be arranged to direct light away from adjoining premises.
- (E) Design and construction of access drives must be approved by the city engineer.
- (F) Any construction or rearrangement of existing drives which involve the ingress or egress of vehicular traffic to or from a public street, shall be arranged to ensure the maximum safety and the least interference of traffic upon the streets, and shall be approved by the city engineer and chief of police.

1.0905. - Parking space layout, standards, construction and maintenance.

- (A) Whenever the off-street parking requirements in this section require the building of an off-street parking facility, or where P vehicular parking districts are provided, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:
 - (1) No parking lot shall be constructed unless and until a permit therefore is issued. Applications for permit shall be submitted with two sets of site plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with.

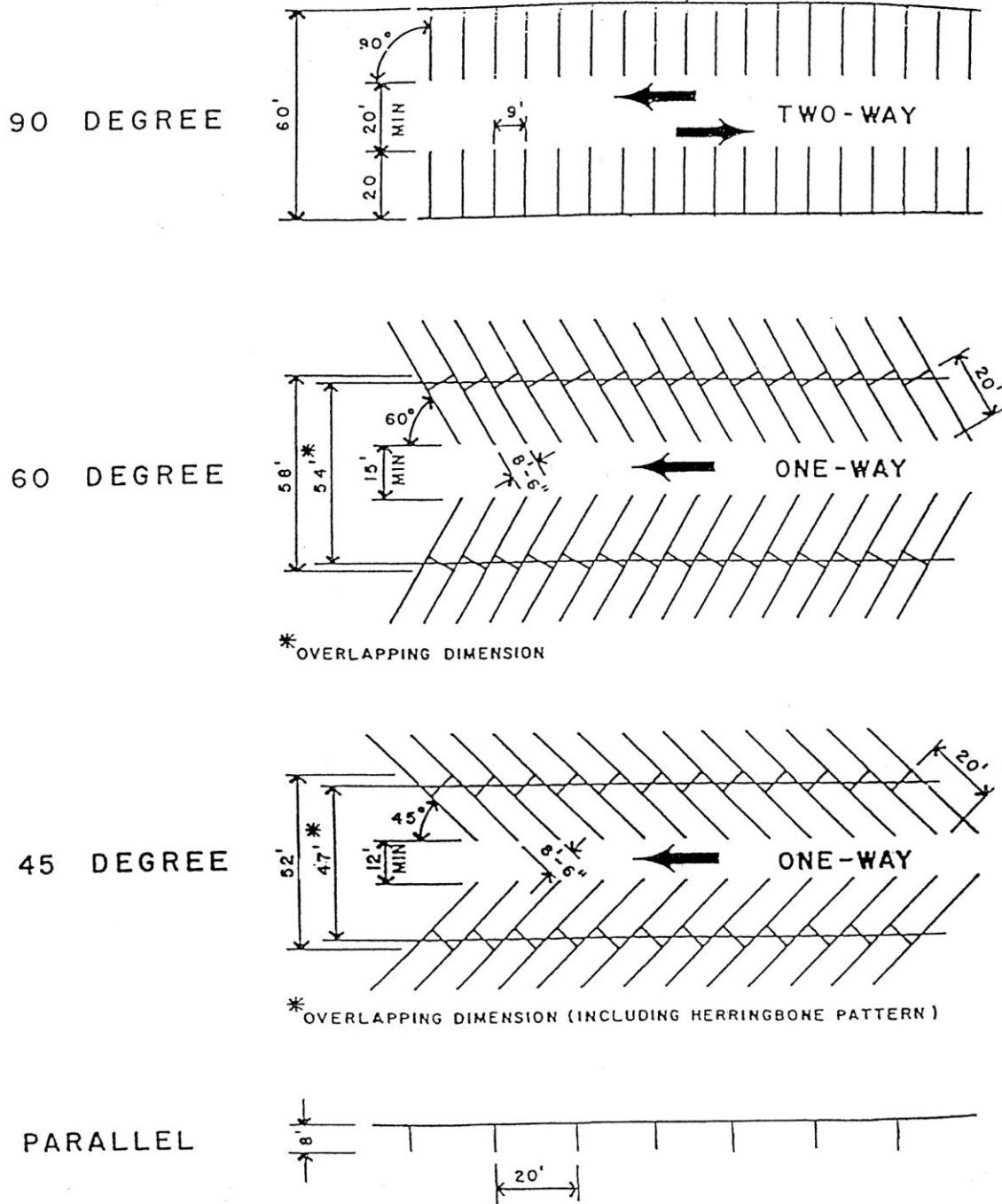
- (2) Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements (Table 1.0900B) except as modified by Act 230 (parking space width requirement of not less than 12 feet).
 - (3) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street is prohibited.
 - (4) All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit two-way movement.
 - (5) All parking areas for commercial or industrial district uses shall be screened on all sides abutting or across a street or alley from a residential district. The screen shall be an ornamental fence or compact hedge not less than six feet high of a type which will obscure vision at all seasons from adjoining premises. If the use is on a corner lot, the requirements as stated in article V [of this zoning ordinance] shall apply.
 - (6) Each entrance to and exit from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet distant from adjacent property located in any single-family residential district.
 - (7) The entire parking and loading area, including parking spaces and maneuvering lanes required under this section, shall be provided with asphaltic or concrete surfacing in accordance with specifications approved by the city except as provided for residential areas (section 1.0901L). The parking area shall be surfaced within one year of the date the occupancy permit is issued.
 - (8) Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
 - (9) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.
- (B) Parking space layout standards shall be provided in accord with the specification in the following Table 1.0900B.

TABLE 1.0900B

Parking Pattern (degrees)	Maneuvering Lane Width (feet)	Parking Space Width	Parking Space Length (feet)	Total Width of One Tier of Spaces plus Maneuvering Lane	Total Width of Two Tiers of Spaces plus Maneuvering Lane (feet)
Parallel parking	12	8 ft.	23	NA	NA
30° to 53°	12	8 ft. 6 in.	20	32 ft.	52
54° to 74°	15	8 ft. 6 in.	20	36 ft. 6 in.	58
75° to 90°	20	9 ft.	20	40 ft.	60

1.0906. - Variances and exceptions.

- (A) The parking provisions of this section may be met by participation in a municipal or joint community parking program designed to serve a large area, provided all plans for community parking have been approved by the planning board.
- (B) The zoning board of appeals shall have authority to interpret this section and may in specific cases and after public hearing and where justified grant variances and exceptions to these requirements.



PARKING DEGREES

Degree Parking

ARTICLE X. - SIGNS

1.1001. - General requirements.

Following are the general requirements for all signs:

- A. *Wind pressure and dead load requirements.* Ground, projecting, wall and marquee signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of surface area and shall be constructed to receive dead loads as required elsewhere in the city code.
- B. *Permit number to be on sign.* Signs shall have placed in a conspicuous place thereon, in letters not less than one-half inch in height the permit number.
- C. *Illumination.* Internally and externally lighted, reflectorized, glowing, and other forms of illumination shall be permitted on all signs except as regulated elsewhere in this zoning ordinance. All illuminated signs shall meet the following provisions:
 1. All illumination shall be concentrated on the area of the sign or landscape feature so as to prevent glare upon the street or adjacent property.
 2. No sign shall be illuminated by other than electric means or devices, and wiring shall be installed in accordance with the National Electrical Code.
 3. All electrical transformer boxes, raceways, and conduits shall be concealed from view. Any concealment or other visible part of these elements should be painted to match the building area to which they are attached, or otherwise painted to be harmonious with the building.
- D. *Obstruction to doors, windows and fire escapes.* No sign shall be erected or maintained so as to prevent free ingress and egress from any door, window or fire escape.
- E. *Signs not to construct a traffic hazard.* No sign shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision or any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or which makes use of the word, "Stop," "Look," "Danger," or any word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic. At street intersections, no signs other than municipal traffic control signs shall be located within eight feet of the ground surface in the triangle formed by the property lines paralleling the streets and extending for a distance of 25 feet each way from the intersection of the right-of-way lines at the corner lot.
- F. *Removal of certain signs.* Any sign now or hereafter existing which no longer advertises a bonafide business conducted, or a product, or entertainment, service, or commodity offered or sold on the lot, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which said signs shall be found 60 days after written notice from the city.
- G. *Sign area.* The area of all signs shall be computed as follows:
 1. The total area of the lettering and display background where the sign background is separated from the principal building.
 2. The total area of the lettering and display background where the background is illuminated from within, whether attached to or separate from the principal building.
 3. The total area encompassed by an imaginary line which can be drawn around all the lettering or designs where the lettering or signs are affixed to the wall of a building and the wall constitutes the background.

- H. *Permits.* No sign shall be erected, constructed, repaired, or relocated without a building permit or a temporary permit. This is meant to include those commercial signs of a temporary nature advertising special events. The relettering, repainting, or changing of lighting elements of a sign shall not require a building permit. A permit for political signs shall not be required.
- I. *Signs on Michigan Department of Transportation routes.* No sign shall be installed on the Michigan Department of Transportation controlled routes, commonly known as M-66 and US-12, without a permit by the Michigan Department of Transportation.
- J. *Directional signs.* Directional signs such as entrance and exit signs not exceeding four square feet in area per sign are permitted in R-4, B-OS, B-C, B-H, M, and P districts exclusive of the maximum sign area requirement for the district in which they are located.
- K. *Prohibited sign types.* Sign types not specifically permitted in any zoning district shall be interpreted to be prohibited from such district.
- L. *Tourist oriented directional signs.* Tourist oriented directional signs, as defined in Michigan Public Act 299 of 1996 are permitted if approved by the Michigan Department of Transportation pursuant to the PA 299 of 1996 and by a vote of the Sturgis City Commission.
- M. *Electronic message display signs.* Electronic message display signs shall be subject to the following requirements:
 1. Only allowed on permitted, non-residential uses in all zoning districts.
 2. Electronic message display signs are subject to the following additional restrictions based on their zoning district:
 - a. Only one sign incorporating an electronic message display is permitted in residential zones: R-1, R-2, R-3, R-4, and R-5.
 - b. Electronic message display signs in the BC district must be recommended by the design review committee, as per article XIII of the zoning ordinance, prior to an application for approval being considered by the planning commission.
 - c. Areas located in the central business district as defined in section 1.1006 but not located in the B-C—central business zoning district shall follow the requirements for electronic message display signs of the zoning district in which they are located.
 3. Must be part of a ground or pylon sign. The electronic message display shall be a part of the primary ground or pylon sign and shall not exist as a standalone sign.
 4. Flashing, rotating, strobing, audio or noise, pyrotechnic simulation or creating a distraction shall be prohibited.
 5. Length of time a message must be displayed before changing and message display mode is determined by district as outlined in Table 1.1001A.

TABLE 1.1001A

Zoning District(s)	Minimum Length of Time Between Static Message Changes	Type of Message Display Modes Allowed
R-1, R-2, R-3, R-4, R-5, BC	Once every 30 seconds	Static message
BH-2, BOS, M	Once every three seconds	Static message and traveling text

BH-1	Once every three seconds for static messages and maximum display time for animation shall be ten seconds.	Static message, traveling text, and animation
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6. Modes: The following modes of operation are described for electronic message signs:
 - a. *Static*. Messages which include no animation or effects simulating animation.
 - b. *Traveling text*. For electronic message display signs displaying a single line of text, the text message may continuously travel. Message cannot include images, animation, or effects simulating animation.
 - c. *Animation*. Messages which include motion graphics and video are displayed.
7. Transitions: Electronic message display signs shall be operated in one of the permitted modes except for transitions between messages.
 - a. Permitted transition types for static messages include:
 - i. *Instantaneous*. Change between messages without noticeable transition.
 - ii. *Fade*. Messages are changed by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases in intensity to the point of legibility.
 - iii. *Traveling*. Signs where the message is changed by the apparent horizontal movement of the letters or graphic elements of the message.
 - iv. *Scrolling*. Signs where the message is changed by the apparent vertical movement of the letters or graphic elements of the message.
 - b. The transition time between messages and/or message frames is limited to three seconds and these transitions may employ fade, dissolve, and/or other transition effects.
8. Electronic message displays must have an automatic sensor that adjusts their brightness and intensity during operational hours. The overall brightness and intensity shall only be enough to make the sign legible and shall not create a nuisance or a traffic hazard. Luminance shall not exceed 0.3 foot-candles above the ambient (i.e., naturally illuminated environment) light measurement when measured at the recommended distance, based on the electronic message display size.
9. If a property has an electronic message display sign that is in a residential district or the electronic message display is within 150 feet of a residential district, it must be turned off from dusk until dawn. If the sign is not equipped with this option the sign must be turned off between 7:00 p.m. and 7:00 a.m.
10. All electronic message display signs permitted before the effective date of this section that can be altered to comply with it must be so altered.

In the event of a malfunction, an electronic message display message sign shall turn to a dark screen. The dark screen shall remain until the malfunction is corrected.

N. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, military, and any of their flags adopted or sanctioned by an elected legislative body of competent jurisdiction are not considered signs.

(Ord. of 3-13-2013; Ord. of 4-23-2014; Ord. of 5-9-2018(2); Ord. of 10-10-2018(1); [Ord. of 8-28-2019\(2\)](#))

1.1002. - Signs in the one-family districts.

- (A) In the R residential districts the following accessory signs only shall be permitted:
- (1) One nonilluminated professional or nameplate sign not more than 144 square inches in area, and attached to the principal building.
 - (2) One nonilluminated temporary sign pertaining to the lease or sale of the premises upon which it is placed, not exceeding eight square feet per sign face.
 - (3) Signs which are deemed necessary to the public welfare by the governing body.
 - (4) A sign or signs nonilluminated aggregating not more than 12 square feet in area advertising the name, activities, or condition of use of a permitted nonresidential use, farm, or parking lot.
 - (5) Temporary signs subject to section 1.1012.
 - (6) For rent, lease or property for sale signs no larger than 16 square feet in area advertising the property on which they are located are permitted provided such signs are promptly removed upon rent, lease or sale of such property. A permit for such sign shall not be required.
- (B) None of the signs permitted in divisions [subsections] (A)(1), (A)(2), or (A)(4) [of this section] above shall be erected nearer any street than half the required setback, provided that a nonilluminated nameplate sign not more than 72 square inches in area may be placed anywhere within the front yard.

(Ord. of 10-10-2018(1))

1.1003. - Signs accessory to permitted non-residential uses in residential districts.

- (A) Sign(s) may be erected in residential districts for permitted non-residential uses. Such signs shall meet all the requirements as stated under this zoning ordinance including the following:
- (1) No establishment shall have a total of more than two signs facing upon any one street or parking area.
 - (2) All signs attached to a building shall comply with the following requirements:
 - (a) No sign shall exceed 32 square feet.
 - (b) Where a sign extends more than three inches from the face of the building, the sign shall be no closer than eight feet to the ground.
 - (c) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the width of the wall.
 - (3) There shall be no more than one ground sign per public road frontage.
 - (a) No part of the sign shall be closer than five feet to any property line or sidewalk.
 - (b) No sign shall exceed 32 square feet in area for a single face and 64 square feet in area if a two-sided sign. If a parcel has multiple road frontage access, then an additional ground sign is allowed up to a maximum of 50 square feet of total signage, counting a single face of each sign. Sign(s) shall not exceed six feet in height.
 - (4) Temporary signs subject to section 1.1012.
 - (5) For rent, lease or property for sale signs no larger than 16 square feet in area advertising the property on which they are located are permitted provided such signs are promptly removed upon rent, lease or sale of such property. A permit for such sign shall not be required.

(Ord. of 9-11-2017(1); Ord. of 10-10-2018(1); [Ord. of 8-14-2019\(2\)](#))

1.1004. - Signs in R-4 apartment districts.

- (A) In the R-4 apartment district the provisions of section 1.1002 shall apply, except that the professional or nameplate sign as regulated in that section may be increased to a total area of four square feet. A group of apartment buildings may display one identification sign of not more than 24 square feet in area per sign face.

1.1005. - Signs in B-OS business, office, service districts.

- (A) In B-OS business, office, service districts, no sign shall be permitted which is not accessory to the business conducted on the property and shall meet all requirements of this [zoning] ordinance including the following:
- (1) No establishment shall have a total of more than two signs facing upon any one street or parking area, provided the total sign area for all signs permitted shall not exceed 30 percent of the area of the front face of the building.
 - (2) All signs attached to a building shall comply with the following requirements:
 - (a) No sign shall extend further than 24 inches over a street or public property. Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
 - (b) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the width of the wall.
 - (3) A ground sign is permitted, computed as part of the maximum total area permitted in [subsection (A)(1) [of this section] above]. The sign shall not exceed 30 square feet in area per sign face and shall not exceed six feet in height. No part of the sign shall be closer than five feet to the property line.
 - (4) Temporary signs subject to section 1.1012.
 - (5) For rent, lease or property for sale signs no larger than 25 square feet in area advertising the property on which they are located are permitted provided such signs are promptly removed upon rent, lease or sale of such property. A permit for such sign shall not be required.

(Ord. of 10-10-2018(1))

1.1006. - Signs in the B-C central business district.

In the central business district, the boundaries of which are defined in the Sturgis master plan, no sign shall be permitted which is not accessory to the business conducted on the property. Accessory signs may only be erected, painted or placed in accordance with the following requirements. Areas located in the central business district as defined in this paragraph but not located in the B-C - Central Business zoning district shall follow the requirements for temporary signs of the zoning district in which they are located.

A. *Signage size, location and number.*

- (1) The total area for all permitted signs shall not exceed ten percent of the first floor front face area of a tenant.
- (2) Additional signage allowed. The following signs are allowed and are not counted as part of the total sign area calculation in subsection A. (1) of this section.
 - i. An additional sign for each first floor tenant space may be placed on the rear of a building, if that tenant space has an entrance at the rear of the building used by the public. This sign cannot exceed 50 percent of the allowable signage.

- ii. Window signage equal to not more than ten percent of each individual window and up to a total of 25 square feet per tenant is allowed.
 - iii. An additional sign relating to business open and hours may be provided for each first floor tenant space of a building. These signs must be window signs subject to the regulations of section 1.1006.
 - iv. An additional sign may be placed on the first floor of the building listing all businesses operating on a floor other than the first floor. The total area of this sign may be 25 percent of the primary exterior entry way leading to the non-first floor tenant space(s) as determined by the zoning administrator. The sign may not exceed five square feet.
 - v. For rent, lease or property for sale signs no larger than 16 square feet in area advertising the property on which they are located are permitted provided such signs are promptly removed upon rent, lease or sale of such property.
- (3) If a first floor tenant space has no access from the front of the building and its main store front is on the side or rear of the building, the total area for all permitted signs of that tenant space shall not exceed ten percent of the first floor tenant space of the main store front.
- i. The location of the main store front will be determined by the zoning administrator.
 - ii. The tenant space will be allowed an additional signage as per subsection A. (2) of this section, with the exception of A. (2) i.
- (4) No tenant space shall have a total of more than two signs facing upon any one street or parking area, not including signs under subsection A. (2) of this section.
- (5) No sign shall be placed above the first floor or above the bottom window ledge of the second-floor windows. If the entire wall area of a face of the building has no windows a sign may be placed anywhere on the wall face.
- (6) Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
- (7) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the width of the wall.
- B. Sign area computation shall include:
- (1) The total area of the lettering and display background where the sign background is separated from the building.
 - (2) The total area encompassed by an imaginary line which can be drawn around all the lettering or designs where the lettering or signs are affixed to the wall of a building and the wall constitutes the background.
- C. Signage types.
- (1) Ground sign. A freestanding ground sign is permitted, computed as part of the maximum total area permitted in subsection A. of this section. The sign shall not exceed 32 square feet in display area. The freestanding ground sign shall not exceed six feet in height and must be set back five feet from all property lines. Corner clearances must be maintained as per section 1.1107.
 - (2) A building with at least three or more distinct business or office uses shall be permitted to have a sign identifying each business or office as a combined ground sign. The area of a ground sign shall not exceed 60 square feet per sign face. The sign area allowed for each business or office shall be prorated by the shopping center, business or office complex; however no one business shall exceed 50 percent of maximum area allowed.
 - (3) Canopy sign. Where a building has a canopy constructed as an integral part of the building, signs may be placed upon the canopy if parallel to the building face.

- i. The permitted area of awning and canopy signs shall be determined as part of the total area for signs as provided in subsection A. of this section.
 - ii. Awning and canopy signs can be internally lighted provided that only the letters and/or logo of the sign are illuminated and are designed with a translucent and not transparent material. Any other part of the awning must be made of an opaque material.
- (4) Window sign. Window signage should be applied to the window or mounted on the interior of the building using high quality materials and application methods such as paint or vinyl film, wood or metal panels with applied lettering, or neon signs conforming to the other provisions of this zoning code. Illuminated tube band signs, or neon surrounding an entire window is prohibited.
- D. Nonconforming signs shall be permitted to continue provided no business name change is made nor any alteration other than ordinary maintenance is performed. Should a business move or vacate a premises all nonconforming signs shall be removed and building walls shall be left in good repair and properly maintained pursuant to chapter 31 of the basic building codes as adopted by the city within 60 days. Buildings that have been vacant for more than one year prior to the effective date of this zoning ordinance, shall immediately have all signs removed and building walls left in good repair. Upon failure of any person to comply with the provisions of this section, the city may effectuate compliance through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the owner of the real estate upon which the building is located and any such cost shall be a lien upon such real estate.
- E. Sign materials and lighting shall be harmonious with the historic character of the buildings in the district and shall utilize materials as may be appropriate such as wood, brass, vintage painting, etc. in conformity with design guidelines established by the downtown development authority, a copy of which is incorporated herein by reference and which is available in the office of the city clerk. The building department shall be responsible for determining if the sign design is in conformity with those design guidelines, subject to review by the planning board or its designated design review committee.
- F. Internal and external illumination on signage in the central business district (B-C) is allowed as regulated in this zoning ordinance.
 - (1) Provided lighting must be steady and stationary in source and intensity. Acceptable sources include incandescent, halogen, neon, LED, and metal halide lighting.
 - (2) For internally lighted signs and awnings, only letters, numerals, and logos may be illuminated.
 - (3) Acceptable forms of internally lighted signs include:
 - i. Backlit (halo) signs.
 - ii. Individual internally-illuminated letters (channel or dimensional lettering).
 - iii. Box-type signs with three-dimensional push-through or inset graphics.
 - iv. Awning or canopy signs where letters and logos are translucent.
 - (4) All proposed internally illuminated signage will be sent to the design review committee for recommendation before an application is considered by the planning commission.
- G. Internally illuminated box signs shall only be permitted with metal or completely opaque material backgrounds. Letters and logos must be stencil cut through the surface and filled with three-dimensional push-through or inset graphics that are of a translucent and not transparent material.
- H. Internally lit, channel letter/logo signs may be lit using either exposed neon tubing within the letter/logo channel or another light source behind a translucent, not transparent material. For non-neon signs, letter forms must contain soft, diffused light sources inside each letter or logo. Regulations for distance of the letters from the building will be as follows:

- (1) Channel letters with transformers mounted inside the letters shall not extend more than 16 inches from the building wall.
 - (2) Channel letters with remote transformers shall not extend more than 12 inches from the building wall.
 - (3) Channel letters mounted on a raceway shall not extend more than 16 inches from the building wall.
- I. No flashing sign, rotating or moving sign, animated sign or sign with moving lights or creating the illusion of movement shall be permitted. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature and are not more frequent than every 15 seconds.
 - J. The building department may request a review by the planning board design review committee where a question may exist as to the application of this section.

A design review committee shall be appointed by the planning board for the purpose of assisting the planning board to preserve, protect and enhance the aesthetic appeal of the central business district as it relates to signage and to protect property values through the application of good design principles; and promote the general health, safety and welfare of the central business district and the community. The design review committee shall consist of not less than three regular members and shall include one member of the planning board, one member of the downtown development authority and one member at large. The review committee, as it determines necessary or appropriate, shall utilize the assistance of planning, architectural and other consultants. The review committee shall seek the assistance of relevant experts in an effort to achieve accord in those instances in which the applicant objects to the decision of the review committee.

- K. Temporary signs subject to section 1.1012.

(Ord. of 4-23-2014; Ord. of 6-23-2015; Ord. of 5-9-2018(1); Ord. of 10-10-2018(1))

1.1007. - Signs in B-H 1 business highway 1 district.

- (A) In the B-H 1 business highway district no sign[s] shall be permitted which is [that are] not accessory to the business conducted on the property, except a billboard as a special use subject to the following requirements are met.
 - (1) No establishment shall have a total of more than three sign types facing upon any one street or parking area.
 - (2) All signs attached to a building shall comply with the following requirements:
 - (a) Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
 - (b) Wall signs are permitted and the combined area per street frontage shall not exceed 15 percent of the total area of the wall to which the signs are attached. In addition, the total area shall not exceed 100 square feet per street frontage. The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the width of the wall.
 - (c) For wall frontage on a public or private street that exceeds 200 lineal feet of frontage and with a setback greater than 300 feet from a public or private street and having a usable floor area of 50,000 square feet or more, the following maximum allowable sign areas may be used in place of subsection 1.1007(A)(2)(b):

Building Setback (in feet)	Wall Sign Area Permitted (in square feet)
300—400	150
400—500	175
Greater than 500	Total wall sign area shall not exceed 10 percent of the total wall area of the wall to which the signs are attached

- (3) All pylon or ground signs must meet the following requirements:
- (a) A pylon sign is permitted and shall not exceed 60 square feet in area per sign face. A pylon sign shall be no higher than 30 feet or closer to the ground than eight feet. No part of the sign shall be closer than five feet to a property line. In no case shall there be more than one pylon sign with the same business name or logo facing upon any one street.
 - (b) A ground sign is permitted and shall not exceed 30 square feet in area per sign face and shall not exceed six feet in height. No part of the sign shall be closer than five feet to the property line.
 - (c) There shall only be one ground sign or pylon sign facing upon any one street; however, a second sign shall be allowed for a development having more than one entranceway onto a road right-of-way, and where those entrance ways are at least 250 lineal feet apart. In these cases, signs must be placed no closer than 150 lineal feet apart and the second sign shall be a ground sign.
 - (d) A shopping center, business or office complex with at least three or more distinct business or office uses shall be permitted to have a sign identifying each business or office as a combined pylon or ground sign. The area of a pylon sign shall not exceed 120 square feet per sign face and the area of a ground sign shall not exceed 60 square feet per sign face. The sign area allowed for each business or office shall be prorated by the shopping center, business or office complex; however no one business shall exceed 50 percent of maximum area allowed. In cases where a gasoline service station is considered part of a shopping center, business or office complex under this section, [subsection] 1.1007(A)(7)(d) shall not apply.
- (4) Lots with dual frontages may not combine permissible signs for one frontage with another frontage for the purpose of placing a combined area of sign area on one frontage.
- (5) No sign shall be lighted by means of flashing or intermittent illumination. All light sources used for the illumination of signs or buildings or areas surrounding them, or for the illumination of display merchandise or products shall be completely shielded from the view of vehicular traffic.
- (6) Gasoline service stations, vehicle sales areas, and vehicle repair shops may display, in addition to the foregoing, the following signs which are deemed customary and necessary to their respective uses.
- (a) Two temporary signs located inside the property line and specifically advertising special seasonal servicing of automobiles, provided that each sign does not exceed nine square feet in area.
 - (b) Customary directional signs or lettering displayed over entrance doors or bays.

- (c) Customary lettering or other insignia which are a structural part of a gasoline pumping island, including credit card or seasonal temporary signs.
 - (d) An electronic message display sign is permitted only to be located as an addition to a pylon sign or ground sign and shall be allowed up to an additional 60 square feet per sign face on a pylon sign and 30 square feet per sign face on a ground sign.
- (7) Temporary signs subject to section 1.1012.
 - (8) Nonconforming signs shall be permitted to continue, provided should a business move or vacate a premises all non-conforming signs shall be removed or made to comply with zoning ordinance requirements. Building walls shall be left in good repair and properly maintained within 60 days pursuant to applicable sections of the basic building codes as adopted by the city. Upon failure of any person to comply with the provisions of this section the city may effectuate compliance through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the owner of the real estate upon which the building is located and any such cost shall be a lien upon such real estate.
 - (9) For rent, lease or property for sale signs no larger than 36 square feet in area per sign face advertising the property on which they are located are permitted provided such signs are promptly removed upon rent, lease or sale of such property. A permit for such sign shall not be required.

(Ord. of 6-24-2014; Ord. of 5-9-2018(2); Ord. of 10-10-2018(1))

1.1008. - Signs in B-H 2 business highway 2 and M manufacturing districts.

- (A) In the B-H 2 business highway 2 and M manufacturing districts sign[s] shall be permitted which is [that are] not accessory to the business conducted on the property, except a billboard[,] as a special use subject to the following requirements are met.
 - (1) No establishment shall have a total of more than three signs facing upon any one street or parking area, provided the total sign area for all signs permitted shall not exceed 30 percent of the area of the front face of the building up to a maximum of 150 square feet.
 - (2) All signs attached to a building shall comply with the following requirements:
 - (a) No sign shall extend further than 15 inches over a street or public property, or required side yard. Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
 - (b) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the width of the wall.
 - (3) A pylon sign is permitted, computed as part of the maximum total area permitted in [subsection (A)](1) [of this section] above. The sign shall not exceed 60 square feet in area. A pylon sign shall be no higher than 30 feet or closer to the ground than eight feet. No part of the sign shall be closer than five feet to a property line.
 - (4) A ground sign is permitted, computed as part of the maximum total area permitted in [subsection (A)](1) [of this section] above. The sign shall not exceed 30 square feet in area per sign face and shall not exceed six feet in height. No part of the sign shall be closer than five feet to the property line.
 - (5) A shopping center, business or office complex with a group of business or office use shall be permitted to have a sign identifying each business or office as a pylon or ground sign. The area of such sign shall be governed by the sign area allowed for all signs as required in [section 1.1008(A)(1)] above. The sign area allowed for each business or office shall be prorated based on the sign area allowed for each business or office unless otherwise agreed to by the shopping center, business or office complex but in no instance shall the total area of all signs exceed the requirements of section 1.008(A)(1).

- (6) No sign shall be lighted by means of flashing or intermittent illumination. All light sources used for the illumination of signs or buildings or areas surrounding them, or for the illumination of display merchandise or products shall be completely shielded from the view of vehicular traffic.
- (7) Billboards may be permitted in M manufacturing districts in accord with provisions of article VI, special land uses and structures, section 1.0603(FF).
- (8) Gasoline service stations, vehicle sales areas, and vehicle repair shops may display, in addition to the foregoing, the following signs which are deemed customary and necessary to their respective uses.
 - (a) Two temporary signs located inside the property line and specifically advertising special seasonal servicing of automobiles, provided that each sign does not exceed nine square feet in area.
 - (b) Customary directional signs or lettering displayed over entrance doors or bays.
 - (c) Customary lettering or other insignia which are a structural part of a gasoline pumping island, including credit card or seasonal temporary signs.
- (9) Temporary signs subject to section 1.1012.
- (10) Nonconforming signs shall be permitted to continue[,] provided should a business move or vacate a premises all non-conforming signs shall be removed or made to comply with zoning ordinance requirements building (sic). Walls shall be left in good repair and properly maintained within 60 days pursuant to chapter 31 of the basic building codes as adopted by the city. Upon failure of any person to comply with the provisions of this section the city may effectuate compliance through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the owner of the real estate upon which the building is located and any such cost shall be a lien upon such real estate.
- (11) For rent, lease or property for sale signs no larger than 36 square feet in area advertising the property on which they are located are permitted provided such signs are promptly removed upon rent, lease or sale of such property. A permit for such sign shall not be required.

(Ord. of 6-24-2014; Ord. of 10-10-2018(1))

1.1009. - Signs in the PDD-2 planned development district.

Sign Type	Max. Quantity	Max. Letter Height	Max. Signage Area
Primary Sign Types			120 sq. ft.
Type A—Trellis/Marquee	One per Tenant frontage	24 Inches	120 sq. ft.
Type B—Fascia Wall Sign	One per Tenant frontage	24 Inches	120 sq. ft.
Type C—Feature Sign	One per Tenant frontage	24 Inches	120 sq. ft.
Secondary Sign Types			60 sq. ft.
Type D—Window and Door	One per window	8 inches	10 sq. ft. (only 1 side counted)
Type E—Changeable Signs	One easel per major entry	N/A	12 sf (umbrellas) sq. ft. (easels)

Type F—Projecting Blade Sign	One per Tenant frontage	N/A	10 sq. ft. (only 1 side counted)
Type G—Awning Sign	One per awning	8 inches	10 sq. ft. per awning
Type H—Plaque Sign	One per major entry	N/A	4 sq. ft.
Type I—Video Display Board	N/A	N/A	.75 sq. ft. per linear foot of frontage

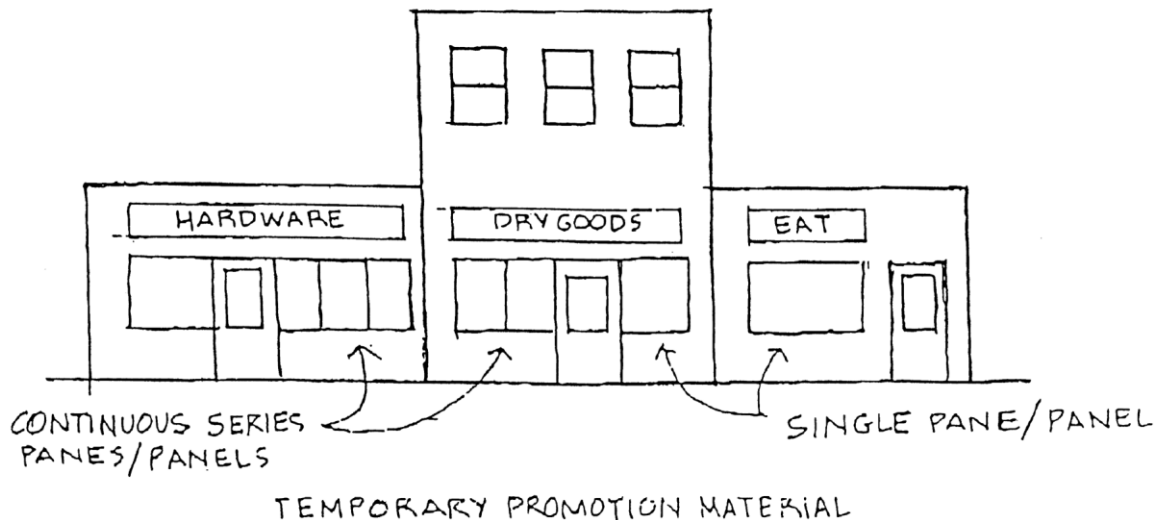
- (1) Signs shall be designed as an integral part of the storefront design concept and shall complement the existing context of other buildings and signs in the PDD-2 district.
- (2) Primary sign area is limited to 1.5 square feet per linear foot of frontage, up to the maximum size indicated in the chart below. (Frontage is measured parallel to street right of way.)
- (3) Secondary sign area is limited to .75 square feet per linear foot of frontage, up to the maximum size indicated below.
- (4) Graphic symbols and corporate logos, when used with primary signs (sign types A, B, and C) shall not exceed eight feet in any one direction or 64 sq. ft. in aggregate area. Such square footage shall be computed as part of the maximum sign area permitted.
- (5) All primary signs must be three-dimensional, with maximum letter return of six inches and a minimum panel thickness of one inch.
- (6) Tenants in corner locations or with frontage on two principal streets may be permitted to use two or more primary signs for identification. If in a corner location, one of the signs must be a feature/marquee type sign.
- (7) Sign area is defined as the area within regular geometric shapes enclosing the limits of lettering, emblems, or other figures on a sign, together with any material or color forming an integral part of the display or used to differentiate the sign from the background on which it is placed. Structural members bearing no sign copy shall not be included in its surface area.
- (8) Flags of the United States, the State, the City, foreign nations having diplomatic relations with the United States, and any of their flag adopted or sanctioned by an elected legislative body of competent jurisdiction are not considered signs.
- (9) Temporary signs subject to section 1.1012.
- (10) Signs are not permitted on rooftops.
- (11) For rent, lease or property for sale signs no larger than 32 square feet in area advertising the property on which they are located are permitted provided that no building larger than 1,000 square feet is currently located on the property and such signs are promptly removed upon a building of larger than 1,000 square feet being constructed. For rent, lease or property for sale signs no larger than 16 square feet in area advertising the property on which they are located are permitted on properties containing a building of greater than 1,000 square feet provided such signs are promptly removed upon rent, lease or sale of such property. A permit for such sign shall not be required. Properties with frontage on two or more principle streets may be permitted to use one sign meeting the requirements of this section facing each [principal] street.

(Ord. of 11-13-2013; Ord. of 5-13-2015; Ord. of 11-08-2017(1); Ord. of 10-10-2018(1))

1.1010. - Temporary promotional materials.

In all zoning districts temporary promotional materials shall be displayed and removed with strict adherence to the following guidelines:

- (a) First story windows only.
- (b) Coverage 30 percent of total square feet of all display windows, not to exceed 50 percent coverage of any single pane/panel or contiguous series of panes/panels.
- (c) Time limitations: All temporary promotional materials must be removed within 60 days of installation. Temporary promotional materials may be displayed year round however each special promotion i.e., Christmas holidays, new product line, sale, etc. may only be advertised in this fashion for a maximum of 60 days.
- (d) Installation and removal: Any adhesive applied to glass must be transparent. All materials used for installation tape etc. must be completely removed when promotion posters are removed.



Temporary Promotion Material

(Ord. of 6-24-2015)

Editor's note— An ordinance adopted June 24, 2015, renumbered § 1.1008 as 1.1009. In order to maintain the current numbering system and addition of new sections, at the instruction of the city, these provisions have been renumbered as § 1.1010 to read as set out herein.

1.1011. - Signs accessory to public parks and public facilities in any district.

- (A) Sign(s) may be erected in any district for public parks and public facilities. Such signs shall meet all requirements as stated under this zoning ordinance including the following:
 - (1) Such signs may be placed on the property line if all corner clearances are maintained at all driveways, buildings and parking areas.
 - (2) All signs are subject to final approval from the planning commission and the following standards should be used for establishing size, setback and placement of signs:
 - (a) Visibility of vehicular and pedestrian traffic off site and at the site, visibility and legibility of signs for drivers and/or pedestrians and the impact upon the visibility of traffic signals or regulatory devices in the public street right of way.

- (b) Negative impact of proposed signs upon adjacent properties and their signage and the impact of lighting and appearance of signs upon residential zoned property.
- (c) Particular site characteristics such as yard areas, landscaping, topography, location of buildings, site use and number of street frontages.
- (3) Emergency, directional, parking, address, temporary event or activity and promotional signs shall not require a permit if it does not exceed 32 square feet.
- (4) For rent, lease or property for sale signs no larger than 16 square feet in area advertising the property on which they are located are permitted provided such signs are promptly removed upon rent, lease or sale of such property. A permit for such sign shall not be required.

(Ord. of 9-11-2017(1))

1.1012. - Temporary signs.

- (A) Temporary signs in commercial districts. B-H 1, B-H 2, and B-OS are permitted subject to the following conditions:
 - (1) A temporary sign shall only be displayed upon receipt of an issued permit.
 - (2) Temporary signs must be accessory to a business on the parcel.
 - a) Permission must be granted by all tenants and the owner of the parcel to display non accessory sign for up to five business days.
 - (3) Upon expiration of the permit, the sign shall be removed by the permit holder.
 - (4) No part of a temporary sign shall be closer than five feet to any property line.
 - (5) Temporary signs may not be placed in any parking area.
 - (6) All temporary signs must be maintained in good condition.
 - (7) Corner clearance requirements must be maintained as per section 1.1107.
 - (8) Temporary sign types allowed as a periodic permit: banner, portable, rigid frame yard sign, feather, wire frame yard sign and flag signs.
 - a) No temporary banner, portable, wire frame or rigid frame yard sign shall be displayed for more than 30 calendar days for any one permit and no more than two permits shall be issued for any tenant space during any calendar year. Each sign requires a permit.
 - b) No temporary feather or flag sign shall be permitted for more than two consecutive weeks and no more than four permits shall be issued for any tenant space during any calendar year. Each sign requires a permit.
 - c) Signs under this subsection must be placed at least 50 feet from another temporary sign on the same parcel and not create a vision hazard.
 - d) No more than two signs under this subsection may be displayed at any one time by the same tenant.
 - (9) Temporary sign types allowed as a permanent permit: Feather, flag, wire frame yard sign and sandwich board signs.
 - a) These types of signs may be placed on private sidewalks or walking areas that are immediately adjacent to the building entrance for which it is advertising.
 - b) They must allow for a minimum 60 inches of unobstructed pedestrian walkway and shall not obstruct access to parking or create a vision hazard.
 - c) Only one temporary sign as a permanent permit may be displayed at any one time in addition to any temporary sign(s) as a periodic permit.

- d) They may only be displayed during business hours and must be removed at the close of business hours.
 - e) A permit must be issued for each temporary sign as a permanent permit.
- (10) Maximum height and square feet for these signs are listed in table 1.1012 A1.

TABLE 1.1012 A1

Type of Sign	Maximum Area per sign	Maximum Height of Sign
Banner Sign	32 sq. ft.	6 ft.
Portable Sign	32 sq. ft.	6 ft.
Flag Sign	6 sq. ft.	See Section 1.1011(A) 11
Rigid Frame Yard Sign	32 sq. ft.	6 ft.
Wire Frame Yard Sign	6 sq. ft.	3 ft.
Feather Sign	25 sq. ft.	12 ft. to top of sign (including pole)
Sandwich Board Sign	6 sq. ft. per side	4 ft.

- (11) Flag signs may not be placed where the lowest edge of the flag is less than seven feet to the ground level when attached to a building. If placed in a pedestal or into the ground it may not exceed eight feet in height.
- (12) Air-blown devices and inflatable signs are allowed two times per year. A permit is required each time an air blown device will be displayed.
- a) These types of signs shall be secured directly to, and not suspended from, the ground. They may not be placed on a roof or suspended from a building.
 - b) Inflatable signs shall not exceed 30 percent of the total area of the wall of the tenant space or 60 sq. ft., whichever is larger. Inflatable signs shall not exceed 30 ft. in height when fully inflated.
 - c) Air blown devices and inflatable signs must be set back the maximum height of the sign from the property line but in no instance shall this be less than five feet.
 - d) They shall not be located in required parking spaces, driveways that provide access to parking spaces, or fire lanes, nor shall the sign or its securing device encroach into the right of way.
 - e) Each permit allows for display up to ten consecutive days.

- (13) *Enforcement.* Upon failure of any person to comply with the provisions of the sign ordinance, the city may effectuate compliance by first notifying the owner of the sign in violation by mail, phone, or in person that they have 24 hours to come into compliance. If the sign is not removed or brought into compliance, a citation may be issued as per appendix B Fine Schedule in the City Code of Ordinances. A citation may be issued for each day the violation remains.
- (B) Temporary signs in M - Manufacturing District are permitted subject to the following conditions:
- (1) Temporary signs shall be allowed in manufacturing districts and no permit is required as long as the requirements of this section are met.
 - (2) Temporary signs shall not exceed six feet in height or 32 square feet in area.
 - (3) No temporary sign shall be displayed for more than 30 consecutive days.
 - (4) No temporary sign shall be closer than five feet to any property line.
 - (5) Corner clearance requirements must be maintained as per section 1.1107.
 - (6) All temporary signs must be maintained in good condition.
 - (7) *Enforcement.* Upon failure of any person to comply with the provisions of the sign ordinance, the city may effectuate compliance by first notifying the owner of the sign in violation by mail, phone, or in person that they have 24 hours to come into compliance. If the sign is not removed or brought into compliance, a citation may be issued as per appendix B Fine Schedule in the City Code of Ordinances. A citation may be issued for each day the violation remains.
- (C) Temporary signs in residential districts.
- (1) Temporary signs shall be allowed in residential districts and no permit is required as long as the requirements of this section are met.
 - (2) Temporary signs shall not exceed three feet in height or six square feet in area.
 - (3) No temporary sign shall be displayed for more than 30 consecutive days.
 - (4) No temporary sign shall be closer than five feet to any property line.
 - (5) No temporary sign shall be placed in the right of way.
 - (6) Corner clearance requirements must be maintained as per section 1.1107.
 - (7) All temporary signs must be maintained in good condition.
 - (8) *Enforcement.* Upon failure of any person to comply with the provisions of the sign ordinance, the city may effectuate compliance by first notifying the owner of the sign in violation by mail, phone, or in person that they have 24 hours to come into compliance. If the sign is not removed or brought into compliance, a citation may be issued as per appendix B Fine Schedule in the City Code of Ordinances. A citation may be issued for each day the violation remains.
- (D) Temporary signs in the B-C - Central Business and PDD-2 zoning districts are permitted subject to the following conditions:
- (1) A temporary sign shall only be displayed upon receipt of an issued permit.
 - (2) Temporary sign types allowed as a permanent permit: Feather, flag and sandwich board signs.
 - a) Two temporary signs may be placed at the same time, but they each must be a different, permitted sign type.
 - b) Feather and sandwich board signs may be placed on sidewalks or walking areas that are directly in front of tenant space for which it is advertising.
 - c) They must allow for a minimum 60 inches of unobstructed pedestrian walkway and shall not obstruct access to parking or create a vision hazard.
 - d) Feather flags may be displayed using any of the following methods:

- i. Attached to a pedestal style base not affixed to the ground.
 - ii. Placed in the existing flag holes constructed by the city. These holes may only be utilized when not otherwise used for display of the American flag by the city or other group authorized by the city. If a feather flag is displayed at the time an authorized group wishes to display the American flag, the feather flag must be immediately removed.
- e) Flags may be displayed using one of the following methods:
- i. Attached to the building wall of the tenant space for which it is advertising where the lowest edge of the flag must be seven feet or more and not extend above the first floor tenant space.
 - ii. Placed in the existing flag holes constructed by the city. These holes may only be utilized when not otherwise used for display of the American flag by the city or other group authorized by the city. If a flag sign is displayed at the time an authorized group wishes to display the American flag, the flag sign must be immediately removed.
- f) They may only be displayed during business hours and must be removed at the close of business hours.
- g) A permit must be issued for each sign.

(3) Maximum height and square feet for these signs are listed in table 1.1012 D1.

Table 1.1012 D1

Type of Sign	Maximum Area per Sign	Maximum Height of Sign
Flag Sign	6 sq. ft.	No higher than first floor tenant space
Feather Sign	25 sq. ft.	12 ft. to top of sign
Sandwich Board Sign	6 ft. per side	4 ft.

- (4) Banner signs shall only be allowed for up to 30 days within 90 days of a new business opening. The sign shall not exceed 32 square feet in area and four feet in height. The banner sign must be placed on the building where the new tenant is located.
- (5) Tenant spaces other than on the first floor may be permitted a sandwich board sign in front of first floor tenant space.
- (E) *Enforcement.* Upon failure of any person to comply with the provisions of the sign ordinance, the city may effectuate compliance by first notifying the owner of the sign in violation by mail, phone, or in person that they have 24 hours to come into compliance. If the sign is not removed or brought into compliance, a citation may be issued as per appendix B Fine Schedule in the City Code of Ordinances. A citation may be issued for each day the violation remains.

(Ord. of 10-10-2018(1))

Editor's note— Ord. of 10-10-2018(1) set out provisions to be included as § 1.1011. Inasmuch as there were already provisions so designated, the provisions have been redesignated as § 1.1012, at the discretion of the editor.

1.1013. - Signs in the PDD-3 planned development district 3.

- (A) *Signage size, location and number.* Buildings in PDD-3 are allowed signage for the primary occupant, secondary tenant spaces, and one building ground sign.
- (1) *Primary occupant signage.* The total area for all permitted signs for the primary occupant shall not exceed ten percent of the first floor main face area of the building.
 - i. The primary occupant is defined as the business or entity that occupies more than 50 percent of the floor area of building.
 - ii. The main face of the building will be determined by the zoning administrator.
 - iii. The primary occupant shall have a total of no more than two signs attached to the building, not including signs under subsection (A)(4) of this section.
 - (2) *Secondary tenant space signage.* The total area for all permitted signs for a secondary tenant shall not exceed ten percent of the first floor front face area of the tenant space.
 - i. A secondary tenant is defined as any business that occupies less than 50 percent of the floor area of the building and has a tenant space with a public, exterior access.
 - ii. A secondary tenant space shall have a total of no more than two signs facing upon any one street or parking area, not including signs under subsection (A)(4) of this section.
 - iii. No sign for a secondary tenant space shall be placed above the first floor.
 - (3) *Building ground sign.* Each parcel is permitted one freestanding ground sign. The freestanding ground sign shall not exceed six feet in height and must be set back five feet from all property lines. Corner clearances must be maintained as per section 1.1107.
 - i. If promoting only the primary occupant, the sign shall not exceed 32 square feet in display area per sign face.
 - ii. If promoting the primary occupant and at least one secondary tenant, the total area of the sign shall not exceed 60 square feet per sign face. The sign area allowed for the primary occupant shall not exceed 32 square feet per sign face and the sign area for any secondary tenant cannot exceed one half the sign area per sign face of the primary occupant.
 - iii. Sign area within the ground sign is not counted as part of the total sign area calculation for the primary occupant or secondary tenant spaces.
 - (4) *Additional signage allowed.* The following signs are allowed and are not counted as part of the total sign area calculation in subsection (A)(1) of this section.
 - i. An additional sign for each first floor tenant space may be placed on the rear of a building, if that tenant space has an entrance at the rear of the building used by the public. This sign cannot exceed 50 percent of the allowable signage.
 - ii. Window signage equal to not more than ten percent of each individual window and up to a total of 25 square feet per tenant is allowed.
 - iii. An additional sign relating to business open and hours may be provided for each first floor tenant space of a building. These signs must be window signs subject to the regulations of section 1.1006.
 - iv. For rent, lease or property for sale signs no larger than sixteen (16) square feet in area advertising the property on which they are located are permitted provided such signs are promptly removed upon rent, lease or sale of such property.

- (5) *[Location.]* Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
 - (6) *[Maximum width.]* The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the width of the wall.
- (B) *Sign area computation shall include:*
- (1) The total area of the lettering and display background where the sign background is separated from the building.
 - (2) The total area encompassed by an imaginary line which can be drawn around all the lettering or designs where the lettering or signs are affixed to the wall of a building and the wall constitutes the background.
- (C) *Signage types.*
- (1) *Awning or canopy sign.* Where a building or tenant space has a canopy constructed as an integral part of the building, signs may be placed upon the canopy if parallel to the building face.
 - i. Awning and canopy signs can be internally lighted provided that only the letters and/or logo of the sign are illuminated and are designed with a translucent and not transparent material. Any other part of the awning must be made of an opaque material.
 - (2) *Grand projecting sign.* Tall, large, vertically oriented signs which project from the building perpendicular to the façade and which are structurally integrated into the building.
 - i. Only allowed as a sign for the primary occupant.
 - ii. Grand projecting signs shall be no taller than 30 feet from the bottom-most part of the sign to the tallest part of the sign. Shall project no more than six feet from the façade of the building. Shall be no less than 12 feet from the bottom-most part of the sign to the ground. No portion of the sign shall extend above the roofline.
 - iii. No portion of the sign shall be located within four feet of any window of a residential unit or hotel room.
 - iv. Grand projecting signs shall be illuminated only by steady, shielded light sources directed solely at the sign or at the sign or internal to it. Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.
 - v. No portion of a grand projecting sign shall be placed above the third floor of a building.
 - (3) *Projecting sign.* Signs which are affixed to the building and oriented perpendicularly to the building façade.
 - i. No projecting sign shall exceed 16 square feet in size.
 - ii. Projecting signs shall project no more than four feet from the façade of the building.
 - iii. No portion of the sign shall be located within four feet of any window of a residential unit or hotel room.
 - iv. No projecting sign shall be placed above the first floor.
 - (4) *Wall sign.* Signs located on and parallel to a building wall.
 - (5) *Window sign.* Window signage should be applied to the window or mounted on the interior of the building using high quality materials and application methods such as paint or vinyl film, wood or metal panels with applied lettering, or neon signs conforming to the other provisions of this zoning code. Illuminated tube band signs, or neon surrounding an entire window is prohibited.
- (D) If the building or any tenant space of the building has been vacant for more than one year the vacant space shall immediately have all signs removed and building walls and/or grounds left in good repair. Upon failure of any person to comply with the provisions of this section, the city may effectuate

compliance through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the owner of the real estate upon which the building is located and any such cost shall be a lien upon such real estate.

- (E) Sign materials and lighting shall be harmonious with the buildings in the district and in conformity with design guidelines established by the downtown development authority, a copy of which is incorporated herein by reference and which is available in the office of the city clerk. The building department shall be responsible for determining if the sign design is in conformity with those design guidelines, subject to review by the planning board or its designated design review committee.
- (F) No flashing sign, rotating or moving sign, animated sign or sign with moving lights or creating the illusion of movement shall be permitted. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature and are not more frequent than every 15 seconds.
- (G) Internal and external illumination on signage in PDD-3 is allowed as regulated for signs in the B-C central business district, section 1.1006 of this zoning ordinance.
- (H) Temporary signs in PDD-3 are allowed as regulated in the B-C central business district subject to section 1.1012 of this zoning ordinance.

The building department may request a review by the planning board design review committee where a question may exist as to the application of this section.

([Ord. of 3-25-2020\(3\)](#))

ARTICLE XI. - GENERAL PROVISIONS

1.1101. - Scope.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this [zoning] ordinance.

1.1102. - Conflicting regulations.

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

1.1103. - Uses not otherwise included within a specific district.

Because the uses or activities referred to in this section possess unique characteristics making it impractical to include them in a specific use district classification, they may be permitted under the conditions specified.

These uses or activities require special consideration since they service an area larger than the city or require sites creating problems of control with reference to abutting use districts. Reference to those uses falling specifically within the intent of this section is as follows:

(A) *Wireless telecommunication towers and antennas.*

- (1) *Purpose.* The purpose of this [zoning] ordinance is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this [zoning] ordinance are to:

- (a) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - (b) Encourage the location of towers in nonresidential areas;
 - (c) Minimize the total number of towers throughout the community;
 - (d) Strongly encourage the joint use of new and existing tower sites as a primary option rather than constructions of additional single-use towers;
 - (e) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (f) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
 - (g) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
 - (h) Consider the public health and safety of communication towers; and
 - (i) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City of Sturgis shall give due consideration to its master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.
- (2) *Definitions.* As used in this [zoning] ordinance, the following terms shall have the meanings set forth below:
- (a) [The term] "alternative tower structure" means manmade trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
 - (b) [The term] "antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
 - (c) [The term] "backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
 - (d) [The term] "FAA" means the Federal Aviation Administration.
 - (e) [The term] "FCC" means the Federal Communications Commission.
 - (f) [The term] "height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
 - (g) [The term] "preexisting towers and preexisting antennas" means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this [zoning] ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
 - (h) [The term] "tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(3) *Applicability.*

- (a) *New towers and antennas.* All new towers or antennas in the City of Sturgis shall be subject to these regulations, except as provided in [sub]sections (3)(b) through (d) [of this section], inclusive.
- (b) *Amateur radio station operators/receive only antennas.* This [zoning] ordinance shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- (c) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this [zoning] ordinance, other than the requirements of [sub]sections (4)(f) and (4)(g) [of this section].
- (d) *AM array.* For purposes of implementing this [zoning] ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

(4) *General requirements.*

- (a) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (b) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (c) *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the building department an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City of Sturgis or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The building department may share such information with other applicants applying for administrative approvals or special use permits under this [zoning] ordinance or other organizations seeking to locate antennas within the jurisdiction of the City of Sturgis, provided, however that the building department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (d) *Aesthetics.* Towers and antennas shall meet the following requirements:
 - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

- (e) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
 - (f) *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this [zoning] ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
 - (g) *Building codes: safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City of Sturgis concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
 - (h) *Measurement.* For purposes of measurements, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Sturgis irrespective of municipal and county jurisdictional boundaries.
 - (i) *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this [zoning] ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.
 - (j) *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City of Sturgis have been obtained and shall file a copy of all required franchises with the building department.
 - (k) *Public notice.* For purposes of this [zoning] ordinance, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in [sub]section (7)(b)(5)(ii) [of this section], Table 2, in addition to any notice otherwise required by the zoning ordinance.
 - (l) *Signs.* No signs shall be allowed on an antenna or tower.
 - (m) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of [sub]section (A)(8) [of this section].
 - (n) *Multiple antenna/tower plan.* The City of Sturgis encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- (5) *Permitted uses.*
- (a) *General.* The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a special use permit.

- (b) *Permitted uses.* The following uses are specifically permitted:
 - (1) Antennas or towers located on property owned, leased, or otherwise controlled by the City of Sturgis provided a license or lease authorizing such antenna or tower has been approved by the City of Sturgis.
- (6) *Administratively approved uses.*
 - (a) *General.* The following provisions shall govern the issuance of administrative approvals for towers and antennas.
 - (1) The building department may administratively approve the uses listed in this section.
 - (2) Each applicant for administrative approval shall apply to the building department providing the information set forth in [sub]sections (A)(7)(b)(1) and (A)(7)(b)(3) [of this section] of this [zoning] ordinance and a nonrefundable fee as established by resolution of the Sturgis City Commission to reimburse the City of Sturgis for the costs of reviewing the application.
 - (3) The building department shall review the application for administrative approval and determine if the proposed use complies with [sub]sections (A)(4)(7)(b)(4) and (A)(7)(b)(5) [of this section] of this [zoning] ordinance.
 - (4) The building department shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the building department fails to respond to the applicant within said 60 days, then the application shall be deemed to be approved.
 - (5) In connection with any such administrative approval, the building department may, in order to encourage shared use, administratively waive any zoning district setback requirements in [sub]section (A)(7)(b)(4) [of this section] or separation distances between towers in [sub]section (A)(7)(b)(5) [of this section] by up to 50 percent.
 - (6) In connection with any such administrative approval, the building department may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
 - (7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to [sub]section (A)(7) [of this section] prior to filing any appeal that may be available under the zoning ordinance.
 - (b) *List of administratively approved uses.* The following uses may be approved by the building department after conducting an administrative review:
 - (1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial zoning district.
 - (2) Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) [(A)(6)(b)(2)(a) and (A)(6)(b)(2)(b) of this section] below.
 - (a) *Antennas on existing structures.* Any antenna which is not attached to a tower may be approved by the building department as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight or more dwelling units, provided:
 - (i) The antenna does not extend more than 30 feet above the highest point of the structure;
 - (ii) The antenna complies with all applicable FCC and FAA regulations; and
 - (iii) The antenna complies with all applicable building codes.

- (b) *Antennas on existing towers.* An antenna which is attached to an existing tower may be approved by the building department and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
 - (i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the building department allows reconstruction as a monopole.
 - (ii) Height.
 - (a) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.
 - (b) The height change referred to in subsection [(A)(6)(b)(2)(b)](ii)(a) [of this section] may only occur one time per communication tower.
 - (c) The additional height referred to in subsection [(A)(6)(b)(2)(b)](ii)(a) [of this section] shall not require an additional distance separation as set forth in [sub]section (A)(7). The tower's premodification height shall be used to calculate such distance separations.
 - (iii) Onsite location.
 - (a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location.
 - (b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
 - (c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to [sub]section (A)(7)(b)(5) [of this section]. The relocation of a tower hereunder shall in no way be deemed to cause a violation of [sub]section (A)(7)(b)(5).
 - (d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in [sub]section (A)(7)(b)(5) [of this section] shall only be permitted when approved by the building department.
- (3) New towers in nonresidential zoning districts. Locating any new tower in a nonresidential zoning district other than industrial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the building department concludes the tower is in conformity with the goals set forth in [sub]section (A)(1) [of this section] and the requirements of [sub]section (A)(4) [of this section]; the tower meets the setback requirements in [sub]section (A)(7)(b)(4) [of this section] and separation distances in [sub]section (A)(7)(b)(5) [of this section]; and the tower meets the following height and usage criteria:
 - (i) For a single user, up to 90 feet in height;
 - (ii) For two users, up to 120 feet in height; and
 - (iii) For three or more users, up to 150 feet in height.

- (4) Locating any alternative tower structure in a zoning district other than industrial that in the judgment of the building department is in conformity with the goals set forth in section (A)(1) of this [zoning] ordinance.
 - (5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
- (7) *Special use permits.*
- (a) *General.* The following provisions shall govern the issuance of special use permits for towers or antennas by the planning board:
 - (1) If the tower or antenna is not a permitted use under section 1.1405 of this [zoning] ordinance or permitted to be approved administratively pursuant to section 1.1406 of this [zoning] ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
 - (2) Applications for special use permits under this Section shall be subject to the procedures and requirements of article VI, section[s] 1.0601 and 1.0602 of the zoning ordinance, except as modified in this section.
 - (3) In granting a special use permit, the planning board may impose conditions to the extent the planning board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
 - (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
 - (5) An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the Sturgis City Commission to reimburse the City of Sturgis for the costs of reviewing the application.
 - (b) *Towers.*
 - (1) *Information required.* In addition to any information required for application for special use permits pursuant to article VI of the zoning ordinance, applicants for a special use permit for a tower shall submit the following information:
 - (i) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in [sub]section (A)(7)(b)(5) [of this section], adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the building department to be necessary to assess compliance with this [zoning] ordinance.
 - (ii) Legal description of the parent tract and leased parcel (if applicable).
 - (iii) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned property.
 - (iv) The separation distance from other towers described in the inventory of existing sites submitted pursuant to [sub]section (A)(4)(c) [of this section] shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

- (v) A landscape plan showing specific landscape materials.
 - (vi) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - (vii) A description of compliance with [sub]sections (A)(4)(c), (d), (e), (f), (g), (j), (l), and (m), (A)(7)(b)(4), (A)(7)(b)(5) [of this section] and all applicable federal, state or local laws.
 - (viii) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - (ix) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
 - (x) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - (xi) A description of the feasible location(s) of future towers or antennas within the City of Sturgis based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (2) Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications pursuant to article VI of the zoning ordinance, the planning board shall consider the following factors in determining whether to issue a special use permit, although the planning board may waive or reduce the burden on the applicant of one or more of these criteria if the planning board concludes that the goals of this [zoning] ordinance are better served thereby:
- (i) Height of the proposed tower;
 - (ii) Proximity of the tower to residential structures and residential district boundaries;
 - (iii) Nature of uses on adjacent and nearby properties;
 - (iv) Surrounding topography;
 - (v) Surrounding tree coverage and foliage;
 - (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - (vii) Proposed ingress and egress; and
 - (viii) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in [sub]section (A)(7)(b)(3) [of this section] of this [zoning] ordinance.
- (3) Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the planning board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (i) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (4) *Setbacks.* The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the planning board may reduce the standard setback requirements if the goals of this [zoning] ordinance would be better served thereby:
- (i) Towers must be setback a distance equal to at least 75 percent of the height of the tower from any adjoining lot line.
 - (ii) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) *Separation.* The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the planning board may reduce the standard separation requirements if the goals of this [zoning] ordinance would be better served thereby.
- (i) Separation from off-site uses/designated areas.
 - (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
 - (b) Separation requirements for towers shall comply with the minimum standards established in Table 1.

TABLE 1

Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units ¹	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300 height of tower ² whichever is greater

Vacant unplatted residentially zoned lands ³	100 feet or 100% height of tower whichever is greater
Existing multifamily residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

¹	Includes modular homes and mobile homes used for living purposes.
²	Separation measured from base of tower to closest building setback line.
³	Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residentially zoned land greater than duplex.

(ii) Separation distances between towers.

- (a) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

TABLE 2

Existing Towers—Types

	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less than 75 Feet in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

- (6) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticleimbing device; provided however, that the planning board may waive such requirements, as it deems appropriate.
- (7) *Landscaping.* The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the planning board may waive such requirements if the goals of this [zoning] ordinance would be better served thereby.
 - (i) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscape strip at least four feet wide outside the perimeter of the compound.
 - (ii) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - (iii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- (8) *Buildings or other equipment storage.*
 - (a) *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with antennas shall comply with the following:
 - (1) The cabinet or structure shall not contain more than 175 square feet of gross floor area or be more than 14 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or eight feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 - (2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10 percent of the roof area.
 - (3) Equipment storage buildings or cabinets shall comply with all applicable building codes.
 - (b) *Antennas mounted on utility poles or light poles.* The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
 - (1) In residential districts, the equipment cabinet or structure may be located:
 - (i) In a front or side yard provided the cabinet or structure is no greater than three feet in height or 16 square feet of gross floor area and the cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42 to 48 inches and a planted height of at least 36 inches.
 - (ii) In a rear yard, provided the cabinet or structure is no greater than four feet in height or 25 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.

- (2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than 14 feet in height or 175 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet in height or an evergreen hedge with an ultimate height of eight feet and a planted height of at least 36 inches.
 - (c) *Antennas located on towers.* The related unmanned equipment structure shall not contain more than 175 square feet of gross floor area or be more than 14 feet in height, and shall be located in accordance with the minimum yard requirement of the zoning district in which located.
 - (d) *Modification of building size requirements.* The requirements of [sub]sections (A)(7)(b)(8)(a) through (A)(7)(b)(8)(c) [of this section] may be modified by the building department in the case of administratively approved use or by the planning board in the case of uses permitted by special use to encourage collocation.
- (9) *Removal of abandoned antennas and towers.* Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the City of Sturgis notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 day[s] shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- (10) *Nonconforming uses.*
- (a) *Not expansion of nonconforming use.* Towers that are constructed, and antennas that are installed, in accordance with the provisions of this [zoning] ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
 - (b) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such Preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this [zoning] ordinance.
 - (c) *Rebuilding damaged or destroyed nonconforming towers or antennas.* Notwithstanding [sub]section (A)(7)(b)(9) [of this section], bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in [sub]section (A)(7)(b)(4) and (A)(7)(b)(5) [of this section]. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in [sub]section (A)(7)(b)(9) [of this section].

- (1) *Glide path area designated.* The glide path area shall be all land lying within 300 feet of the centerline of any runway shown on the adapted airport master plan, as well as all land within 300 feet of the centerline as extended 2,000 feet beyond the ends of the runway.
- (2) *State regulations to apply.* State requirements concerning the permitted height of buildings, lighting of elevated structures, placement of aboveground essential services, the location of institutional uses involving the congregation of people, and other similar regulations, shall be complied with in the designated glide path area.
- (3) *Public congregation.* No public building, playground, institutional use, or other place of public congregation shall be permitted within the glide path area.
- (4) *Building locations.* No accessory building shall be permitted within 25 feet of centerlines projected as described in [sub]section (1) [of this section]. No principal building shall be permitted within 35 feet therefrom.

1.1105. - Accessory buildings, structures and uses.

(A) *Accessory building or accessory structures in any district.*

- (1) No accessory building or accessory structure may be permitted on a lot which does not contain a principal use or principal building.
- (2) No accessory building or accessory structure shall be placed in any required front or side yard.
- (3) Accessory buildings and swimming pools shall be no closer than ten feet to any other building on the same lot except as listed below or as specified elsewhere in the zoning ordinance or city code of ordinances.
 - i. Dog houses.
 - ii. Pergolas.
 - iii. Play houses.
 - iv. Pump houses.
 - v. Accessory buildings similar to the above.
- (4) An accessory building or accessory structure located in a rear yard shall not be closer than three feet to any lot line, unless specified elsewhere in the zoning ordinance or city code of ordinances.
- (5) Residential kennels shall be no closer than six feet to the [principal] building on the same lot and no closer than six feet to the lot line.

(B) *Accessory building or accessory structures in a residential district.* In addition to the requirements of subsection (A) of this section, the following restrictions shall apply to accessory buildings or accessory structures in residential districts.

- (1) Accessory buildings or accessory structures shall not exceed 14 feet in height with the exception of satellite systems, antenna systems, solar panels, wind generators or similar structures. If these structures are installed as a stand-alone structure, they shall not exceed 20 feet in height. If these structures are installed atop an accessory building, or another accessory structure, their combined height shall not exceed 20 feet.
- (2) A private garage or a portion thereof may be rented or leased for not more than two motor vehicles of the noncommercial type only to persons not a resident of the dwelling on the lot.
- (3) The total square footage of all accessory buildings shall not exceed the square footage of the ground or first floor of a multi-story residence, or 50 percent of the square footage of a single-story building.
- (4) When an accessory building in any residential district is intended for other uses than the storage of private motor vehicles, the uses proposed for the accessory building must be compatible with the uses permitted within the subject district.

- (5) Accessory buildings exceeding 200 square feet must be provided with exterior finish materials similar to the principal building on the lot. Examples include roofing and siding materials. These items shall be of the same or similar, compatible colors to the principal building. An alternate roofing or siding material may be substituted if the color(s) is compatible with the principal building.
 - (6) Canopy and tarp like structures are not permitted unless used as outdoor furniture. These items may be used from the months of April through October if maintained in good condition and used in the manner they were designed.
 - (7) Dog houses shall not exceed six feet in height and 20 square feet in area.
 - (8) There shall be no more than two accessory buildings on any one parcel excluding play houses, dog houses, or buildings of similar uses.
- (C) *Repair of vehicles in residential districts.* A resident may repair vehicles of the resident on the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicles of other than a resident of the dwelling unit on said property and such repair shall be conducted in not to exceed seven consecutive days in any 30-day period.

(Ord. of 1-9-2019(1))

1.1106. - Walls and fences.

- (A) *Walls.* For those use districts and uses listed in Table 1.1106A, there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall in character with the abutting residential area and as required herein.
- (1) The planning board may, in its review of site plans for specific uses, allow or require the provision of an earth berm and/or a greenbelt planting consisting of trees and shrubs to serve as an obscuring wall, where such obscuring walls are required under this [zoning] ordinance, and where conditions are such that a more effective and harmonious development with abutting or neighboring land uses would result. Review and approval shall be required by the planning board of types of plant materials and their location in such greenbelt.
 - (2) Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this [zoning] ordinance requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the planning board may approve a reduction in height requirements or may approve an alternate location for the wall or may waive the wall requirement if in specific cases it would not serve the purposes of screening the parking area effectively. Required walls may, upon approval of the planning board, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall or, a given block will be a major consideration of the planning board in reviewing such request.
 - (3) Walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this [zoning] ordinance and such openings as may be approved by the building official. All walls required under this [zoning] ordinance shall be durable, weather-resistant, rustproof, and shall be maintained by the property owner or tenant at all times equal in condition to the completed structure at the time of initial installation.
 - (4) Walls may be constructed with opening which do not in any square section (height and width) exceed 20 percent of the surface. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the building official.
 - (5) The city may require that suitable maintenance guarantee be provided for the continued maintenance of walls required under this title.

TABLE 1.1106A

Use	Requirements*
P vehicular parking district	6-foot-high masonry wall
Off-street parking area (other than P districts)	6-foot-high masonry wall
B-OS, B-H, M districts	6-foot-high masonry wall
B-C district: screening of trash dumpsters and parking areas	6-foot-high masonry wall
B-C district: parking areas and other allowed fencing uses	36" to 60" ornamental fence. Construction of cast iron, decorative metal, or a material providing a similar aesthetic appearance. Fencing cannot contain elements which provide a hazard to the public, including but not limited to spikes and sharp points.
B-C district: temporary outdoor gathering areas	Any temporarily-installed fencing material at least 50% open to the air, including plastic or wood snow fence.
M districts open storage areas, loading or unloading areas, service areas	6-foot-high to 8-foot-high masonry wall (height shall provide the most complete obscuring possible)

*The planning board may permit wood or metal walls or landscape materials where such material provide a suitable compatibility with abutting uses. In those instances where a residential property exists in one of the above districts, materials other than masonry may be utilized by the residential property owner to screen or enclose such property from abutting nonresidential uses.

(B) *Fences or walls in all nonresidential districts.*

- (1) In B-OS districts (business office service), fences up to six feet in height are permitted in rear and side yards. Fences not more than 50 percent solid and not more than four feet in height are permitted in required front yards. Fences in the front yard shall not be chainlink or of wire construction.

- (2) Wire fences not more than six feet in height may be placed in any yard in M (manufacturing) or B-H (business highway) districts. All parking areas for commercial or industrial district uses shall be screened on all sides abutting or across a street or alley from a residential district.
 - (3) Fences or walls in the B-C central business district are permitted for the following uses, with regulations as specified in Table 1.1106A.
 - a. Screening of trash dumpsters.
 - b. Screening of parking areas.
 - c. Outdoor gathering areas.
 - d. Public facilities and public use locations.
 - (4) Clear vision must be maintained on all drives, streets and sidewalks. All fences or walls must be located on the property line except as required for loading areas as specified in section 1.0903.
 - (5) Fence support structures or devices must be on the permit holder's side of the fence, with the finished side of the fence facing the adjacent property (see Figure 1.1105B).
- (C) *Fences or walls in all residential districts.*
- (1) Fences or retaining walls may be located along the property line.
 - (2) Fences on lots in all residential districts which enclose property and/or are within a side or rear yard shall not exceed six feet in height, measured from the surface of the ground and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater.
 - (3) Fences shall not contain barbed wire, electric current or charge of electricity.
 - (4) Ornamental fences within the front yard shall not exceed 36 inches in height, and clear vision must be maintained on corner lots in accord with section 1.1106. Privacy fences are not permitted in the front yard area.
 - (5) Fences which enclose public or institutional parks, playgrounds or public landscaped areas, situated within an area developed with recorded lots, shall not exceed eight feet in height, measured from the ground, and shall not obstruct vision to an extent greater than 25 percent of their total area.
 - (6) Fence supports or devices must be on the permit holders side of the fence, with the finished side of the fence facing the adjacent property. (See Figure 1.1105B.)
 - (7) Clear vision must be maintained on all drives, streets and sidewalks.

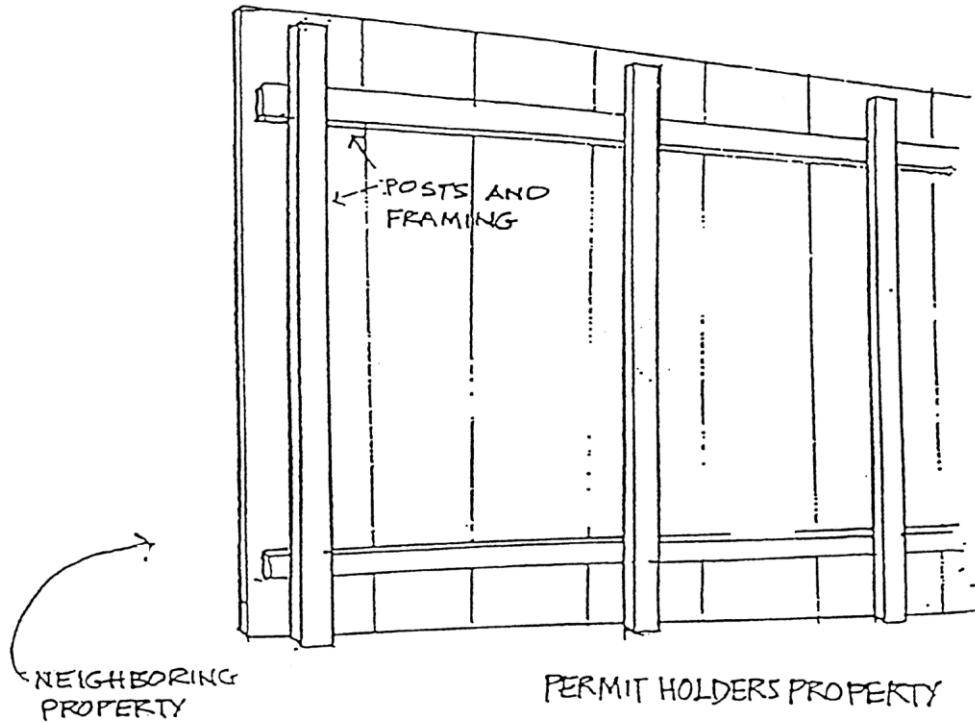


FIGURE 1.1105B

Permit Holders Property

(Ord. of 11-11-2015)

1.1107. - Corner clearance.

- (a) No fence, wall, shrubbery, sign or other obstruction to vision above a height of two feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection, nor shall such obstruction to vision be permitted at the intersection of any driveway or alley and a street right-of-way line within a triangular area formed at such intersection by a straight line drawn between the driveway or alley line and the street right-of-way line at a distance along each line of 15 feet from their point of intersection. In those instances where such triangular area cannot be constructed on the property in question, a 15-foot setback shall be required between the property line and the driveway or alley (See Figure 1.1107A.)
- (b) Where a lot is bounded by two intersecting streets, the front yard requirements shall be met on one abutting street and one-half the front yard requirement shall be met on the other abutting street. The owner shall have the discretion to decide upon which abutting street the full front yard requirement shall be met. No portion of the lot within 25 feet of the side lot line of any adjoining property may be utilized for a building or solid fence or wall over three feet in height unless the front yard requirement for the adjoining property is met within the area. Where the rear yard abuts the side yard of an adjoining property, the side yard requirement of the adjoining lot shall be provided between any structure over three feet in height and the rear lot line.

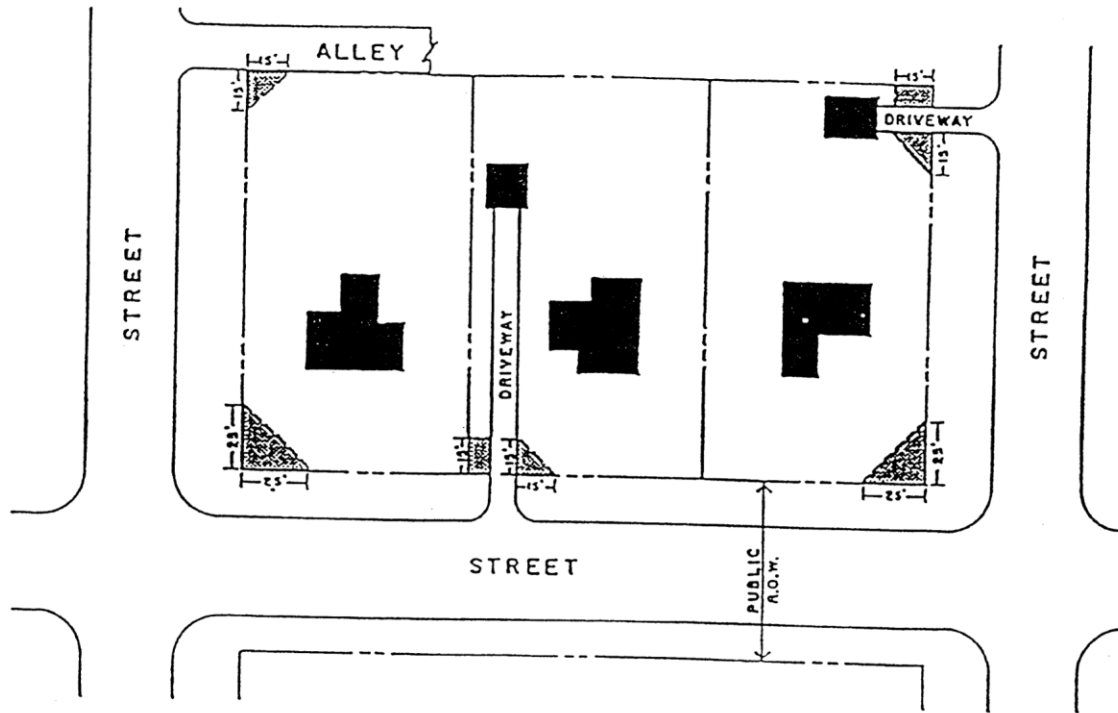


FIGURE 1.1107A

Corner Clearance

1.1108. - Area or space required.

No lot, yard, court, parking area, or other space shall be divided, altered, or reduced so as to make the area or dimensions less than the minimum required under this section. If existing spaces are already less than the minimum required under this section, the area or dimension shall not be further divided or reduced.

1.1109. - Yard requirements along zoning boundary line.

A lot having a side yard line adjacent to any zoning boundary line of a more restricted district shall have a side yard not less than the minimum width required for the adjoining side yard for the more restricted district.

1.1110. - Front yards on lots running through the block.

In any district where a lot runs through a block front street to street and where a front yard is required, the front yard shall be provided along each street lot line, which is not a side yard street lot line.

1.1111. - Restrictions for lot widths adjacent to platted lots.

In a block where there exists some platted and unplatted land, and where 50 percent or more of the total frontage on both sides of a street in the same block is platted, the balance of the unplatted land must be divided into lots each having an average width not less than the average of 50 percent of the platted lots, but in no case shall the width of any lot so determined be less than 60 feet. If less than 50 percent of

the frontage has been platted into lots, then the balance of the unplatted land shall meet the width requirements for the district in which it is located.

1.1112. - Institutional and public uses.

Institutional and public uses may be located in any residential, business or industrial zone, provided the following requirements are complied within and adjacent to residential zones.

- (A) Application and a site plan shall be submitted to the planning board.
- (B) The required site plan shall show the property lines and dimensions of the tract and the proposed development, including all existing and proposed buildings and uses, as well as the location, dimensions, and capacities of all areas to be used for motor vehicle parking.
- (C) Sufficient additional data shall be provided as needed to enable the planning board to determine compliance with the requirements of this section, and to determine the best possible physical layout for the proposed use from the standpoint of its relationship to the general health, safety, and welfare of the city and adjoining property values.
- (D) Before approving the plan or plans the planning board shall require proper guarantees that the proposed use shall not constitute a public hazard and is reasonably necessary for the convenience of the community.
- (E) Where an institutional or public use is to be occupied as a residence, nursing home, convalescent home, hospital, or similar use where humans will be living or cared for, the minimum lot size required for a dwelling in a zone shall be provided for each six humans to be accommodated.
- (F) This section shall not conflict with state board of education and fire marshal reviews for all school buildings.

1.1113. - Sewage and water requirements.

No building permit shall be issued for any building to be occupied by human beings unless provisions have been made to provide public sewer and water to the building. In the absence of public sewer or water the building department can only issue a building permit when county or state permits for water and sewage disposal meet state and municipal standards.

1.1114. - Surface runoff.

No premises shall be filled or graded so as to discharge surface runoff to abutting premises in a manner so as to cause ponding or surface accumulation of the runoff on those premises. This would include water runoff from building via eaves or similar apparatus.

1.1115. - Garbage and rubbish and screening of outdoor storage; junk motor vehicles.

The outdoor storage, collection, keeping, or placing of garbage or rubbish by a property owner or occupant is prohibited in all public rights-of-way, all yards in any residential zone, and in front and side yards in B-H business or M manufacturing zones unless in a covered and approved container for a period not to exceed 24 hours; Provided however, on the day of rubbish pickup only, garbage and rubbish may be stored in secure paper or plastic bags at an appropriate rubbish pickup location. An approved container is one which is leakproof with a close-fitting cover for the storage of garbage or rubbish. Outdoor storage of materials and rubbish is permitted in B-H business or M manufacturing districts, but only in rear yards, and when any such rear yard abuts residentially zoned or developed areas, it shall be screened from the adjacent residential areas by a solid fence or wall at least six feet in height, or by six-foot evergreen planting. Notwithstanding the foregoing, building materials or rubbish in a dumpster may be stored temporarily on a construction site while construction is actually in progress. Other types of materials too large or bulky to be conveniently placed in a container may be temporarily stored in an outdoor location for not more than 24 hours while awaiting pickup by a rubbish collector or hauler.

Motor vehicles which are inoperable or not currently licensed shall be deemed to be rubbish, and shall not be stored in any residential zone except within the confines of an enclosed building.

If garbage or rubbish is stored, collected, kept or placed in a public right-of-way or a required front yard setback area for more than 24 hours, the city may, after five business day written notice to remove the garbage or rubbish to the property owner or occupant, remove the garbage or rubbish and bill the property owner or occupant. In all other circumstances, if garbage or rubbish is stored, collected or placed in violation of this section, the city may, ten days after issuance of a citation to the property owner or occupant, cause the garbage or rubbish to be removed and bill the property owner or occupant. If any such billing is not paid within 90 days it shall become a lien on the property, properly recorded at the county.

Cross reference— Solid waste, ch. 42.

1.1116. - Swimming pools.

Swimming pools accessory to a principal permitted use are allowed in all districts, provided the pools are constructed, operated, and maintained in accordance with city regulations pertaining thereto. No pool shall be closer than six feet to any side or rear lot line nor located in any required side street side yard or required front yard. All swim[ming] pool installations shall comply with NFPA National Electrical Code for operation as well as clearance.

1.1117. - Basement dwellings.

The use of a basement or the basement of a partially built or planned building as a residence or dwelling unit is prohibited in all zones. This shall not prohibit a dwelling unit located partially below ground which has access to a hallway providing two remote means of egress to ground level.

1.1118. - Abandoned buildings and structures.

Any building or structure not in continuous use as defined by permitted, special land use, or nonconforming uses in any district for a period greater than 365 days, shall be considered abandoned and come under the provisions of this [zoning] ordinance and other city codes for buildings and structures. In order to obtain a certificate of occupancy as a use in the future, once 365 days have passed, the building or structure shall have to meet all the current standards of all applicable City codes specifically article VIII, nonconforming uses [of this zoning ordinance].

1.1119. - Open space minimum area.

All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

1.1120. - Storage of household furniture and appliances.

It shall be unlawful for an owner, occupant, or person in control, of any structure or lot to use or permit to remain on any structure or lot, for a period exceeding 24 hours, on any open porch, yard, or exterior area of any structure susceptible to moisture from inclement weather, including rain, snow or hail, or susceptible to infestation by insect, rodent or other pest, any furniture or appliance designed for indoor use, including but not limited to cushions, pillows, mattresses, couches, chairs, washers, dryers, refrigerators or freezers.

For purposes of this section, "open porch" shall mean any part of a structure that is not fully enclosed and shielded from the elements on all sides by roof and walls, and "furniture" does not include furniture designed and intended for outdoor use and exposure to moisture from inclement weather.

This provision shall not apply during a lawful yard sale or garage sale while such furniture or appliances are offered for sale; nor shall it apply while such furniture or appliances are otherwise lawfully held for refuse collection.

(Ord. of 11-24-2008)

1.1121. - Reserved.

Editor's note— [Ord. of 12-18-2019\(2\)](#), adopted December 18, 2019, eff. January 10, 2020, repealed § 1.1121, which pertained to prohibition of recreational marihuana establishments and derived from [Ord. of 2-27-2019](#).

ARTICLE XII. - SITE PLAN REVIEW^[6]

Footnotes:

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State Law reference— Site plans, MCL 125.584d.

1.1201. - Purpose.

Before a building permit is issued for any use identified as requiring a building permit, a site plan shall be submitted to the planning board for review and approval. Before granting approval, the planning board shall ascertain that all provisions of this section are compiled with and that the proposed location and arrangement of buildings, accesses, parking area, walkways, yards, open areas, and other improvements produce no potential health, safety, or protection hazards, and that the arrangement of buildings and structures will provide convenience for the intended occupants or utilization by the public and will be harmonious with development on adjacent properties.

1.1202. - Scope.

- (A) Except as set forth below, the building department shall not issue a building permit for construction of any buildings, structures, or uses until a site plan, submitted in accordance with this zoning ordinance, shall have been reviewed and approved and signed by the planning board.
- (B) The following buildings, structures, or uses shall be exempt from the site plan review and procedures.
 - (1) Single- or two-family homes under separate ownership on an individual and separate lot for each home, and including accessory uses.
 - (2) Interior, accessory, and subordinate buildings requiring no new or additional means of access thereto from adjoining public roads or highways or require additional parking and complying with all zoning ordinance requirements.
 - (3) Projects involving the expansion, remodeling, or enlargement of existing buildings which comply with all zoning code requirements and involve no new or additional means of access thereto from adjoining public roads or highways or required additional parking.
 - (4) Additional buildings or structures similar to those previously existing upon an individual site complying with all zoning code requirements and requiring no new or additional means of access thereto from adjoining public roads or highways for such purposes, and which do not require any additional parking area to comply with the requirements of article IX [of this zoning ordinance].

- (5) Uses such as on-premises advertising signs except as provided for in article XIII [of this zoning ordinance].

1.1203. - Optional sketch plan review.

- (A) Preliminary sketches of proposed site and development plans may be submitted for review to the planning board prior to final approval. The purpose of this procedure is to allow discussion between an owner and the planning board to better inform the owner of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. The sketch plan shall include, as a minimum, the following information.
 - (1) The name and address of the applicant or developer, including the names and addresses of any officer of a corporation or partners of a partnership.
 - (2) A legal description of the property.
 - (3) Sketch plans drawn to scale showing tentative site and development plans.
- (B) The planning board shall not be bound by a tentative approval if given at this time.

1.1204. - Application procedure.

Requests for final site plan review shall be made by filing with the building department the following items.

- (A) A review fee as determined by resolution of the city commission based upon the cost of processing the review. The resolution shall be on file with the city clerk for public information.
- (B) Eight copies of the completed application form for site plan review which shall contain, as a minimum, the following information:
 - (1) The name and address of the applicant.
 - (2) The legal description of the subject parcel of land.
 - (3) The area of the subject parcel of land stated in acres, or if less than one acre, in square feet.
 - (4) The present zoning classification of the subject parcel and abutting parcels.
 - (5) A description of the proposed development.
- (C) Twenty single-page site plans and four full sets of site development plans including topography, water, sewer, electric, gas, etc. with engineers seal affixed shall be submitted. All plans may be submitted at the same time, however, four sealed sets and five one-page site plans should be submitted not less than ten days prior to the schedule meeting at which the planning board is scheduled to take action. Plans shall include the following information:
 - (1) The plan shall be drawn to an appropriate scale of not smaller in size than one inch equals 20 feet for a development of not more than three acres, and a scale of not smaller in size than one inch equals to 100 feet for a development in excess of three acres.
 - (2) The plan shall show an appropriate descriptive legend, north arrow, scale, date of preparation, and the name and address of the individual or firm preparing the plan.
 - (3) The property shall be identified by lot lines and general location together with dimensions, angles, and size correlated with the legal description of the property.
 - (4) The topography of the site with at least two-foot contour intervals and all natural features such as wood lots, streams, rivers, lakes, wetlands, unstable soils, and similar features shall be shown, as required by the city engineer.
 - (5) Existing manmade features upon the site within 100 feet of the ownership site boundary shall be identified and located.

- (6) The location, proposed finished floor and grade line elevations, the size of proposed main and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, and the height of all buildings and square footage of floor space therein shall be indicated. Site plans for multiple-family residential development shall also include a density schedule showing the number of dwelling units per net acres, including a dwelling schedule showing the unit type (one bedroom, two bedrooms, etc.) and number of each unit.
- (7) All proposed and existing streets, driveways, sidewalks, and other vehicle or pedestrian circulation features upon and adjacent to the site shall be shown, together with the location, size, and number of parking areas, service lanes thereto, and service parking and delivery or loading areas. Wheel stops are required. Sidewalks are required which meet ADA access, for inter site access, as well as public access across the property along all road frontage. Interconnection of parking lots between business properties is encouraged.
- (8) The location, use, and size of open spaces together with landscaping, screening, fences, walls, and proposed alterations of topography or other natural features shall be indicated.
- (9) The proposed operations on the site shall be described in sufficient detail to indicated the effect, if any, upon adjoining lands and occupants, together with any special features which are proposed to relieve any adverse effects to adjoining land and occupants. Any potential demands for future community service will also be described, together with any special features which will assist in satisfying these demands. The colors, materials, textures of all buildings, walls, roofs, fences, and signage and other items of installation on the site shall be explained in sufficient detail to allow review.
- (10) Any earth-change plans required by state law shall also be submitted with the application.
- (11) On-site lighting, electric service and meter location, surface water drainage for the site, and proposed locations for sanitary sewage disposal and water supply shown on the site plans.
- (12) The site plan shall include any other information as may be determined to be necessary by the planning board because of any peculiar features of the proposed development.

1.1205. - Action on application and plans.

- (A) The building department shall record the date of the receipt of the application and plans, and shall transmit copies thereof to the chairman of the planning board, the city building department, the zoning administrator, the electrical department, the city engineer, the police chief and fire chief, and copies to the other affected city departments.
- (B) A hearing shall be scheduled for a review of the application and plans as well as reviewing the recommendations of the city engineer, the building department and the police chief and fire chief. Members of the planning board shall be delivered copies of the application and plans prior to the hearing for their information and study, the hearing shall be scheduled within not more than 30 days following the date of the receipt of the plans and application by the building department.
- (C) The applicant shall be notified of the date, time and place of the hearing on his application not less than three days prior to the date.
- (D) Following the hearing, the planning board shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the purpose of the site plan review provisions of this section and the criteria contained herein. In those instances where modification is required the planning board may either approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the modifications have been included in the proposed plans for the applicant.
- (E) Two copies of the approved final site plan, including any required modifications or alterations, shall be maintained as part of the city records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated by the chairman of the planning board for identification of the finally approved plans, as well as signed and dated by the applicant. If any

variances from the zoning ordinance have been obtained from the zoning board of appeals, the minutes concerning the variances duly signed shall also be filed with the city records as a part of the site plan and delivered to the applicant for his information and direction. The site plan shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this section receives the mutual agreement of the applicant and the planning board.

1.1206. - Criteria for review.

In reviewing the application and site plan and approving, disapproving, or modifying the plan, the planning board shall be governed by the following standards:

- (A) There is a proper relationship between the existing streets and highways within the vicinity and proposed acceleration and/or deceleration lanes, service drives, entrance and exit driveways, and parking areas to insure the safety and convenience of pedestrian and vehicular traffic.
- (B) The buildings and structures proposed to be located upon the premises are so situated as to minimize adverse effects upon owners and occupants of adjacent properties.
- (C) As many natural features of the landscape shall be retained as possible where they furnish a barrier screen, or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood.
- (D) Any adverse effects of the proposed development and activities emanating therefrom which affect adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback, and location of buildings, structures, and entryways.
- (E) The layout of buildings and improvements will minimize any harmful or adverse effect which the development might otherwise have upon the surrounding neighborhood.
- (F) The site plan must comply with all provisions of the zoning code. However, this would not preclude the applicant from applying for an appropriate variance with the zoning board of appeals.

1.1207. - Conformity to approved site plan.

- (A) *Revocation of site plan approval.* Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which has received the approval of the planning board. If construction and development does [do] not conform with the approved plan, the approval of the site plan shall be revoked by the building department by written notice of the revocation posted upon the premises involved and mailed to the owner at his last known address. Upon revocation of this approval, all construction activities shall cease upon the site until the time the violation has been corrected or the planning board has, upon proper application of the owner and after hearing, approved a modification in the site plan.
- (B) *Criteria for commencing construction.* Approval of the site plan shall be valid for a period of one year. If a building permit has not been obtained and on-site development actually commenced within one year, the site plan approval shall become void and a new application for site plan approval shall be required and new approval obtained before any construction or earth change is commenced upon the site.

1.1208. - Amendment to site plan.

A proposed amendment, modification, or alteration to a previously approved site plan may be submitted to the planning board for review in the same manner as the original application was submitted or reviewed.

1.1209. - Performance bond.

The planning board shall have the right and authority to require the developer to file with the building department at the time of application for a building permit, a performance agreement in a form approved

by the building department to ensure the development of the site in accordance with the approved site plan, conditioned upon the proper construction and development. This agreement shall continue for the duration of the construction and development of the site.

ARTICLE XIII - DESIGN REVIEW - CENTRAL BUSINESS AREA

1.1301. - Design review.

Design review is required in order to provide for the orderly development and redevelopment of the central business district, the boundaries of which are defined in the adopted Sturgis master plan, and to maintain and enhance property values, to promote the economic and general prosperity of the district and to protect the health, safety and welfare of the community by facilitating development where the physical, visual and spatial characteristics are established and reinforced through appropriate design; to provide for a design review committee of the planning board to act in the application of this provision; to encourage creativity in the development and redevelopment of property in the central business district; and to ensure the standards and guidelines established by the ordinance are administered so as to encourage the disposition of development proposals without undue delay or cost to property owners in the district.

- A. *Definitions.* Because many of the words or terms used in design review are not in common usage, or they could be misconstrued as to meaning, the following definitions are to be used in the context of the use of this section. Terms not herein defined shall have the meaning customarily assigned to them, unless otherwise defined in this ordinance.
1. *Appearance.* The outward aspect of a building structure or site visible to the public.
 2. *Appropriate.* Sympathetic, or fitting, to the context of the site and the whole community.
 3. *Appurtenances.* The visible, functional objects accessory to and part of buildings.
 4. *Architectural concept.* The basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development, which produces the architectural character.
 5. *Architectural feature.* A prominent or significant part or element of a building, structure, or site.
 6. *Architectural style.* The characteristic form and detail, as of buildings of a particular historic period.
 7. *Central business district.* The area designated on the adopted Sturgis master plan as the central business district.
 8. *Character.* The combination of traits which, when considered together, distinguish specified land and/or development from other specified land and/or development. In assessing character, the following may be considered, along with any other expressly identified factors:
 - a. Percentage of a lot covered by structures and other impervious improvements;
 - b. Type or style of structure;
 - c. Traffic flow and pattern, and the relationship of traffic to pedestrian and vehicular thoroughfares;
 - d. Density of land uses and;
 - e. Intensity of uses.
 9. *External design feature.* The general arrangement of any portion of a building, sign, landscaping or structure and including the kind, color, and texture of the materials of such portion and the types of roof, windows, doors, lights, attached or ground signs or other fixtures appurtenant to such portions, as will be open to public view from any street, place or way.

10. *Graphic element.* A letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.

B. *Design review committee.*

1. *Creation.* A design review committee shall be appointed by the planning commission for the purpose of assisting the planning commission to preserve, protect and enhance the aesthetic appeal of the central business district; protect property values through the application of good design principles; and promote the general health, safety and welfare of the central business district and the community. The design review committee will also be charged with reviewing all applications and making a recommendation to the planning commission for all internally-illuminated signs in the B-C district per section 1.1006(H)(5) and all special land use marquee signs per section 1.0603(JJ). For the purpose of this review (marquee signs) will be judged on their individual design with building scale and architectural compatibility being key elements.
2. *Membership.* The design review committee shall consist of not less than three regular members and shall include one member of the planning board, one member of the downtown development authority and one member at large. The review committee, as it determines necessary or appropriate, shall utilize the assistance of planning, architectural and other consultants. The review committee shall seek the assistance of relevant experts in an effort to achieve accord in those instances in which the applicant objects to the decision of the review committee.
3. *Requirement for approved design; nature of review.* In the central business district no permit required under the ordinances of the city for a sign or for the erection, construction, alteration, or repair of any building or structure which involves an exterior design feature, or any painting of a commercial building other than "touch-up" painting of the same color, shall be issued by the city unless the project meets all requirements of the design guidelines listed in article XIII. If the building official cannot determine if the project meets the proposed standards, or it is mandated by other sections of this zoning code, the building official shall refer the project to the design review committee for its determination and recommendation to the planning board.
4. The design guidelines established by the downtown development authority for the central business district shall serve as a guide to the design review committee in the review of plans.

C. *Administration.*

1. *Application.* As a separate and distinct part of site plan review, drawings and plans shall be submitted to the city at a scale in sufficient detail to illustrate clearly the design for which approval is sought. Such plans shall show the following:
 - a. Existing conditions (both public and private) and natural features, all structures and uses, improvements, public street rights-of-way, sidewalks, public and private easements and restrictions for the subject site and immediately abutting property.
 - b. Site plan in accordance with the requirements of the zoning ordinance containing the information as prescribed by the rules of the planning board.
 - c. Architectural drawings of all exterior building elevations, colors of exterior walls, trims and roofs, lighting materials, ornamental, pictorial or decorative material to be used in or about the exterior of the structure. Samples of building materials and colors may be required to be submitted.
 - d. Such other information as may be required by the design review committee to permit reasonable consideration of the application.

- D. *Design review committee action.* The design review committee shall recommend to the planning board approval, conditional approval or disapproval of the application. Such action shall not be in lieu of site plan review by the planning board.

1. *Enforcement.* Upon the granting of an approved design or amendments thereto, and following site plan review by the planning board, the exterior drawings, sketches, landscape and site plans, renderings and materials upon which an approved design or amendment was granted shall be turned over to the building department, whose responsibility it shall be to determine, from time-to-time as the project is in progress and finally upon its completion, that there have been no deviations therefrom.
 - a. It shall be the duty of the person, firm or corporation to whom an approved design has been granted to comply therewith, and to obtain such inspections as may be necessary in order to assure compliance. The building department may notify such person of any deficiencies found to exist. Failure to comply with an approved design will constitute a violation of this ordinance.
 - b. Before any use may be made of improvements constructed under these provisions of design review, a final inspection of the premises must be obtained from the building department. An occupancy permit will not be issued unless such an inspection has been made and the completed work found to be in compliance with plans approved.

E. *Design criteria.*

1. *Criteria.* The purpose of these criteria is to establish a checklist of those items which affect the physical aspect of the central business district environment. Pertinent to appearance is the design of the site, building and structures, planting, signs, street hardware, and miscellaneous other objects which are observed by the public. The design guidelines established by the downtown development authority shall serve as the guideline for review by the design review committee.

These criteria are not intended to restrict imagination, innovation, or variety, but rather to provide a guide for decision making and assist in focusing on design principles which can result in creative solutions that will continue to develop and enhance a satisfactory visual-appearance within the central business district.

2. *Relationship of building site.*
 - a. Parking areas where provided shall be treated with decorative elements, building wall extensions, plantings, berms or other innovative means so as to largely screen parking areas from view from public ways.
 - b. The height and scale of each building shall be compatible with its site and adjoining buildings.
3. *Relationship of building and site to adjoining area.*
 - a. Adjacent buildings of different architectural styles that are in harmony with the overall downtown development authority design guidelines shall be respected in the design or alterations of a building site.
 - b. Harmony in texture, lines, and masses is required.
 - c. To the extent reasonably feasible, the building and site shall not be inconsistent with the character (as defined in this ordinance) of the area.
4. *Building design.*
 - a. Architectural style is not restricted. Evaluation of appearance of a project shall be based on quality of its design and relationship to surroundings.
 - b. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
 - c. Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.

- d. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those which are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
 - e. Inappropriate materials and methods, and those which will produce inconsistency with the structure of the building, shall be avoided.
 - f. Materials shall be of durable quality.
 - g. Building components - such as windows, doors, eaves, and parapets - shall have good proportions and relationship to one another.
 - h. Colors shall be harmonious, and not used to draw attention, e.g., serving as a sign.
 - i. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways.
 - j. Exterior lighting, including external and interior lighted signs, shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
 - k. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways, using materials as stated in criteria for equipment screening.
 - l. Inappropriate, incompatible, bizarre, and exotic designs shall be avoided.
 - m. The provisions of the zoning ordinance in regard to lot, yard, height, and area regulations and standards, which directly affect appearance, shall be part of the criteria of this subsection.
 - n. To the extent reasonably feasible, the building design shall not be inconsistent with the character (as defined in this ordinance) of the area.
- F. *Signs.* The provisions of the zoning ordinance in regard to signs shall be part of the criteria of this subsection. In addition to zoning ordinance standards the design guidelines established by the downtown development authority shall serve as a guide for sign design.
- 1. Wall signs shall be part of the architectural concept. Size, color, lettering, location, and arrangement shall be harmonious with the building design, and shall be compatible with signs in conformance with zoning standards on adjoining buildings. Signs shall have good proportions.
 - 2. Identification signs of a prototype design shall conform to the criteria for signs.
 - 3. Materials used in signs shall have good architectural character and be harmonious with building design and surrounding landscape.
 - 4. Every sign shall have good scale in its design and in its visual relationship to buildings and surroundings.
 - 5. Colors shall be used harmoniously. Brilliant colors shall be avoided. Lighting shall be harmonious with the design. If external spot or ground lighting is used, it shall be arranged so that the light source is shielded from view. Internally lighted signs, with the exception of those utilizing neon, shall use soft lighting sources that do not overwhelm or distract from the atmosphere of the building or surrounding area.
- G. *Miscellaneous structures and street hardware.*
- 1. Miscellaneous structures include any structures, other than buildings, visible to view from any public way or ways. Street hardware includes all objects not commonly referred to as structures and located in streets and public ways and outside of buildings.

2. Miscellaneous structures and street hardware located on private property shall be designed to be part of the architectural concept of design and landscape. Materials shall be compatible with buildings, scale shall be good, colors shall be in harmony with buildings and surroundings, and proportions shall be attractive.
3. Miscellaneous structures and street hardware located in public ways and other public property shall be harmonious with design of adjacent buildings and other structures and landscape.
4. Lighting in connection with miscellaneous structures and street hardware shall meet the criteria applicable to site, landscape, buildings and signs.
5. The provisions of the zoning ordinance in regard to area and bulk regulations and standards, and of those portions of the building code which directly affect appearance, shall be part of the criteria of this subsection.

H. *Maintenance—planning and design factors.*

1. Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, must be conducive to easy maintenance and upkeep.
2. Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage and abuse.
3. Provision for washing and cleaning of buildings and structures, and control of dirt and refuse, shall be included in the design. Such configurations that lend to catch and accumulate debris, leaves, trash, dirt and rubbish shall be avoided.

(Ord. of 2-14-2007; Ord. of 1-26-2011; Ord. of 5-22-2013; Ord. of 4-23-2014)

ARTICLE XIV. - ADMINISTRATION AND ENFORCEMENT [Z](#)

Footnotes:

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Cross reference— Administration, ch. 2.

1.1401. - Building permits.

No sign, parking area, fence, building, or other structure regulated by this zoning ordinance shall be erected, razed, moved, extended, enlarged, altered, or changed in use, and no exterior of any commercial building in the central business district shall be painted, other than "touch-up" painting of the same color, until a building permit has been issued by the building department.

- (A) *Issuance.* No building permit shall be issued unless the application and plans conform in all respects to this [zoning] ordinance and to other applicable city regulations and have been approved by any required review board or person. The building permit shall state any special conditions imposed by this section or by any review board or person and shall be signed by the building department and the owner. A copy of the signed building permit shall be sent to the city assessor.
- (B) *Approval of Sturgis City Commission for movement of buildings.* It shall be unlawful to move an existing building having a floor area of more than 100 square feet or over 14 feet in height onto

property within the city without the written approval of the Sturgis City Commission. In determining whether to grant approval, the city commission shall enforce:

- (1) The terms and conditions of this section;
- (2) All state statutes;
- (3) All other city ordinances and regulations; and
- (4) Such additional conditions as the city commission shall impose by written agreement with the owner of the site upon which the building is to be moved.
- (5) The applicant must obtain all applicable state and local permits within 60 days after such approval by the city commission.

No agreement shall be made, the terms and provisions of which shall have the effect of waiving the provisions of any state statute or any ordinance, resolution or regulation of the city.

The following buildings shall be exempt from the approval provisions of this subsection (B): Any manufactured home that meets all of the following: (i) the manufactured home is intended to be installed at a properly-licensed mobile home park, (ii) the owner of the home or the owner of the mobile home park must provide proof of previous certification by the federal Department of Housing and Urban Development ("HUD"), and (iii) the HUD certification confirms that the manufactured home at one time met the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 US 5401 to 5428 (as referenced in § 125.2307 of the Michigan Compiled Laws).

With respect to any such building, the committee established pursuant to subsection (C) shall, within ten days after receipt by the city of a completed application to move a manufactured home within the city, including pictures and such other documentation as reasonably requested by the committee, review the building to be moved and determine compliance with subsection (D). If the committee determines that the building does not comply with subsection (D), the city building official shall inform the applicant of the concerns to be resolved. If no response is provided to the applicant within 15 days from the date of receipt of the completed application, the application to move the building shall be deemed approved.

Upon receiving notification from the city building official that the building does not comply with subsection (D), the applicant may, if the applicant does not agree with the determination, request the city commission at its next regularly scheduled meeting to grant permission to move the building.

- (C) *Committee to advise Sturgis City Commission on moving buildings.* A committee of three persons shall be formed by the city manager in order to review all buildings which are to be moved and the site to which the building is to be moved. The committee shall make a recommendation to the Sturgis City Commission concerning the applicability of section 1.1401(D) to the building(s) to be moved. The committee shall consist of the city manager, or his designee, one resident at large from the City of Sturgis and one resident from the neighborhood to which the building is proposed to be moved.
- (D) *Building to be occupied as dwelling after move to conform to other dwellings in the area.* All buildings which are to be moved to a location within the city and which are to be used for residential purposes shall conform, as far as possible to the general type, age and construction of the predominant residential buildings in the area adjacent to the proposed site, provided said adjacent buildings shall comply with, or are more restrictive, than the zoning regulations of the street upon which the building is to be located.

(Ord. of 1-26-2011; Ord. of 4-11-2012)

1.1402. - Occupancy permits.

Before any existing use of land or use of a building is changed, and before any new sign, parking area, a building, or other new structure or a new part thereof regulated by this [zoning] ordinance is occupied or used, an occupancy permit shall be issued. The building department shall ascertain, by inspection, that the intended use, premise, building, structure, or parts thereof comply with the provisions of this section, with any other pertinent city regulations, with any special conditions imposed on the building permit, and to all aspects of the approved site plan. Upon so finding the building department shall issue an occupancy permit which shall be acknowledged by the signature of the owner thereon. A copy of the occupancy permit shall be sent to the city assessor, police chief and fire chief by the building department.

1.1403. - Enforcement; violations procedure.

- (A) *Enforcement.* This section shall be enforced by the building department. The building department shall not issue any permit which would authorize a violation of any provision of this section or of any other applicable city regulations, except upon the order of the zoning board of appeals or a court.
- (B) *Inspections.* The building department shall make periodic inspections of the city to insure that the requirements of this section are being complied with.
- (C) *Violations.* The building department shall investigate any alleged violation of this section coming to his attention, whether by complaint or from personal knowledge. If a violation is found to exist, the building department shall serve notice upon the owner by personal service or regular mail, and order a termination of the violation. In the case of a violation of section 1.1115, if a violation is found still to exist seven days after notification and order, the building department shall immediately prosecute a complaint to terminate the violation before the district court. In the case of a violation of section 1.0901(M), the building or police department shall immediately prosecute a complaint to terminate the violation before district court. In the case a violation of any section other than section 1.1115, if a violation is found to still exist 30 days after the notification and order, the building official shall immediately prosecute a complaint to terminate the violation before the district court. Pursuant to section 9c of Public Act No. 175 of 1927 (MCL 764.9c), if the building department has reasonable cause to believe that a person has violated any provision of this section, the building or police department may, in its discretion, issue and serve upon the person an appearance ticket with respect to the violation, in which event the violation shall be processed as provided by law.
- (D) *Records.* The building department shall keep records of all inspections, investigations, applications, fees, and permits issued, with notations of all special conditions involved. Copies of all plot plans approved by the planning board or zoning board of appeals shall also be kept unless the permit or authorization has expired. These records shall be available as a public record.

1.1404. - City planning board.

- (A) *Powers and duties.* The city planning board is hereby designated as the commission as specified in section 3 of Public Act No. 285 of 1931 (MCL 125.33) and in section 4 of Public Act No. 207 of 1921 (MCL 125.584) and shall perform the duties of the planning board as provided in these acts, together with any other powers and duties that are given to the planning board by the provisions of this section, including authority to act on all matters requiring the approval or recommendation of the planning board.
- (B) *Authority to approve uses.* Whenever in this section the lawful exercise or existence of a use requires the approval of the planning board, the planning board is hereby authorized and directed to investigate the matter requiring the approval, to conduct a public hearing thereon where required, to make a determination, to either grant or refuse the approval, and to do all things reasonably necessary to the making of the investigation and determination, subject to the provisions of this [zoning] ordinance.
- (C) *Hearing notice.* Prior to conducting a public hearing, as authorized in division [subsection] (B) [of this section] above, a public notice stating the time and place of the hearing, shall be posted and served in accordance with the provisions established in section 1.1405(G).

- (D) *Rules of procedure.* The planning board is hereby authorized to adopt rules of procedure consistent with the state statutes and the provisions of this section.
- (E) *Surveys and plans.* Where the planning board is empowered to approve certain uses of premises under the provisions of this [zoning] ordinance, or in cases where the planning board is required to make an investigation, the applicant shall furnish the surveys, plans, or other information as may be reasonably required by the planning board for the proper consideration of the matter in accordance with the provisions of this [zoning] ordinance.
- (F) *Hearings.* In making any recommendations or approval authorized by the provisions of this [zoning] ordinance, the planning board shall consider the following:
 - (1) Whether there has been a compliance with the provisions of this [zoning] ordinance.
 - (2) Whether there is proper yard space, parking facilities, loading space, percentage of lot coverage, green belts, size of building, lot area, and other conditions required by this [zoning] ordinance.
 - (3) Whether the use involved is in accord with the spirit and purposes of this [zoning] ordinance.
 - (4) Whether the use involved would constitute a public or private nuisance.
 - (5) Whether the use involved would disturb or interfere with the natural or planned development of the surrounding neighborhood.
 - (6) Whether the use involved would affect the natural system or planned drainage so as to deleteriously affect the surrounding neighborhood.

Cross reference— Boards and commissions, § 2-361 et seq.

1.1405. - Zoning board of appeals.

- (A) *General grant of power.* The zoning board of appeals shall perform all the duties and have all the powers prescribed by the state statutes, as amended and supplemented from time to time.
- (B) *Procedure.*
 - (1) *General.*
 - (a) The zoning board of appeals shall adopt rules of procedure consistent with the provisions of state statutes and local ordinances, as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.
 - (b) Meetings of the zoning board of appeals shall be held at the call of the chairman and at all other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.
 - (c) Hearings of the zoning board of appeals shall be public. The board shall keep minutes of its proceedings showing the action of the board and the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
 - (d) The zoning board of appeals shall hear and decide appeals from and review orders, requirements, decisions, or determinations made by an administrative official or body charged with enforcement of this section, as brought before the board. The board shall also hear and decide matters referred to them or upon which they are required to pass under an ordinance of the legislative body adopted pursuant to the Zoning Enabling Act. This includes the zoning board of appeals power to hear and decide upon request the interpretation of the provisions of this [zoning] ordinance. The zoning board of appeals shall have their decision in these matters as the criteria established by this [zoning] ordinance under article XIV, section 1.1405(D).

(e) An appeal to the zoning board of appeals in cases in which it has original jurisdiction under the provisions of this [zoning] ordinance may be taken by any property owner, including a tenant, or by a government office, department, board, or bureau. An application for an appeal shall be filed with the building department who shall transmit the application together with all the plans, specifications, and other papers pertaining to the application, to the board.

(2) *Membership and appointment.*

(a) Pursuant to state law, there is hereby created a zoning board of appeals consisting of at least five members, each to be appointed by the city commission for a term of three years running from the date of appointment, and extending for a further period until a successor shall be appointed. Vacancies shall be filled by appointment for the unexpired term. The zoning board of appeals shall elect its own chairman, vice-chairman, and secretary from among its own membership. Members of the board must be residents of the city; members moving outside the city boundaries may finish their terms but will not be reappointed.

(b) The city commission may also if it so desires appoint not more than two alternate members for the same term as regular members of the board of appeals. The alternate members may be called on a rotating basis to sit as regular members of the board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular 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 regular member of the board of appeals.

(3) *Voting.* The concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body; to decide in favor of the applicant a matter upon which the zoning board of appeals is required to pass under the terms of an ordinance; or to affect a variation in an ordinance, except that a concurring vote of two-thirds of the members of the board shall be necessary to grant a variance from uses of land permitted in an ordinance.

(C) *Appeal procedure.*

(1) [*Appeal permitted.*] An appeal may be taken by a person aggrieved, or by an officer, department, board, or bureau of the city. An appeal shall be taken within 30 days of the date of the decision appealed from, as prescribed by the rules of the board of appeals, by the filing with the officer or body from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds for the appeal. The party from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed was taken.

(2) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeals is taken certifies to the zoning board of appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the zoning board of appeals or circuit court, on application of, or notice to the officer or body from whom the appeal is taken and undue cause shown.

(3) *Decisions on appeals and applications.* The zoning board of appeals shall render its decision upon any appeal or application submitted to it within 60 days after the hearing thereon, and in any event, within 90 days after the date of filing of the appeal or application. Upon failure to do so, the appeal or application shall thereupon be deemed to be decided adversely to the appellant or applicant in the same manner as though the board had rendered its decision to that effect. All decisions of the zoning board of appeals shall become final five days after the date of entry of an order, unless the board shall find, and so certify on the record, that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.

Any matter appealed to the zoning board of appeals under site plan review provisions of this [zoning] ordinance (article XII) for which the board of appeals provides for a variance from the

[zoning] ordinance, the subject site plan shall be referred back to the planning board for review as an amended site plan.

(4) *Appeals to circuit court.*

- (a) The decision of the zoning board of appeals shall be final. However, a person having an interest affected by the zoning code may appeal to the circuit court. Upon appeal, the circuit court shall review the record and decision of the board of appeals to ensure that the decision complies with the following:
 - (1) Complies with the constitution and laws of the state.
 - (2) Is based upon proper procedure.
 - (3) Is supported by competent, material, and substantial evidence on the record.
 - (4) Represents a reasonable exercise of discretion granted by law to the board of appeals.
- (b) As a result of the court's review, the court may affirm, reverse, or modify the decision of the board of appeals.

(D) *Variance procedures.*

- (1) *Grant of power for variances.* In addition to other duties and powers specified herein, the zoning board of appeals, after public hearing, shall have the power to authorize a land use or structural dimensional variance from the provisions of this section where it is alleged by the applicant that any of the following conditions exists.
 - (a) By reason of exceptional narrowness, shallowness, or shape of a specific piece of property on the effective date of this [zoning] ordinance; or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building, or structure; or by reason of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this [zoning] ordinance would involve practical difficulties or would cause undue hardship.
 - (b) There are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this [zoning] ordinance relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of the land, buildings, or structures.
 - (c) The condition or situation of the specific property or the specific intended use of the property is not of a general or recurrent nature so as to make the formulation of general regulations in this section practical.
 - (d) This provision shall not be construed to permit the board under the variance to change the use of the land or structure.
- (2) *Variances prohibited.* A variance may be allowed by the zoning board of appeals only in cases where there is reasonable evidence in the official record of the hearing that the following are true.
 - (a) No portion of the [zoning] ordinance or map are amended by the zoning board of appeals action.
 - (b) The alleged practical difficulties or unnecessary hardships are present.
 - (c) The variance will not reverse or modify any refusal of a permit or order, nor validate, legalize or ratify any violation, law or regulation of this [zoning] ordinance.
 - (d) The variance will not be detrimental to adjacent property and the surrounding neighborhood.
 - (e) The variance will not impair the intent and purpose of this [zoning] ordinance, or change the use permitted.
 - (f) At least two of the following conditions are found to exist:

- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property that do not apply generally to other properties in the same zoning district.
 - (2) The condition or situation of a specific piece of property or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for the conditions or situation.
 - (3) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- (3) *Land use variance procedures.*
- (a) *Information required.* In addition to the information required for other variance requests, an application for a use variance under this section shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:
 - (1) Applicant's property cannot be used for the purposes permitted in the zoning districts;
 - (2) Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions;
 - (3) Applicant's suggested use would not alter the essential character of the area;
 - (4) Applicant's problem has not been self-created;
 - (5) Unavailability of administrative relief which may afford reasonable use of applicant's property.
 - (b) *Prehearing conference.* Prior to the scheduling of a hearing, the applicant shall contact the building official for the purpose of scheduling a prehearing conference. The purpose of the prehearing conference shall be to:
 - (1) Review, the procedure for the hearing and identify all persons who will testify (directly or through affidavit) and the evidence to be offered on behalf of the applicant;
 - (2) Attempt to secure a statement of agreed-upon facts to be used to narrow the matters of dispute and shorten the hearing;
 - (3) Explore a means of providing relief to the applicant by way of nonuse variance from the zoning board of appeals, or other relief which may require action by persons or bodies other than the zoning board of appeals which will afford an adequate remedy for the applicant;
 - (4) The prehearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the prehearing conference stated above.
 - (c) *Use variance decision by the board of appeals.*
 - (1) The zoning board of appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
 - (2) At the conclusion of the hearing, the zoning board of appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.

- (3) If the zoning board of appeals determines to grant variance relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. Such relief may be in the form of one or more nonuse variances and/or in the form of a use variance. The motion may include conditions that are authorized by law.
- (4) If the zoning board of appeals adopts a motion to grant variance relief, such motion may be made as a tentative grant of relief, subject to review by the planning board, planning director/ consultant, engineer or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If such a tentative grant of relief is approved, the zoning board of appeals shall request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

(E) *Temporary uses and public utility permits.*

- (1) The temporary use of a building or premises in any district for purposes of use that do not conform to the regulations prescribed by this section for the district in which it is located is permitted upon permit granted by the zoning board of appeals, provided that the use is of a true temporary nature and does not involve the erection of substantial buildings. The permit shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to any conditions as will safeguard the public health, safety, convenience, and general welfare.
- (2) The temporary use of a building or premises in undeveloped sections for a purpose that does not conform to the regulations prescribed by this [zoning] ordinance for the district in which it is to be located is permitted upon permit granted by the zoning board of appeals, provided that the structure or use is of a true temporary nature, is promotive of or incidental to the development of the undeveloped sections, and does not involve the erection of substantial buildings. The permit shall be granted in the form of a temporary and revocable permit for not more than a 12-month period, subject to any conditions as will safeguard the public health, safety, convenience, and general welfare.
- (3) Public utilities. The zoning board of appeals shall have the power to permit the erection and use of a building of a public service corporation or for public utility purposes in any permitted district to a greater height or larger area than the district requirements herein established, and permit the location in any use district of a public utility building, structure, or use if the board of appeals shall find the use, height, area, building, or structure reasonably necessary for the public convenience and service. However, the building, structure, or use must be designed, erected, and landscaped to conform harmoniously with the general architecture of the district.

(F) *Interpretation of map.* Where a street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the zoning map, the zoning board of appeals, after notice to the owners of the property and the immediate adjoining property and after public hearing, shall interpret the map in a way so as to carry out the intent and purposes of this [zoning] ordinance for the particular section or district in question.

(G) *Public hearing; notice.* Upon the filing of any appeal or application as hereinafter provided, or upon any application in any other manner or proceeding over which the zoning board of appeals shall have jurisdiction by law or ordinance, the board shall hold a public hearing on the appeal or application. The hearing shall be held at the next meeting of the board to be held not less than 15 days after the date of filing. The zoning board of appeals shall cause notice of the time and place of the hearing to be given to the appellant or applicant, and shall also cause notice of the time, place, and purpose of the hearing to be given to all owners of property within 300 feet of the property to be affected by the appeal or applications, and to the occupants of all single- and two-family dwellings within 300 feet of the property. This notice shall be given by regular mail, sent to the respective address of the owners and occupants, as listed in the city tax rolls, or the notice may be delivered by handing a copy thereof to the property owners and occupants personally and obtaining their certifying signatures evidencing the delivery. If the name of any occupant is not known, the term "occupant" may be used in addressing

any notices sent by regular mail. Where ownership is in more than one person, a partnership, a corporation, an infant, or a trust, service upon any one of the owners or partners, an officer or registered agent of the corporation, the guardian or parent of the infant or trustee of the trust, as the case may be, shall be sufficient. At the hearing, any party may appear in person, or be represented by an attorney, or agent. This hearing procedure shall apply to all public hearings required under this [zoning] ordinance.

- (H) *Fees.* Upon the filing of any appeal or application to the zoning board of appeals by any person other than an officer, department, board or agency of the city, the appellant or applicant shall pay a fee set by the city commission, to defray the cost of the hearing and recording the matter. In addition, if testimony is to be taken stenographically, the cost of doing so and of transcribing the testimony shall be borne and paid for by the appellant or applicant. The board of appeals may require a deposit to be made for this purpose, as shall be reasonable in the circumstances.
- (I) *Time limit for construction.* If a variance is granted, the issuance of a permit is finally approved, or some other action by the appellant or applicant is authorized, any necessary permits shall be secured and the authorized action, construction, or use begun within three months after the date when the variance is finally granted, the issuance of the permit is finally approved, or the other action to be taken by the appellant or applicant is authorized. The structure, building, or alteration, as the case may be, shall be completed within 12 months of this date. For good cause shown, the zoning board of appeals may, upon application in writing stating the reasons thereof, extend either the three- month or the 12- month period for any further time as the board may, in its sole discretion, deem sufficient, and may require the applicant to post a bond with the city in the cash amount of the proposed construction activity.
 - (1) Should the appellant or applicant fail to obtain any necessary permit within the three-month period, or having obtained the permit, should fail to commence work, to take action, or to exercise a use authorized thereunder within the three-month period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, and abandoned his appeal or his application, and all permissions, permits, and variances to him granted by reasons of the appeal or application shall be deemed automatically rescinded by the zoning board of appeals.
 - (2) Should the appellant or applicant commence any required construction or alteration within the three-month period, but should he fail to complete the construction or alteration within the 12- month period, the zoning board of appeals may, upon ten days written notice, rescind or revoke the granted variance, the issuance of the permit, or the right to take any other action as may have been authorized to the appellant or applicant, if the board finds that no good cause appears for this failure.
- (J) *Employees.* The zoning board of appeals may employ any clerical or other assistance as may be necessary, provided it shall not at any time incur any expense beyond the amount of the appropriation made and then available for the purpose.
- (K) *Minutes and records.* The secretary of the zoning board of appeals shall keep minutes of the substance of all testimony and the board's proceedings, showing the vote of each member upon every question, or If absent or failing to vote, indicating that fact. The secretary shall keep records of the board's examinations and official actions, all of which shall be immediately filed in the office of the board and shall be public record.

(Ord. of 5-22-2013)

Cross reference— Boards and commissions, § 2-361 et seq.

State Law reference— Appeals and variances, MCL 125.585 et seq.

1.1406. - District changes and section amendments.

- (A) In accordance with the provisions of Public Act No. 207 of 1921 (MCL 125.581 et seq.) and Public Act No. 285 of 1931 (MCL 125.31 et seq.), the city commission may from time to time amend, or change by ordinance, the number, shape, or area of districts established on the zoning map or the regulations set forth in this [zoning] ordinance. However, no amendment or change shall become effective unless the ordinance proposing the amendment or change shall first be submitted to the planning board for approval, disapproval, or suggestions, and the planning board shall have been allowed a reasonable time, not less than 30 days, for consideration and report.
- (B) Any person or persons desiring a change in the zoning ordinance text or map shall make application to the city commission. In case of a zoning ordinance text amendment, a letter shall be submitted which shall contain the requested change and the reason for the change. In case of a desired zoning map change a petition shall be submitted which shall describe the property involved, the zone change desired, and the reason for the change. With either type of request there shall be an accompanying remittance of a fee to cover costs encountered in conducting a public hearing, as set by the city commission.
- (C) The city commission shall refer all applications, for either a change in the zoning ordinance text or zoning map, to the planning board. Before submitting its recommendations and report to the city commission, the planning board shall conduct a public hearing on the proposed amendment or change after publishing a notice of the hearing at least 15 days prior to the date of the hearing, by publication in an official paper or a paper of general circulation in the municipality, and by sending a copy of the notice by United States Mail to each public utility company and railroad company owning or operating any public utility or railroad within the districts or zones affected that registers its name and mailing address with the city clerk for the purposes of receiving the notice. An affidavit of mailing shall be maintained. A hearing shall be granted a person interested at the time and place specified on the notice. In case of a proposed zoning map change, all property owners within 300 feet of the boundaries of the property proposed to be changed shall be likewise notified by mail. All public notices, including publication in the newspaper and letter, shall state the time and place of hearing, the proposed amendment, and the property to be affected in case of a proposed amendment, and/or map change. The omission of the name of any owner or occupant of property who may, in the opinion of the planning board, be affected by the amendment or change shall not invalidate any ordinance passed hereunder. It is the intention of this section to provide reasonable notice to the persons substantially interested in the proposed change that an ordinance is pending before the city commission proposing to make a change in the zoning map or the regulations set forth in this section.
- (D) After receiving the recommendations and report from the planning board, the city commission may deny the request or enact an amendment to the zoning code, or zoning map. However, upon presentation of a protest petition meeting the requirements of this section, an amendment to the zoning code which is the object of the petition shall be passed only by a two-thirds vote of the city commission. The protest petition shall be presented to the city commission before final legislative action on the amendment, and shall be signed by one of the following groups of people:
- (1) The owners of at least 20 percent of the area of land included in the proposed change.
 - (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
 - (3) Publicly owned land shall be excluded in calculating the 20 percent land area requirement.
- (E) Following adoption of a zoning ordinance and subsequent amendments by the city commission, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:
- (1) In the case of a newly adopted zoning ordinance the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the city commission of the City of Sturgis, Michigan."
 - (2) In the case of amendment to an existing ordinance, either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
 - (3) The effective date of the [zoning] ordinance.

- (4) The place and time where a copy of the [zoning] ordinance may be purchased or inspected. The filing and publication requirements in this section relating to the city zoning ordinance supersede charter provisions relating to the filing and publication of city ordinances.

State Law reference— Amendments, MCL 125.584.

1.1407. - Public nuisance, per se.

Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this section and in violation of any of the provisions thereof, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

State Law reference— Similar provisions, MCL 125.587.

1.1408. - Rights and remedies are cumulative.

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

1.1409. - Penalty.

Whoever violates any provision of this section shall, upon a finding of responsibility for a civil infraction, be fined the sum specified in any fine schedules compiled from time to time, by the city and filed with the court or a city agency of competent jurisdiction.

(Ord. of 7-25-2001(2), §§ 4.08. 4.09)

ARTICLE XV. - GROUNDWATER PROTECTION

1.1501. - Purpose.

The City of Sturgis has determined that:

1. Certain groundwater underlying areas, including the City of Sturgis, currently is, or may be in the future, the sole source of the city's drinking water supply.
2. Groundwater aquifers are integrally connected with the surface water, lakes, and streams that constitute significant public health, recreational and economic resources of the city and surrounding area.
3. Spills and discharges of hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

Therefore, the City of Sturgis has enacted a groundwater protection ordinance to:

1. Protect existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the city.
2. Preserve the natural resources of the city and the surrounding area.

(Ord. of 11-25-2013)

1.1502. - Definitions.

Aquifer: A geological formation, group of formations, or part of a formation capable of storing and yielding a significant amount of groundwater to wells and springs.

Chemical abstract service (CAS) number: This is a unique number for every chemical established by a Columbus Ohio organization which indexes information published in "Chemical Abstracts" by the American Chemical Society.

Hazardous substance: A chemical or other material that is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to, any of the following which are stored or generated in quantities greater than 100 kilograms (approximately 220 pounds or 25 gallons) per month, and which require site plan review under provisions of this article.

- a. Hazardous Substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, Public Law 96.510, 94 State. 2767;
- b. Hazardous Waste as defined in Part 111 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
- c. Regulated Substance as defined in Part 213 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
- d. Hazardous Substance as defined in Part 201 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended;
- e. Used oil;
- f. Radiological materials.

Properly plugged abandoned well: A well that has been closed in accordance with regulations and procedures of the Michigan Department of Environmental Quality and the local health department. A properly plugged abandoned well requires a permit to be brought back into service.

Secondary containment: A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required.

Underground storage tank: A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of hazardous substances, as defined in Part 211 of the State of Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended.

Unplugged abandoned well: A well which has not been used for one year or more.

Waste oil: Any oil that has been refined from crude oil, or used, or as a result of such use contaminated by physical or chemical impurities.

Well: As defined in the Michigan Water Well Construction and Pump Installation Code, Part 127, Act 368 of the Public Acts of 1978, as amended, and rules; or a permanent or temporary opening in the surface of the earth for the purpose of removing water, or testing water quality, or measuring water characteristics, or measuring liquid recharge, or measuring liquid levels, or oil and gas exploration or production, or waste disposal, or dewatering purposes, or geothermal heat exchange purposes, or a cistern of a depth of four feet or more and with a top width of 12 inches or more.

Wellhead protection area: The area which has been approved by the MDEQ in accordance with the State of Michigan Wellhead Protection Program, which represents the surface and subsurface area surrounding a water well or well field, which supplies a public water system, and through which contaminants are reasonably likely to move toward and reach the water well or well field within a ten-year time of travel.

(Ord. of 11-25-2013)

1.1503. - Applicability.

Uses subject to site plan review: Except as provided in Section 1.1507, "exemptions and waivers", this groundwater protection ordinance applies to all building permit requests made under Article XII, Site Plan Review.

(Ord. of 11-25-2013)

1.1504. - Prohibitions within ten-year time-of-travel (TOT) wellhead protection area.

1. For any parcel of land that has a portion within a ten-year wellhead protection area, the following are prohibited at any location on the parcel:
 - a. Operations of a scrap and recycling yard.
 - b. Operations of a State of Michigan Type II or Type III solid waste landfill.
 - c. Use of oil, waste oil, or similar liquid petroleum-type products for dust suppression.
 - d. Installation of a private water well for the purpose of drinking water or irrigation if, in the determination of the City of Sturgis City Manager, or a person or body designated by the city manager, public water service is reasonably available.
 - e. Use of a non-municipal well that meets the State of Michigan's definition of a High Capacity Well as defined in Part 327 The Great Lakes Preservation Act unless it can be shown that the proposed well will not have an adverse impact on current municipal wells.
 - f. Excavation, extraction, or mining of sand, gravel, bedrock, or any other type of earth if a permit or site plan review is required.
 - g. Unplugged abandoned wells.
 - h. Drilling for natural gas or petroleum, whether for exploration or production.
 - i. Drilling, direct-push and other earth penetration beyond 20 feet depth shall be sealed to within two feet of surface grade with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(Ord. of 11-25-2013)

1.1505. - Site plan review.

1. *Site plan review procedures:* Applicable projects under this article that also require site plan review under Article XII shall include:
 - a. Existing and proposed land use deed restrictions, if any.
 - b. Location and outline of all existing septic tanks and drain fields.
 - c. The location of any floor drains in proposed structures on the site. The point of discharge for all drains and pipes shall be specified on the site plan.
 - d. Location of existing and proposed public and private drinking water wells, monitoring wells, irrigation wells, test wells, wells used for industrial processes or wells that have no identified use.
 - e. Inventory of hazardous substances to be stored, used or generated on-site, presented in a format acceptable to the code official and Fire Department (include CAS numbers).
 - f. Description and drawings showing size and location for any existing or proposed aboveground and underground storage tanks, piping lines and dispensers.
 - g. Descriptions of type of operations proposed for the project and drawings showing size, location, and description of any proposed interior or exterior areas of structures for storing, using, loading or unloading of hazardous substances.

- h. Reported delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of cleanup or closure.
- i. Completion of the City of Sturgis Environmental Permits Checklist.

(Ord. of 11-25-2013)

1.1506. - Criteria for review.

- 1. Article XII Criteria for Review will include:
 - a. The project and related improvements shall be designed to protect land and water resources from pollution, including pollution of soils, groundwater, rivers, streams, lakes, ponds, and wetlands.
 - b. Sites that at any time use, store or generate hazardous substances shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
 - c. Hazardous substances stored on the site before, during or after site construction, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Secondary containment facilities shall be provided for aboveground storage of hazardous substances in accordance with state and federal requirements. Aboveground secondary containment facilities shall be designed and constructed so that the potentially polluting material cannot escape from the unit by gravity through sewers, drains, or other means, directly or indirectly into a sewer system, or to the waters of the state (including groundwater).
 - d. Unplugged abandoned wells and cisterns shall be plugged in accordance with regulations and procedures of the Michigan Department of Environmental Quality and the county health department.
 - e. Completion of the City of Sturgis Environmental Permits Checklist.

(Ord. of 11-25-2013)

1.1507. - Exemptions and waivers.

- 1. A limited exclusion from this ordinance is hereby authorized as follows:
 - a. The site plan review criteria of Section 1.1506 do not apply to hazardous substances packaged for personal or household use or present in the same form and concentration as a product packaged for use by the general public. The total excluded substances containing hazardous substances may not exceed the lesser of 200 gallons or 1,000 pounds at any time.
 - b. The site plan review requirements of Section 1.1506 do not apply to products held in containers with a volume of less than 40 gallons and packaged for retail use.

(Ord. of 11-25-2013)

1.1508. - Inactive operations.

- 1. This section applies to any inactive business or other operation ("operation") at which there are hazardous substances. For purposes of this section, "inactive" is defined to include those business/operations that are unoccupied and have no activity for at least 30 days. Those who own or control such an inactive operation shall do the following:

- a. Within seven days of becoming inactive, take such steps as necessary to secure the site such that natural elements such as water, wind and ice or vandals and all other persons cannot gain access to the hazardous substances.
- b. Within 30 days of becoming inactive, provide to the code official and the Fire Department a document that identifies the site, the date of inactivity, the hazardous substances that exist on site, and the name, address, and telephone number of both the owner and the person in control of the site.
- c. Within 60 days of becoming inactive, remove all hazardous substances from the site. This does not include those substances used for heating, cooling, and/or electrical lighting.

(Ord. of 11-25-2013)

1.1509. - Enforcement.

1. Whenever the city determines that a person has violated a provision of this article, the city may order compliance by issuing a written Notice of Violation to the responsible person/facility/property owner.
2. If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline by which such remediation or restoration must be completed. Said notice shall further advise that, should the responsible party fail to remediate or restore within the established deadline, the work may be done by the city, with the expense thereof charged to the property owner and possibly assessed as a lien against the property.

(Ord. of 11-25-2013)

1.1510. - Abatement/remedial activities by the city.

1. The city is authorized to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the city determines a violation of this ordinance has occurred and that the responsible party cannot or will not correct the violation in a timely manner, or when no known responsible party exists. The responsible party shall reimburse the city for all reasonable expenses thus incurred by the city. A lien may be placed on the property for the reimbursement of all reasonable expenses.
2. If the city desires the responsible party to reimburse it for reasonable abatement activity expenses, the city shall, within 90 days of the completion of said activities, mail to that person a Notice of claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the city, said person may file, within the same 30-day period, a written objection so stating. The city shall, within 30 days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the city determines that some or the entire amount originally billed is appropriate, the person shall pay said sum within 30 days of receipt of that determination. If the amount due is not paid, the city may cause the charges to become a special assessment against the property and shall constitute a lien on the property.

(Ord. of 11-25-2013)

1.1511. - Injunctive relief.

If a person has violated or continues to violate the provisions of this ordinance, the city may petition the appropriate court for injunctive relief restraining the person from activities that would create further violations, or compelling the person to perform necessary abatement or remediation.

(Ord. of 11-25-2013)

1.1512. - Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the responsible party's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the city.

(Ord. of 11-25-2013)

1.1513. - Penalties and costs.

Any violation of this ordinance shall be considered a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment of not more than 90 days. Each day a violation exists shall be deemed a separate violation. A citation charging such a misdemeanor may be issued by the code official, or his or her designee.

(Ord. of 11-25-2013)

1.1514. - Groundwater protection board of appeals.

1. In order that the provisions of this article may be reasonably applied and substantial justice done in instances where unnecessary hardship would result from carrying out the strict letter of these sections, the city commission shall appoint a groundwater protection board of appeals. The duty of the groundwater protection board of appeals shall be to consider appeals from the decision of the city manager and to determine, in particular cases, whether any deviation from strict enforcement will violate the intent of this article or jeopardize the public health or safety or environment.
2. The groundwater protection board of appeals shall meet at times as the board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public in accordance with applicable laws. The groundwater protection board of appeals shall adopt its own rules of procedure and keep a record of its proceedings, showing findings of fact, the action of the board, and the vote of each member upon each question considered. The presence of five members of the groundwater protection board of appeals shall be necessary to constitute a quorum.
3. The groundwater protection board of appeals may prescribe the sending of notice to persons as it deems to be interested in any hearing by the board.
4. The groundwater protection board of appeals will be appointed by city commission, may be revised from time to time, and shall include:
 - a. Mayor.
 - b. Chair of the planning commission.
 - c. At large planning commission member.
 - d. City engineer.
 - e. Director of public services.
 - f. At large Citizen of the City of Sturgis.
 - g. At large representative of industry in the City of Sturgis.

(Ord. of 11-25-2013)

1.1515. - Appeals.

1. *Right of appeal.* Any person has the right to appeal the basis for any charges, permits, orders, or other action developed in accordance with this article. Appeals shall be directed to the city manager along with any supporting documentation for amendment of the charges in question. Any additional information that may be required to resolve the appeal, as directed by the city manager, shall be obtained by the user at his expense. Resolution of appeals shall be made within 30 days in accordance with the best available data and the formulations presented in this article. In no event shall appeals be accepted which would require a variance in the methods of charge calculations established and in force by this article.
2. *Informal hearing.*
 - a. An informal hearing before the city manager may be requested in writing by any person deeming itself aggrieved by any citation, order, charge, fee, surcharge, penalty, or action within ten days after the date thereof, stating the reasons therefor with supporting documents and data.
 - b. The informal hearing shall be scheduled at the earliest practicable date, but not later than five days after receipt of the request, unless extended by mutual written agreement.
 - c. The hearing shall be conducted on an informal basis at the city hall or such place as designated by the city manager.
3. *Formal hearing.*
 - a. Appeals from orders of the city manager may be made at the groundwater protection board of appeals, within 30 days from the date of any citation, order, charge, fee, surcharge, from the date of any citation, order, charge, fee, surcharge, penalty or other action. The appeal may be taken by any person aggrieved. The appellant shall file a notice of appeal with the city manager and with the groundwater protection board of appeals, specifying the grounds therefor. Prior to a hearing, the City Manager shall transmit to the groundwater protection board of appeals a summary report of all previous action taken. The board of appeals may, at its discretion, call upon the city manager to explain the action. The final disposition of the appeal shall be in the form of a resolution, either reversing, modifying, or affirming, in whole or in part, the appealed decision or determination. In order to find for the appellant, a majority of the groundwater protection board of appeals must concur.
 - b. The groundwater protection board of appeals shall fix a reasonable time for the hearing of the appeal, give due notice thereof the interested parties, and decide the appeal within a reasonable time. Within the limits of its jurisdiction, the groundwater protection board of appeals may reverse or affirm, in whole or in part, or may make such order, requirements, decisions, or determination as, in its opinion, ought to be made in the case under consideration, and to that end shall have all the powers of the official from whom the appeal is taken.
 - c. The decision of the groundwater protection board of appeals shall be final, except that the board or the members thereof may be required, under proper mandamus proceedings, to show cause why certain actions were taken or decisions rendered.
4. *Charges outstanding during appeal process.* All charges for service, penalties, fees, or surcharges outstanding during any appeal process shall be due and payable to the city. Upon resolution of any appeal, the city shall adjust such amounts accordingly.
5. *Administrative action.* If an informal or formal hearing is not demanded within the periods specified in this section, the administrative action shall be deemed final. In the event either or both hearings are demanded, the action shall be suspended until a final determination has been made, except for immediate cease and desist orders or any emergency or judicial action.
6. *Appeals from determinations of groundwater protection board of appeals.* Appeals from the determinations of the groundwater protection board of appeals may be made to the circuit court for the county as provided by law. The appeals shall be governed procedurally by the Administrative

Procedures Act of 1969 (MCL 24.201 et seq.). All findings of fact, if supported by the evidence, made by the board shall be conclusive upon the court.

(Ord. of 11-25-2013)

1.1516. - Remedies not exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law, and it is within the discretion of the city to seek cumulative remedies.

(Ord. of 11-25-2013)

1.1517. - Conflicting regulations.

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

(Ord. of 11-25-2013)

1.1518. - Severability.

If any provision, paragraph, work, section or article of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

(Ord. of 11-25-2013)