

ARTICLE XIX

SPECIAL USES AND PLANNED DEVELOPMENTS

19.0 SPECIAL USE PERMIT

Special Use Permits are required for proposed activities which are essentially compatible with other uses, signs or activities permitted in a zoning district, but which possess characteristics or locational qualities which require individual review. The purpose of this individual review is to ensure compatibility with the character of the surrounding area, with public services and facilities, with adjacent properties, and to ensure conformance with the standards set forth in this Ordinance.

A. Procedures

The following steps shall be taken when considering a proposed special use:

1. A special use permit application shall be filed by the applicant with the City Clerk along with the required site plan, fee, statement with supporting evidence to which proposed activity meets the criteria and any other pertinent information upon which the applicant intends to rely for approval.
2. The City Clerk shall review the application for completeness and forward the application, to the Planning Commission for their review and consideration.
3. The City Clerk shall give public notice in a newspaper of general circulation in the City of official receipt of the special use permit application which:
 - a. Describes the nature of the special use.
 - b. Indicates the property in question.
 - c. States the time and place where the special use permit will be considered provided notice is not

less than five (5) days and not more than fifteen (15) days before application will be considered.

- d. Indicates when and where written comments will be received concerning the request, and
- e. Indicates that a public hearing of the proposed special use application may be requested by any property owner or occupant located within three-hundred (300) feet of the boundary of the property being considered before a decision is made on the application, if the permit requires a decision by the Planning Commission on discretionary grounds. In such case, notices shall be mailed to all persons owning or occupying real property within three-hundred (300) feet of the property in question. An affidavit of such mailing shall be maintained by the City in the special use permit application file.

- 4. After review of the application and public hearing or written comments, if any, the Planning Commission shall approve, approve with conditions, or deny the permit based upon the standards of the special use as set forth in the appropriate use district. The decision on a special use permit application shall be incorporated in a statement of conclusion relative to the special use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

19.1 SPECIAL USE SITE DESIGN STANDARDS

The following are specific regulations and design standards for uses listed as special uses, and shall be the minimum governing requirements for the protection of the public health, safety and general welfare of the community.

19.2 PLANNED DEVELOPMENTS

A. Intent and Purpose

Planned developments are provided herein by special use permit in order to allow for some degree of flexibility and innovation in the design of developing areas, as well as to allow for an efficient and aesthetic use of land. Based upon the standards and criteria contained in each Zoning District, the Planning Commission may review and recommend with conditions, a modification in bulk requirements in order to allow certain forms of development containing both privately owned sites and common property, and which are planned collectively as a single unit.

The planned development section of this Ordinance is also provided in order that the growing demand for housing by young married couples, senior citizens and existing residents may be met by a greater variety of innovative housing types, and by the planning and design of structures with the benefit of cost effective land utilization in such development.

B. Planned Unit Development

A residential planned unit development (PUD) shall be developed through the special use permit procedure. The granting of a special used permit for a PUD is permitted in all zoning districts.

1. **Site Eligibility:** The minimum area necessary to qualify as a PUD shall not be less than two (2) continuous acres of land. However, an owner of land less than the minimum required area may apply if the subject land is adjacent to a lawfully approved or constructed PUD having uses similar to the one proposed.
2. As a planned single unit, PUD? s may be constructed in any combination of uses and structures (except mobile homes and principal commercial uses), provided that:
 - a. At least twenty-five (25%) percent of the total area is reserved for open space and natural drainage.
This area may consist of land included as part of the required yard setbacks, roads, greenbelt

areas recreational used for loading. drainage easements, open space or any amenity; but shall not include any areas structures, or off-street parking and

- b. Full compliance with the provisions of this Ordinance and the tables/schedules contained here shall be met, unless waived by the City Commission.

3. Density and Open Space Requirements for PUD? s with Residential Uses.

- a. In addition to part b above, if a proposed PUD is residential, wholly or in part, that part of the PUD may not exceed a net residential density of one point five (1.5) times the maximum number of units allowed per acre under conventional single family lot sizes as shown in the Zoning District for that part of the total area. The number of dwelling units shall be rounded to the nearest whole number.
- b. This density is granted, provided that at least twenty (20%) percent of the total area devoted to residential PUD development is reserved for open space and natural drainage by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land.

4. Residential Density Bonuses: Bonuses in net residential density or that area devoted to residential PUD development are permitted, provided that additional land is reserved and dedicated for open space as follows:

- ❖ IF 20% of total area devoted to residences is reserved for open space.
- ❖ THEN 1.50 X Conventional dwelling unit density is permitted.
- ❖ IF 30% of total area devoted to residences is reserved for open space.
- ❖ THEN 2.00 X Conventional dwelling unit density is permitted.

C. Pre-application Conference with Planning Commission for Concept review

Prior to formal application submission for a proposed planned development, the developer/applicant shall be required to make a presentation to the Planning Commission in order to discuss initial design concepts and the application of said concepts to the land in question.

D. Standards and Considerations

In addition to complying with the standards for special use permits, the following special standards for a Clustered Residential Development or a PUD must be met:

1. **Ownership:** The tract of land may be owned, leased or controlled by a single person, partnership, corporation, cooperative association or association of individual owners (condominium). An application may be filed by the owner, jointly by the owners of all property to be included, or by a person, persons, corporation, or corporation with an option to buy said property. A plan, once approved, shall be binding.
2. **Utilities:** A Clustered Residential Development and a PUD shall have public community water and sewer provided by the developer, and must be approved by all legal state, county and local agencies (health, conservation, etc.) that are in authority and have jurisdiction. All utilities shall be placed underground.
3. **Permitted Residential Housing Types and Uses:** The following are considered eligible for inclusion in an application:

Principal PUD Uses and Structures

Residential PUD? s:

- Single family detached homes (excluding mobile homes)
- Two family homes
- Single family attached homes
- Multiple family structure (apartments)
- Day care centers

Accessory Uses and Amenities

- a. Open space ? passive and active.
 - b. Indoor and outdoor recreational facilities.
 - c. Carports.
 - d. Community building and meeting hall.
 - e. On-premise laundry facilities.
 - f. Churches and schools.
4. Site plan design standards: Unless modified by the Planning Commission in writing at the time of application and approval, compliance with the following design standards is required to be shown on the site plan:
- a. Minimum yard requirements and building setbacks from all exterior property lines shall be thirty (30) feet.
 - b. Maximum building height three stories or thirty (30) feet (excludes antennas, steeples, spires, etc.).
 - c. Minimum spacing between detached buildings shall not be less than ten (10) feet.
 - d. All sensitive natural features such as wetlands shall remain unencumbered by residential buildings and structures.
 - e. Ingress and egress opening from the development onto a public and private road shall be limited to one per five-hundred (500) feet.
 - f. Planted and maintained landscaped buffer areas of ten (10) feet in width are required along all exterior boundaries of the property to be developed.

- g. Drainageways shall be protected by a public easement measured twenty-five (25) feet from the centerline of such drainageways.
 - h. Off-street parking is required at the rate of two (2) parking spaces per dwelling unit.
- 5. Facility Site Standards: The site standards for all individual uses and facilities as provided in this Ordinance, must be observed unless waived by the Planning Commission for any (or all) of the specific uses and facilities.
- 6. Common property which is Privately Owned: Common property is a parcel or parcels of land, a privately owned road, or roads, together with improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property shall be private. When privately owned, arrangements must be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, service parking and recreational areas. This shall not be waived.
- 7. Public Easement on Common Property which is Privately Owned: When common property exists in private ownership, the owners shall grant easements, over, under and through such property to the City as may be required for public purposes.
- 8. After approval of a planned development, a site plan may be revised upon approval by the City Commission.

E. Public Hearing

A public hearing by the Planning Commission is required for all planned developments.

19.3 HOTEL, MOTEL, MOTOR COURT:

- A. Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not adversely affect traffic flow on adjacent streets. No more than two (2) driveway openings onto a major thoroughfare (M-89) shall be permitted.
- B. **Where the front yard is used to provide access, a five (5) foot wide greenbelt shall be provided within the front yard, except for driveway openings.**
- C. **Each unit of commercial occupancy shall contain a minimum of two hundred and fifty (250) square feet of gross floor area.**
- D. Where adjacent to a residential district, refer to Section 18.5, which shall apply.

19.4 DRIVE-IN RESTAURANT:

- A. The main and accessory buildings shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line or residential property line.
- B. Driveway openings to the site shall be located at least seventy-five (75) feet from any intersection as measured from the intersecting right-of-way lines to the edge of said driveway.
- C. Screening as required in Section 18.5 shall control where lot lines abut any residential district.
- D. Parking may be located in the front, but not within the required front yard.

19.5 CHILD CARE CENTERS, NURSERY SCHOOL, DAY NURSERIES, NOT INCLUDING FAMILY DAY CARE HOMES

- A. **No dormitory facilities permitted on premises.**
 - B. **For each child cared for, there shall be provided, equipped and maintained, on the premises a minimum of one hundred and fifty (150) square feet of outdoor play area.**
 - C. The outdoor play area shall be fenced in or screened by a heavily planted greenbelt from any abutting residential uses, see 18.5 which shall apply.

19.6 BOWLING ALLEY, INDOOR SKATING AND SIMILAR USES:

- A. Driveway openings to the site shall be located at least seventy-five (75) feet from any intersection as measured from the intersecting street right-of-way lines to the edge of said driveway.
- B. The main and accessory buildings shall be located a minimum of one hundred (100) feet from any residential use.

19.7 PRIVATE OPEN AIR BUSINESS, PERMANENT AND TEMPORARY: (TEMPORARY SALES OF CHRISTMAS TREES SHALL BE EXEMPTED)

- A. Minimum lot area shall be 20,000 square feet.
- B. Minimum lot width shall be two hundred (200) feet.
- C. A five (5) foot fence or wall shall be constructed along the rear and sides of the lot capable of keeping trash, paper, and other debris from blowing off the premises, except as provided otherwise in this Ordinance.
- D. All open-air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
- E. Unless specifically waived by the approval body or as designated by this Ordinance, a building of not less than five hundred (500) square feet of gross floor area shall be constructed on the premises for office use in connection with the subject open-air business.
- F. The Planning Commission may, to insure strict compliance with any regulation contained herein and required as a condition of the issuance of a permit for an open air business use, require the permittee to furnish a Surety Bond executed by a reputable surety company authorized to do business in the State of Michigan or in the sole discretion of the Planning Commission, a cash bond in an amount determined by the Commission to be reasonable and necessary to insure compliance hereunder. In fixing the amount of such bond, the Planning Commission shall take into account the size and scope of the proposed open air business use, current prevailing cost of rehabilitating the premises upon default of the operator of the

use, estimated expenses to compel the operator to comply by Court Decree, and such other factors and conditions, as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.

- G. In the case of indoor-outdoor garden nurseries:
 - 1. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
 - 2. All loading activity and parking areas shall be provided on the same premises (off-street).
 - 3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

19.8 CAR WASH ESTABLISHMENT:

- A. Minimum lot size shall be twenty thousand (20,000) square feet.
- B. All washing activities must be carried on within a building.
- C. Vacuuming activities may be carried out only in the rear or side yard and at least fifty (50) feet distant from any adjoining residential use.
- D. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. An alley shall not be used as maneuvering or parking space for vehicles being serviced by the subject facility.
- E. All floor drains from wash areas shall be equipped with sand traps before disposal into the on-site sewer.

19.9 HOUSING FOR THE ELDERLY:

- A. Minimum lot size shall be two (2) acres.

- B. Accessory services in common use may include, but not limited to, the provision of central dining facilities, indoor and outdoor recreational facilities, lounge areas and workshops.
- C. Each dwelling unit shall contain at least three hundred and fifty (350) square feet of area, not including kitchen and sanitary facilities.
- D. Development of site and structures shall be in accordance with U.S. Department of Housing and Urban Development Minimum Property Standards, Multifamily Housing, as it applied to housing for the elderly.

19.10 AUTOMOBILE DISPOSAL AND JUNKYARDS:

Shall be in accordance with the following, even though they may be more restrictive than the provisions of this ordinance:

- A. The site shall be a minimum of three (3) acres in size.
- B. There shall be a required yard setback of at least 100 feet from any public street and any lot line. The front yard setback shall be planted with trees, grass and shrubs to minimize the appearance of the installation. Nothing shall be piled, stored or accumulated in any required yard area.
- C. A solid fence or wall at least eight (8) feet in height shall be provided along the setback lines of the entire site in order to screen said site from surrounding property. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
- D. All activities shall be confined within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area.
- E. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or

packaging shall be conducted within a completely enclosed building.

- F. Wherever a side or rear lot line of such use abuts residential use or a residential zoning district, the required yard shall be doubled and shall contain plat material, grass and structural screens to effectively minimize the appearance of the installation.

19.11 PRIVATE ROAD AND STREETS:

- A. All building sites and parcels not fronting on a public street must be accessible by a private street. A private drive or street is required to have a minimum driveway right-of-way of sixty-six (66) feet and must be either owned or established by a driveway easement granted by the adjacent property owners.
- B. The layout of private streets in respect to their location, intersections, cul-de-sacs, etc., shall conform to the City's requirements for platted streets.
- C. The construction of the roadway shall conform to the City's standards for a local road.
- D. Vertical street alignments, street grades, horizontal curves, curb openings at intersection streets, etc., shall conform to the City standards for platted streets.

19.12 RESERVED

19.13 MEDICAL OR DENTAL CLINIC:

- A. Minimum lot size shall be twenty thousand (20,000) square feet.
- B. Maximum building coverage shall be thirty-five (35%) percent.

19.14 OFFICE DEVELOPMENTS (TWO OR MORE STRUCTURES)

In order to facilitate innovative and attractive design of office uses, office developments shall be subject to the following:

- A. Exterior walls of opposite or adjacent buildings shall be located no closer than one point five (1.5) times the height of the higher building wall, but in no case closer than fifty (50) feet.
- B. Buildings shall be so located and arranged that all structures have access to emergency vehicles.
- C. Maximum lot coverage upon lot shall not exceed sixty (60%) percent, including accessory uses and structures.
- D. The ratio of total floor area to lot area shall not exceed one point zero (1.0).

19.15 PLANNED INDUSTRIAL PARKS

In order to facilitate the growth of employment, to ensure a viable tax base for the City and to prevent the conflicts of incompatible industrial uses, planned industrial parks are permitted with site plan approval by the Planning Commission in the I-1 District.

An industrial park is hereby defined as a tract of land laid out in accordance with an overall plan which is designed and equipped to accommodate a cluster of wholesale commercial and industrial activities; providing them with all necessary facilities and services in an attractive park like surrounding.

Planned Industrial Parks shall be subject to the following:

- A. In addition to the required site plan, all proposed planned industrial parks (public and private) shall first have an overall plan detailing the development concept, the spatial arrangement of site and structures and phased implementation and development, thereof.
- B. Exterior walls of adjacent buildings shall be located no closer than one point five (1.5) times the height of the higher building wall, but in no case closer than fifty (50) feet.
- C. Maximum lot coverage shall not exceed fifty (50%) percent, including accessory buildings and structures.
- D. The ratio of total floor area to lot area shall not exceed one point

zero (1.0).

19.16 BED AND BREAKFAST FACILITIES:

- A. The minimum lot size shall be ten-thousand (10,000) square feet with a minimum frontage of sixty (60) feet on a public street.
- B. A residence shall not have or be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this amendment.
- C. The minimum size of rental room shall be one-hundred twenty-five (125) square feet.
- D. The minimum size for manager/owner living quarters shall be four-hundred eighty (480) square feet.
- E. A common room or area for guest relaxation is required.
- F. The owner/manager must reside on the premises.
- G. One off-street parking space shall be provided for each rental room in addition to the two off-street spaces required for single-family dwellings. Parking shall be adequately screened from adjacent residentially developed or zoned property.
- H. Bathrooms must be furnished for guestrooms at a ratio of not less than one bathroom per two rental rooms.
- I. The premises (including corner lots) may be permitted one advertising sign not exceeding six (6) square feet in area.
- J. Approval by the Building Inspector is required prior to occupancy of the facility. Thereafter, the Building Inspector may conduct an annual compliance inspection.
- K. Approval of the Allegan County Health Department is required if other than a continental breakfast is served.
- L. Smoke alarms must be installed and maintained in all guest rooms.
- M. The use of the facility may be subject to any other reasonable conditions placed upon the use by the City Planning Commission or City Commission considered necessary to achieve the purpose of this Ordinance.

19.17 PRIVATE CLUBS AND LODGES:

- A. The lot shall be located so as to abut a collector street, secondary thoroughfare, or major thoroughfare with at least one (1) property line.
- B. Retail sales of food and beverages may be permitted to members and guests only and there shall be no externally visible sign of commercial activity.

19.18 CONVALESCENT HOMES:

- A. Minimum lot size shall be three (3) acres.
- B. The lot location shall be such that at least one (1) property line abuts a collector street, or major thoroughfare. The ingress and egress for off-street parking areas for guests and patients shall be directly from said thoroughfare.
- C. The main and accessory building shall be setback at least seventy-five (75) feet from all property lines.
- D. The facility shall be designed to provide a minimum of fifteen hundred (1,500) square feet of open space for every bed used or intended to be used. This open space shall include landscaping and may include off-street parking areas, driveways, required yard setbacks and accessory uses.

19.19 KENNELS:

- A. Kennels shall be operated in conformance with all applicable Allegan County and State of Michigan regulations.
- B. For dog kennels, the minimum lot size shall be two (2) acres for the first three (3) dogs and an additional one (1) acre for each three (3) additional animals.

19.20 HOSPITALS:

- A. Minimum lot area shall be five (5) acres.
- B. The lot location shall be such that at least one (1) property line abuts a major thoroughfare. The ingress and egress for off-

- street parking facilities for guests and patients shall be directly from said major thoroughfare.
- C. Minimum main and accessory building setback shall be one hundred (100) feet.
 - D. Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or by a masonry wall of six (6) feet or more in height.
 - E. No power plant or laundry shall be located nearer than three hundred (300) feet to any adjacent residential use.

19.21 GASOLINE SERVICE STATIONS & FILLING STATION WITH CONVENIENCE STORES:

- A. Minimum lot area shall be fifteen thousand (15,000) square feet.
- B. Minimum lot width shall be one hundred (100) feet.
- C. An automobile service station and filling station shall be Located not less than forty (40) feet from any right-of-way line and not less than twenty-five (25) feet from any side or rear lot line abutting residentially used property.
- D. Ingress and egress drives shall be separated by a minimum of thirty (30) feet.
- E. No more than one (1) curb opening shall be permitted for every fifty (50) feet of frontage (or major fraction (50%) thereof) along any street.
- F. A raised curb of six (6) inches in height shall be constructed along all street frontages at the right-of-way line, except for drive openings.
- G. The entire lot, excluding the area occupied by a building, shall be hard surfaced with concrete or a plant-mixed bituminous material except desirable landscaped areas which shall be separated from all paved areas by a low barrier curb.
- H. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall have a minimum setback of 15 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or services while parked upon or overhanging any public sidewalk, street or right-of-way.

- I. When adjoining residentially used or zoned property, a five (5) foot masonry wall shall be erected and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line.

All masonry walls shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls may be eliminated or gradually stepped down in height within twenty-five (25) feet of any right-of-way line, subject to approval by the City Commission.

- J. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a five (5) foot masonry wall and shall comply with requirements for location of accessory buildings. Outside storage or parking of disabled, wrecked, or partially dismantled vehicles for any overnight period shall not exceed more than two (2) vehicles awaiting repairs for each indoor repair stall located within said premises and in no event shall the outdoor storage or parking of any such vehicle be permitted for a period exceeding five (5) days.
- K. The sale or rental of new or used cars, trucks, trailers, and any other vehicles on the premises shall be permitted only by approval of the City Commission under such terms and conditions as may be imposed by said council to insure adequate ingress and egress from said property and to insure adequate traffic safety.
- L. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.

19.22 CHURCHES, PRIVATE SCHOOLS, LIBRARIES, MUSEUMS AND COMMUNITY HALLS:

- A. Minimum lot width shall be one hundred and fifty (150) feet.
- B. Minimum lot area shall be one (1) acre, for structures with an intended capacity less than one-hundred (100) persons. For structures with an intended capacity over two-hundred (200) persons there must be sufficient area to allow for the required parking on-site. Existing churches, schools, etc. on non-conforming lots may be expanded only if the off-street parking requirements are met for the entire capacity.

- C. For every foot of height by which the building, exclusive of spire, bell or clock towers, exceeds the maximum height limitation for the district, an additional (to the minimum) foot of front, side or rear yard setback shall be required.
- D. The lot location shall be such that at least one (1) property line abuts a collector street, or major thoroughfare. All ingress to the lot shall be directly onto said thoroughfare.
- E. Off-street parking shall be prohibited within the required front yard setback area.

19.23 DRY CLEANING PLANTS AND LAUNDRIES, NOT INCLUDING OUTLET DISTRIBUTION FACILITIES:

- A. Minimum lot area shall be one (1) acre.
- B. Underground storage tank installation or removal shall be pursuant to Michigan Department of Environmental Quality regulations.
- C. The storage and transportation of flammable and combustible liquids shall be in accordance with the Michigan State Fire Safety Board.

19.24 VETERINARY HOSPITALS AND CLINICS:

- A. Minimum main and accessory building setback shall be one hundred (100) feet from all lot lines.
- B. All principal use activities shall be conducted within a totally enclosed building.

19.25 AUTOMOBILE BUMP SHOPS, RUSTPROOFING OR PAINT SHOPS:

- A. Outside storage or parking of disabled, wrecked or dismantled vehicles for any overnight period shall not exceed more than two (2) vehicles awaiting service for each indoor repair stall located on said premises and in no event shall the outdoor storage or parking of any such vehicle be permitted for a period exceeding five (5) days.

- B. When adjoining residentially used or zoned property, a five (5) foot high fence or planting strip shall be erected and maintained along the connecting interior lot line.

- C. No sale of used cars or any other vehicles on the premises may be permitted unless the operation meets the approval of the City Commission after having received a recommendation from the Planning Commission.

19.26 DWELLING UNIT CONVERSION:

The provisions of this Section allows for the possibility of converting a single-family dwelling (within an existing structure) to a two-or three-family dwelling in the RT District, provided that the conversion be in conformance with the standards and procedures set forth herein.

- A. Dwelling unit conversion defined ? A dwelling unit conversion is defined as the process in which the owner of a single-family dwelling located in the RT District may apply for conversion of said dwelling into a greater number of dwelling units than existed in the dwelling prior to conversion. Consideration of the application shall be in accordance with the procedures and set forth herein.
- B. All applications for dwelling unit conversion as provided herein, shall be reviewed on the basis of whether or not the application and proposed use conforms with the following standards:
 - a. The conversion will not be detrimental to the neighborhood; and
 - b. The proposed conversion shall add no more than two (2) apartments to the existing dwelling, and the maximum number of bedrooms per additional dwelling unit shall not exceed two (2); and
 - c. Conversion of any dwelling unit will not result in leaving a dwelling unit whose minimum gross floor area per unit is less than five hundred (500) square feet for an efficiency unit, six hundred (600) square feet for a one bedroom unit,

and seven hundred fifty (750) square feet for a two bedroom unit; and

- d. The owner agrees that all construction and maintenance of the structure and grounds will be in accordance with and conform to all City construction codes, including but not limited to the Building Code, Electrical Code, Plumbing Code, Mechanical Code, Housing Code; and
- e. Each dwelling unit shall be self-contained consisting of complete lavatory and kitchen facilities and a separate living area; and
- f. Each dwelling unit shall provide adequate light and ventilation pursuant to the Housing Code; and
- g. Stairways leading to the second or any higher floor shall be located within the walls of the building, wherever practical, and stairways and fire escapes shall otherwise be located on the rear wall in preference to either side wall and in no case on a front wall or side wall facing a street; and
- h. One (1) of the units must be owner occupied.
- i. Except as may be necessary for purposes of safety in accordance with the preceding paragraph, there shall be no major structural change in the exterior of the building in connection with the conversion, and after conversion of the building shall retain substantially the same structural appearance it had before the conversion; and
- j. There shall be provided two (2) parking spaces per dwelling unit. The location of the off-street parking shall be compatible to the immediate neighborhood. Where possible, parking should be enclosed or screened from view from any public street. In no case shall an application be approved where parking is intended to be located in the front yard of any dwelling unit for which conversion has been applied for.

C. Building Permit and Certificate of Occupancy

If the application is approved, the applicant shall obtain a building permit from the City prior to the construction associated with conversion. After all construction or reconstruction has been completed, the applicant shall obtain a

Certificate of Occupancy prior to the rental or use of the additional dwelling units. Failure to comply with the provisions of this Section will constitute a violation of the Zoning Ordinance.

19.27 COMMERCIAL AND SERVICE ESTABLISHMENTS OF AN ? ADULT? NATURE

Commercial and service establishments of an ? Adult? nature as listed and defined herein and subject to the following conditions: In order to prevent undesirable concentration of such uses, the following uses and activities shall not be located within one-thousand (1,000) feet of two other such uses nor within one-hundred (100) feet of any residentially zoned district as measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed following specified uses and activities and between such uses and the adjoining residentially zoned district.

- a. Adult bookstore.
- b. Adult motion picture theater.
- c. Adult mini motion picture theater.
- d. Adult smoking or sexual paraphernalia store.
- e. Massage parlor.
- f. Host or hostess establishments, offering socialization with a host or hostess for consideration.
- g. Pool or billiard hall.
- h. Open dance hall.
- i. Pawnshop.
- j. Tavern or cabaret providing live or projected entertainment where intoxicating liquors may or may not be sold for consumption on the premises. ? Projected entertainment? shall not include standard television reception.
- k. Pinball or video game arcade or establishment.
- l. Sauna, hot tub or other similar health or body improvement or enjoyment enterprises.
- m. Any combination of the above listed uses.

B. For the purpose of interpreting the application of the foregoing limitations on certain business locations, the following terms or designations shall have the following meanings:

1. Adult bookstore: an establishment having 20% of its floor space or sales volume, whichever is lesser, or in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to ? specified sexual activities? or ? specified anatomical areas? , as hereinafter defined, or and establishment with a segment or section devoted to the sale or display of such material.
2. Adult mini motion picture theater: an enclosure with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by and emphasis on matter depicting, describing or relating to ? specified sexual activities? or ? specified anatomical areas? , as hereinafter defined for observation by patrons therein.
3. Adult motion picture theater: an enclosure with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing relating to ? specified sexual activities? or ? specified anatomical areas? as hereinafter defined for observation by patrons therein.
4. Massage parlor: an establishment where persons conduct as a principal activity or permit to be conducted or engaged in, massages of the human body, or parts thereof, by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means or preparations to provide relaxation or enjoyment to the recipient. This does not include sports massage or therapy performed by a certified therapist.
5. Sauna, hot tub or other similar health or body improvement enterprises: establishment where saunas, hot tubs, whirlpools, sun lamps and similar body relaxing, soothing or improving facilities are available for male and female customers with or without supervision or participation by employees or independent contractors of the business

6. Specified sexual activities:
 - a. Acts of human masturbation, sexual intercourse of sodomy.
 - b. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

 - c. Human genitals in a state of sexual stimulation or arousal

7. Specified anatomical areas:
 - a. Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola
 - b. Human males genitals in a discernibly turgid state, even if completely and opaquely covered.

19.28 WIRELESS COMMUNICATION TOWERS & ANTENNAS

A. BACKGROUND

1. The City has received or expects to receive requests to site wireless communications towers and antennas within its boundaries.
2. The City finds that it is in the public interest to permit the siting of wireless communications towers and antennas within its boundaries.
3. It is the City? s intent to permit the siting of wireless communications towers and antennas within its boundaries.
3. It is the City? s intent to protect and promote the public health, safety and welfare by regulating the siting of wireless communications towers and antennas within its boundaries.

B. PURPOSE AND GOALS

This Article? s purpose is to establish general guidelines for siting wireless communications towers and antennas. This Article? s goals are to: (A) protect residential areas and land uses from potential adverse impacts of towers and antennas; (B) encourage the location of towers and antennas in non-residential areas; (C) minimize the total number of towers and antennas throughout the City; (D) promote the joint use of existing tower sites rather than construction of additional towers; (E) promote the location of towers and antennas in

areas where the adverse impact on the City is minimal; (F) promote the configuration of towers and antennas to minimize their adverse visual impact through careful design, siting, landscape screening and innovative camouflaging techniques; (G) promote telecommunications services to the City which are quick, effective and efficient; (H) protect the public health and safety of the City and its residents; and (I) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. To further these goals, the City shall consider its Land Use Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

C. DEFINITIONS

For the Purpose of this Article only, the following terms shall have the following meanings:

1. Alternative Tower Structure: Man made trees, clock towers, bell steeples, church spires, light poles, elevator bulkheads and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
2. Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless communications signals or other communication signals.
3. FAA: The Federal Aviation Administration.
4. FCC: The Federal Communications Commission
5. Height: When referring to a tower or other building or structure upon which an antenna is mounted, the distance measured from the finished grade of the parcel at the center of the front of the building or structure to the highest point on the tower or other building or structure, including the base pad and any antenna.
6. Lattice Tower: A support structure constructed of vertical metal struts and cross braces, forming a

triangular or square structure which often tapers from the foundation to the top.

7. Pre-Existing Towers and Pre-Existing Antennas: Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the amendment to the Ordinance adding this Chapter, or any tower or antenna for which no building and/or special use permit was required, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not yet expired.
8. Tower: Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting (i.e. without guy wires or other external means of support) lattice towers, guyed towers, or monopole towers, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals. The term includes the structure and any support for the structure.

D. APPLICABILITY

1. New Towers and Antennas: All new towers and new antennas in the City shall be subject to this Article, except as otherwise provided in this Section.
2. Amateur Radio Station Operators Receive Only Antennas; Television Antennas: This Article shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally licensed amateur radio station or is used exclusively for receive only antennas, or is used for television reception.
3. Pre-Existing Towers and Antennas: Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this Article other than the requirements of Section 19.28, C., 7, and the general requirements of this Ordinance concerning pre-existing structures (i.e. Section 4.10).

E. GENERAL REQUIREMENTS

1. Principal or Accessory Use: Antennas and towers may be considered either principal or accessory uses. A different existing use of or on the same lot shall not preclude the installation of an antenna or tower on that lot.
2. Lot Size: Even though antennas or towers may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of a tower or antenna complies with the regulations of the applicable zoning district, including but not limited to setback requirements, lot coverage requirements and other such requirements.
3. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the City or within one (1) mile of the City border, including specific information about the location, height and design of each tower or antenna.
4. Tower Finish: 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.
5. Tower Site: 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.
6. Antenna Color: An antenna and its 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.
7. 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.
 8. State or Federal Requirements: All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency or 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 Ordinance shall bring such towers and antennas into compliance with such revised and applicable standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to comply with such revised and applicable standards and regulations shall constitute grounds for the City to seek a court order, authorizing the City or its designee to remove the tower or antenna at the owner's expense.
 9. Building Codes; Safety Standards: The owner of a tower or antenna shall ensure its structural integrity by maintaining it in compliance with standards contained in applicable state or local building codes and applicable standards published by the Electronic Industries Association or any similar successor organization, as amended from time to time. If the City suspects that a tower or an antenna does not comply with such codes and standards and constitutes a danger to persons or property, then the City may proceed under applicable State of Michigan law (i.e. Michigan Public Act 144 of 1992, as amended, or any successor statute) or common law to bring the tower or antenna into compliance or to remove the tower or antenna at the owner's expense.
 10. Measurement: Tower setbacks and separation distances shall be measured and applied to facilities located in the

City without regard to municipal and county jurisdictional boundaries.

11. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this Article. They shall not be regulated or permitted as essential services, public utilities or private utilities.
12. 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 have been obtained; they shall file a copy of all required franchises with the Zoning Administrator.
13. Signs: No signs or advertising shall be allowed on an antenna or tower. However, the tower owner may post a sign designating a person to contact in an emergency, together with the person's telephone number and address.
14. Metal Towers: Metal towers shall be constructed with a corrosion-resistant material.
15. No Interference: Towers shall not interfere with television or radio reception on surrounding properties.
16. Paving Requirement: All parking and drive areas must be paved as provided in this Ordinance.

F. SPECIAL USE PERMITS

1. **General: The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission.**
 - a. If the tower or antenna is not a permitted use under Section 4.6 of this Ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.
 - b. Applications for special use permits under this Section shall be subject to the general procedures and requirements of this Ordinance for special uses, except as modified in this Section.

- c. In granting a special use permit, the Planning Commission may impose such conditions that the Planning Commission concludes are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
- d. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer. Such an engineer shall certify that the tower or antenna will be structurally sound and will comply with all applicable building and other construction code requirements.

2. Processing Special Use Applications:

- a. Information Required: Applicants for a special use permit for a tower or an antenna shall submit the following information, in addition to any other information required by this Ordinance.
 - (i) A scaled site plan showing the location, type and height of the proposed tower or antenna; on site land uses and zoning; adjacent land uses and zoning (even if adjacent to another municipality); Land Use Plan classification of the site and all properties within the applicable separation distances set forth in Table 2 in this Article; adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed tower or antenna and any other structures; topography; parking; and other information deemed necessary by the Zoning Administrator or Planning Commission to assess compliance with this Ordinance.

- (ii) Legal description of the lot and the leased portion of the lot (if applicable), together with a copy of the deed or lease pertaining to that lot.
- (iii) The setback distance between the proposed tower or antenna and the nearest dwelling, platted residentially zoned properties and un-platted residentially zoned properties.
- (iv) The separation distance from other towers or antennas described in the inventory of existing sites submitted pursuant to Section 19.28,E.3 the type of construction of those existing towers or antennas, and the owners/operators of those existing towers and antennas, if known.
- (v) A landscape plan showing specific landscape materials.
- (vi) Method of fencing, finished color and, if applicable, the method of camouflage and illumination.
- (vii) A description of compliance with the requirements of this Article, and of all applicable federal, state, county or City laws, regulations and ordinances.
- (viii) A notarized statement by the applicant for a
tower, indicating if the tower will accommodate collocation of additional antennas for future users.
- (ix) A description of services to be provided by the proposed new tower or antenna, and any alternative ways to provide those services without the proposed new tower or antenna.
- (x) A description of feasible location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in

the event the proposed tower or antenna is erected.

b. Factors Considered in Granting Special Use Permits for Towers or Antennas. In addition to any other standards specified in this Ordinance for considering special use permit applications; the Planning Commission shall consider the following factors in determining whether to issue a special use permit under this Article.

- [i] Height of proposed tower or antenna;
- [ii] Proximity of the proposed tower or antenna 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 proposed tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- [vii] Proposed ingress and egress to the proposed tower or antenna;
- [viii] Availability of suitable existing towers or antennas, alternative tower structures, other structures, or alternative technologies not requiring the use of towers or antennas or other structures, as discussed below in this Section;
- [ix] The effect of the proposed tower or antenna on the conforming properties and the surrounding neighborhood; and
- [x] Whether or not the proposed tower or antenna is located in zoning district or on structures where the City intends at least most towers and antennas in the City to be

located, as subsequently described in this Section.

c. City Intentions Concerning the Location of Most if Not All Towers and Antennas. The City intends that most if not all towers and antennas will be located as described below.

[i] The City encourages the location of towers and antennas, including the placement of additional buildings or other supporting equipment used in connection with them, in the B-2, I-1 or I-2 Zoning Districts.

[ii] The City encourages the location of antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.

[a.] The City encourages antennas on existing structures which are towers, as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight (8) or more dwelling units, provided the antenna does not extend more than thirty (30) feet above the highest point of the structure;

[b.] The City encourages antennas on existing towers, provided that:

? A tower which is modified or reconstructed to accommodate the collocation of one (1) or more additional antennas, shall be of the same tower type as the existing tower or monopole;

? A tower which is modified or reconstructed to accommodate the collocation of additional antennas may be

modified or rebuilt to a taller height, not more than once per tower and not to exceed thirty (30) feet over the towers existing height (this additional height shall not require an additional distance separation per Table 2 of this Article; rather the tower's pre-modification height shall be used to calculate such distance separations); and

• A tower which is modified or reconstructed to accommodate the collocation of an additional antenna may be moved on site within fifty (50) feet of its existing location, provided that only one (1) tower remains on the lot (a relocated tower shall continue to be measured from its original location for purposes of calculating separation distances between towers pursuant to Table 2 of this Article).

• The City encourages the location of new towers in non-residential zoning districts, other than the B-1, I-1 or I-2 Zoning Districts, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; and provided the tower is no more than ninety (90) feet in height if for a single user, no more than one hundred twenty (120) feet in height if for two (2) users, and no more than one hundred fifty (150) feet in height if for three or more users.

- d. Availability of Suitable Existing Towers, Antennas, Alternative Tower Structures, Other Structures, or Alternative Technology. No new tower or antenna shall be permitted unless the applicant demonstrates to the Planning Commission that no existing tower, antenna, alternative tower structure or alternative technology can provide the services sought by the applicant without the erection of the

applicant's requested new tower or antenna. Evidence that no existing tower, antenna, alternative tower structure or alternative technology can provide the services sought by the applicant may consist of the following.

- (i) The applicant could demonstrate that no existing towers, antennas, alternative tower structures, alternative technology or other structures are available within the geographical area which meets the applicant's engineering requirements.
- (ii) The applicant could demonstrate that existing towers, antennas, alternative tower structures or other structures are not of sufficient height to meet the applicant's engineering requirements, and that their height cannot be increased to meet such requirements.
- (iii) The applicant could demonstrate that existing towers, alternate tower structures, or other structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment, and that their strength cannot practically be increased to provide that support.
- (iv) The applicant could demonstrate that the proposed antenna would cause electromagnetic interference with existing towers or antennas, or that existing towers or antennas would cause interference with the applicant's proposed antenna.
- (v) The applicant could demonstrate that the costs to collocate an antenna exceed the costs of erecting a new tower or antenna.
- (vi) The applicant could demonstrate that there are other limiting factors that render existing towers, antennas, alternative tower structures and other structures unsuitable.

- (vii) The applicant could demonstrate that an alternative technology that does not require the use of towers or antennas is cost prohibitive or unsuitable.
- e. Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required.
 - (i) Towers must be set back a distance equal to at least seventy five percent (75%) of the height of the tower from any adjoining lot line. The setback is measured from the perimeter or outside edge of the base of the tower.
 - (ii) Guys and accessory buildings must satisfy the minimum setback requirements for the applicable zoning district.
- f. Separation. The following separation requirements shall apply to all towers for which a special use permit is required.
 - (i) Separation of towers from off-site uses/designated areas.
 - [a.] Tower separation shall be measured from the perimeter or outside edge of 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. The separation distance shall be measured by drawing or following a straight line between the base of the proposed tower and the off-site uses or designated areas, pursuant to a site plan of the proposed tower.
 - [b.] Separation requirements for towers shall comply with the minimum

standards (listed in linear feet)
established in Table 1.

TABLE 1

Off-Site Use/Designated Area	Separation Distance?
Single-family or two family dwelling units?	200 feet or three times the height of the tower, whichever is greater
Unimproved R-1, R-2 and RT land which is platted, has preliminary subdivision plan approval which is not expired, or has PUD approval which is not expired	200 feet or three times the height of the tower, whichever is greater
Other unimproved residentially zoned lands?	100 feet or the height of the tower, whichever is greater
Existing multiple family dwelling units	100 feet or the height of the tower, whichever is greater
Non-residentially zoned lands or non-residential uses, if not covered by any of the above categories	None; only setbacks established by this Ordinance apply

? Includes modular homes and mobile homes used for living purposes

? Separation measured from base of tower to closest building setback line

? Includes any unplatted residentially zoned properties without a preliminary subdivision plan or development approval and any ? RM? Zoning District land.

(ii) Separation distances between towers

[a.] Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing 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.

[b.] Separation distances between towers shall comply with the minimum distances (listed in linear feet) established in Table 2.

TABLE 2

EXISTING TOWERS ? TYPES

Proposed Tower	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

- g. Security fencing. Towers for which a special use permit is required shall be enclosed by security fencing not less than six (6) feet in height. The towers shall also be equipped with appropriate anti-climbing devices.
- h. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required. The required landscaping shall be maintained for the duration of the special use permit.
 - (ii) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property then used for dwellings, one-family, two-family or multiple family, or included in a residential zoning district. The standard buffer shall consist of a landscaped

strip at least four (4) feet wide outside the perimeter of the compound.

- (iii) Existing mature tree growth and natural land forms on site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Planning Commission may include that natural growth around the property perimeter may be a sufficient buffer.

- G. ACCESSORY UTILITY BUILDINGS. All utility buildings and structures accessory to a tower or antenna shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district where the tower or antenna is located. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- H. REMOVAL OF ABANDONED ANTENNAS AND TOWERS. Notwithstanding anything to the contrary elsewhere in this Ordinance, any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the ninety (90) days shall be grounds for the City to proceed under applicable State of Michigan law to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- I. EXPANSION OF NON-CONFORMING USE. Notwithstanding any other provisions of this Ordinance to the contrary, towers that are constructed and antennas that are installed in accordance with this Article shall not be deemed to be the expansion of a non-conforming use or structure.

