CITY OF EVART

Zoning Ordinance
Ordinance No. 265

Effective: February 24, 1993
# TABLE OF CONTENTS

**SECTION 1**  REPEAL OF EXISTING ZONING ORDINANCE

**SECTION 2**  ADOPTION OF NEW CITY OF EVART ZONING ORDINANCE

**ARTICLE 1**  TITLE, PURPOSE, AND LEGAL BASIS

| 1.01 | TITLE |
| 1.02 | PURPOSE |
| 1.03 | SCOPE AND INTERPRETATION |
| 1.04 | EFFECT OF ZONING |
| 1.05 | LEGAL BASIS |
| 1.06 | RULES AND INTERPRETATION APPLYING TO THE TEXT |

**ARTICLE 2**  DEFINITIONS

| 2.01 | ACCESSORY USE OR STRUCTURE |
| 2.02 | ADULT DAY-CARE CENTER |
| 2.03 | ADULT DAY-CARE HOME |
| 2.04 | ADULT ENTERTAINMENT BUSINESSES |
| 2.05 | ALTERATIONS, STRUCTURAL |
| 2.06 | BASEMENT |
| 2.07 | BED AND BREAKFAST |
| 2.08 | BOARDING ROOMS |
| 2.09 | BUILDING |
| 2.10 | BUILDING HEIGHT |
| 2.11 | BUILDING SETBACK |
| 2.12 | CHILD-CARE CENTER |
| 2.13 | COMMERCIAL RECREATION |
| 2.14 | DWELLING |
| 2.15 | DWELLING UNIT |
| 2.16 | FAMILY |
| 2.17 | FAMILY DAY-CARE HOME |
| 2.18 | GROUP DAY-CARE HOME |
| 2.19 | HOME OCCUPATION |
| 2.20 | LOT |
| 2.21 | LOT LINE |
| 2.22 | MOBILE HOME |
| 2.23 | MOBILE HOME PARK |
| 2.24 | MOTEL |
| 2.25 | OUTDOOR SALES |
| 2.26 | PRINCIPAL OR MAIN USE |
| 2.27 | PUBLIC OR INSTITUTIONAL USES |
| 2.28 | SALVAGE YARDS |
| 2.29 | SECOND FLOOR APARTMENT |
ARTICLE 3  ZONING DISTRICT REGULATIONS

3.01  ESTABLISHMENT OF ZONING DISTRICT
3.02  AUTHORITY OF OFFICIAL ZONING MAP
3.03  IDENTIFICATION OF OFFICIAL ZONING MAP
3.04  CHANGES TO OFFICIAL ZONING MAP
3.05  REPLACEMENT OF OFFICIAL ZONING MAP
3.06  SCHEDULE OF DISTRICT REGULATIONS
     (SCHEDULE OF DISTRICT REGULATIONS TABLE)
     SETBACKS
     (REFERENCE NOTES FOR SCHEDULE OF DISTRICT
     REGULATIONS)

ARTICLE 4  “R-1” LOW-DENSITY RESIDENTIAL DISTRICT

4.01  DESCRIPTION AND PURPOSE
4.02  PERMITTED LAND USES
4.03  SPECIAL LAND USES
4.04  ACCESSORY USES AND BUILDINGS
4.05  HEIGHT AND AREA REGULATIONS
4.06  PARKING REQUIREMENTS
4.07  GENERAL PROVISIONS

ARTICLE 5  “R-2” MEDIUM-DENSITY RESIDENTIAL DISTRICT

5.01  DESCRIPTION AND PURPOSE
5.02  PERMITTED LAND USES
5.03  SPECIAL LAND USES
5.04  ACCESSORY USES AND BUILDINGS
5.05  HEIGHT AND AREA REGULATIONS
5.06  PARKING REQUIREMENTS
5.07  GENERAL PROVISIONS
ARTICLE 6  "R-3" HIGH-DENSITY RESIDENTIAL DISTRICT

6.01 DESCRIPTION AND PURPOSE
6.02 PERMITTED LAND USES
6.03 SPECIAL LAND USES
6.04 ACCESSORY USES AND BUILDINGS
6.05 HEIGHT AND AREA REGULATIONS
6.06 PARKING REQUIREMENTS
6.07 SITE PLAN REVIEW
6.08 GENERAL PROVISIONS

ARTICLE 7  "R-4" MOBILE HOME PARK DISTRICT

7.01 DESCRIPTION AND PURPOSE
7.02 PERMITTED LAND USES
7.03 SPECIAL LAND USES
7.04 ACCESSORY USES AND BUILDINGS
7.05 SITE DEVELOPMENT
7.06 APPROVAL PROCESS
7.07 GENERAL PROVISIONS

ARTICLE 8  "C-1" CENTRAL BUSINESS DISTRICT

8.01 DESCRIPTION AND PURPOSE
8.02 PERMITTED LAND USES
8.03 SPECIAL LAND USES
8.04 ACCESSORY USES AND BUILDINGS
8.05 HEIGHT AND AREA REGULATIONS
8.06 PARKING REQUIREMENTS
8.07 SITE PLAN REVIEW
8.08 GENERAL PROVISIONS
8.09 ADDITIONAL REQUIREMENTS

ARTICLE 9  "C-2" GENERAL BUSINESS DISTRICT

9.01 DESCRIPTION AND PURPOSES
9.02 PERMITTED LAND USES
9.03 SPECIAL LAND USES
9.04 ACCESSORY USES AND BUILDINGS
9.05 HEIGHT AND AREA REGULATIONS
9.06 PARKING REQUIREMENTS
9.07 SITE PLAN REVIEW
9.08 GENERAL PROVISIONS
9.09 ADDITIONAL REQUIREMENTS
ARTICLE 10  "I-1" LIGHT INDUSTRIAL DISTRICT

10.01  DESCRIPTION AND PURPOSE
10.02  PERMITTED LAND USES
10.03  SPECIAL LAND USES
10.04  ACCESSORY USES AND BUILDINGS
10.05  HEIGHT AND AREA REGULATIONS
10.06  PARKING REQUIREMENTS
10.07  SITE PLAN REVIEW
10.08  GENERAL PROVISIONS
10.09  ADDITIONAL REGULATIONS
10.10  PERFORMANCE STANDARDS

ARTICLE 11  "I-2" GENERAL INDUSTRIAL DISTRICT

11.01  DESCRIPTION AND PURPOSE
11.02  PERMITTED LAND USES
11.03  SPECIAL LAND USES
11.04  ACCESSORY USES AND BUILDINGS
11.05  HEIGHT AND AREA REGULATIONS
11.06  PARKING REQUIREMENTS
11.07  SITE PLAN REVIEW
11.08  GENERAL PROVISIONS
11.09  ADDITIONAL REGULATIONS
11.10  PERFORMANCE STANDARDS

ARTICLE 12  "PUB" PLANNED UNIT DEVELOPMENT DISTRICT

12.01  PURPOSE
12.02  PERMITTED USES
12.03  MINIMUM REQUIREMENTS
12.04  MODIFICATION OF MINIMUM REQUIREMENTS
12.05  CLUSTERING
12.06  APPLICATION PROCEDURES
12.07  PLANNING COMMISSION REVIEW
      OF SITE PLANS AND REQUEST FOR REZONING
12.08  CITY COUNCIL REVIEW OF REQUEST FOR REZONING
12.09  EFFECT OF APPROVAL OF SITE PLAN BY PLANNING
      COMMISSION
12.10  AMENDMENT OF SITE PLAN
12.11  PERFORMANCE GUARANTEES
12.12  ENFORCEMENT
ARTICLE 13  "F-1" FLOODPLAIN OVERLAY DISTRICT
13.01  FLOOD HAZARD FINDINGS
13.02  PURPOSE
13.03  SCOPE
13.04  USE STANDARDS
13.05  PROHIBITED USES
13.06  ADDITIONAL REQUIREMENTS
13.07  LIABILITY

ARTICLE 14  "P-1" VEHICLE PARKING DISTRICT
14.01  DESCRIPTION AND PURPOSE
14.02  PERMITTED LAND USES
14.03  REQUIRED CONDITIONS FOR OFF-STREET PARKING AREAS
14.04  HEIGHT AND AREA REGULATIONS FOR SINGLE-FAMILY DWELLINGS
14.05  SITE PLAN REVIEW
14.06  GENERAL PROVISIONS

ARTICLE 15  SIGNS
15.01  SIGN DEFINITIONS
15.02  REQUIRED CONDITIONS FOR ALL SIGNS
15.03  DISTRICT REGULATIONS FOR ALL SIGNS

ARTICLE 16  RESERVED FOR FUTURE USE

ARTICLE 17  GENERAL PROVISIONS
17.01  ACCESS TO A STREET
17.02  ACCESSORY BUILDINGS OR STRUCTURES
17.03  BASEMENT DWELLINGS
17.04  DWELLING UNITS
17.05  ESSENTIAL SERVICES
17.06  FENCES AND WALLS
17.07  HEALTH DEPARTMENT APPROVAL
17.08  HOME OCCUPATION REQUIREMENTS
17.09  PRINCIPAL BUILDING ON A LOT
17.10  SCREENING – REQUIRED
17.11  SITE CONDOMINIUM SUBDIVISIONS
17.12  SWIMMING POOLS
17.13  TEMPORARY STRUCTURES INCIDENTAL TO CONSTRUCTION WORK
ARTICLE 18  PARKING AND LOADING REQUIREMENTS

18.01  SCOPE
18.02  MEASUREMENT UNITS
18.03  SCHEDULE OF PARKING REQUIREMENTS
        (SCHEDULE OF PARKING REQUIREMENTS TABLE)
18.04  USES NOT SPECIFICALLY MENTIONED
18.05  JOINT USE OF FACILITIES
18.06  SIZE OF PARKING SPACE
18.07  REQUIREMENTS OF PARKING AREAS
18.08  OFF-STREET LOADING SPACES

ARTICLE 19  SPECIAL LAND USES

19.01  PURPOSE
19.02  APPLICATION PROCEDURES
19.03  BASIS OF DETERMINATION
19.04  PERFORMANCE GUARANTEES
19.05  DESIGN STANDARDS

ARTICLE 20  SITE PLAN REVIEW

20.01  PURPOSE
20.02  USES REQUIRING SITE PLAN APPROVAL
20.03  SITE PLAN REQUIREMENTS
20.04  REVIEW PROCEDURE
20.05  STANDARDS FOR SITE PLAN REVIEW
20.06  CONDITIONS OF APPROVAL
20.07  REGULATIONS
20.08  PERFORMANCE GUARANTEES
20.09  ENFORCEMENT

ARTICLE 21  RESERVED FOR FUTURE USE

ARTICLE 22  NONCONFORMING USES, BUILDINGS OR STRUCTURE, AND LOTS

22.01  PURPOSE AND SCOPE
22.02  NONCONFORMING USES
22.03  NONCONFORMING STRUCTURES
22.04  NONCONFORMING LOTS
22.05  CHANGE OF NONCONFORMING USE OR STRUCTURE
22.06  ABANDONMENT
22.07  REESTABLISHMENT OF USE OR STRUCTURE AFTER DAMAGE, DESTRUCTION, OR REMOVAL
22.08 REPAIRS AND MAINTENANCE
22.09 BUILDING OR STRUCTURE UNDER CONSTRUCTION
22.10 CHANGE OF OWNERSHIP OR OCCUPATION

ARTICLE 23 ADMINISTRATION AND ENFORCEMENT
23.01 ORDINANCE ENFORCEMENT OFFICER
23.02 ZONING PERMITS
23.03 CONTENTS OF APPLICATION
23.04 ACCESSORY BUILDINGS OR STRUCTURES
23.05 PERMIT PROCESS
23.06 CERTIFICATION OF COMPLIANCE
23.07 FEES
23.08 ENFORCEMENT
23.09 PENALTIES

ARTICLE 24 ZONING BOARD OF APPEALS
24.01 CREATION
24.02 MEETINGS
24.03 JURISDICTION AND POWERS
24.04 DECISIONS
24.05 INTERPRETATION
24.06 APPEALS
24.07 VARIANCES
24.08 PUBLIC HEARINGS

ARTICLE 25 ORDINANCE AMENDMENT
25.01 INITIATION OF AMENDMENTS
25.02 AMENDMENT PETITION PROCEDURE
25.03 AMENDMENT PROCEDURE
25.04 STANDARDS FOR APPROVAL
25.05 DECISION
25.06 ADOPTION

SECTION 3 ADMINISTRATIVE LIABILITY

SECTION 4 SEVERABILITY

SECTION 5 SAVING CLAUSE

SECTION 6 NOTICE OF ADOPTION

SECTION 7 EFFECTIVE DATE
ORDINANCE NO. 265

THE CITY OF EVART ZONING ORDINANCE

AN ORDINANCE TO REPEAL THE EXISTING "CITY OF EVART ZONING ORDINANCE", ADOPTED DECEMBER, 18, 1979, AND TO ADOPT A NEW ZONING ORDINANCE FOR THE CITY.

THE CITY OF EVART ORDOINS:

SECTION 1 REPEAL OF EXISTING ZONING ORDINANCE

The existing City of Evart Zoning Ordinance (adopted December 18, 1979) is hereby repealed in its entirety.

SECTION 2 ADOPTION OF NEW CITY OF EVART ZONING ORDINANCE

A new City of Evart Zoning Ordinance is hereby adopted to read in its entirety as follows:

SECTION 3 ADMINISTRATIVE LIABILITY

No officer, agent, employee, or member of the planning commission or board of appeals or city council shall be held personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this ordinance.

SECTION 4 SEVERABILITY

The ordinance and the various parts, sections, subjects, paragraphs, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

SECTION 5 SAVING CLAUSE

The amendment or repeal, by this ordinance, of any ordinance or ordinance provision shall have no effect upon prosecutions commenced prior to the effective date of this ordinance. Those prosecutions shall be conducted under the ordinance provisions in effect prior to the effective date of this ordinance.
SECTION 6

NOTICE OF ADOPTION

Following adoption of this ordinance and subsequent amendments by the city council, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. Notice shall be given pursuant to Section 4 (7) of the City or Village Zoning Act, Act 207 of 1921.
ARTICLE 1
TITLE, PURPOSE, SCOPE, AND LEGAL BASIS

1.01 TITLE

This ordinance shall be known and may be cited as the “City of Evart Zoning Ordinance”.

1.02 PURPOSE

This ordinance is adopted for the purpose of regulating the use of land, buildings, and structures within the city to meet the needs of its residents for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to ensure that uses of the land, buildings, and structures shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to otherwise promote the public health, safety, and welfare to the full extent authorized by Act 207 of the Public Acts of the State of Michigan of 1921, as amended and other applicable laws.

1.03 SCOPE AND INTERPRETATION

Except as otherwise expressly provided by this ordinance, this ordinance is not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances, or regulations or with private restrictions placed upon property by covenant, deed, or other private agreements or with restrictive covenants running with the land to which the city is a party. Where this ordinance imposes greater restrictions, limitations, or requirements upon the use of buildings, structures, or land; the height of buildings or structures; lot coverage; lot areas; yards or other open spaces; or any other use of land that are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this ordinance shall control.

1.04 EFFECT OF ZONING

Zoning applies to every building, structure, and use within the city. No building, structure, or land shall be used or occupied; and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged, or altered except in conformance with the ordinance.
1.05 LEGAL BASIS

This ordinance is enacted to protect the public health, safety, and general welfare of the residents of the City of Evart pursuant to the provisions of the City or Village Zoning Act, Act No. 207 of the Public Acts of the State of Michigan of 1921, as amended.

1.06 RULES OF INTERPRETATION APPLYING TO THE TEXT

The following rules of interpretation shall apply to the text of this ordinance:

A. The particular shall control the general.

B. The title of an article, section, or subsection of this ordinance is for convenience only and shall not be considered to enlarge or restrict the terms and provisions of this ordinance in any way.

C. The word “shall” is always mandatory and not discretionary. The word “may” be permissive.

D. Unless the context clearly indicates to the contrary, words used in the present tense shall include the future tense; words used in the singular number shall include the plural number; and words used in the plural number shall include the singular number.

E. A “building” or “structure” includes any part thereof.

F. The word “person” includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.

G. The words “used” or “occupied” as applied to any land, building, or structure shall be construed to include the words “intended”, “arranged”, or “designed to be used or occupied”.

H. Any word or term not defined herein shall have the meaning as defined in the Webster’s New World Dictionary, second collegiate edition.
SECTION 7  EFFECTIVE DATE

This zoning ordinance was adopted by the city council on February 15, 1993, and shall take effect upon publication in a newspaper in general circulation within the City of Evart.

Bruce C. Collier  2/15/93  Date
Mayor

Maria C. Sattler  2/15/93  Date
City Clerk

Effective Date

I hereby certify that the foregoing ordinance was adopted by the Evart City Council in regular session held on February 15, 1993, and that notice of its adoption was published in the Evart Review on February 24, 1993.

Maria C. Sattler  Date
City Clerk
ARTICLE 2
DEFINITIONS

For the purposes of this ordinance, the terms below are defined as follows:

2.01 ACCESSORY USE OR STRUCTURE

A use, building, or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use, building, or structure. Freestanding satellite dishes and antennas, solar panels, and wind generators shall be considered accessory structures.

2.02 ADULT DAY-CARE CENTER

A facility, other than a private residence, in which 1 or more adults who are aged, mentally ill, developmentally disabled, or physically handicapped are received for care and supervision for periods of less than 24 hours a day. The physical facility and operation of the center shall comply with all applicable federal, state, and local laws or regulations. An adult day-care center does not include any establishment commonly described as an alcohol or a substance abuse rehabilitation center or a facility for persons released from or assigned to adult correctional institutions.

2.03 ADULT DAY-CARE HOME

A private home (that is the bona fide permanent residence of the operator of the adult day-care home) in which from 1 to 6 adults who are aged, mentally ill, developmentally disabled, or physically handicapped are received for care and supervision for periods of less than 24 hours a day. The physical facility and operation of the home shall comply with all applicable federal, state, and local laws or regulations. An adult day-care home does not include any establishment commonly described as an alcohol or a substance abuse rehabilitation center or a facility for persons released from or assigned to adult correctional institutions.

2.04 ADULT ENTERTAINMENT BUSINESSES

A. Any Business Establishment:

1. That is used for presenting material distinguished or characterized by an emphasis on depicting, describing, or relating to “specified anatomical areas” or “specified sexual activities”, as defined by this section, for observation by patrons therein.
2. That has a substantial or significant portion of its stock in trade, books, magazines, and other periodicals that are distinguished or characterized by an emphasis on depicting, describing, or relating to "specified anatomical areas" or "specified sexual activities", as defined by this section, or that has a segment or section devoted to the sale or display of such material.

3. That is used as a place that offers, as an activity, the providing of models to display "specified anatomical areas", as defined by this section, for artists and photographers for a fee or charge.

4. That includes a café, restaurant, or bar where patrons are entertained by erotic dancers, strippers, male or female impersonators, or similar entertainers.

B. For purposes of this section, "specified anatomical areas" and "specified sexual activities" are defined as follows:

1. **Specified Anatomical Areas:** Less than completely covered human genitals; pubic regions, buttocks; female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. **Specified Sexual Activities:** Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, of sodomy; and the fondling or other erotic touching of human genitals, public regions, buttocks, or female breasts.

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**2.05 ALTERATIONS, STRUCTURAL**

Any change in a supporting member of a building or structure, such as a bearing wall, column, beam, or girder; any substantial change in the roof; or any addition to or diminution of a structure or building.

**2.06 BASEMENT**

A portion of a building or a portion of a room located wholly or partially below grade but not including any part thereof not so located. The term "basement" shall not include an earth-bermed or earth-sheltered home.
2.07 BED AND BREAKFAST

A use that is subordinate to the principal use of a dwelling unit as a single-family dwelling unit in which transient guests are provided a sleeping room and board in return for payment. A bed and breakfast operation shall meet all of the requirements in Article 19.

2.08 BOARDING ROOMS

A use that is subordinate to the principal use of a dwelling as a single-family dwelling unit in which persons reside for more than 7 days at a time on a non-transient basis in return for payment.

2.09 BUILDING

Anything that is constructed or erected having a roof supported by columns, walls, or other supports that is used for the purpose of housing or storing persons, animals, or personal property or for carrying on business activities or other similar uses.

2.10 BUILDING HEIGHT

A vertical distance measured from the established grade to the highest point of the roof surface of flat roofs; to the deck of mansard roofs; and to the mean height level between eaves and ridge of fable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height shall be measured from the average ground level of the grade at the building wall facing the front yard.

2.11 BUILDING SETBACK

A horizontal measurement from the road right-of-way line to the nearest point of the foundation of the building or structure. Steps and unenclosed porches may be located within the building setback. Fully enclosed porches are considered as part of the building or structure and may not be located within the building setback.

2.12 CHILD-CARE CENTER

A facility, other than a private residence, receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day for not less than 2 consecutive weeks (regardless of the number of hours or care per day) and where the parents and guardians are not immediately available to the children, including facilities described as day-care centers, day nurseries, nursery schools, parent cooperative preschools, play groups,
and drop-in centers (as licensed or registered and regulated under the Child Care Organizations Act, Act No. 116 or the Public Acts of 1973, a amended).

2.13 COMMERICAL RECRATION

Commercial establishments related to recreational activities, such as but not limited to billiard or pool halls, indoor theaters, bowling alleys, miniature golf courses, driving ranges, skating rinks, and video arcades.

2.14 DWELLING

Any building or portion thereof that is occupied, in whole or in part, as a home, residence, or sleeping place, either permanently or temporarily, by one or more families but not including motels, hotels, tourist rooms, or cabins.

A. **Dwelling, Single-Family**: A building designed and used for occupancy by one family only.

B. **Dwelling, Two-Family**: A building designed and used for occupancy by two families living independent of each other.

C. **Dwelling, Multi-family**: A building designed and used for occupancy by three or more families, living independent of each other.

2.15 DWELLING UNIT

A building or portion thereof designed for use of occupancy by one family for living and sleeping purposes with housekeeping facilities.

2.16 FAMILY

One or more persons living together as a single, nonprofit housekeeping unit, organized as a single entity in which the members share common kitchen facilities in a domestic relationship based on consanguinity, marriage, adoption, or other domestic bond. This definition does not include any society, association, organization, or any other group whose domestic relationship is of a transitional or seasonal nature for an anticipated limited duration.

2.17 FAMILY DAY-CARE HOME

A private home (that is the bona fide permanent residence of the operator of the family day-care home) in which from 1 to 6 minor children are
received for care and supervision for periods of less than 24 hours a day for more than 4 weeks during a calendar year, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption (as licensed or registered and regulated under the Child Care Organizations Act, Act No. 116 of the Public Acts of 1973, as amended).

2.18 GROUP DAY-CARE HOME

A private home (that is the bona fide permanent residence of the operator of the group day-care home) in which from more than 6 but not more than 12 minor children are received for care and supervision for periods of less than 24 hours a day for more than 4 weeks during a calendar year, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption (as licensed or registered and regulated under the Child Care Organizations Act, Act No. 116 of the Public Acts of 1973, as amended).

2.19 HOME OCCUPATION

An income-generating activity traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place that conforms to the provisions applicable to home occupations in Article 17.

2.20 LOT

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory structures or utilized for a principal use and accessory uses, together with such open spaces as are required by this ordinance. Lot area shall not include any part of a public right-of-way. (In the case of a site condominium subdivision, a site condominium building site shall be considered to be the equivalent of a “lot” for purposes of determining compliance with the applicable requirements of the zoning ordinance and with other applicable laws, ordinances, or regulations).

For the purpose of this ordinance, “lots” with the following characteristics will be referred to as follows:

A. **Corner Lot:** A lot that has at least two contiguous sides abutting upon two intersecting streets for their full length.

B. **Interior Lot:** A lot other than a corner lot.
C. **Through Lot:** An interior lot having frontage on two streets that do not intersect at a point contiguous to such lot.

### 2.21 LOT LINE

The line that defines the boundaries of a lot or parcel of land.

**A. Front Lot Line:** In the case of an interior lot, the line that separates the front yard from the street right-of-way line. In the case of a through lot, the lines separating the lot from each road right-of-way. In the case of a corner lot, the line separating the lot from the right-of-way on that side of the lot that has the narrowest street frontage.

**B. Rear Lot Line:** Lot line that is opposite the front line. In the case of a through lot, there shall be no rear lot line. In the case of a lot with side lot lines converging at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 20 feet long, lying farthest from the front lot line and wholly within the lot.

**C. Side Lot Line:** Any lot line other than the front lot line or rear lot line.

### 2.22 MOBILE HOME

A structure, transportable in one or more sections, that is built on a chassis and is designed to be used as a dwelling, with or without permanent foundation then connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems in the structure. “Mobile Home” does not include a recreational vehicle.

### 2.23 MOBILE HOME PARK

A parcel or tract of land upon which three or more mobile homes are located on a continuous, non-recreational basis that is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for the occupancy of a mobile home.

### 2.24 MOTEL

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

2.25 OUTDOOR SALES

Retail businesses whose principal activity is the sale or rental of merchandise in an outdoor setting, such as but not limited to farm implements, plants and trees, mobile homes, building supplies, and vehicles.

2.26 PRINCIPAL OR MAIN USE

The primary or predominant use of a lot.

2.27 PUBLIC OR INSTITUTIONAL USES

Churches: accredited public, parochial, or private schools; trade schools or colleges; hospitals and nursing homes; parks and nonprofit recreational uses; libraries; government-owned facilities; cemeteries; and fire stations or similar uses providing service necessary to the community.

2.28 SALVAGE YARDS

Where junk, waste, or discarded or salvaged materials, including wrecked vehicles, used building materials, structural materials, and equipment and other manufactured goods that are worn, deteriorated, or obsolete are bought, sold, exchanged, stored, baled, packed, disassembled, or handled.

2.29 SECOND FLOOR APARTMENT

A dwelling located on the second floor of an existing building designed or used as a commercial business establishment.

2.30 SITE CONDOMINIUM SUBDIVISION

A plan or project consisting of two or more site condominium units established in compliance with the Condominium Act, Public Act No 59 of the Public Acts of Michigan of 1978, as amended. As used in reference to a “site condominium subdivision” in this ordinance, the terms below are defined as follows:

A. **Site Condominium Unit:** A condominium unit established in compliance with the Condominium Act that consists of an area of
vacant land and a volume of vacant air space, designed and intended for separate ownership and use, as described in the site condominium subdivision master deed, and within which a building or other improvements may be constructed by the condominium unit owner.

B. **Building Envelope:** The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the site condominium subdivision master deed, and within which a building or other improvements may be constructed by the condominium unit owner.

C. **Building Site:** Either the area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope and the area around and contiguous to the building envelope, or the area within the condominium unit (as described in above) plus any contiguous and appurtenant limited common element.

D. **Limited Common Element:** An area that is appurtenant to a site condominium unit and that is reserved in the master deed for the site condominium subdivision for the exclusive use of the owner of the site condominium unit.

2.31 **STATE-LICENSED RESIDENTIAL FACILITY (6 OR FEWER PERSONS)**

A structure constructed for residential purposes that is licensed by the State of Michigan pursuant to the Adult Foster Care Facility Licensing Act (Act No 218 of the Public Acts of 1979, as amended), or the Child Care Organizations Act (Act No 116 of the Public Acts of 1973, as amended) that provides resident services for 6 or fewer persons under 24-hour supervision or care for persons in need of that supervision or care. A "state-licensed residential facility", as defined by this section, shall not include adult foster-care facilities licensed by a state agency for the care and treatment of persons released from or assigned to adult correctional institutions.

2.32 **STATE-LICENSED RESIDENTIAL FACILITY (MORE THAN 6 PERSONS)**

An adult foster-care facility that is licensed by the State of Michigan pursuant to the Adult Foster Care Facility Licensing Act (Act No. 218 of the Public Acts of 1979, as amended), or a child-care facility that is licensed by the State of Michigan pursuant to the Child Care
Organizations Act (Act No. 116 of the Public Acts of 1973, as amended) that provides resident services for more than 6 persons under 24-hour supervision or care for persons in need of that supervision or care.

2.33 STREET

A publicly owned and maintained right-of-way that affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, land, boulevard, highway, road, or other thoroughfares.

2.34 STRUCTURE

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

2.35 VEHICLE REPAIR

A. **Major Vehicle Repair:** General repair, rebuilding, or reconditioning of engines or motor vehicles; collision service (including body repair and frame straightening); painting, upholstering; or vehicle steam cleaning and undercoating, as a business.

B. **Minor Vehicle Repair:** Minor repairs, incidental replacement of parts or motor service to motor vehicles not exceeding 2-ton capacity but not including any repair or work included in the definition of “major vehicle repair”.

2.36 YARD

A required open space unoccupied and unobstructed by any principal building or structure or portion thereof from 30 inches above the general ground level of the lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

A. **Front Yard:** A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line and the nearest point of the main building. The depth of the front yard shall be measured perpendicular to a straight line drawn along the shortest distance between the right-of-way and the nearest point of the main building.
B. **Rear Yard:** A yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and the nearest point of the main building.

C. **Side Yard:** A yard between a main building and the side lot line extending from the front of the main building to the rear of the main building. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the main building.
ARTICLE 3
ZONING DISTRICT REGULATIONS

3.01
ESTABLISHMENT OF ZONING DISTRICTS

The City of Evart is hereby divided into the following zoning districts:

- “R-1” Low-Density Residential District
- “R-2” Medium-Density Residential District
- “R-3” High Density Residential District
- “R-4” Mobile Home Park District
- “C-1” Central Business District
- “C-2” General Business District
- “I-1” Light Industrial District
- “I-2” General Industrial District
- “PUD” Planned Unit Development District
- “F-1” Floodplain Overlay District
- “P-1” Vehicle Parking District

3.02
AUTHORITY OF OFFICIAL ZONING MAP

The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled “The Zoning Map of the City of Evart, Osceola County, Michigan”, which accompanies and is hereby made a part of this ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply:

A. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following shorelines, lakes, or stream beds shall be construed as following such shorelines, lakes, or stream beds. In the event of change in the location of shorelines, lakes, or stream beds, boundaries shall be construed as moving with the shoreline, lake, or stream bed.

D. Boundaries indicated as approximately following city boundaries shall be construed as following city boundaries.
E. Boundaries indicated as approximately following property lines, section lines, or other lines of a government survey shall be construed as following such property lines, section lines, or other lines of a government survey as they exist as of the effective date of this ordinance or applicable amendments thereto.

3.03 IDENTIFICATION OF OFFICIAL ZONING MAP

The official zoning map shall be identified by the signature of the mayor and attested to by the city clerk and shall bear the following words: “This is to certify that this is the official zoning map referred to in the City of Ewart Zoning Ordinance of (date),” together with the effective date of this ordinance.

3.04 CHANGES TO OFFICIAL ZONING MAP

If, in accordance with the procedure of this ordinance and of Act 207 of the Public Acts of 1921, as amended, a change is made in a zoning district boundary, such change shall be entered on the official zoning map by the mayor promptly after the amendment authorizing such change shall have been adopted and published, with an entry on the official zoning map as follows: “On (date) by official action of the city council, the following change(s),” which entry shall be signed by the Mayor and attested to by the city clerk. No change in the official zoning map of any other nature shall be made unless authorized by the city council and then only by the mayor.

3.05 REPLACEMENT OF OFFICIAL ZONING MAP

In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes made thereto, the city council may, by ordinance, adopt a new official zoning map that shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions on the prior official zoning map, but no such correction shall have the effect of amending the zoning ordinance or the prior official zoning map. The new official zoning map shall be identified by the signature of the mayor, attested to by the city clerk, and shall bear the following words: “This is to certify that this is the official zoning map referred to in the Zoning Ordinance of City of Ewart, adopted on (date), that replaces and supersedes the official zoning map that was adopted on (date).”
3.06 SCHEDULE OF DISTRICT REGULATIONS

The use of land and principal buildings in the R-1, R-2, R-3, C-1, C-2, I-1, and I-2 Zoning Districts shall meet the area, width, setback, height, floor area, and lot coverage regulations of the following table:

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Min. Lot Area (sq ft)</th>
<th>Min. Lot Width</th>
<th>Min. Front Yard</th>
<th>Min. Side Yard²</th>
<th>Min. Rear Yard²</th>
<th>Max. Height²</th>
<th>Min. Floor Area/Unit (sq ft) 4</th>
<th>Max. Percent of lot Coverage (All Structures)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;R-1&quot; Low-Density Residential</td>
<td>10,200</td>
<td>85'</td>
<td>25'</td>
<td>10'</td>
<td>30'</td>
<td>25'</td>
<td>850</td>
<td>25</td>
</tr>
<tr>
<td>&quot;R-2&quot; Medium-Density Residential</td>
<td>8,500</td>
<td>66'</td>
<td>20'</td>
<td>5'</td>
<td>20'</td>
<td>25'</td>
<td>676</td>
<td>25</td>
</tr>
<tr>
<td>One-Family Dwelling</td>
<td>10,200</td>
<td>80'</td>
<td>20'</td>
<td>10'</td>
<td>20'</td>
<td>25'</td>
<td>576</td>
<td>25</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>6,200</td>
<td>50'</td>
<td>20'</td>
<td>5'</td>
<td>20'</td>
<td>25'</td>
<td>576</td>
<td>25</td>
</tr>
<tr>
<td>&quot;C-1&quot; Central Business</td>
<td>N/A</td>
<td>N/A</td>
<td>0'</td>
<td>0'</td>
<td>10'</td>
<td>35'</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>&quot;C-2&quot; General Business</td>
<td>N/A</td>
<td>N/A</td>
<td>25'</td>
<td>10'</td>
<td>25'</td>
<td>25'</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>&quot;I-1&quot; Light Industrial</td>
<td>N/A</td>
<td>N/A</td>
<td>25'</td>
<td>20'</td>
<td>20'</td>
<td>40'</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>&quot;I-2&quot; General Industrial</td>
<td>N/A</td>
<td>N/A</td>
<td>30'</td>
<td>30'</td>
<td>30'</td>
<td>40'</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

REFERENCE NOTES FOR SCHEDULE OF DISTRICT REGULATIONS

1. A lot that is platted or otherwise of record as of the effective date of this ordinance may be used as regulated in Article 22.

2. Buildings on lots having frontage on two or more intersecting or nonintersecting streets shall comply with front yard requirements on all such streets.

3. The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding 4 feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, storage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers that are controlled by the FCC.

4. A minimum of 3,500 square feet of land area shall be provided for each dwelling unit.
5. A minimum of 3,500 square feet of land area shall be provided for each dwelling unit.

6. If the building is not structurally attached to an adjacent building or is not located immediately upon the property line, a side yard setback of 10 feet shall be required.

7. If the side or rear yard abuts a property zoned residential, a 30-foot side or rear yard is required.

8. If the side or rear yard abuts a property zoned residential, a 50-foot side or rear yard is required.
<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
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<tbody>
<tr>
<td>'R-1' Low-Density Residential</td>
<td>10,200</td>
<td>85’</td>
<td>25’</td>
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<td>30’</td>
<td>25’</td>
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<td>25</td>
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<tr>
<td>Two-Family Dwelling</td>
<td>10,200</td>
<td>80’</td>
<td>20’</td>
<td>10’</td>
<td>20’</td>
<td>25’</td>
<td></td>
<td></td>
</tr>
<tr>
<td>'R-3' High-Density Residential</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One-Family Dwelling</td>
<td>6,200</td>
<td>60’</td>
<td>20’</td>
<td>5’</td>
<td>20’</td>
<td>25’</td>
<td>576</td>
<td>25</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>10,200</td>
<td>80’</td>
<td>20’</td>
<td>10’</td>
<td>20’</td>
<td>25’</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Multifamily Dwelling</td>
<td>10,200</td>
<td>100’</td>
<td>30’</td>
<td>30’</td>
<td>30’</td>
<td>30’</td>
<td></td>
<td></td>
</tr>
<tr>
<td>'C-1' Central Business</td>
<td>N/A</td>
<td>N/A</td>
<td>0’</td>
<td>0’</td>
<td>10’</td>
<td>35’</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>'C-2' General Business</td>
<td>N/A</td>
<td>N/A</td>
<td>25’</td>
<td>10’</td>
<td>20’</td>
<td>35’</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>'I-1' Light Industrial</td>
<td>N/A</td>
<td>N/A</td>
<td>25’</td>
<td>20’</td>
<td>20’</td>
<td>40’</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>'I-2' General Industrial</td>
<td>N/A</td>
<td>N/A</td>
<td>30’</td>
<td>30’</td>
<td>30’</td>
<td>40’</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

N/A = Not Applicable
ARTICLE 4
"R-1" LOW-DENSITY RESIDENTIAL DISTRICT

DESCRIPTION AND PURPOSE

This district is intended to low-density, single-family dwellings and low-intensity uses serving the residents of the district serving the majority of the single-family housing needs of the city. Two-family homes and other related uses may also be allowed under certain conditions.

PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

A. Single-family dwellings.
B. Family day-care homes.
C. Home occupations, as permitted in Article 17.
D. State-licensed residential facilities (6 or fewer persons)

SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining approval as a special land use pursuant to the procedures and requirements of Article 19:

A. Two-family dwellings.
B. Adult day-care homes.
C. Bed and breakfasts.
D. Boarding rooms.
E. Group day-care homes.
F. Public or institutional uses.
G. State-licensed residential facilities (more than 6 persons).

ACCESSORY USES AND BUILDINGS

A. Accessory uses incidental to a permitted principal use are permitted when located on the same lot.
B. Accessory buildings and structures shall meet the provisions of Article 17.

4.05 HEIGHT AND AREA REGULATIONS

The use of land and buildings within this district shall meet the Schedule of District Regulations in Article 3.

4.06 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Article 18.

4.07 GENERAL PROVISIONS

All applicable provisions in Article 17 shall be met.
ARTICLE 5
"R-2" MEDIUM-DENSITY RESIDENTIAL DISTRICT

5.01 DESCRIPTION AND PURPOSE

This zoning district is intended for medium-density, single-family, and two-family dwellings. Related residential activities may also be permitted under certain conditions.

5.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

A. Single-family dwellings
B. Two-family dwellings
C. Family day-care homes
D. Home occupations, as permitted in Article 17
E. State-licensed residential facilities (6 or fewer persons)

5.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining approval as a special land use pursuant to the procedures and requirements of Article 19:

A. Adult day-care homes
B. Bed and breakfasts
C. Boarding rooms
D. Group day-care homes
E. Public or institutional uses
F. State-licensed residential facilities (more than 6 persons).

5.04 ACCESSORY USES AND BUILDINGS

A. Accessory uses incidental to a permitted principal use are permitted when located on the same lot.
B. Accessory buildings and structures shall meet the provisions of Article 17.

5.05 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet the Schedule of District Regulations in Article 3.
5.06 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Article 18.

5.07 GENERAL PROVISIONS

All applicable provisions in Article 17 shall be met.
ARTICLE 6
“R-3” HIGH-DENSITY RESIDENTIAL DISTRICT

6.01 DESCRIPTION AND PURPOSE

This zoning district is intended for higher-density, single-tow-and multiple-family residential dwellings and related uses.

6.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right in the “R” District:

A. Single-family dwellings
B. Two-family dwellings
C. Multiple-family dwellings
D. Family day-care homes
E. Home occupations, as permitted in Article 17
F. State-license residential facilities (6 or fewer persons)

6.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining approval as a special land use pursuant to the procedures and requirements of Article 19:

A. Adult day-care homes
B. Bed and breakfast
C. Boarding rooms
D. Group day-care homes
E. Public or institutional uses
F. State-licensed residential facilities (more than 6 persons)
6.04 ACCESSORY USES AND BUILDINGS

A. Accessory uses incidental to a permitted principal use are permitted when located on the same lot.

B. Accessory buildings and structures shall meet the provisions of Article 17.

6.05 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet the Schedule of District Regulations in Article 3.

6.06 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Article 18.

6.07 SITE PLAN REVIEW

All proposed multiple-family developments shall be subject to the review and approval of a site plan in accordance with Article 20.

6.08 GENERAL PROVISIONS

All applicable provisions in Article 17 shall be met.
ARTICLE 7
"R-4" MOBILE HOME PARK DISTRICT

7.01 DESCRIPTION AND PURPOSE

This district is intended to accommodate the particular needs of mobile homes situated in mobile home parks. It is recognized that properly located mobile home parks can provide important alternate and affordable housing opportunities for city residents.

7.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

A. Mobile home parks.

B. Family day-care homes.

C. Home occupations, as permitted in Article 17.

7.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining approval as a special land use pursuant to the procedures and requirements of Article 19:

A. Adult day-care homes.

B. Public or institutional uses.

7.04 ACCESSORY USES AND BUILDINGS

Accessory uses incidental to the mobile home park are permitted, provided that they are intended for use only by the residents of the mobile home park.

7.05 SITE DEVELOPMENT REQUIREMENTS

B. All mobile homes shall be skirted within 90 days of placement within the mobile home park and must meet the standards of Act 96 of the Public Acts of 1987, as amended.

C. All mobile homes shall be anchored, when installed in a mobile home park, with only those systems that are approved by Act 96 of the Public Acts of 1987, as amended.

D. Mobile homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line. If said structures abut a public right-of-way, they shall not be located closer than 50 feet from the boundary line, except that if the boundary line runs through the center of the public road, the 50 feet shall be measured from the road right-of-way.

E. Mobile home parks shall be screened from view as follows:

1. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.

2. If the park abuts a non-residential development, the park need not provide screening.

3. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.

F. The screening shall consist of evergreen trees or shrubs of a minimum 5 feet in heights that are spaced so that they provide a continuous screen upon maturity. Alternative screening devises may be utilized if they conceal the mobile home park as effectively as the required landscaping described above.

G. The sales of new or used mobile homes are only permitted within the mobile home park on sites approved for permanent occupancy and access to the use of the park for dwelling purposes.

H. All public and private utilities shall be stored underground.

7.96 APPROVAL PROCESS

A. Four copies of a preliminary plan shall be submitted to the planning commission for preliminary approval. The preliminary plan shall include the location, layout, general design, and a
general description of the project in sufficient detail for the city to determine compliance with this ordinance and other applicable laws or regulations.

B. Approval of the preliminary plan shall be given if it conforms to applicable laws and ordinances not in conflict with Act 96 of 1987, as amended.

C. The city shall return the preliminary plan to the developer, either approved, modified, or disapproved, within 60 days after it receives the preliminary plans; otherwise, the preliminary plan shall be considered approved.

D. The final plans shall be reviewed and approved by the Department of Commerce or its successor agency.

7.07 GENERAL PROVISIONS

All applicable provisions in Article 17 shall be met.
ARTICLE 8
“C-1” CENTRAL BUSINESS DISTRICT

8.01 DESCRIPTION AND PURPOSE

This zoning district is intended for retail businesses or service establishments that supply commodities or perform services that meet the daily needs of the residents with a minimal impact on adjacent residential development. In order to promote a sound business environment, uses that could create hazards, offensive or loud noises, vibration, smoke, glare, or heavy truck traffic are not permitted. This district should serve as the major commercial retail and service area of the city.

8.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

A. Banks, credit unions, and savings and loan associations.

B. Commercial recreational establishments, provided all activities are located in a fully enclosed building.

C. Dental and medical clinics.

D. Generally recognized retail businesses whose principal activity is the sale or rental of merchandise primarily in an enclosed building.

E. Offices.

F. Personal service establishments that perform services in an enclosed building, such as but not limited to repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, health clubs, photographic studios, self-service laundries, and dry cleaners.

G. Restaurants or other places serving food or beverages on the premises, provided that accessory drive-through or drive-in restaurants may be permitted upon obtaining approval as a special land use pursuant to the procedures and requirements of Article 19.

H. State-licensed residential facilities (6 or fewer persons)
8.03  SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining approval as a special land use pursuant to the procedures and requirements of Article 19:

A. Multi-family dwellings
B. Public or institutional uses.
C. Second floor apartments.
D. State-licensed residential facilities (more than 7 persons).

8.04  ACCESSORY USES AND BUILDINGS

A. Accessory uses incidental to a permitted principal use are permitted when located on the same lot.
B. Accessory buildings and structures shall meet the provisions of Article 17.

8.05  HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet the Schedule of District Regulations in Article 3.

8.06  PARKING REQUIREMENTS

All uses permitted by right in this district shall be exempt from the off-street parking requirements of Article 18.

8.07  SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Article 20.

8.08  GENERAL PROVISIONS

All applicable provisions in Article 17 shall be met.
8.09 ADDITIONAL REQUIREMENTS

A. All outdoor storage shall be regulated by all applicable city ordinances. Outdoor storage shall not be permitted on public property.

B. All side and rear yards adjacent to residential districts shall be required to be screened by a fence, wall, or planted material (see Article 17 for required screening).

C. All outdoor lighting shall be shielded to reduce glare and shall be arranged to reflect light away from all adjacent residential districts and dwellings.

D. All ingress and egress areas (curb cuts)

E. Outdoor sales of retail merchandise shall be permitted, provided that it is incidental to the permitted indoor sales activity and that the merchandise is on display outdoors only during regular business hours.
ARTICLE 9
“C-2” GENERAL BUSINESS DISTRICT

9.01 DESCRIPTION AND PURPOSE

This district is intended for more diversified and higher-intensity commercial land uses that would not be appropriate in the downtown area of the city due to possible objectionable conditions. This district is also appropriate for uses serving the motoring public. Increased setbacks and screening are required to protect neighboring land uses from any objectionable conditions.

9.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right:

A. All uses permitted by right in the “C-1” District.

B. Car washes.

C. Drive-through and drive-in restaurants.

D. Funeral homes.

E. Lumber yards.

F. Motels.

G. Oil change establishments.

H. Service stations, including minor vehicle repairs. All tires, auto parts, and bodies must be removed from the premises or kept in an enclosed building.

I. Veterinary clinics, provided that the keeping of animals outdoors is prohibited.

9.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining approval as a special land use pursuant to the procedures and requirements of Article 19:

A. Adult day-care centers.

B. Adult entertainment businesses.
C. Child-care centers
D. Commercial recreation (outdoor).
E. Outdoor sales.
F. Public or institutional uses.
G. Vehicle repair (major or minor).

9.04 ACCESSORY USES AND BUILDINGS

A. Accessory uses incidental to a permitted principal use are permitted when located on the same lot.

B. Accessory buildings and structures shall meet the provisions of Article 17.

9.05 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet the Schedule of District Regulations in Article 3.

9.06 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Article 18.

9.07 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Article 20.

9.08 GENERAL PROVISIONS

All applicable provisions in Article 17 shall be met.

9.09 ADDITIONAL REQUIREMENT

A. All outdoor storage shall be regulated by all applicable city ordinances. Outdoor storage shall not be permitted on public property.
B. All side and rear yards adjacent to residential districts shall be required to be screened by a fence, wall, or planted material (see Article 17 for required screening).

C. All outdoor lighting shall be shielded to reduce glare and shall be arranged to reflect light away from all adjacent residential districts and dwellings.

D. The centerline of all ingress and egress areas (curb cuts) shall be at least 30 feet from the right-of-way of any intersecting street.
ARTICLE 10
“I-1” LIGHT INDUSTRIAL DISTRICT

10.01 DESCRIPTION AND PURPOSE

This zoning district is intended for light industrial activities, such as compounding, assembling, or treating of articles or materials; light manufacturing; processing of raw materials; and other similar industrial uses. More intensive industrial uses, such as auto body repair and salvage yards, shall not be permitted. Uses permitted shall be free from excessive danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor, and other objectionable influences. This district may also serve as a buffer between general industrial districts and residential areas of the city.

10.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right within the “I-1” District:

A. Contractor yards.

B. Lumber yards.

C. Manufacturing, compounding, assembling, or treating of articles from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semiprecious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.

D. Manufacturing, compounding, processing, packaging, or treating of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food and dairy products, except the rendering or refining of fats and oils.

E. Printing and publishing shops.

F. Research establishments and experimental laboratories.

G. Warehouses and storage and trucking facilities.

H. Wholesale sales.
10.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining a special land use permit pursuant to Article 19:

A. Public or institutional uses.

10.04 ACCESSORY USES AND BUILDINGS

A. Accessory uses incidental to a permitted principal use are permitted when located on the same lot. Accessory uses shall also include the following:

1. Office uses accessory to other permitted uses.

2. Residential use limited to watchman, police, or security purposes.

3. Retail sales of food, beverages, and other convenience items to occupants and employees, provided such sales are not offered to the general public.

B. Accessory buildings and structures shall meet the provisions of Article 17.

10.05 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet the Schedule of District Regulations in Article 3.

10.06 PARKING REQUIREMENTS

The use of land and buildings in the district shall meet the Schedule of District Regulations in Article 3.

10.07 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Article 20.

10.08 GENERAL PROVISIONS

All relevant provisions in Article 17 shall be met.
10.09 ADDITIONAL REGULATIONS

A. A fence, wall, or planted material, as approved by the planning commission, shall be provided along all side and rear yards abutting a property line in any residential district (see Article 17 for required screening).

B. All uses and outdoor storage shall be conducted within a completely enclosed building or within an area enclosed on all sides by a fence or wall at least 6 feet in height. No uses or outdoor storage shall be located in the required front yard setback.

C. All outdoor lighting shall be shielded to reduce glare and shall be arranged to reflect light away from all adjacent residential districts and dwellings.

D. The centerline of all ingress and egress areas (curb cuts) shall be at least 100 feet from the right-of-way of any intersecting street.

10.10 PERFORMANCE STANDARDS

It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building, or equipment dangerous to human life or health or that produces irritants to the sensory perception greater that the measures herein established that are hereby determined to be the maximum permissible hazards to humans or human activities.

A. **Sound**: The intensity levels of sound created by any activity or operation or use of any land, building, or equipment shall be governed by the applicable City of Evart noise control regulations.

B. **Vibration**: All machinery shall be mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 root-mean-square of 1 inch r.m.s. measured at any lot line of its source.

C. **Odor**: The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of 1 volume of odorous air to 4 or more volumes of clean air or as to produce a public nuisance or hazard beyond lot lines, is prohibited.

D. **Toxic Gases**: The escape of or emission of any gas that is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated except as required in the provisions of essential services.
E. **Glare and Heat:** Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line except during the period of construction of the facilities to be used and occupied.

F. **Light:** All lighting shall be arranged to reflect light away from adjoining properties in residential districts. There shall be no direct or sky-reflected glare exceeding 1-1/2 foot-candles or that would be damaging to the human eye, measured at the property line of the lot occupied by such use (except that the regulation provided by this sentence shall not apply to lights used at the entrance or exit or service drives leading to a parking lot).

G. **Electromagnetic Radiation:** The rules and regulations of the Federal Communications Commission as of the date of the adoption of this ordinance, with respect to the propagation and dissemination of electromagnetic radiation, are hereby made a part of this ordinance and shall be on file in the office of the ordinance enforcement officer.

H. **Smoke, Dust, Dirt, and Fly Ash:** It shall be unlawful to discharge, into the atmosphere, from any single source of emission whatsoever, any air contaminator for a period or periods aggregating more than 2 minutes in any 1/2 hour that is:

1. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart. The Ringelmann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this ordinance, shall be the standard. However, the Umbrascope readings of smoke densities may be used when correlated with the Ringelmann Chart. A Ringelmann Chart shall be on file in the office of the ordinance enforcement officer.

2. Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in Section 10.10, Paragraph H., No. 1, above, except when the emission consists only of water vapor.

The quantity of gas-borne or airborne solids shall not exceed 0.2 of a grain per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.
I. **Drifted and Blown Material**: The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.

J. **Radioactive Materials**: Radioactive materials shall not be emitted so as to be unsafe to human health or life.
ARTICLE 11
“1-2” GENERAL INDUSTRIAL DISTRICT

11.01 DESCRIPTION AND PURPOSE

This zoning district is intended for general industrial activities, such as the compounding, assembling, or treating of articles or materials; light manufacturing; processing of raw materials; and other similar industrial uses. This district is also intended to permit a planned business and service environment related to the airport and existing and proposed industrial uses. Uses permitted shall be free from excessive danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and from offensive noise, vibration, smoke, odor, and other objectionable influences.

11.02 PERMITTED LAND USES

The following uses of land and buildings are permitted by right within the “1-2” District:

A. Airports.

B. Auto body repair and paint shops.

C. Business schools and classrooms.

D. Central dry-cleaning and laundry plants.

E. Contractor yards.

F. Lumber yards.

G. Manufacturing, compounding, assembling, or treating of articles from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semiprecious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.

H. Manufacturing, compounding, processing, packaging, or treating of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food and dairy products, except the rendering or refining of fats and oils.

I. Medical clinics, wellness centers, and health clubs.
J. Printing and publishing shops.

K. Research establishments and experimental laboratories.

L. Warehouses and storage and trucking facilities.

M. Wholesale sales.

11.03 SPECIAL LAND USES

The following uses of land and buildings may be permitted upon obtaining approval as a special land use pursuant to the procedures and requirements of Article 19:

A. Motels or hotels.

B. Public or institutional uses.

C. Salvage yards.

11.04 ACCESSORY USES AND BUILDINGS

A. Accessory uses incidental to a permitted principal use are permitted when located on the same lot. Accessory uses shall also include the following:

1. Adult day-care centers, provided that the standards in Section 19.05, Paragraph A., are met as determined necessary by the planning commission for the safety and welfare of the persons attending the adult day-care center.

2. Child-care centers, provided that the standards in Section 19.05, Paragraph F., are met as determined necessary by the planning commission for the safety and welfare of the children attending the child-care center.

3. Office uses accessory to other permitted uses.

4. Residential use limited to watchman, police, or security purposes.

5. Retail sales of food, beverages, and other convenience items to occupants and employees, provided such sales are not offered to the general public.
B. Accessory buildings and structures shall meet the provisions of Article 17.

11.05 HEIGHT AND AREA REGULATIONS

The use of land and buildings in this district shall meet the Schedule of District Regulations in Article 3.

11.06 PARKING REQUIREMENTS

All uses permitted in this district shall meet the off-street parking requirements of Article 18.

11.07 SITE PLAN REVIEW

All proposed uses and structures shall be subject to the review and approval of a site plan in accordance with Article 20.

11.08 GENERAL PROVISIONS

All applicable provisions in Article 17 shall be met.

11.09 ADDITIONAL REGULATIONS

A. A fence, wall, or planted material, as approved by the planning commission, shall be provided along all side and rear yards abutting a property line in any residential district (see Article 17 for required screening).

B. All uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a fence or wall at least 6 feet in height. No outdoor storage or processing shall be located in the required front yard setback.

C. All outdoor lighting shall be shielded to reduce glare and shall be arranged to reflect light away from all adjacent residential districts and dwellings.

D. The centerline of all ingress and egress areas (curb cuts) shall be at least 100 feet from the right-of-way of any intersecting street.

11.10 PERFORMANCE STANDARDS

It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building, or equipment dangerous to human life or health or that produces irritants to the sensory perception greater
than the measures herein established that are hereby determined to be the maximum permissible hazards to humans or human activities.

A. **Sound:** The intensity levels of sound created by any activity or operation or use of any land, building, or equipment shall be governed by the applicable City of Evart noise control regulations.

B. **Vibration:** All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of 0.003 root-mean-square of 1 inch r.m.s. measured at any lot line of its source.

C. **Odor:** The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of 1 volume of odorous air to 4 or more volumes of clean air or as to produce a public nuisance or hazard beyond lot lines, is prohibited.

D. **Toxic Gases:** The escape of or emission of any gas that is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated except as required in the provisions of essential services.

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

F. **Light:** All lighting shall be arranged to reflect light away from adjoining properties in residential districts. There shall be no direct or sky-reflected glare exceeding 1-1/2 footcandles or that would be damaging to the human eye, measured at the property line of the lot occupied by such use (except that the regulation provided by the sentence shall not apply to lights used at the entrance or exit or service drives leading to a parking lot).

G. **Electromagnetic Radiation:** The rules and regulations of the Federal Communications Commission as of the date of the adoption of this ordinance, with respect to the propagation and dissemination of electromagnetic radiation, and hereby made a part of this ordinance and shall be on file in the office of the ordinance enforcement officer.

H. **Smoke, Dust, Dirt, and Fly Ash:** It shall be unlawful to discharge, into the atmosphere, from any single source of emission...
whosoever, any air contaminator for a period or periods aggregating more than 2 minutes in any ½ hour that is:

1. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart. The Ringelmann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this ordinance, shall be the standard. However, the Umbrascope readings of smoke densities may be used when correlated with the Ringelmann Chart. A Ringelmann Chart shall be on file in the office of the ordinance enforcement officer.

2. Of such opacity as to obscure an observer’s view to a degree equal to or greater than the smoke described in Section 11.10, Paragraph H., No. 1, above, except when the emission consists only of water vapor.

The quantity of gas-borne or airborne solids shall not exceed 0.2 of a grain per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

i. **Drifted and Blown Material**: The drifting or airborne transmission beyond the lot line of dust, particles, or debris from any open stockpile shall be unlawful and may be summarily caused to be abated.

j. **Radioactive Materials**: Radioactive materials shall not be emitted so as to be unsafe to human health or life.
ARTICLE 12
"PUD" PLANNED UNIT DEVELOPMENT DISTRICT

12.01 PURPOSE

The provisions of this article provide requirements and standards for the submission, review, and approval of applications for planned unit development (PUDs). The purposes and objectives of these PUD regulations include the following:

A. To accomplish the intent, purposes, and objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

B. To permit flexibility in the regulation of land development.

C. To encourage innovation in land use and variety in design, layout, and type of structures constructed.

D. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.

E. To encourage provision of useful open space and more desirable living and shopping environments by preserving the natural character of open fields, stands of trees, wetland and surface water features, floodplains, hills, and similar natural assets.

F. To provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the city and to encourage the development of recreational facilities and neighborhood commercial facilities in a generally central location within reasonable distance of all living units.

G. To ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.

12.02 PERMITTED USES

The following uses of land and buildings may be permitted within a PUD pursuant to an approved site plan and in accordance with all other applicable requirements of this article:
A. Single-family, two-family, and multiple-family dwelling units and accessory uses incidental to those permitted principal uses.

B. In PUDs with a minimum size of 20 acres, up to 10 percent of the land area may be considered for use for commercial retail and service uses primarily serving the residents of the PUD and adjacent areas. Such commercial uses shall be encouraged to locate at major intersections rather than on local residential streets. Appropriate screening between commercial and residential uses may be required.

12.03 MINIMUM REQUIREMENTS

A. Except as otherwise expressly provided by Section 12.04 (Modification of Minimum Requirements) or Section 12.05 (Clustering), the area, depth, frontage, setback, height, and other bulk and placement regulations for permitted uses in a PUD shall not be less than the minimum standards provided for the use by this section as follows:

1. Single-family, detached dwellings shall meet, as a minimum, the regulations applicable in the R-1 District as provided by Section 4.05.

2. Two-family dwellings shall meet, as a minimum, the regulations applicable in the R-2 District as provided by Section 5.05.

3. Multiple-family dwellings shall meet, as a minimum, the regulations applicable in the R-3 District as provided by Section 6.05.

4. All other uses permitted within the PUD district shall meet, as a minimum, the regulations that would otherwise be applicable to the use as provided by the “Schedule of District Regulations” in Section 3.06. If the use is permitted in more than one district or is subject to more than one set of regulations, the most restrictive regulations applicable to that use shall constitute the minimum standards for purposes of the PUD in question.

B. Parking requirements for the PUD shall be equal to the sum of the parking requirements for all uses proposed for the PUD as provided by Article 18.
12.04 MODIFICATION OF MINIMUM REQUIREMENTS

A. Notwithstanding Section 12.03, if the planning commission determines that a better or more appropriate project design can be achieved, consistent with the purposes and objectives of this article, by not applying the otherwise applicable minimum requirements provided by this ordinance, and that, based on the application of site planning criteria and the characteristics of the project area, adherence to those minimum requirements is not required to ensure the health, safety, and welfare of those using the development or adjacent property or to achieve the purposes and objectives of this ordinance, then the planning commission may authorize less restrictive minimum requirements to be integrated into the approved PUD site plan for the project in question.

B. The overall site density for a PUD project for which any of the minimum requirements have been modified as provided by Section 12.04, Paragraph A., shall not exceed the density that would otherwise be permitted by the density limitations applicable under this article without any modification of the minimum requirements. See Section 12.05, Paragraph D., for the procedures for calculating maximum densities.

12.05 CLUSTERING

A. The purpose of permitting residential clustering is to provide savings in sewer, water, facilities, land resources, and energy use through the concentration of dwellings, construction, and physical impact to specific areas of a tract. Cluster development permits variation in lot size, shape, and orientation without an increase in overall site density.

B. Clustering may be permitted by the planning commission for PUD developments approved pursuant to this article. The decision of the planning commission as to whether or not to permit clustering for a particular project shall be guided by the following standards:

1. Individual lots, buildings, streets, and parking areas shall be designed and situated to minimize alteration of the natural features and topography.

2. Individual lots and buildings shall be arranged and situated to relate to surrounding properties to provide improved views from the buildings.
3. Individual lots, buildings, streets, and parking areas shall be situated to avoid the adverse effects of shadows, noise, and traffic on the residents of the site and to lessen the area devoted to motor vehicles.

4. Diversity, originality, lot layout, and individual building design shall be encouraged to achieve a more compatible relationship between development and the land.

5. Cluster open space intended for recreational or public use shall be easily accessible to pedestrians. Open space intended for scenic value shall be visible from a significant number of units or buildings.

C. Front, side, and rear yard requirements and lot areas that are otherwise required by this ordinance shall not apply in a cluster development except for perimeter lots. Variations from these required dimensions shall be shown on the PUD site plan and must be approved by the planning commission.

D. The number of dwelling units (and other permitted nonresidential uses) permitted in a cluster development shall not exceed the density that would be permitted by applying the following procedure:

1. Determine the gross site area of the PUD.

2. Subtract all wetland areas as defined in Act 203 of 1979.

3. Subtract all areas to be used for street right-of-way purposes.

4. Divide the remaining net area available by the applicable lot size requirements of this article.

12.06 APPLICATION PROCEDURES

Applications for PUD approval shall be submitted as provided by this section.

A. An application for PUD approval shall require submission of a site plan as required by Article 20. To the extent not otherwise provided pursuant to the requirements of Article 20, the site plan for the PUD shall also contain the following information:
1. The square footage or acreage allocated to each proposed permitted use.

2. The locations of all structures, including proposed setbacks, typical layout, and elevation for each type of use.

3. Density calculations, number and types of residential units, and floor area per habitable space.

4. A description of all proposed permitted nonresidential uses, if any.

5. A landscape plan showing all woodlands, vegetation, and other natural features to be preserved or added, topography, and similar features.

6. The location and area of each development phase of a multi-phased development.

B. An application for PUD approval shall also require submission of a fully completed PUD application form. The PUD application form shall require the applicant to provide information regarding the proposed PUD in sufficient detail for the planning commission to determine compliance with this article and with other applicable laws or regulations, including, at a minimum, information regarding the following characteristics of the proposed PUD development:

1. The scope and nature of the proposed PUD and the objectives and purposes to be served by the PUD.

2. Compliance with all applicable requirements under local, state, or federal laws.

3. The development and construction schedule indicating the approximate date for commencement of construction, the stages or phases in which the project will be built, and the expended starting and completion dates of each stage.

4. The identification and description of the organization or individual that will own and maintain all land areas within the PUD, including common open space.

5. Compliance with the city’s master plan.
6. The impact of the PUD on public utilities, facilities, or services on surrounding properties and on the natural environment.

7. The status of ownership or control of the PUD such that there is a single person or entity having responsibility for completing the PUD in conformance with an approved site plan.

C. If the site of a proposed PUD has not previously been rezoned as a PUD district, the applicant must also apply for the necessary rezoning as provided by Article 25 as a part of the application for PUD approval.

D. The required PUD application materials shall be filed with the ordinance enforcement officer, who shall transmit the materials and the petition for rezoning to the planning commission. The application must be filed at least 30 days prior to the planning commission hearing at which it is first to be considered. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the city council. No part of this fee shall be refundable. No transmittals shall be made unless the required fees have been paid in full.

12.07 PLANNING COMMISSION REVIEW OF SITE PLANS AND REQUEST FOR REZONING

A. Following receipt a completed PUD application, the planning commission shall schedule a public hearing on the request for PUD approval, including a review of the PUD site plan and consideration of a petition for PUD rezoning. Notice of the public hearing shall be given in the same manner as required by Section 19.02, Paragraph C., of this ordinance for public hearings on special land uses.

B. At the public hearing or within a reasonable time following the public hearing, the planning commission shall take the following actions:

1. The planning commission shall approve, approve with conditions, or deny the request to approve the PUD site plan. The planning commission shall prepare a report stating its conclusions on the request to approve the site plan, the basis for its decision, and any conditions relating to an affirmative decision.
2. The planning commission shall also review and make a recommendation to the city council on the proposed rezoning of the property to a PUD district in accordance with the standards for approval for rezoning requests as provided by Section 25.04 of this ordinance.

3. The planning commission's report and recommendation to the city council, as required by Sections 12.06, Paragraph B., Nos. 1., and 2., above, shall include its determination as to whether the PUD project as described by the site plan meets the standards provided in Section 12.06, Paragraph C.

C. A PUD site plan shall not be approved by the planning commission unless the commission finds that the PUD project, as proposed, will meet each of the following conditions and requirements as applicable to the project in question:

1. The proposed development conforms to the intent and to all applicable requirements and standards of this article and complies with all other applicable local, state, or federal laws and regulations.

2. The proposed development conforms to the city's master plan.

3. The overall density of the PUD does not exceed that which would be allowed under the applicable minimum density limitations for single-family dwellings units, two-family dwelling units, multiple-family dwelling units, and any permitted nonresidential uses as applied to the actual number of each of those types of units and uses included within the PUD.

4. The project is designed to enhance environmental features, such as the preservation of trees, floodplains, and natural areas, and promotes proper site landscaping.

5. The proposed development will be adequately served by public facilities and services, such as highways, streets, police and fire protection, drainage courses, water and sanitary sewer facilities, and refuse disposal; or the persons or agencies responsible for the proposed development shall be able to provide, in a manner acceptable to the planning commission, any such facilities and services.
6. The common open space, any other common properties, individual properties, and all other elements of the PUD are so planning that they will achieve a unified open and recreational area system with open space and all other elements in appropriate locations, suitably related to each other, the site, and the surrounding land.

7. The applicant has made provision, satisfactory to the planning commission, to assure that open space areas and rights-of-way shown on the site plan for use by the public or by residents of the development will be or have been irrevocably committed for that purpose. The applicant has also made provision, satisfactory to the planning commission, for the financing of any improvement shown on the plan for open space area and common use areas that are to be included within the development; and maintenance of such improvements is assured by a means satisfactory to the planning commission.

8. The location of the proposed uses, the layout of the site, and its relation to streets giving access to it is such that traffic to, from, and within the site and assembly of persons in connection therewith will not be hazardous or inconvenient to the project or the surrounding areas. In applying this standard, the planning commission shall consider, among other things, convenient routes for pedestrian traffic, particularly of children, the relationship of the proposed project to main thoroughfares and street intersections, and the general character and intensity of the existing and potential development of the surrounding area. Where open parking areas or roadways are to be located immediately adjacent to any peripheral boundary, a separation or buffer of a type sufficient to ensure the privacy of the adjacent property shall be provided.

9. The mix of housing unit types and densities and the mix of residential and nonresidential uses, if any, is acceptable in terms of convenience, privacy, compatibility, and similar measures.

10. Noise, odor, light, or other external effect from any source whatsoever that is connected with the proposed use will not adversely affect adjacent and neighboring lands or uses.

11. Streets follow the topography, are properly spaced, and are located and aligned in accordance with the intended
function of each street. The plans provide for logical extensions of public streets and provide suitable street connections to adjacent parcels, where applicable.

12. Adequate access for fire and other emergency vehicles shall be provided on the site.

13. Pedestrian circulation is provided for within the site, as appropriate, and interconnects all residential areas, community areas, and commercial and other services, where applicable. The pedestrian system provides a logical extension of the pedestrianways from outside the site and provides pedestrian connections to the edges of the site, where appropriate.

14. If a project is proposed for construction in phases, the planning and designing is such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the PUD and the residents of the surrounding area.

D. Reasonable conditions may be required by the planning commission, in conjunction with the approval of a PUD site plan, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity; protecting the natural environment and conserving natural resources and energy; ensuring compatibility with adjacent uses of land; and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project; those immediately adjacent; and the community, as a whole. The conditions shall be necessary to meet the intent and purpose of this article and shall be related to the objective of ensuring compliance with the standards of this article. All conditions imposed shall be made a part of the record of the approved PUD site plan.

12.08 CITY COUNCIL REVIEW OF REQUEST FOR REZONING

A. The city council shall be provided with a copy of the planning commission’s report regarding its decision of approval, approval with conditions, or denial of the PUD site plan along with a
summary of comments received at the public hearing, minutes of all proceedings, and all documents related to the PUD request.

B. The city council shall also be provided with the planning commission’s recommendation on the proposed rezoning of the PUD site. After receipt of the recommendation of the planning commission on the proposed rezoning, the city council may hold a public hearing to consider the rezoning request. Notice of the public hearing, if held, shall be given in the same manner as required by Section 19.02, Paragraph C., of this ordinance.

C. In making its determination on the proposed PUD rezoning, the city council may consider the planning commission’s report and decision regarding the planning commission’s approval or denial of the PUD site plan; but the city council shall not engage in a substantive review of the details of the site plan that has been approved by the planning commission.

D. The city council shall approve or deny the petition to rezone the site, subject to the site plan, as approved by the planning commission, or shall refer the petition to the planning commission for further review.

E. No construction shall commence, and no construction permits shall be issued for all or any phase of a PUD until a site plan has been approved by the planning commission and the property has been rezoned by the city council as provided by this article.

12.09 EFFECT OF APPROVAL OF SITE PLAN BY PLANNING COMMISSION

The PUD site plan, as approved by the planning commission, including all approved maps and accompanying written materials and any conditions of approval, shall be binding upon the applicant and owners of record and upon their heirs, successors, and assigns with respect to all future development of the property. No construction of buildings or structures or any other site improvements or changes shall be made except in strict compliance with the approved site plan.

12.10 AMENDMENT OF SITE PLAN

An approved PUD site plan shall not be varied or modified in any respect without an amendment approved by the planning commission. An application for a proposed amendment to a PUD site plan shall be reviewed and approved, approved with conditions, or denied by the
planning commission pursuant to the procedures prescribed by this article for original submittal and review of the site plan.

12.11 PERFORMANCE GUARANTEES

Performance guarantees to assure compliance with the provisions of this ordinance and any conditions imposed under this ordinance may be required by the planning commission at the time of approval of a site plan as authorized under Section 4e of Act No. 207 of the Public Acts of 1921, as amended.

12.12 ENFORCEMENT

A site plan approved by the planning commission in connection with a PUD shall have the full force and effect of the zoning ordinance. Subsequent actions relating to the use or activity authorized shall be consistent with the site plan as approved. Any violation of an approved site plan shall be grounds for the city to order that all construction be stopped and to order that zoning permits, building permits, and certificates of occupancy be withheld until the violation is removed or until adequate guarantee of removal of the violation is provided to the city. In addition, a violation of any approved site plan or failure to comply with any requirements of this section, including conditions of approval, shall be considered a violation of this ordinance.
ARTICLE 13
“F-1” FLOODPLAIN OVERLAY DISTRICT

13.01 FLOOD HAZARD FINDINGS

Periodic inundation of certain portions of the City of Evart produce flood hazards that result in loss of the life and property, health and safety dangers, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of this community. These flood losses are caused by the cumulative effect of obstruction in floodplains causing increased flood flow height and velocity and by the occupancy of flood-prone areas by uses vulnerable to floods or hazardous to other uses inadequately elevated or otherwise inadequately protected from flood damages.

13.02 PURPOSE

It is the purpose of this article to protect the general public and all land in the city subject to flood losses, as described in Section 13.01, by minimizing such losses through restricting or prohibiting uses that are dangerous to health, safety, and property in times of flood or that cause excessive increases in flood flow heights or velocities.

13.03 SCOPE

The Floodplain Overlay District shall apply to all land within the City of Evart shown as being within the 100-year floodplain on the Flood Insurance Rate Map (FIRM) of the National Flood Insurance Program and Federal Emergency Management Agency. The provisions and restrictions of this article shall apply in addition to the zoning district requirements of the zones in which the lands are located. Further, within the Floodplain Overlay District, this article shall take precedence over any conflicting city ordinances or regulations.

13.04 USE STANDARDS

Within the Floodplain Overlay District, except as otherwise required by applicable state or federal laws or regulations, no use of land, building, or structure shall be made; no building or structure shall be erected, converted, or substantially improved or placed; and no land shall be filled unless:

A. The use in question is allowed in the applicable underlying zone district.
B. The use complies with all applicable construction requirements.

C. All necessary permits and approvals, as required by local, state, or federal laws and regulations, have been obtained for the use.

D. The use is approved as a special land use pursuant to the procedures and requirements of Article 19.

13.05 PROHIBITED USES

The following uses are prohibited in the Floodplain Overlay District:

A. A building or structure intended to be a permanent residence.

B. Landfills, dumps, or junkyards.

C. The storage or processing of materials that, in time of flooding, becomes buoyant, flammable, explosive, or otherwise injurious to public health.

D. On-site sewage disposal systems.

E. A new mobile home park or any extension to any existing mobile home park and any new mobile home not in a mobile home park.

F. Any encroachment, excavation, dumping, or backfilling that would cause any increase in the base flood level.

G. Enlargement of a building or structure to more than 25 percent of its square footage as it existed at the time of enactment of this article.

13.06 ADDITIONAL REQUIREMENTS

A. Notwithstanding any provision of this section to the contrary, if a permit or approval from another local, state, or federal body or agency cannot be issued prior to the issuance of a zoning permit by the city, a letter from the other agency or body indicating that the permit or approval will be issued contingent solely upon proof of zoning compliance shall be acceptable.

B. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
C. Land shall not be divided in a manner creating parcels or lots that cannot be used in conformance with the requirements of this article.

D. No structure, fill, excavation, or storage shall be permitted that, acting alone or in combination with existing or future uses, significantly and unduly affects the capacity of the floodway and, thereby, increases the height of the floodwaters.

E. Filling in the floodway may be permitted only after full compliance has been achieved, to the satisfaction of the planning commission, with the applicable provisions of Act No. 245 of the Michigan Public Acts of 1929, as amended, and all other applicable local, state, and federal laws and regulations. Any fill permitted shall be protected from erosion by riprap, vegetative cover, bulk heading, or other approved means.

F. Prior to any alteration or relocation of a watercourse, notification shall be given to adjacent communities and the Michigan Department of Natural Resources, and evidence of such notification shall be submitted to the Federal Insurance Administration. Proper maintenance shall be provided within the altered or relocated watercourse so that the flood-carrying capacity is not diminished.

G. Structures shall be constructed and arranged on the building site so as to offer the minimum obstruction to the flow of floodwaters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flood flow and shall be placed approximately on the same flood flow lines as those of adjoining structures.

H. Any excavation, fill, extraction, grading, or scarping shall require the prior approval and consent of the Water Resources Commission of the Michigan Department of Natural Resources.

13.07 LIABILITY

The degree of flood protection required by this article is considered the minimum necessary and reasonable for regulatory purposes. Larger floods may occur at any time, and excessive floodwater heights may be experienced due to manmade and natural causes, such as ice jams and accumulated debris in bridge openings. No representation is made by this article that areas outside the Floodplain Overlay District or uses permitted within the district shall remain free from flooding or flood damage. Under no circumstances shall the City of Evart or any officer or employee of the
city be liable, to any degree, for any flooding or flood damage that might result from compliance with or reliance upon the provisions of this article or any decisions or administrative approvals lawfully granted under this article.
ARTICLE 14
“P-1” VEHICLE PARKING DISTRICT

14.01 DESCRIPTION AND PURPOSE

The “P-1” Vehicle Parking District is intended to permit the establishment of areas to be used for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided to serve a district that has developed without adequate off-street parking facilities. This district is also intended to permit the continued use of existing single-family dwellings.

14.02 PERMITTED LAND USES

The following uses are permitted:

A. Off-street vehicular parking areas.

B. Single-family dwellings.

14.03 REQUIRED CONDITIONS FOR OFF-STREET PARKING AREAS

A. The parking area shall be accessory to and for use in connection with one or more businesses or industrial establishments that are located in adjoining business or industrial districts or in connection with one or more existing professional or institutional office buildings or institutions.

B. If the parking area is adjacent to a residential district, a 5-foot setback from the residential lot line and a fence, wall, or planted material, as approved by the planning commission shall be provided along all side and rear lot lines (see Article 17 for required screening).

C. Parking areas shall be used solely for the parking of private passenger vehicles for continuous periods of less than 1 day and shall not be used as an off-street loading area.

D. No commercial repair work or service of any kind or sale or display thereof shall be conducted in such parking area.

E. No signs of any kind, other than signs designating entrances, exits, and conditions of use, shall be maintained on such parking area.
F. No building, other than those for shelter or attendants, shall be erected upon the premises; and they shall not exceed 15 feet in height.

G. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.

H. Off-Street parking existing on the effective date of this ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

14.04 HEIGHT AND AREA REGULATIONS FOR SINGLE-FAMILY DWELLINGS

All lot area, lot width, setback, height, floor area, and lot coverage requirements for the R-1 District in section 3.06 shall apply for all single-family dwellings in this district.

14.05 SITE PLAN REVIEW

All proposed off-street vehicular parking areas shall be subject to the review and approval of a site plan in accordance with Article 20.

14.06 GENERAL PROVISIONS

All applicable provisions in Article 17 shall be met.
ARTICLE 15
SIGNS

15.01 SIGN DEFINITIONS

For the purposes of this article, the following sign definitions shall apply:

A. **Sign**: The use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known, such as are used to show an individual, firm, profession, or business, and that are visible to the general public.

B. **Sign, Accessory**: A sign that is related to the principal use of the premises.

C. **Sign, Freestanding**: A sign that is not attached to a building or any architectural feature thereof and that is supported by uprights, braces, frames, or some object on the ground.

D. **Sign, Non-accessory**: A sign that is not related to the principal use of the premises.

E. **Sign, Temporary**: A freestanding sign that is designed and constructed in such a way as to be readily movable and that is not attached to the ground in a permanent fashion.

15.02 REQUIRED CONDITIONS FOR ALL SIGNS

The following conditions shall apply to all signs erected or located in any district:

A. All signs shall conform to all applicable codes and ordinances of the municipality and, where required, shall be approved by the ordinance enforcement officer and a permit issued.

B. No sign, except those established and maintained by the city, county, state, or federal governments, shall be located in, projected into, or overhanging in a public right-of-way or dedicated public easement.

C. No sign otherwise permitted shall project above or beyond the maximum height limitation of the district in which it is located, except that, for a planned commercial or shopping center development involving 5 acres or more under one ownership, the board of appeals may modify the height limitation. The board
shall, however, respect all yards and setbacks in modifying any height requirements.

D. All directional signs required for the purpose or orientation, when established by the city, county, state, or federal government, shall be permitted in all districts.

E. Accessory signs shall be permitted in any district.

F. Non-accessory signs shall be permitted only in I-1 and I-2 Districts, except that non-accessory signs pertaining to real estate development located within the municipality and designed to promote the sale of lots or homes within a subdivision located within the municipality may be permitted on a temporary basis in any district but shall not be located upon subdivided land unless such land is part of the subdivision being advertised for sale, and shall be subject to the requirements and conditions of all applicable codes and ordinances of the municipality, approved by the ordinance enforcement officer, and a temporary permit issued.

G. Signs used for advertising land or buildings for rent, lease, and/or sale shall be permitted when located on the land or building intended to be rented, leased, and/or sold.

H. Freestanding accessory signs may be located in the required front yard except as otherwise provided herein.

15.03 DISTRICT REGULATIONS FOR ALL SIGNS

In addition to Section 15.02, the following requirements shall apply to signs in the various districts as follows:

<table>
<thead>
<tr>
<th>Districts</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1, R-2, R-3, and R-4 Districts</td>
<td>For each dwelling unit, one nameplate, not to exceed 2 square feet in area, indicating the name of the occupant.</td>
</tr>
<tr>
<td></td>
<td>For structures other than dwelling units, one identification sign, not to exceed 18 square feet in area.</td>
</tr>
<tr>
<td>R-3 and R-4 Districts</td>
<td>For rental and/or management offices, one</td>
</tr>
</tbody>
</table>
identification sign not to exceed 6 square feet in area.

Signs indicating the name of multiple housing projects shall be permitted, provided that no such sign shall be located closer than 100 feet to any property line in any adjacent single-family district.

C-1 and C-2 Districts

No sign shall project beyond or overhand the wall or any permanent architectural feature by more than 1 foot and shall not project above or beyond the highest point of the roof or parapet.

Freestanding signs shall not exceed 100 square feet in area and shall not exceed 20 feet in height.

For each commercial building, one temporary sign for a length of time that shall not exceed 7 calendar days per 30-calendar-day period, except that two temporary signs shall be permitted for each commercial building on corner lots.

Freestanding accessory signs or advertising pylons shall not be placed closer than 100 feet to any adjacent residential district.

I-1 Districts

Freestanding signs shall not exceed 200 square feet in area and shall not exceed 30 feet in height.
I-2 Districts
Freestanding signs shall not exceed 300 square feet in area and shall not exceed 40 feet in height.

I-1 and I-2 Districts
Non-accessory signs shall be permitted but shall be spaced no closer than 1,000 feet between signs on the same side of the right-of-way.

Freestanding, non-accessory signs are allowed but shall comply with all requirements of the Schedule of District Regulations of this ordinance.
ARTICLE 16
CANopies AND AWNINGS

16.01 DEFINITIONS

For the purpose of this article, the following definitions shall apply:

A. **Canopy**: An attachment to the exterior of a building that is self supporting and non-retractable which extends out from the building over a public right-of-way.

B. **Awning**: A retractable attachment to the exterior of a building over a public right-of-way.

16.02 REQUIRED CONDITIONS FOR ALL CANopies AND AWNINGS

The following conditions shall apply to all canopies and awnings located in the City.

A. Canopies and Awnings made of cloth, plastic or similar material shall be maintained in good condition and not show evidence of excessive weathering, discoloration, ripping, tearing or holes. If any canopy or awning is not properly maintained, or constitutes a nuisance or safety hazard, it shall be removed or repaired upon written notification from the Zoning Administrator.

B. All canopies and awnings must have a clearance of not less than seven and one half (7-1/2') feet over any public right-of-way at its lowest point. There shall be no vertical supports in contact with a public right-of-way. Canopies and awnings may extend no more than nine (9') feet over a public right-of-way but in all cases must remain at least four (4') feet back from the curb.

C. All non-residential canopies and awnings shall be subject to the provisions of Article 20 of this Ordinance (Site Plan Review).

D. All retractable awnings shall have a mechanism for raising and securing the closed awning tightly against the face of the building.

E. Signage is allowed within the material of an awning or canopy.
ARTICLE 17
GENERAL PROVISIONS

17.01 ACCESS TO A STREET

All lots created after the effective date of this ordinance shall have frontage on a street for a distance equal to the minimum lot width requirement of the district in which it is located. In the case of a lot abutting the turnaround area of a dead-end street, the frontage on a street shall be a minimum of 50 feet, provided that the lot width at the building setback shall meet the lot width requirements of the district in which it is located.

17.02 ACCESSORY BUILDINGS OR STRUCTURES

A. In any zoning district, an accessory building or structure may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply, in all respects, with the requirements of this ordinance applicable to the permitted principal building.

B. Detached accessory buildings or structures shall not be located closer than 5 feet to the rear or side lot line. They shall not be located closer to the front lot line than the principal building is permitted.

C. The distance between a detached accessory building and any principal building shall not be less than 10 feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two buildings is solidly covered by a breezeway, portico, covered colonnade, or similar architectural devise.

D. Detached accessory buildings in residential and commercial districts shall not exceed 14 feet in height, provided that the maximum height may be increased to 16 feet if 1 additional foot of setback is provided for each foot in excess of 14 feet.

E. No accessory building or structure shall include residential or living quarters for human beings, except as permitted in industrial districts for watchman, public, or security purposes.
17.03  BASEMENT DWELLINGS

The use of any basement as a residence or dwelling unit is prohibited in all districts. The temporary use of a basement during construction work may be authorized by permit by the ordinance enforcement officer after issuance of a building permit for the proposed structure. The temporary permit shall terminate 12 months after the date of its issuance. The ordinance enforcement officer may renew the permit for one additional 12-month period if construction of the principal structure has been progressing in a reasonable manner.

17.04  DWELLING UNITS

All dwelling units located outside of a mobile home park shall comply with the following conditions:

A. All dwelling units shall meet the height and area requirements of the district in which it is located.

B. There shall be a minimum width throughout the entire length of the dwelling unit of 20 feet, measured between the outside walls having the greatest length.

C. All wheels, towing mechanisms, and tongues of mobile homes shall be removed; and none of the undercarriage shall be visible from outside the mobile home.

D. Exterior building materials of all dwelling units shall extend to the foundation on all sides.

E. All dwellings shall be firmly attached to the foundation so as to be watertight, as required by the construction code adopted by the city; or, if it is a mobile home, it shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development’s regulations entitled “Mobile Home Construction and Safety Standards”.

F. All additions to dwellings shall meet all of the requirements of this ordinance.

G. All mobile homes must meet standards for mobile home construction as contained in the United States Department of Housing and Urban Development’s regulations entitled “Mobile Home Construction and Safety Standards”, effective June 15.
1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the City.

17.05 ESSENTIAL SERVICES

The erection, construction, alteration, or maintenance by public utilities or governmental units, boards, or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith that are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission for the public health, safety, or general welfare is permitted in any zoning district.

17.06 FENCES AND WALLS

Fences and walls shall be permitted, subject to the following conditions:

A. Fences in All Districts:

1. All fences and walls shall be constructed of durable, weather-resistant, rustproof, and easily maintained materials.

2. All fences shall be erected with all fence posts and supports on the interior side.

3. Under no circumstances shall a fence be constructed of materials, such as but not limited to pallets, tree trunks, trash, tires, junk, or other similar items.

4. Fences may be located on the property line but may not extend into only right-of-way.

5. Fence heights shall be measured from the surface of the ground immediately below the location of the fence.

6. All fences shall be such design and location that they do not obstruct the vision of motorists on adjacent roads or the vision of pedestrians or motorists leaving the premises.

7. Retaining walls are exempt from these fence and wall provisions.
B. Fences in Residential Districts:

1. Fences not greater than 6 feet in height are permitted in side or rear yards and shall not extend beyond the front of the principal structure or the required building setback, whichever is furthest from the road right-of-way.

2. Fences not more than 4 feet in height are permitted in the front yard if they are not more than 25 percent solid.

3. Fences not more than 3 feet in height are permitted in the front yard if they are more than 25 percent solid.

4. Fences shall not contain barbed wire, razor wire, spikes, or electric current.

C. Fences in Commercial and Industrial Districts:

1. A chain-link, protective fence not in excess of 6 feet in height is permitted in all yards.

2. Fences in "C-1" Districts shall not contain barbed wire, razor wire, or electric current.

17.07 HEALTH DEPARTMENT APPROVAL

A permit shall not be issued for the construction of a building to be located on a lot that is not served by both public water and sewer facilities if the water supply and/or sewage disposal facilities for the lot are not authorized by the Osceola County Health Department.

17.08 HOME OCCUPATION REQUIREMENTS

All home occupations shall meet all of the following conditions:

A. The home occupation must be operated, in its entirety, within the principal dwelling or accessory building located upon the premises.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

C. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home
occupation other than one non-illuminated sign, not greater than 4 square feet in area, mounted flat against the wall of the principal building.

D. The occupation shall not involve any alteration or construction not customarily found in dwellings.

E. No radios, televisions, computers, or other equipment or process that creates noise, vibration, glare, fume, odors, or electrical interference detectable to the normal senses off the premises shall be used in such home occupation.

17.09 PRINCIPAL BUILDING ON A LOT

In all R-1, R-2, and R-3 Districts, no more than one principal single-family or two-family dwelling shall be placed on a lot.

17.10 SCREENING – REQUIRED

A. All uses with the required screening shall be screened by walls, fences, vegetation, and berming or a combination of any of these as approved by the planning commission.

B. Fences and walls used for screening purposes shall meet the following conditions:

1. Fences and walls shall have no openings for vehicular traffic or other purposes except as otherwise provided in the ordinance and except such openings as may be approved by the planning commission.

2. Fences and walls shall have no openings for vehicular traffic or other purposes except as otherwise provided in this ordinance and except such openings as may be approved by the planning commission.

3. Fences and walls may not be constructed with openings that exceed 20 percent of the surface. The openings shall not reduce the obscuring effect and shall not reduce the minimum height requirement.

4. The height of the required fence or wall shall be as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Required Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings in Commercial Districts</td>
<td>4’6”</td>
</tr>
</tbody>
</table>
C. Vegetation used for screening purposes shall meet the following conditions:

1. Vegetation shall be comprised of one or more of the following upright conifers: blue, green, white, or Serbian spruce; Douglas fir; Austrian pine; juniper; hemlock; or cedar.

2. Trees shall be planted 15 feet on center and may have up to 30-degree spacing.

3. Trees shall not be less than 5 feet in height at the time of planting.

4. Existing plant material that complies with the standards of this section, as determined by the planning commission, shall be credited toward meeting the screening requirements.

5. All required plant units shall be maintained in a healthy, growing condition. Any required plant units that are destroyed, removed, diseased, or die, shall be replaced within 6 months with plant units that meet the requirements of this section. Failure to maintain required plant units in such a manner, including the removal and replacement of dead or diseased plant materials, shall constitute a violation of this ordinance.

6. The plantings shall be maintained in a neat and attractive manner commensurate with the adjoining areas and shall maintain their density and screening effect throughout the calendar year.

D. Berming used for screening purposes shall meet the following conditions:

1. Berms shall be at least 4 feet 6 inches in height, constructed with 1 foot of rise for each 3 feet of horizontal rise.
2. Berms shall be seeded with perennial rye and an appropriate grass seed and shall be covered with an organic mulch.

3. Berms shall be landscaped with shrubbery and trees to enhance the screening effect and aesthetic appearance of the berm and shall be maintained in a neat and attractive manner.

17.11 SITE CONDOMINIUM SUBDIVISIONS

This section requires preliminary review by the planning commission, followed by final review and approval by the city council, of site condominium subdivision site plans to ensure that site condominium projects comply with the zoning ordinance. Site condominium projects may be approved as provided by this section in any zoning district for the uses permitted by the zoning ordinance in the zoning district in which the project is located. All site condominium subdivisions shall comply with the following requirements and procedures.

A. Prior to final review and approval of a site condominium subdivision site plan by the city council, a preliminary site condominium subdivision site plan shall be reviewed by the planning commission in accordance with the procedures, standards, and requirements provided by this section.

B. All site condominium subdivisions shall require site plan approval by the planning commission in accordance with Article 20 of this ordinance. To the extent not provided in connection with the site plan as required by Article 20 of this ordinance, the following documents and information shall also be included for site condominium subdivision site plan review.

1. The documents and information required by Section 66 of the Condominium Act for condominium subdivision plans.

2. All information as required for preliminary and final plat review by the City of Evart Subdivision Regulations, as amended.

3. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
4. A storm drainage and a storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted for installation, repair, and maintenance of all drainage facilities.

5. A utility plan showing all water and sewer lines and easements granted for installation, repair, and maintenance of all utilities.

6. A narrative describing the overall objectives of the proposed site condominium project.

7. A narrative describing the proposed method of providing potable water supply, waste disposal facilities, and public and private utilities.

8. Documented proof of review by the Osceola County Road Commission, the drain commissioner, the health department, the Michigan Department of Transportation, and the Michigan Department of Natural Resources.

C. The planning commission shall review the preliminary site condominium subdivision site plan in accordance with the standards and requirements contained in Article 20 of this ordinance and in accordance with the following additional standards and requirements:

1. In its review of a site condominium site plan, the planning commission may consult with the ordinance enforcement officer, the city attorney, the city engineer, the city fire chief, the city planner, or other appropriate officials and persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, or other aspects of the proposed project.

2. The building site for each site condominium unit shall comply with all applicable provisions of this ordinance, including minimum lot area; minimum lot width; required front, side, and rear yards; and maximum building height for the district in which the property is located. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side, and rear yards shall be determined by measuring the distance from the equivalent front, side, or rear yard.
boundaries of the building site to the closest respective front, side, or rear boundary of the building envelope.

3. The planning commission shall require that portions of the site plan, as relevant to the reviewing authority in question, be submitted to the applicable county health department, county road commission, county drain commission, Michigan Department of Natural Resources, Michigan Department of Public Health, and other appropriate state and county review and enforcement agencies having direct approval or permitting authority over any aspect of the proposed site condominium project.

4. All site condominium subdivisions shall meet the subdivision design layout standards and subdivision improvement requirements of the City of Evart Subdivision Regulations, as amended.

D. After reviewing the preliminary site plan, the planning commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the site plan. The planning commission shall provide a copy of its written recommendations to the applicant and to the city council.

E. After receiving the planning commission's recommendations on the preliminary site plan, the applicant shall submit, to the city council, a final site condominium subdivision plan that complies with the requirements of this section. The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the planning commission based on its prior review of the preliminary plan. If any of the planning commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify, in writing, which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the planning commission, the final plan shall otherwise be identical to the preliminary plan that was reviewed by the planning commission. Changes made to the plan, other than those necessary to incorporate the recommendations of the planning commission, shall be reviewed by the planning commission as provided by this article prior to approval of the plan by the city council.
F. After receiving the planning commission's recommendations on the preliminary plan and a final site plan from the applicant, the city council shall proceed to review and may approve, deny, or approve with conditions the plan is accordance with the applicable standards provided by this section and Article 20 of this ordinance.

G. The city clerk shall be furnished with a copy of the recorded master deed for the project, if approved, as defined in Section 8 of the Condominium Act. The master deed must ensure that the City of Evart will not be responsible for maintenance or liability of the non-dedicated portions of the site condominium subdivision, that snow removal will be provided, and that there is adequate access and turnaround for emergency vehicles. Responsibility for the maintenance to storm water retention areas, drainage easement, drainage structures, lawn cutting, and other general maintenance of common areas must be clearly stated.

H. No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site plan as approved by the city council, including any conditions of approval and other applicable requirements of local, state, or federal laws and regulations.

I. No building or grading permits shall be issued by the city for a site condominium project until a final site plan has been approved by the city council, all conditions to commencement of construction imposed by the city council have been met, and all applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project. The ordinance enforcement officer shall be furnished with two copies of all "as-built" drawings for review by the city engineer for compliance with all city ordinances prior to the issuance of any building permits. Fees for this review shall be established by resolution of the city council.

J. Approval of a final site plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the city council in compliance with the procedures, standards, and requirements of this section.

K. Any change proposed in connection with a project for which a final site condominium subdivision site plan has previously been approved by the city council shall be subject to review as required for the original application as provided by this section.
L. The approval of a site condominium subdivision site plan by the city council shall be effective for a period not to exceed 1 year unless construction of the project commences within that 1-year period and is diligently pursued to completion in accordance with the terms and conditions of the approval. This 1-year period may be extended by the city council for additional periods of time as determined appropriate by the council if the extension is applied for by the applicant within the effective period of the approval.

17.12 SWIMMING POOLS

Swimming pools may be installed in any district as an accessory use to any principal permitted use if the following conditions are met:

A. There shall be erected and maintained a good quality fence not less than 4 feet in height, with posts embedded in concrete at intervals of not more than 8 feet, enclosing the entire portion of the premises upon which such pools shall be installed or entirely surrounding an area in which such pool is located.

B. Pools may be installed only in the side and rear yards of lots in residential districts.

C. Pools shall not be erected closer than 10 feet from the rear and side property lines of the lot.

D. Pools may be installed in the front or the rear yard of lots occupied by motels or hotels.

17.13 TEMPORARY STRUCTURES INCIDENTAL TO CONSTRUCTION WORK

Temporary accessory structures for uses incidental to construction work may be authorized by permit from the ordinance enforcement officer after issuance of a building permit for the proposed structure. The temporary permit shall specify the location of the temporary accessory structure and shall terminate 12 months after the date of its issuance. The ordinance enforcement officer may renew the permit for one additional 12-month period if construction of the principal structure has been progressing in a reasonable manner.
ARTICLE 18
PARKING AND LOADING REQUIREMENTS

18.01 SCOPE

In all zoning districts, off-street parking and loading facilities for the parking of vehicles for the use of occupants, employees, and patrons of the buildings hereafter erected, altered, or extended after the effective date of this ordinance shall be provided as herein prescribed.

18.02 MEASUREMENT UNITS

For the purpose of determining the off-street parking and loading facilities required as accessory to a use, definitions and standards are established as follows:

A. "Off-street parking area" shall mean an open or enclosed area directly accessible from a public or private street for parking of automobiles of owners, occupants, employees, customers, or tenants of the main use. Each space shall be directly accessible from a drive or aisle.

B. "Useable floor area" shall mean the total area of all the floors of the building used by the principal activities, measured from the exterior faces of the building. The areas used for storage, mechanical equipment, stairwells, or otherwise not occupied by people shall be excluded from the usable floor area calculation.

C. "Gross floor area" shall mean the total floor area used for the main and accessory activities and storage areas of the building served.

D. The number of employees shall be based on the number of employees working at the largest shift.

18.03 SCHEDULE OF PARKING REQUIREMENTS

A. The ordinance enforcement officer shall determine the minimum number of spaces required for accessory off-street parking by applying the "Schedule of Parking Requirements" and any other applicable provisions of this ordinance. Where the computation results in a fractional space, it shall be counted as one additional space required.

B. The planning commission may vary the parking requirements of this section where it finds that, due to the nature of the particular use, said requirements will not be adequate to provide sufficient
parking or where the strict application of the requirements will result in an excess amount of parking related to the particular use.

C. If an existing permitted land use is changed to another permitted land use that requires additional parking according to the “Schedule of Parking Requirements,” such additional parking shall be required.

D. Expansion of existing parking areas may require site plan review by the planning commission (see Section 20.02)

**Schedule of Parking Requirements**

<table>
<thead>
<tr>
<th>USE</th>
<th>MINIMUM PARKING SPACES REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-Family, Two-Family, and Multiple-Family Dwellings</td>
<td>2 For Each Dwelling Unit</td>
</tr>
<tr>
<td>Day-Care Homes and Day-Care Centers</td>
<td>1 For the First 12 Adults/Children, Plus</td>
</tr>
<tr>
<td>Churches or Temples</td>
<td>1 For Each Additional 6 Adults/Children</td>
</tr>
<tr>
<td>Hospitals</td>
<td>1 For Each 3 Seats or 6 Feet of Pews in the Main Unit of Worship</td>
</tr>
<tr>
<td>Nursing Homes</td>
<td>1 For Each Bed</td>
</tr>
<tr>
<td>Offices of Doctors, Dentists, or Similar Professions</td>
<td>1 For Each 4 Beds</td>
</tr>
<tr>
<td>Business and Professional Offices and Buildings</td>
<td>1 For Each 15 Square Feet of Usable Floor Area in Waiting Rooms and</td>
</tr>
<tr>
<td>Restaurants, with Indoor Seating and Dining</td>
<td>1 For Each Examining Room, Dental Chair, or Similar Use Area</td>
</tr>
<tr>
<td>Restaurants, Drive-Through</td>
<td>1 For Each 100 Square Feet of Usable Floor Area</td>
</tr>
<tr>
<td>Places of Outdoor Assembly</td>
<td>1 For Each 200 Square Feet of Usable Floor Area</td>
</tr>
<tr>
<td>Theaters and Auditoriums</td>
<td>1 For Each 50 Square Feet of Usable Floor Area or 1 For Each 2 Seats, Whichever is Greater, Plus 1 For Each Employee</td>
</tr>
<tr>
<td>Indoor Entertainment Halls Without Fixed Seats</td>
<td>5 Stacking Spaces, Plus 1 For Each Employee</td>
</tr>
<tr>
<td>Miniature Golf Courses</td>
<td>1 For Each 3 Seats or 6 Feet of Benches</td>
</tr>
<tr>
<td>Private Golf Clubs, Swimming Pool Clubs, Tennis Clubs, or Other Similar Uses</td>
<td>1 For Each 2 Persons Allowed Within the Maximum Occupancy Load as Established by the City Fire Code</td>
</tr>
<tr>
<td>Golf Courses Open to the General Public, Except</td>
<td>3 For Each 1 Hole, Plus 1 For Each 1 Employee</td>
</tr>
<tr>
<td></td>
<td>1 For Each 2 Member Families or Individuals, Plus Spaces Required For Each Accessory Use, Such as a Restaurant or Bar</td>
</tr>
<tr>
<td></td>
<td>6 For Each 1 Golf Hole and 1 For Each Employee: Plus Spaces Required For Each Accessory Use,</td>
</tr>
</tbody>
</table>
Minicourse Courses

- Bowling Alleys
- Auto Washes
- Oil Change Establishments
- Service Stations
- Vehicle Sales and Service Establishments
- Beauty Parlor or Barber Shops
- Retail Stores, Video Rentals, Supermarkets, Department Stores, and Personal Service Shops
- Furniture, Appliance, and Household Equipment Repair Shops and Showrooms
- Coin-Operated Laundromats and Dry Cleaners
- Mortuary Establishments
- Manufacturing, Processing, or Fabricating Businesses
- Warehousing and Storage Buildings

Such as a Restaurant or Bar

- 5 For Each Bowling Lane, Plus Accessory Uses
- 3 Stacking Spaces, Plus 1 For Each Employee
- 3 For Each Stall, Plus 1 For Each Employee
- 2 For Each Service Stall, Plus 1 For Each Gasoline Pump
- 1 For Each 200 Square Feet of Usable Floor Area of Sales Room and/or 3 For Each 1 Auto Service Stall in the Service Room
- 3 For Each 2 Chairs
- 1 For Each 150 Square Feet of Usable Floor Area
- 1 For Each 800 Square Feet of Usable Floor Area, Plus 1 For Each Employee
- 1 For Each 2 Washing and Dry-Cleaning Machines
- 1 For Each 50 Square Feet of Usable Floor Area in Assembly Rooms and Parlors
- 1 For Each Employee
- 1 For Each Employee or 1 For Each 1,700 Square Feet of Grass Floor Area, whichever is Greater

18.04 USES NOT SPECIFICALLY MENTIONED

In the case of uses not specifically mentioned, those provisions for off-street parking facilities for a use that is mentioned and to which said use is similar in terms of parking demand shall apply as determined by the planning commission.

18.05 JOINT USE OF FACILITIES

Provision of common parking areas for several uses in the same vicinity is encouraged. In such cases the total space requirements are the sum of the maximum individual requirements. In cases where the hours of operation are significantly different between two or more uses, a reduction in the total space requirements may be permitted by the planning commission.
18.06 SIZE OF PARKING SPACE

Each off-street parking space shall have the following minimum requirements:

<table>
<thead>
<tr>
<th>Parking Pattern</th>
<th>Maneuvering Lane Width</th>
<th>Parking Space Width</th>
<th>Parking Space Length</th>
</tr>
</thead>
<tbody>
<tr>
<td>0° (Parallel Parking)</td>
<td>12'</td>
<td>8'6&quot;</td>
<td>23'</td>
</tr>
<tr>
<td>30° to 53°</td>
<td>12'</td>
<td>8'6&quot;</td>
<td>20'</td>
</tr>
<tr>
<td>54° to 74°</td>
<td>15'</td>
<td>8'6&quot;</td>
<td>20'</td>
</tr>
<tr>
<td>75° to 90°</td>
<td>20'</td>
<td>9'0&quot;</td>
<td>20'</td>
</tr>
</tbody>
</table>

18.07 REQUIREMENTS OF PARKING AREAS

Every parking area containing six or more spaces shall require site plan review in accordance with Article 20 and shall be developed and maintained in accordance with the following requirements:

A. The parking area and its driveway shall be:
   1. Designed to provide adequate drainage.
   2. Surfaced with concrete or asphalt pavement. Parking areas for outdoor recreational uses may be graveled.
   3. Maintained in good condition and free of dust, trash, and debris.

B. The parking area shall be provided with entrances and exits so located as to minimize traffic congestion.

C. Lighting facilities shall be so arranged as to reflect the light away from adjoining properties.

D. No part of any parking area shall be closer than 10 feet to the street right-of-way or closer than 5 feet to a lot line in any residential district.

E. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited, except in the case of one-family dwellings.
F. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.

G. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

H. All maneuvering lane widths shall permit one-way traffic movement, except that the 90-degree pattern may permit two-way movement.

I. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least 25 feet from adjacent property located in any single-family residential district.

18.08 OFF-STREET LOADING SPACES

A. For every building or addition to an existing building requiring the receipt or distribution in vehicles or materials or merchandise, an area adequate for maneuvering and ingress and egress for delivery vehicles and off-street loading spaces as follows shall be provided and maintained on the same lot:

1. From 0 to 1,400 Square Feet of Floor Area: None
2. From 1,401 to 20,000 Square Feet of Gross Floor Area: One space
3. From 20,001 to 50,000 Square Feet of Gross Floor Area: Two Spaces
4. One additional space for each additional 50,000 square feet of gross floor area or fraction thereof.

B. Each such loading space shall be at least 10 feet in width, 35 feet in width, 35 feet in length, and 14 feet in height.

C. No such space shall be located within the front setback area or closer than 25 feet to a lot line in any residential district.
ARTICLE 19
SPECIAL LAND USES

19.01 PURPOSE

Special land uses are those uses of land that are not essentially incompatible with the uses permitted in a zoning district but that possess characteristics or locational qualities that require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this article is to establish equitable procedures and criteria that shall be met before the following special land uses are permitted:

A. Adult day-care centers.
B. Adult day-care homes.
C. Adult entertainment businesses.
D. Bed and breakfasts.
E. Boarding rooms
F. Child-care centers.
G. Commercial recreation (outdoor).
H. Drive-through or drive-in restaurants (accessory).
I. Floodplain Overlay District uses.
J. Group day-care homes.
K. Motels or hotels.
L. Multi-family dwellings (C-1 District).
M. Outdoor sales.
N. Public or institutional uses.
O. Salvage yards.
P. Second floor apartments (C-1 District).
Q. State-licensed residential facilities.
R. Two-family dwellings.

S. Vehicle repair (major or minor).

19.02 APPLICATION PROCEDURES

A. An application for a special land use shall be submitted through the ordinance enforcement officer to the planning commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the city council to cover the costs of processing the application. No part of this fee shall be refundable.

B. An application for a special land use shall be accompanied by the following documents and information:

1. A special use application form that has been completed in full by the applicant and submitted to the ordinance enforcement officer.

2. A site plan as required in Article 20.

C. Upon receipt of an application for a special land use, the planning commission shall publish notice of a public hearing for a special land use in a newspaper that circulates in the city. In addition, said notice shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary in question, and to the occupants of all structures with one through four units within 300 feet of the boundary of the property in question. Notice shall also be given to the owner or manager of all structures with five or more dwelling units with 300 feet of the property in question who shall be requested to post the notice at the primary entrance to the structure. The notice shall be given not less than 5 days nor more than 15 days before the application will be considered. The notice shall:

1. Describe the nature of the special land use request.

2. Indicate the property that is subject to the special land use request.

3. State when and where the special land use request will be considered.
4. Indicate when and where written comments concerning the request will be received.

D. The planning commission shall hold a public hearing to receive public comment on the request. The planning commission, based upon its review of the application for a special land use, comments received at the public hearing, and other material submitted in relation to the request, shall make a determination on the special land use application. Such determination shall be in accordance with the criteria for approval stated in Section 19.03 and such other standards contained in this ordinance that relate to the special land use under consideration.

E. The decision of the planning commission on a special land use shall be incorporated in a statement that sets forth the findings, determinations, and conclusion relative to the special land use under consideration. Said statement shall specify the basis for the decision of the planning commission and any conditions imposed.

19.03 BASIS OF DETERMINATION

Prior to the approval of a special land use application, the planning commission shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

A. The planning commission shall review the particular circumstances of the special land use request under consideration in terms of the following general standards and shall approve a special land use only upon finding that the proposed use complies with each of the following standards as well as all applicable standards established elsewhere in this ordinance:

1. The special land use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property.

2. The special land use shall impair the essential character of the surrounding area.

3. The special land use shall not be hazardous to the adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the general health, safety, and welfare.
4. The special land use shall not place demands on public services and facilities in excess of current capacities.

5. The special land use complies with the city’s master plan.

B. Reasonable conditions may be required by the planning commission in conjunction with the approval of a special land use for ensuring that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity; for protecting the natural environment and conserving natural resources and energy; for ensuring compatibility with adjacent uses of land; for promoting the use of land in a socially and economically desirable manner, and for protecting natural resources and the public health, safety, and welfare of individuals who will use the land, those immediately adjacent, and the community as a whole. Conditions imposed shall be necessary to meet the intent and purpose of this ordinance and shall be related to the objective of ensuring compliance with applicable standards. All conditions imposed shall be made a part of the approved special land use and shall be enforced by the ordinance enforcement officer.

19.04 PERFORMANCE GUARANTEES

Performance guarantees to assure compliance with the provisions of this ordinance and any conditions imposed under this ordinance may be required by the planning commission at the time of approval of a special land use as authorized under Section 4e of Act No. 207 of the Public Acts of 1921, as amended.

19.05 DESIGN STANDARDS

All special land uses shall be subject to the following design standards in addition to the requirements of the district in which they are located:

A. Adult Day-Care Centers:

1. If the adult day-care center is located on a major arterial street, an off-street drop-off/pick-up area must be provided, including an on-site vehicle turnaround or separate entrance and exit points. Other facilities, design elements, and operational requirements shall be provided or complied with, as determined necessary by the planning commission, for the safety of the persons attending the adult day-care center.
2. Based upon the established capacity of the facility, a minimum of 150 square feet of outdoor open space area per adult receiving care, with not less than 5,000 square feet of outdoor area per facility, shall be provided and maintained on the lot. For purposes of this section, “outdoor open space area” means the area located on the lot behind the established front yard setback of the facility that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool. The outdoor open space area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor open space area shall be completely enclosed by a chain-link or solid fence of at least 4 feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, of at least 5 feet.

B. **Adult-Day-Care Homes:**

1. Based upon the established capacity of the facility, a minimum of 150 square feet of outdoor open space area per adult receiving care, with not less than 5,000 square feet of outdoor area per facility shall be provided and maintained on the lot. For purposes of this section, “outdoor open space area” means the area located on the lot behind the established front yard setback of the facility that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool. The outdoor open space area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor open space area shall be completely enclosed by a chain-link or solid fence of at least 4 feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, of at least 5 feet.

2. Drop-off and pick-up areas for adults receiving care and other facilities, design elements, and operational requirements shall be provided or complied with, as determined necessary by the planning commission, for the safety of the adults attending the facility.

3. An adult day-care home shall not be located closer than 1,500 feet (measured along a road, street, or other public thoroughfare) to any other adult day-care home (i.e., another facility of the same type); to any group day-care home; to any adult foster-care small-group facility offering substance abuse treatment and rehabilitation.
service to 7 or more people, licensed by the State of Michigan; or to any community correctional center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the State Department of Corrections.

4. Operating hours of the adult day-care home shall not exceed 16 hours during any 24-hour period and, unless specifically approved by the planning commission based upon a finding under the particular circumstances of no detriment to the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.

5. The property shall be maintained consistent with the visible characteristics of the neighborhood.

C. **Adult Entertainment Businesses:** The need for special regulation of certain business uses that, by their very nature, are deemed to have unique characteristics and effects on surrounding properties, I recognized as a legitimate objective. Special regulation is needed to ensure these uses are not concentrated in any one area, thus, preventing adverse effects upon the surrounding neighborhood, such as blight and urban deterioration, negative effects on economic development potential, social disorder and crime, negative effects on community standards for aesthetics, the reduction of property values, and the subsequent negative impact on the community tax base. The primary objective is to prevent a concentration of these uses by establishing spacing standards and, thus, ensuring disbursement of these uses throughout the community.

1. Adult entertainment businesses shall not be approved if there is, already in existence, one or more adult entertainment businesses within 1,500 feet of the boundaries of the site of the proposed business.

2. Adult entertainment businesses shall not be approved if the proposed location is within 1,000 feet of any residential district; 1,500 feet of any licensed day-care facility, adult foster-care home, senior citizens’ center, park, or church; or 2,650 feet from any K-12 school.

D. **Bed and Breakfasts:**

1. Such uses shall only be established in single-family dwellings.
2. One parking space per room to be rented shall be provided on site in addition to the parking required for a single-family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking.

3. Kitchen facilities are allowed, as approved by the appropriate city, county, and state agencies.

4. Additions to a structure for the purpose of accommodating additional guests shall be prohibited. Physical modifications to the structure may be permitted, including but not limited to the provision of barrier-free access in order to meet building code requirements.

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

6. Only one sign shall be allowed for identification purposes with approval of the planning commission. Such sign shall be mounted flat against the wall of the principal building, and shall not exceed 4 square feet in area.

7. The dwelling unit in which the bed and breakfast operation takes place shall be the principal residence of the homeowner, who shall live on the premises while the operation is active.

8. Accessory retail or service uses to a bed and breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, or bakeries.

9. Meals may be served only to residents, employees, family members, and overnight guests.

E. **Boarding Rooms:**

1. Such uses shall only be established in single-family dwellings.

2. One parking space per room to be rented shall be provided on site in addition to the parking required for a single-family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking.
3. Kitchen facilities are allowed, as approved by the appropriate city, county, and state agencies.

4. Additions to a structure for the purpose of accommodating additional guests shall be prohibited. Physical modifications to the structure may be permitted, including but not limited to the provision of barrier-free access in order to meet building code requirements.

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

F. Child-Care Centers:

1. If the child-care center is located on a major arterial street, an off-street drop-off/pick-up area must be provided, including an on-site vehicle turnaround or separate entrance and exit points. Other facilities, design elements, and operational requirements shall be provided or complied with, as determined necessary by the planning commission, for the safety of the children attending the child-care center.

2. Based upon the established capacity of the child-care center, a minimum of 150 square feet of outdoor play area per child, with not less than 5,000 square feet of outdoor play area per facility, shall be provided and maintained on the lot. For purposes of this section, “outdoor play area” means the area located on the lot behind the established front yard setback of the facility that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool or required parking areas. The outdoor play area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor play area shall be completely enclosed by a chain-link or solid fence of at least 4 feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, or at least 5 feet.

3. The child-care center shall be registered and licensed as required for child-care centers or day-care centers under the Child Care Organizations Act (Act No. 116 of the Public Acts of 1973, as amended).
G. Commercial Recreation (Outdoor)

1. All activities shall be set back a minimum of 50 feet from any lot line in a residential district.

2. The planning commission may require a fence, wall, or planted material to screen the use of adjacent residential districts.

H. Drive-Through or Drive-In Restaurants (Accessory):

Drive-through or drive-in restaurants accessory to a sit-down restaurant shall require special land use approval in the C-1 District.

1. A minimum of three off-street, stacking spaces shall be provided for drive-through service.

2. Service windows shall be set back at least 100 feet from any lot line in a residential district.

I. Floodplain Overlay District Uses:

1. In reviewing an application and the standards for approval of a special land use permitted under this section, the planning commission shall consider the following factors before rendering a decision on the request for approval:

   a) Any possible danger to life and property due to increased flood heights or velocities caused by encroachments on the floodplain.

   b) The danger that materials may be swept onto other lands or downstream to the injury of others.

   c) The susceptibility of the proposed development and its contents to flood damage and the effect of such damage on the individual owner.

   d) The importance of the services provided by the development to the community.

   e) The requirement of the proposed development for a waterfront location.
f) The availability of alternative locations for the proposed use that are not subject to flooding.

g) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

h) The relationship of the proposed use to the city's master plan and floodplain management program for the area.

i) The safety of access to the property in times of flood for ordinary and emergency vehicles.

j) The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

k) The location, elevation, and construction of all public utilities and facilities for sewer, gas, electrical, and water systems designed relative to minimizing or eliminating flood damage.

l) The measures taken to assure adequate drainage so as to reduce exposure to flood hazards.

m) Such other factors that are, in the opinion of the planning commission, relevant to the purposes of this district.

n) If, in the opinion of the planning commission, topographic data, engineering studies, or other studies are needed to determine the effects of flooding on a proposed use and/or the effects of the use of the floodway, the planning commission may require the applicant to submit such data and/or studies prepared by competent engineers or other technical people.

2. To the extent not otherwise provided pursuant to the site plan requirements under Article 20, the planning commission shall require, as applicable, submission of the following materials in connection with a request for approval of any special land use under this section:

   a) Plans drawn to a scale of 1 inch = 100 feet, the nature, location, dimensions, and elevation of the lot; existing or proposed structures; fill; storage of materials; and the relationship of the above to the
location of the channel floodway and regulatory flood protection level.

b) A plan (surface view) showing elevations or contours of the ground at 5-foot intervals: pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing buildings on the site; location and elevations of streets; photographs or maps showing existing land uses and vegetation; upstream and downstream soil types; and other pertinent information that may be required by the planning commission.

3. As with other special land uses, the planning commission may impose reasonable conditions to the granting of approval of a special land use under this section, including, without limitation, limitations on period of use and operation; imposition of operational controls, sureties, deed restrictions, and covenants; and requirements for construction of channel modifications, dikes, levees, and other protective measures.

J. Group Day-Care Homes:

1. Child drop-off and pick-up areas and other facilities, design elements, and operational requirements shall be provided or compiled with, as determined necessary by the planning commission, for the safety of the children attending the group day-care home.

2. Based upon the established capacity of the group day-care home, a minimum of 150 square feet of outdoor play area per child, with not less than 5,000 square feet of outdoor play area per facility shall be provided and maintained on the lot. For purposes of this section, "outdoor play area" means the area located on the lot behind the established front yard setback of the facility that is available or devoted to outdoor activities, exclusive of any area occupied by a swimming pool or required parking areas. The outdoor play area shall be free from sharp gravel, glass, or cinder and shall be well-drained. The outdoor play area shall be completely enclosed by a chain-link or solid fence or at least 4 feet in height and shall be screened from any abutting residential use by vegetation having a height, when planted, of at least 5 feet.
3. A group day-care home shall not be located closer than 1,500 feet (measured along a road, street, or other public thoroughfare) to any other group day-care home (i.e., another facility of the same type); to any adult foster-care small-group home or large-group home, licensed by the State of Michigan; to any facility offering substance abuse treatment and rehabilitation service to 7 or more people, licensed by the State of Michigan; or to any community correctional center, resident home, halfway house, or other similar facility that houses an inmate population under the jurisdiction of the State Department of Corrections.

4. Operating hours of the group day-care home shall not exceed 16 hours during any 24-hour period and, unless specifically approved by the planning commission based upon a finding under the particular circumstances of no detriment to the surrounding area, shall be limited from 6 a.m. to 10 p.m. daily.

5. The property shall be maintained consistent with the visible characteristics of the neighborhood.

6. The group day-care home shall be registered and licensed as required for group day-care homes under the Child Care Organizations Act (Act No. 116 of the Public Acts of 1973, as amended).

K. **Motels or Hotels:** Motels or hotels shall require special land use approval in the I-2 District.

1. Traffic circulation shall not conflict with neighboring business uses.

2. The centerline of all ingress and egress areas (curb cuts) shall be at least 50 feet from the right-of-way of any intersecting street.

L. **Multi-Family Dwellings:** Multi-family dwellings shall require special and use approval in the C-1 District.

1. All off-street parking requirements of Article 18 shall be met.
2. All off-street parking areas and refuse disposal containers shall be screened from adjacent residential districts in accordance with Article 17.

M. Outdoor Sales

1. No merchandise shall be located in the road right-of-way or within 5 feet of any adjacent lot line.

2. All structures shall be set back a minimum of 30 feet from any lot line in a residential district.

3. The planning commission may require a fence, wall, or planted material to screen the use from adjacent residential districts.

N. Public or Institutional Uses

1. Such use shall be in conformance with the character of the adjacent neighborhood and shall be essential to service the neighborhood or community.

2. The planning commission shall establish requirements for setback, lot size, side yard, parking, screening, and other conditions necessary for the use to conform with the character of the adjacent neighborhood and to protect adjacent property owners.

O. Salvage Yards

1. Minimum lot size shall be 3 acres.

2. All salvage materials must be screened from outside view by a solid fence or wall. (See Article 17 for all required screening.)

3. All uses shall be established and maintained in accordance with all applicable state and county laws.

4. All storage areas shall be set back at least 75 feet from any street right-of-way or property line and 500 feet from any residential district. Such setbacks shall be landscaped to minimize the appearance and impact of the operation. The spacing and type of plant materials shall be approved by the planning commission. (See Article 17 for required screening.)

5. No open burning shall be permitted.
6. All industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.

7. All performance standards in Article 10 shall be met.

P. Second Floor Apartments (C-1 District)

1. All off-street parking requirements shall be met.

2. All off-street parking areas and refuge disposal containers shall be screened from adjacent residential districts in accordance with Article 17.

3. All second floor apartments shall have their own access independent of the first floor business.

4. All applicable city ordinances designed to protect the public health, safety, and welfare, such as but not limited to building codes and health codes, shall be met.

Q. State-Licensed Residential Facilities (More Than 6 Persons)

1. The proposed facility shall be consistent with and shall promote the intent and purpose of this ordinance and shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed facility. In making its determination regarding a proposed facility, the planning commission shall consider the following factors:

   a) The design and location of the proposed facility; the density of population; the adequacy of educational, recreational, and other public support facilities; traffic volumes and circulation; compatibility with existing development; adequate provision for light and air; adequate provision of parking; and accessibility of fire and police protection.

   b) The density of similar uses in the area; the cumulative effects of allowing the proposed facility (including effects upon the capacities of existing community recreation, social service, and other support facilities); and whether the proposed facility will alter the character of the neighborhood. In order to prevent an excessive
concentration of facilities and consequent alteration of a neighborhood's character and protect existing facilities from overdevelopment that could result in an institutional atmosphere, no facility shall be located within a 1,500-foot radius of another facility unless the planning commission finds that a lesser distance is compatible with the goals of this ordinance and that the facility would not contribute to an excessive concentration of such facilities within a particular neighborhood.

c) The accessibility of the proposed facility to convenience services, such as shopping, banking, health care, and public transportation; to employment opportunities; and to community resources and agencies, including medical and social services, that might be used by the facility's residents.

2. The planning commission shall establish requirements for setback, lot size, side yard, parking, screening, and other conditions as necessary for the facility to conform with the character of the adjacent neighborhood and to protect adjacent property from adverse impacts.

R. Two-Family Dwellings:

1. The dwellings shall not alter the character of the neighborhood in which they are located.

2. The dwellings shall be located along major roads and entranceways to the residential developments or shall act as buffers between residential and higher-intensity uses whenever practical.

S. Vehicle Repair (Major or Minor):

1. Minimum lot size shall be 20,000 square feet to provide adequate space for vehicle storage.

2. All activities and storage related to this use shall be set back a minimum of 50 feet from all side and rear lot lines.

3. All tire, parts, and bodies must be kept within a fully enclosed building or fenced on all sides with a screening fence that is 6 feet in height.
4. No outdoor storage or use shall be permitted within the required front yard.

5. Appropriate screening in accordance with Article 17 may be required by the planning commission to protect adjoining parcels.
ARTICLE 20
SITE PLAN REVIEW

20.01 PURPOSE

This article establishes standards and requirements for the review and approval, by the planning commission, of site plans. As used in this article, "site plan" includes the documents and drawings, as specified by the article, that are necessary as a part of the land development review process to ensure that a proposed land use or activity is in compliance with applicable local ordinances and state statutes and is compatible with the character of the surrounding area; the adjacent uses of land; the natural environment; the capacities of public services and facilities; and the public health, safety, and welfare.

The standards and requirements provided by this article shall be in addition to those required elsewhere in this ordinance that are applicable to the use or activity under consideration.

20.02 USES REQUIRING SITE PLAN APPROVAL

The construction, reconstruction, extension, enlargement, or movement of the following buildings, structures, and uses shall require site plan approval by the planning commission:

A. Commercial buildings/structures/uses.
B. Industrial buildings/structures/uses.
C. Multi-family dwellings.
D. Parking areas containing six or more parking spaces. Any expansion of existing parking areas containing six or more spaces shall require site plan review if the parking area is within 100 feet of any residential district or if ingress/egress or any other traffic circulation modifications are made.
E. Planned unit developments (PUDs).
F. Site condominium subdivisions.
G. Special land uses.
H. If an existing permitted land use is changed to another permitted land use that requires additional parking according to the "Schedule of Parking Requirements," such additional parking shall
be required and site plan approval from the planning commission shall also be required.

20.03 SITE PLAN REQUIREMENTS

Each site plan submitted shall contain the following information, unless specifically waived by the planning commission, in whole or in part:

A. The date, north arrow, and scale. The scale shall be not less than 1 inch = 20 feet for property under 3 acres and at least 1 inch = 100 feet for those properties that are 3 acres or more.

B. All lot and/or property lines, including building setback lines on corner lots, are to be shown and dimensioned.

C. The location and height of all existing and proposed structures on and within 100 feet of the subject property’s boundary.

D. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas (show dimensions of a typical parking space), unloading areas, recreational areas, common use areas, and areas to be conveyed for public use and purpose.

E. The location and pavement width and right-of-way width of all abutting roads, streets, alleys, or easements.

F. The name and address of the individual or firm responsible for the preparation of the site plan.

G. The name and address of the property owner or petitioner.

H. A locational sketch drawn to scale.

I. The respective zoning abutting the subject property.

J. The location, height, and types of fences, walls, and landscaping.

K. All existing and proposed utilities, including proposed connections to public sewer or water systems.

L. All existing and proposed surface water drainage facilities.

M. The distance to groundwater, as requested by the planning commission.
N. For multiple-family developments and parking areas with six or more spaces, contour intervals shall be shown (2-foot intervals for average slopes 10 percent and under and 5-foot intervals for slopes over 10 percent). Topography, however, may be required on all site plans at the discretion of the planning commission.

20.04 REVIEW PROCEDURE

A. The proposed site plan shall be submitted in five copies to the ordinance enforcement officer, who shall keep one copy of the proposed site plan and deliver four copies of the proposed site plan to the secretary of the planning commission.

B. Within 60 days of its submittal to the ordinance enforcement officer, the planning commission shall review the site plan and shall either approve, approve with conditions, or disapprove the proposed site plan in accordance with this article and applicable provisions of this ordinance. The basis for the decision and any conditions imposed relating to an affirmative decision shall be specified in the resolution of the planning commission approving or denying the site plan. If approved or approved with conditions, the site plan, as approved shall become a part of the record of approval.

C. Upon approval of a site plan, at least two copies of the site plan, as finally approved, shall be signed and dated by the secretary of the planning commission. One copy of the signed site plan shall be kept on file with the ordinance enforcement officer, and the other shall be returned to the applicant.

20.05 STANDARDS FOR SITE PLAN REVIEW

The planning commission shall review the site plan based on the purposes, objectives, and requirements of this ordinance and on the standards provided by this section. As a part of its review, the planning commission may distribute copies of the plan to other governmental departments or officials for their review and comment on matters related to the plan that would fall under the jurisdiction or that would involve the discharge of duties of those other departments or officials. Further, the planning commission may adopt procedures to encourage preliminary, informal review of proposed site plans with the applicant. The preliminary review shall not, however, affect the applicability of the standards and requirements for formal approval of site plans as required by this article. In reviewing the site plan, the planning commission shall specifically consider the following standards, as applicable:
A. **Dimensional Requirements:** The dimensional arrangement of buildings and structures shall conform to the required yards, setbacks, and height restrictions of this ordinance.

B. **Building Arrangement:** The proposed buildings and structures shall have a harmonious relationship to the site terrain, landscaping, open space, and other buildings and structures, existing and proposed. The bulk, location, and height of proposed buildings and structures, as well as the general character of the development, shall minimize any adverse effect on other uses of property in the surrounding area and shall not place demands on public services or facilities in excess of capacity.

C. **Drainage of Surface Water:** Proper site surface drainage shall be provided so that the removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. If practical, storm water shall be removed from all roof areas, canopies, and paved areas and carried away in an underground drainage system. The peak rate of storm water runoff from the site shall not increase as a result of the proposed development, and temporary on-site storage to reduce peak runoff from the site is encouraged. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and so that it will not create ponding.

D. **Public Services and Utilities:** The location, availability, and compatibility of sewer, water, and storm drainage facilities shall be considered to determine whether the use will be adequately served by necessary improvements. Utility distribution lines or associated utility installations shall be located so as to avoid adverse impacts both to neighboring properties and to the site.

E. **Vehicular Access and Parking:** The provisions for vehicular loading and unloading and parking and of vehicular and pedestrian circulation on the site and onto adjacent public streets and ways shall not create hazards to safety and shall not place demands on public services or facilities in excess of capacity. All buildings and structures shall be accessible by emergency vehicles.

F. **Exterior Lighting:** All lighting shall be installed and maintained in such a manner as to confine the illumination source or divert glare to the property upon which the use is located and to prevent glare or illumination from adversely affecting the safety or welfare of adjacent property or streets.
G. **Signs:** The size, location, design, and lighting of signs shall be considered in relation to signs on adjacent sites, glare, traffic safety, and compatibility with adjoining properties, consistent with all applicable sign regulations. Signs shall be located and designed to avoid creating distraction or clutter.

H. **Special Features:** Storage areas, mechanical areas, service areas, truck loading areas, utility buildings and structures, and similar features shall be located, buffered, and/or screened so as to be unobtrusive; so as not to interfere with access to or circulation within the site; or so as not to detract from the visual impression of the site. Trash containers shall be enclosed on at least three sides by a structure aesthetically compatible with the development and surrounding property. Waste storage areas shall be maintained free from litter and in a sanitary condition.

I. **Landscaping:** The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Grade changes made shall be in keeping with the general appearance of neighboring developed areas. Plant materials shall be used to enhance the appearance of the site; to screen unsightly or harsh elements; and to provide visual relief from large monotonous features, such as parking lots.

J. **External Effects (General):** Noise, odor, light, dust, dirt, smoke, or other external effects from any aspect of the proposed use shall not adversely affect adjacent and neighboring properties or uses.

K. **Compliance With All Applicable Laws:** The planning commission shall not approve a site plan that violates or that is inconsistent with local, state, or federal laws or regulations.

20.06 **CONDITIONS OF APPROVAL**

The planning commission may impose reasonable conditions upon the approval of a site plan. The conditions may include but are not limited to conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

A. The secretary of the planning commission shall not sign the approved site plan until the applicant has submitted three copies of
all permits that may be required by the county or the state for the construction of the use, such as but not limited to permits for on-site wastewater disposal and permits required under the Soil Erosion and Sedimentation Act, Act 347 of the P.A. 1972; the Inland Lakes and Streams Act, Act 346 of the P.A. 1972; and the Wetland Protection Act, Act 203 of the P.A. 1979.

B. The construction of improvements shall not commence for any development that requires a site plan approval until an approved site plan has been signed by the secretary of the planning commission.

C. The ordinance enforcement officer shall not issue a zoning permit for any use requiring site plan approval until an approved site plan has been signed by the secretary of the planning commission.

D. The building inspector shall not issue a building permit for any use requiring site plan approval until an approved site plan has been signed by the secretary of the planning commission.

20.07 PERFORMANCE GUARANTEES

Performance guarantees to assure compliance with the provisions of this ordinance and any conditions imposed under this ordinance may be required by the planning commission at the time of approval of a site plan as authorized under Section 4e of Act No. 207 of the Public Acts of 1921, as amended.

20.38 PERFORMANCE GUARANTEES

Performance guarantees to assure compliance with the provisions of this ordinance and any conditions imposed under this ordinance may be required by the planning commission at the time of approval of a site plan as authorized under Section 4e of Act No. 207 of the Public Acts of 1921, as amended.

20.09 ENFORCEMENT

A site plan, approved by the planning commission, in connection with a use or activity, shall have the full force and effect of the zoning ordinance. Subsequent actions relating to the use or activity authorized shall be consistent with the site plan as approved. Any violation of an approved site plan shall be grounds for the city to order that all construction be stopped and to order that zoning permits, and certificates of occupancy be withheld until the violation is removed or until adequate guarantee of removal of the violation is provided to the city. In addition, a violation of
any approved site plan or failure to comply with any requirements of this section, including conditions of approval, shall be considered a violation of this ordinance.
ARTICLE 21
RESERVED FOR FUTURE USE
ARTICLE 22
NONCONFORMING USES, BUILDINGS OR STRUCTURES, AND LOTS

22.01 PURPOSE AND SCOPE

This article permits the lawful use of land or a structure to continue exactly as the use or structure existed at the time of the enactment or any amendment of this ordinance, although the use or structure may not conform with the provisions of this ordinance as enacted or amended. However, it is recognized that nonconforming uses and structures may adversely affect the value of nearby property and orderly development within the city or may otherwise be inconsistent with the purposes and intent of the zoning ordinance and with the public health, safety, and general welfare. Accordingly, the gradual removal and elimination of nonconforming uses and structures is desirable. This article is intended to permit such uses and structures to continue only until they are removed, subject to restrictions on enlargement, expansion, or other change that would make them more permanent or that would increase their adverse impacts. Nonconforming uses and structures may be continued, resumed, restored, reconstructed, extended, enlarged, or substituted only as provided by this article.

As used in this article:

A. "Nonconforming use" means a use of land, a building, or a structure that was lawful prior to the effective date of this ordinance or of any amendment to this ordinance but that is no longer a permissible use under the terms of this ordinance as enacted or amended.

B. "Nonconforming structure" means a building or structure that was lawful prior to the effective date of this ordinance or of any amendment to this ordinance but that, under the terms of this ordinance as enacted or amended, is no longer a permissible building or structure because of requirements regarding the height, yards, size, areas, coverage, or other characteristics of the building or structure or its location on the property in question.

C. "Nonconforming lot" means a lot that was platted or otherwise lawfully of record prior to the effective date of this ordinance or of any amendment to this ordinance but that, under the terms of this ordinance as enacted or amended, does not comply with the area, depth, or width requirements of its zoning district.
NONCONFORMING USES

A. Except as otherwise expressly provided by this article, a nonconforming use, other than a single-family use of a single-family dwelling, may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. A nonconforming use shall not be enlarged, expanded, extended, or increased so as to occupy a greater area of land, building, or structure than was occupied by the use on the effective date of adoption or amendment of this ordinance.

2. A nonconforming use may be conducted only on the portion of the lot or parcel occupied by the use on the effective date of adoption or amendment of this ordinance and shall not be moved or relocated, in whole or in part, to any other portion of the lot or parcel or to any other location unless the use would then conform with the requirements of this ordinance.

3. A nonconforming use may be extended throughout any part of a building that was purposefully and uniquely arranged or designed for the nonconforming use at the time of adoption of amendment of this ordinance, but no such use shall be extended to occupy any land outside the building.

4. An existing building or structure devoted to a use not permitted in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered unless it is changed to a use permitted in the district in which it is located.

B. Except as otherwise expressly provided by this article, a nonconforming single-family use of a single-family dwelling may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. A single-family residential dwelling may be enlarged or extended up to an amount equal to 50 percent of the floor area of the dwelling as it existed when the residential use first became nonconforming under this ordinance, provided that the dwelling shall continue to meet all applicable yard and setback requirements.
2. Under no circumstances shall an enlargement or alteration of a single-family dwelling under single-family use extend beyond a neighboring property line.

22.03 NONCONFORMING STRUCTURES

Except as otherwise expressly provided by this article, a nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. A nonconforming structure shall not be enlarged, expanded, extended, or altered in a way that increases, to any degree, the extent of any existing nonconformance or that causes the structure to be more nonconforming, except as otherwise provided by this section. If approved by the planning commission as a special land use pursuant to the general standards and procedures specified in Article 19 and based on a finding by the planning commission that there is a reasonable need for the expansion requested and that adjacent property will not be adversely affected as a result of the expansion, a nonconforming structure may be enlarged or expanded as follows:

1. A nonconforming structure may be enlarged beyond the required setback area, provided that the portion of the structure enlarged shall not be placed closer to the property line than the closest existing point of the structure to the property line.

2. A single-family residential dwelling unit that is nonconforming, solely by reason of its failure to meet applicable lot coverage requirements or because of its location on a nonconforming, substandard-sized lot, may be enlarged or extended up to an amount equal to 50 percent of the floor area of the dwelling as it existed when the dwelling first became nonconforming under this ordinance, provided that the dwelling shall continue to meet all applicable yard and setback requirements.

Under no circumstances shall an enlargement or alteration of a nonconforming structure extend beyond a neighboring property line.

B. A nonconforming structure shall not be moved or relocated, in whole or in part, to any portion of the lot or parcel (or to any other location) other than the portion of the lot or parcel occupied by the building or structure on the effective date of adoption or amendment of this ordinance unless the building or structure...
thereafter fully complies with all applicable site development regulations as provided by this ordinance.

22.04 NONCONFORMING LOTS

Except as otherwise expressly provided by this article, a nonconforming lot may be used so long as it remains otherwise lawful, subject to the following provisions:

A. A nonconforming lot with a minimum lot area of 6,200 square feet may be used for a single-family residential dwelling unit if the dwelling unit and permitted accessory structures comply with all yard requirements for the zoning district in which the lot is located. In all other cases, the use of a nonconforming lot shall be permitted only if approved by the planning commission as a special land use pursuant to the general standards and procedures specified in Article 19 and based on a finding by the planning commission that there is a reasonable need for the use of the lot requested and that adjacent property will not be adversely affected as a result of the use.

B. Where two or more nonconforming lots are adjacent to each other and in common ownership, the lots shall be combined, if possible, so that the lot or lots created by this combination comply with the minimum requirements of this ordinance.

22.05 CHANGE OF NONCONFORMING USE OR STRUCTURE

A. A non conforming use may be changed to another nonconforming use if approved by the planning commission as a special land use pursuant to the general standards and procedures specified in Article 19 and if the planning commission finds that the new use would decrease the degree of nonconformance and would not adversely affect adjacent property.

B. A nonconforming use that is changed, in whole or in part, for any reason, to a conforming use (or to a more conforming use) shall, to that extent, thereafter continue to be used for a conforming use (or more conforming use) and shall not revert to its prior nonconforming status or to a less conforming use. Similarly, a nonconforming structure that is changed, in whole or in part, for any reason, so as to conform (or more closely conform) with the applicable site development regulations shall to that extent thereafter continue to conform (or more closely conform) with those regulations and shall not revert to its prior nonconforming status or to a less conforming condition.
ABANDONMENT

Upon a finding based on reasonable evidence by the board of zoning appeals that there has been the intent and some act or omission on the part of the owner or holder of a nonconforming use or structure that clearly manifests the owner’s or holder’s voluntary decision to abandon the nonconforming use or structure, the nonconforming use or structure shall be deemed abandoned. The nonconforming use shall not thereafter be reestablished or recommenced, and any future use of the property shall fully conform with the provisions of this ordinance.

REESTABLISHMENT OF USE OR STRUCTURE AFTER DAMAGE, DESTRUCTION, OR REMOVAL

A. A nonconforming use shall not be continued, reestablished, or recommenced after damage, destruction, or removal of the structure in which the nonconforming use is conducted (whether or not it is a nonconforming structure) if the estimated expense of repair or reconstruction of the structure, at the time of the damage, destruction, or removal, exceeds 50 percent of the replacement value of the use or structure (exclusive of the value of foundations and the land), as determined by the ordinance enforcement officer.

B. A nonconforming structure shall not be continued, reestablished, or reconstructed in its nonconforming condition after damage, destruction, or removal of the structure if the estimated expense of repair or reconstruction of the structure, at the time of the damage, destruction, or removal, exceeds 50 percent of the replacement value of the structure (exclusive of the value of foundations and the land), as determined by the ordinance enforcement officer.

C. If a structure occupied by a nonconforming use or a nonconforming structure is damaged, destroyed, or removed to the extent that the estimated expense of repair or reconstruction of the structure exceeds 50 percent of the replacement value of the use or structure (exclusive of the value of foundations and the land), as provided by Section 22.07, Paragraph A, or Paragraph B., as applicable, the right to continue the nonconforming use or structure shall immediately terminate, and the property shall thereafter be used or occupied only in full compliance with the use and site development regulations provided by this ordinance.
REPAIRS AND MAINTENANCE

A. Ordinary repairs and normal maintenance may be performed on any structure devoted, in whole or in part, to a nonconforming use or on any nonconforming structure, including repair or replacement of nonbearing walls or partitions, fixtures, wiring, or plumbing, provided that the expense of such repairs and maintenance do not exceed, during any consecutive 12-month period, 50 percent of the replacement value of the use or structure (exclusive of the value of foundations and the land), as determined by the ordinance enforcement officer.

B. Any nonconforming structure or part thereof declared to be unsafe by an official charged with protecting the public safety may be strengthened or resorted for a safe condition. However, repairs, maintenance, or other restoration of a nonconforming structure, as permitted by this section or any other provisions of this ordinance, shall not cause the nonconforming use or structure to be enlarged, expanded, extended, increased, relocated, or changed to any degree as prohibited by this article.

BUILDING OR STRUCTURE UNDER CONSTRUCTION

This article shall not be deemed to require a change in the plans, construction, or designated use of any structure for which, prior to the effective date of adoption or amendment of this ordinance, a building permit was obtained, actual construction was lawfully commenced on the site, and construction is thereafter completed within a 12-month period.

CHANGE OF OWNERSHIP OR OCCUPATION

The ownership, occupation, or management of an existing nonconforming use or nonconforming structure may be changed; but the use or structure shall not be enlarged, expanded, extended, increased, relocated, or changed as otherwise prohibited by this article.
ARTICLE 23
ADMINISTRATION AND ENFORCEMENT

23.01 ORDINANCE ENFORCEMENT OFFICER

A. The provisions of this ordinance shall be administered and enforced by the ordinance enforcement officer.

B. The ordinance enforcement officer shall be appointed by the city council for such term and subject to such conditions and at such rate of compensation as the city council shall determine.

23.02 ZONING PERMITS

A. No building, structure, or dwelling unit shall be erected, moved, placed, reconstructed, extended, enlarged, or altered and no land shall be used unless an application for a zoning permit shall be made in writing and upon printed forms furnished by the city. A zoning permit issued by the ordinance enforcement officer is nontransferable and must be obtained before any work, excavations, erection, alteration, or movement is commenced. Satisfactory evidence or ownership of the lot or premises may be required by the ordinance enforcement officer and shall be furnished upon request.

B. If the application is approved, the ordinance enforcement officer shall so mark both copies of the application over his or her signature, shall file one copy with the city clerk, and shall return the other copy to the applicant.

23.03 CONTENTS OF APPLICATION

A. Each application for a zoning permit shall include such reasonable information as may be requested by the ordinance enforcement officer in order to determine compliance with the terms and provisions of this ordinance and shall include the following information:

1. The location and actual dimension of the lot or premises to which the permit is to apply.

2. The width of all abutting streets.

3. The area, size, and location of all buildings or structures to which the permit is to apply.
4. The type of use to be made of the building, structure, or land to which the permit is to apply.

5. The use of buildings, structures, or land on adjoining properties.

6. The estimated cost of the building or structure.

B. The ordinance enforcement officer may waive the inclusion of any of the foregoing information in an application if it is determined that such information is not reasonably necessary to determine compliance with the terms and provisions of this ordinance.

23.04 ACCESSORY BUILDINGS OR STRUCTURES

Accessory buildings or structures, when erected, moved, placed, reconstructed, extended, enlarged, or altered at the same time as the principal building on the same lot or premises and when shown on the application for the zoning permit for the principal building, shall not require the issuance of a separate zoning permit. A separate zoning permit shall be required if any accessory building or structure is erected, moved, placed, reconstructed, extended, enlarged, or altered separately or at a different time than the principal building on the same lot or premises, provided it is 101 square feet or larger.

23.05 PERMIT PROCESS

A. When the terms and provisions of this ordinance require authorization by the planning commission by special land use permit and such authorization is given, both copies of the zoning permit shall be marked approved by the secretary of the planning commission in addition to being marked by the ordinance enforcement officer.

B. Within 30 days after the receipt of any application, the ordinance enforcement officer shall either issue a zoning permit if the proposed work is in conformance with the terms and provisions of this ordinance or deny issuance of a zoning permit and state the reason(s) or cause(s) for such denial in writing. In each case, the zoning permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or his or her agent.

C. A zoning permit for any building or structure for which all construction work has not been completed within 1 year from the date of issuance shall expire automatically. A zoning permit expiring automatically pursuant to this subsection shall, upon
reapplication, be renewable for additional terms of 1 year on payment of an additional fee equal to one-half of the original zoning permit fee.

D. The ordinance enforcement officer shall have the power to revoke and cancel any zoning permit in the event of failure or neglect to comply with all of the terms and provisions of this ordinance or in the event of any false permit. Notice of such cancellation and revocation shall be securely posted on the construction; such posting is to be considered as service upon and notice to the permit holder of the cancellation and revocation of the zoning permit.

23.06 CERTIFICATION OF COMPLIANCE

No building or structure that is erected, moved, placed, reconstructed, extended, enlarged, or altered shall be used, in whole or in part, until the owner thereof shall have been issued a certificate of compliance by the ordinance enforcement officer affirming that such building or structure conforms, in all respects, to the provisions of this ordinance. Such certification shall be issued after the work is complete and final inspection has been made.

23.07 FEES

The city council shall establish a schedule of fees for administering this ordinance. The schedule of fees shall be posted on public display in the city office and the office of the ordinance enforcement officer and may be changed only by the city council. No permit or certificate shall be issued unless such fees have been paid in full.

23.08 ENFORCEMENT

A. The city council, the planning commission, the board of appeals, the ordinance enforcement officer, the duly authorized attorney for the city, the prosecuting attorney for Osceola County, or any owners or occupants of any real estate within the city may institute an appearance ticket, an injunction, a mandamus, an abatement, or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this ordinance. The rights and remedies provided herein are cumulative and are in addition to all other remedies provided by law.

B. The ordinance enforcement officer is specifically authorized to issue and serve appearance tickets, based on probably cause, on any person, business, or organization that is in violation of any of
the provisions of this zoning ordinance and for which a fine, imprisonment, or both may be levied as a result of such violation. “Appearance ticket” means a complaint or notice upon which the ordinance enforcement officer shall record an occurrence involving one or more violations of the zoning ordinance by the person cited. Each citation may be appropriately modified as to content or number of copies to accommodate zoning ordinance enforcement and local court procedures and practices and shall consist of the following parts:

1. The original, which shall be a complaint or notice to appear by the ordinance enforcement officer and filed with the court.

2. The second copy, which shall be retained by the ordinance enforcement official.

3. The third copy, which shall be delivered to the alleged violator.

23.09 PENALTIES

A. Any building or structure that is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained, or used or any use of a lot or land that is begun, maintained, or changed in violation of any term or provision of this ordinance is hereby declared to be a nuisance per se.

B. Any person who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement or any term or provision of this ordinance or any amendment thereof shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $500 or shall be imprisoned for not more than 90 days or both such fine and imprisonment in the discretion of the court. Each and every day during which any violation continues shall be deemed a separate offense. The duly authorized attorney for the city is empowered to prosecute such violations.
ARTICLE 25
ORDINANCE AMENDMENT

25.01 INITIATION OF AMENDMENTS

Amendments to this ordinance may be initiated by the planning commission or the city council by resolution or by an interested person or persons by petition to the planning commission.

25.02 AMENDMENT PETITION PROCEDURE

All petitions for amendment to this ordinance shall be in writing, signed, and filed with the ordinance enforcement officer for presentation to the planning commission. Such petitions shall include the following:

A. The petitioner's name, address, and interest in the petition as well as the name, address, and interest of every person having a legal or equitable interest in any land that is to be rezoned.

B. The nature and effect of the proposed amendment.

C. If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing the land that would be affected by the proposed amendment, a legal description of such land, the present zoning district of all abutting lands, and all public and private rights-of-way and easement bounding and intersecting the land to be rezoned.

D. The alleged error, if any, in the ordinance that would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same.

E. The changed or changing conditions in the area or in the city that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

F. All other circumstances, factors, and reasons that the petitioner offers in support of the proposed amendment.

25.03 AMENDMENT PROCEDURE

A. The planning commission shall authorize notice of the proposed amendment upon payment of the required fees.
B. The planning commission shall set a time and place for at least one public hearing, notice of which shall be published in a newspaper of general circulation in the city not less than 15 days prior to the public hearing. Not less than 15 days’ notice of the public hearing shall also be given by mail to each public utility company and to each 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 purpose of receiving the notice. An affidavit of mailing shall be maintained.

C. In the case of map change requests, at least 15 days’ notice of the public hearing shall be given to the owner of the property in question.

25.04

STANDARDS FOR APPROVAL

In reviewing any petition for a zoning amendment, the planning commission shall identify and evaluate all factors relevant to the petition. The facts to be considered by the planning commission shall include but shall not be limited to the following:

A. Whether or not the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance and whether the property can reasonably be used for uses permitted within the district in which it is located.

B. The precedents and the possible effects of such precedents that might result from approval or denial of the petition.

C. The capability of the city or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.

D. The effect of approval of the petition on the condition and/or value of property in the city or in adjacent civil divisions.

E. The effect of approval of the petition on adopted master plans or development policies of the City of Evart and other governmental units.

All findings of fact shall be made a part of the public records of the meetings of the planning commission.
25.05 DECISION

A. The planning commission shall forward its decision, a copy of the minutes of the public hearing, and the proposed amendment to the city council with its recommendation for approval or denial.

B. The city council shall consider the amendment request, the planning commission’s recommendations, and all comments made at the public hearing and shall make a decision to approve, deny, or approved with conditions the request, stating the reasons for its actions.

C. The city council may hold additional public hearings if it considers it necessary.

25.06 ADOPTION

A. The city council may adopt the amendment at any regular meeting or at any special meeting called for such purpose, with or without amendments, after receipt of the planning commission’s report; or it may refer the ordinance and maps back to the planning commission for a further report.

B. Amendments shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:

1. In the case of a newly adopted zoning ordinance, the following statement: “A zoning ordinance regulating the development and use of land has been adopted by the city council of the City of Evart.”

2. In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

3. The effective date of the ordinance.

4. The place and time where a copy of the ordinance may be purchased or inspected.
ARTICLE 24
ZONING BOARD OF APPEALS

24.01 CREATION

A. The legislative body may act as a board of appeals upon all questions arising under this zoning ordinance; and, in such event, the legislative body may fix rules and regulations to govern its procedure sitting as a board of appeals.

B. In the event that the legislative body so desires; it may appoint a board of appeals consisting of not less than five members, each to be appointed for a term of 3 years. Appointments for the first year shall be for a period of 1, 2, and 3 years, respectively, so as to provide for the appointment of an equal number each year, depending on the number of members. Each member thereafter shall hold office for the full 3-year term.

24.02 MEETINGS

Meetings of the board of appeals shall be held at the call of the chairperson and at such other times as the board, in its rules of procedures, may specify. The chairperson, or, in his or her absence, the acting chairperson, may administer oaths and may compel the attendance of witnesses. All meetings of the board of appeals shall be open to the public. The board shall maintain a record of its proceedings, which shall be filed in the office of the city clerk and which shall be a public record.

24.03 JURISDICTION AND POWERS

The board of appeals shall have all powers and jurisdiction granted by the City or Village Zoning Act, Act 207 of 1921. The board of appeals shall have the following major responsibilities, as described in more detail below:

A. Interpretations.

B. Appeals.

C. Variances.

24.04 DECISIONS

The concurring vote of a majority of the members of the board of appeals shall be necessary to make an interpretation or to reverse an order, requirement, decision, or determination of the administrative official or
body or to decide in favor of the applicant any matter upon which they are required to pass under or to effect variation in this ordinance.

24.05 INTERPRETATION

The board of appeals, when requested by an administrative official, the planning commission, the city, the county, or an individual, shall make an interpretation of the zoning ordinance wording and the zoning ordinance map. Such interpretation shall be made a part of the record and shall be forwarded to the ordinance enforcement officer, the city clerk, the building inspector, the planning commission, and the party seeking the interpretation.

24.06 APPEALS

A. The board of appeals shall hear and decide appeals from and shall review any order, requirements, decision, or determination made by an administrative official or body charged with the administration or enforcement of this ordinance.

B. The board of appeals shall fix a reasonable time for hearing the appeal, shall give due notice as required in Section 24.08, and shall decide the appeal within a reasonable time.

C. At the hearing, a party may appear in person or by agent or by attorney.

D. The board of appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination as, in its opinion, ought to be made in the premises and, to that end, shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance or a permit.

24.07 VARIANCES

A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance, the board may vary or modify the rules or provisions of this ordinance, as provided by this section, regarding the construction or alteration of buildings or structures or the use of land, buildings, or structures so that the spirit of the ordinance is observed, public safety secured, and substantial justice done.

B. The board shall have the power to grant a variance from the rules and provisions of this ordinance if it finds, from reasonable
evidence after a public hearing with notice given as required in Section 24.08, that all of the following facts and conditions exist.

1. There are exceptional or extraordinary circumstances or conditions that apply to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district (i.e., exceptional narrowness, shallowness, or shape of the property; exceptional topographic conditions; or other extraordinary conditions or circumstances regarding the land, buildings, or structures).

2. 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 if the variance is granted is not, by itself, sufficient to support this finding.)

3. Authorizing the variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this ordinance or the public health, safety, and welfare.

4. The condition or situation of the property or the intended use of the property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for the condition or situation.

5. The practical difficulty or undue hardship did not result from the actions of the applicant (i.e., the difficulty or hardship was not self-created).

6. With respect to a request for a variance to use property in a manner not permitted under the applicable zone district classification, the applicant must demonstrate that the property for which the use variance is sought cannot reasonable be used in a manner consistent with the existing zoning.

The concurring vote of two-thirds of the members of the board shall be necessary to grant a use variance.
C. The board may impose reasonable conditions upon the approval of a variance. The conditions may include but are not limited to conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment, to conserve natural resources and energy, to ensure compatibility with adjacent used of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources and the health, safety, welfare, and social and economic well-being of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; or the community as a whole.

2. Be related to the valid exercise of the police power.

3. Be necessary to meet the intent and purpose of the zoning ordinance, related, to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

24.08 PUBLIC HEARINGS

A. When an application for appeal or a variance has been filled in proper form and the required fee has been paid, the secretary of the board shall immediately place the same upon the calendar for public hearing and shall serve required notices.

B. Notice shall be given to the owners of real property that is assessed within 300 feet of the premises involved and to the occupants of all single and two-family dwellings within 300 feet of the premises involved. This notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll.

C. The secretary shall record the grounds for each decision. The board shall render its decision upon any matter within 60 days after the matter is heard. A copy of each decision shall be sent to the ordinance enforcement officer, the city clerk, the building inspector, the planning commission, and the applicant. No
building permit shall be issued by the building inspector until such decision is received.