

Zoning Ordinance

CITY OF EASTPOINTE, MICHIGAN

ADOPTED · NOVEMBER 13, 2023



Zoning Ordinance

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ADOPTED NOVEMBER 13, 2023
EFFECTIVE _____, 2023
AS AMENDED _____, 2023

Prepared by:



235 East Main Street, Suite 105
Northville, MI 48167
mcka.com

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Article 1.

Title, Scope, and Purpose

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 1.01 Short Title

This Ordinance is known and cited as the “City of Eastpointe Zoning Ordinance” or the “Zoning Ordinance”. The official Zoning Map, a part of this Ordinance, is known and cited as the “City of Eastpointe Zoning Map” or the “Zoning Map.”

Section 1.02 Intent and Purpose

Eastpointe’s Zoning Ordinance promotes and protects the public health, safety, and general welfare by incorporating provisions to achieve the following:

- A) Prevent the overcrowding of land and undue concentration of structures and uses by regulating the intensity of land uses and lot areas and to determine the areas of open spaces surrounding buildings and structures necessary to protect adequate light, air, privacy, and convenience of access to properties.
- B) Promote economic development and conserve and preserve the value of land, buildings, and structures.
- C) Allow for a variety of residential housing types, and commercial, industrial, institutional, and public uses.
- D) Protect against noxious fumes and odors, fires, crime, heat, dust, smoke, glare, noise, radioactivity, and other nuisances and hazards.
- E) Promote efficient mobility throughout the city by a variety of modes, as appropriate to the character of each part of the community, while minimizing congestion and safety concerns.
- F) Promote the orderly and beneficial development of uses and prohibit uses that are incompatible with the character of development, uses, or structures permitted within zoning districts.

Section 1.03 Legal Basis

Eastpointe’s Zoning Ordinance is enacted pursuant to the:

- A) **Zoning Enabling Act.** The Michigan Zoning Enabling Act (PA 110 of 2006), as amended establishes the authority for local units of government to adopt comprehensive zoning regulations and empowers the city to enact a zoning code and provide for its administration, enforcement, and amendment.
- B) **Necessity.** Eastpointe has determined it necessary to enact zoning regulations for the purpose of promoting the public health, safety, and general welfare.
- C) **Master Plan Compliance.** Eastpointe has adopted a Master Plan and sub-area plans intended to guide growth in a logical and orderly fashion, which serves as the basis of this Zoning Ordinance.

Section 1.04 Scope of Application

- A) Zoning applies to every building, structure, and use.
- B) Any use not expressly permitted within this Zoning Ordinance is prohibited, unless otherwise reviewed and approved by the Planning Commission as a special land use. See Article 2 for the Table of Permitted Uses by District on the determination for uses not specifically listed.

- C) No building, structure, or land is to be used or occupied, and no building or structure or part thereof is to be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with this Zoning Ordinance, unless specifically superseded by a law or regulation of Macomb County, the State of Michigan, or the Federal Government of the United States.

Section 1.05 Conflicting Laws

The provisions of this Zoning Ordinance are in addition to all other ordinances and regulations in effect within the city.

- A) **More Restrictive.** Whenever any provision of this Zoning Ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other City Code, the provisions of this Ordinance govern. Whenever the provisions of any other regulation or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance govern.
- B) **Abrogate or Annul.** This Zoning Ordinance is not intended to abrogate or annul any easement, covenant, or other private agreement, provided that where any provision of this Ordinance is more restrictive or imposes a higher standard than such easement, covenant, or other private agreement, this Ordinance governs.

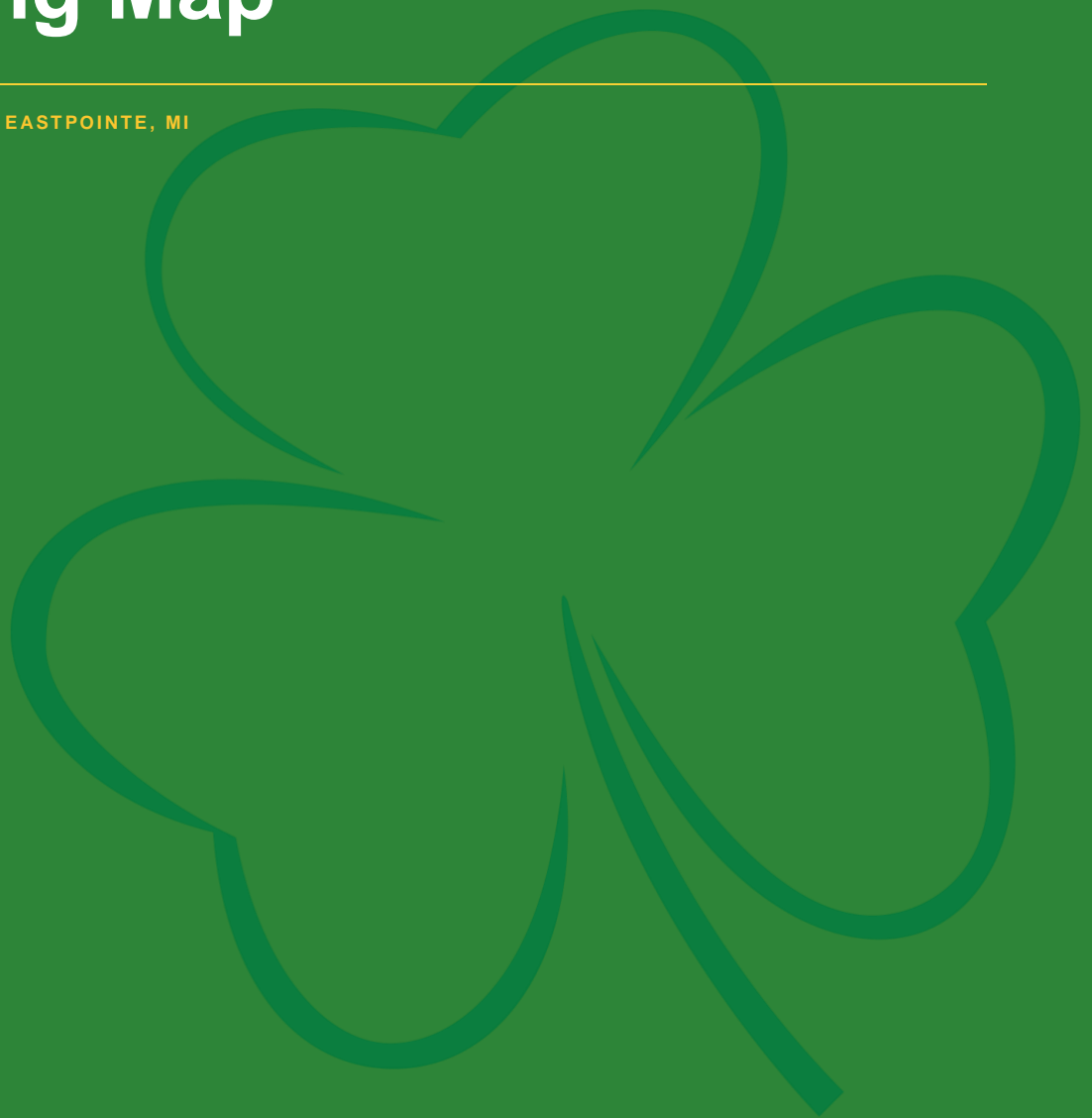
Section 1.06 Prior Unlawful Structures, Sites, Lots, and Uses

Any structure, site, lot, or use that was unlawfully constructed, occupied, or created before the effective date of this Zoning Ordinance will continue to be unlawful, unless expressly permitted by this Ordinance, and is considered a legal non-conformity.

Article 2.

Overview of Zoning Districts and the Zoning Map

ZONING ORDINANCE · CITY OF EASTPOINTE, MI



Section 2.01 Zoning Districts and Overlays

Eastpointe is divided into the following zoning districts, which are known by the following respective abbreviations and intent statements.

Code	Zoning District / Overlay	Intent Statement
R-1	Low Density Residential	Provides an environment of one-family to two-family dwellings, along with other traditional neighborhood uses that serve the residents in the district (such as schools, parks, and religious institutions).
R-2	Medium Density Residential	Provides an environment of intermediate density with two-family to twelve-family dwellings, along with other uses that serve the residents in the district. Higher densities of dwellings are permitted under other zoning districts; see Article 4: Commercial and Mixed-Use Districts and Article 15: Planned Unit Developments.
MU-1	Neighborhood Mixed-Use	Permits daily services and goods to be readily available for the surrounding neighborhoods in addition to context-sensitive live/work developments, residential units, office, and smaller-scale commercial uses that lend themselves to encouraging a walkable, pedestrian oriented neighborhood. These areas are also intended to accommodate uses which can serve as transitional areas between residential districts and Eastpointe's more intensive, auto-focused business districts and major thoroughfares. Permitted uses include retail, personal services, work/live units, upper floor residential, and office uses.
MU-2	Main Street Mixed-Use	Permits small- to medium-scale mixed-use development that encourages pedestrian, bicycle, and transit uses as a means of accessing and supporting these uses along the 9 Mile Road corridor. This includes a variety of commercial, office, recreation, civic, and residential uses to enhance the vitality and appeal of the corridor. This district further intends to protect the integrity of the surrounding residential uses by requiring the installation of landscaping, buffers, etc. Along the 9 Mile Road frontage, the district requires build-to widths, high levels of transparency on the front building facade, frequent entrance spacing, and ground floor elevation at or near sidewalk grade, to promote a legible street wall and activate the public realm with pedestrian activity and visual interest.
DT	Downtown	Provides a defined city center and concentrated downtown area with a "city identity", indicating to residents and visitors that they are in Eastpointe. The district intends to create a walkable commercial area with diverse uses, including mobile vendors, and increased night-time population.
MU-3	Regional Mixed-Use	Allows for a wide variety of retail, commercial, and residential uses that services Eastpointe and the surrounding communities. Many of the business uses permitted in the district are thoroughfare oriented and may generate greater volumes of traffic and activities. Moderate density, missing middle housing typologies are encouraged.
LI	Light Industrial	Offers areas for manufacturing, assembling, fabricating businesses, and limited commercial activities, all of which generate minimum adverse impacts beyond the boundaries of their site. To minimize adverse effects upon the neighborhoods, most uses must be enclosed within buildings, or outdoor activities must be screened from view from residences, neighboring businesses, and rights-of-way.
CD	Central Downtown Overlay	Requires a higher floor density on key parcels at Eastpointe's downtown core intersection: Gratiot Avenue and 9 Mile Road. This increased density will create a major node in the city, therefore bolstering a vibrant downtown.
GG	Gratiot Gateway Overlay	Promotes a southern gateway to Eastpointe and Macomb County, improving perception and creating a welcoming and culturally rich environment. The overlay encourages increased heights and densities for both commercial and residential buildings and acts as a transit hub. The overlay also provides public spaces where people of all ages can gather and participate in activities by incorporating the existing and potential expansion of the transit system.

Section 2.02 District Boundaries and the Zoning Map

The areas establishing Eastpointe's zoning districts and the boundaries of the districts are hereby established as shown on the Zoning Map, which accompanies this Zoning Ordinance, and which the Zoning Map with all notations, references, and other information shown thereon is as much a part of this Ordinance as if fully described herein. The Zoning Map is certified as the official copy by the City Clerk and kept on display at City Hall. Maps and descriptions accompanying enacted amendments must be displayed adjacent to the official copy until such time as the official copy is corrected. When so ordered by resolution of Council, the official copy must be corrected to show all amendments.

Section 2.03 Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of a district on the Zoning Map, the following rules apply:

- A) Boundaries following the centerlines of streets, highways, or alleys, are construed as following such centerlines.
- B) Boundaries following platted or unplatted lot lines are construed as following such lot lines.
- C) Boundaries following section lines, or the lines of customary fractional division of sections, are construed as following such lines.
- D) Boundaries following the boundaries of the city are construed as following such boundaries.
- E) Boundaries parallel to, extensions of, or perpendicular to, features indicated in the above subsection A-D are so construed. Distances not specifically indicated on the Zoning Map are determined by the scale of the map.
- F) In other circumstances not clearly covered above by subsections A-E, the Zoning Administrator determines the boundaries by applying the criteria for such determination for subsections A-E, or by any other criteria as determined appropriate to construe the boundaries of the district in a reasonable and harmonious manner.

Section 2.04 Zoning of Vacated Areas

Whenever any park, common area, outlot, street, alley, or other public way within the city is vacated, such property (or portion thereof) is automatically classified in the district of the adjoining property on any side of such vacated property. When a vacated area is between a residential and commercial property, the vacated area follows the commercial zoning district designation. In the event such vacated property is a district boundary between two or more different districts, the new district boundary is the former centerline of such vacated property.

Section 2.05 Annexed Areas

Whenever land is annexed to the city, such land is automatically zoned the R-1, Low Density Residential District and will remain as the R-1 District until changed by the adoption of a Zoning Map amendment by City Council.

Section 2.06 Essential Services

Essential services are permitted in all zoning districts and subject to the standards of this Zoning Ordinance and permitted to receive waivers from requirements upon demonstration to the Zoning Administrator that the Ordinance standard in question would inhibit the provision of the essential service to Eastpointe residents. However, buildings, towers, and substations (such as wastewater treatment facilities, gas, or electric regulator stations, and the like) are not eligible for waivers and limited to the zoning district which they are located within.

Section 2.07 Table of Land Uses by Zoning District

- A)** Throughout the Table of Land Uses by Zoning District, “P” means permitted “Use by Right”, “S” means permitted by “Special Land Use”, and “***” denotes that the use requires additional use standards.
- B)** The Planning Commission has the authority to determine that a use (including a temporary use) not listed within this Zoning Ordinance is similar in character and intensity to the uses permitted in each district, and therefore permit that use by special land use approval (in accordance with the process established in Article 13). In determining the “character and intensity” of a use, the Planning Commission must determine that the use is consistent with the uses permitted in the district per the following:
- 1) Noise, odor, dust, and vibration.
 - 2) Traffic generation and the number of people likely to gather onsite.
 - 3) The scale and massing of buildings.
 - 4) Impact on natural features and the environment.
 - 5) Views from adjacent properties.
 - 6) Duration of uses (if not permanent).
 - 7) Any other criteria deemed applicable by the Planning Commission.

Land Use	R-1	R-2	MU-1	MU-2	DT	MU-3	LI	GG
Accessory Uses								
Carports	P	P	P	P		S		S
Fences	P	P	P	P	P	P	P	P
Garage (Private, Not Commercial)	P	P	P					
Garden/Tool Sheds, Swimming Pools, Gazebos, etc.	P	P	P					
Growing Of Crops	P	P	P					
Home Occupation	P	P	P	P	P	P		P
Keeping of Chickens	P	P	S					
Residential Maintenance / Management Facility		P	P	P		P		P
Satellite Dishes	P	P	P			P	P	P
Solar Energy System	P	P	P	P	P	P	P	P

Land Use	R-1	R-2	MU-1	MU-2	DT	MU-3	LI	GG
Dwelling Units								
Accessory Dwelling Unit (ADU)	P	P	P					
Courtyard Home	P	P	P	P				
Duplex (Side-By-Side or Stacked)	P	P	P	P	P	P		
Economy Efficiency Dwelling (EED)		P	P	P	P	P		P
Fourplex	S	P	P	P	P	P		P
Live-Work		P	P	P	P	P		P
Multiple-Family Dwelling		P	P	P	P	P		P
Single-Family Dwelling	P	P	P					
Single-Family Dwelling, Manufactured	P	P						
Townhome	P	P	P	P	P	P		P
Triplex (Side-By-Side or Stacked)	S	P	P	P	P	P		P
Upper-Level Residential Dwelling		P	P	P	P	P		P
Group Homes								
Adult Foster Care, Family Home (1-6 persons)	P	P	P	P		S		
Adult Foster Care, Small Group Home (7-12 persons)	S	P	P	S		S		
Adult Foster Care, Large Group Home (13-20 persons)		P	P	S		S		S
Child Care Home, Family (1-6 children)	P	P	P	P		S		
Child Care Home, Group (7-12 children)	S	P	P	P		S		
Foster Care, Family Home (1-6 children)	P	P	P	P		S		
Foster Care, Group Home (7+ children)		P	P	P		S		
Transitional Housing / Shelters	S	S	S	S		S		S
Senior Living (Assisted / Independent)	S	P	P	P	S	P		P
Public / Quasi Public Uses								
Cemetery	S							
Parking Lot (Surface)**			P	S	S	P		S
Parking Structure			S	S	S	P		S
Public / Municipal Building	P	P	P	P	P	P	P	P
Public Utility Building	P	P				P	P	
Recreation, Indoor (Public or Private)	P	P	P	P	P	P	P	P
Recreation, Outdoor (Public or Private)	P	P	P	P	S	P	P	P
Religious Institution, Major						S		
Religious Institution, Minor	S	P	P	P	P	P		
School, Elementary	P	P	P					

Land Use	R-1	R-2	MU-1	MU-2	DT	MU-3	LI	GG
School, Middle and High	S	P	P	P				
School, College and University		S	S	S	S	S		S
Schools, Trade and Vocational			S	S	S	S	P	S
Wireless Communication Facility						S	S	
Commercial Uses								
Adult Business**						S		
Artisan / Maker Space			P	P	P	P	P	P
Bar (*only on Toepher, Beaconsfield, Stephens, and MU-1 properties adjacent to 9 Mile)			P	P	P	P	P	P
			S*					
Bed And Breakfast / Short-Term Rental	P	P	P	P	P	P		P
Body Art / Tattoo Shop			P	P	P	P		P
Childcare Center		S	P	P	P	P		S
Community Incubator Kitchen			P	P	P	P	P	P
Cultural Institution (e.g., museum, library)		S	P	P	P	P		P
Drive-Thru Facility**				S	S	S		
Event Hall (*only on 8 Mile, 10 Mile, and Gratiot)			S*			S		
Experiential Retail			P	P	P	P	P	P
Financial Institution			P	P	P	P		P
Fraternal Lodge (*only on Toepher, Beaconsfield, Stephens, and MU-1 properties adjacent to 9 Mile)			P	P	P	P	P	P
			S*					
Funeral Homes / Mortuaries			S			P		
Gas Station**						S		
Grocery Store		S	P	P	P	P		P
Health / Fitness Club			P	P	P	P	P	P
Hospital						S		
Hotel / Motel			S	S	S	P		S
Hotel, Boutique			S	P	P	P		P
Landscape Nursery / Greenhouse**			S			P	P	
Laundry / Dry Cleaner			P	P	P	P		P
Massage Establishment			P	P	P	P		
Medical Marijuana Facility			S	S	S	S	S	S
Medical Office			P	P	P	P		P
Microbrewery / Distillery / Winery			P	P	P	P	P	P

Land Use	R-1	R-2	MU-1	MU-2	DT	MU-3	LI	GG
<i>(*only on Toepfer, Beaconsfield, Stephens, and MU-1 properties adjacent to 9 Mile)</i>			S*					
Mobile Vending (see Temporary Use Standards)	P	P	P	P	P	P	P	P
Night Club					S	S		
Outdoor Dining (see Temporary Use Standards)			P	P	P	P	P	P
Outdoor Sales (see Temporary Use Standards)	P	P	P	P	P	P	P	P
Pawn Shop						S		
Personal Service Establishment			P	P	P	P		P
Pet Grooming / Pet Boarding Facility			P	P	P	P	P	P
Professional Office			P	P	P	P	P	P
Restaurant, Full Service			P	P	P	P		P
Restaurant, Café / Take-Away			P	P	P	P		P
Retail Sale Establishment			P	P	P	P	P	P
Secondhand / Rummage Shop			P	P	P	P	S	P
Smoking Lounge (Hookah or Cigar)** <i>(*only on Toepfer, Beaconsfield, Stephens, and MU-1 properties adjacent to 9 Mile)</i>			P					
			S*	P	P	P	P	P
Studio (Dance, Art, Photography)			P	P	P	P	P	P
Theatre / Entertainment Venue				P	P	P		S
Vehicle Repair Shop						S		
Vehicle Sales (Establishment, Open Air, Showroom)						S		
Vehicle Wash Facility						S		
Veterinary Clinic			P	P	P	P	P	P
Industrial Uses								
Construction Equipment (Sales / Repair)							S	
Data Processing / Computer Center						P	P	
Junkyards							S	
Lumber / Building Material Yards							S	
Manufacturing Facility							P	
Outdoor Storage						S	S	
Packaging and Distribution Facility							P	
Recycling Facility							S	
Reuse Facility							P	
Self-Storage Facility						S	P	

Land Use	R-1	R-2	MU-1	MU-2	DT	MU-3	LI	GG
Solar Energy System	P	P	P	P	P	P	P	P
Testing / Experimental / Research Facility						P	P	
Transportation and Logistics							P	
Warehouse							P	
Wholesale Facility			S			P	P	
Wholesale Office, Vehicle Sales**			P	P	P	P	P	P

Article 3.

Residential Districts

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 3.01 Intent Statements

- A) R-1, Low-Density Residential District.** The Low-Density Residential District is designed to provide for an environment of one-family to two-family dwellings, along with other traditional neighborhood uses that serve the residents in the district (such as schools, parks, and religious institutions).
- B) R-2, Medium-Density Residential District.** The Medium-Density Residential District is designed to provide an environment of intermediate density with two-family to twelve-family dwellings, along with other uses that serve the residents in the district. Higher densities of dwellings are permitted under other zoning districts; see Article 4: Commercial and Mixed-Use Districts and Article 15: Planned Unit Developments.

Section 3.02 Residential Permitted Use Table

See Article 2, section 2.07: Table of Land Uses by Zoning District for a complete list.

Section 3.03 Site Development Standards

See Article 6: Schedule of Regulations, Building Form, and Design Standards.

Article 4.

Commercial and Mixed-Use Districts

ZONING ORDINANCE · CITY OF EASTPOINTE, MI



Section 4.01 Intent Statements

- A) MU-1, Neighborhood Mixed-Use District.** Intended to permit daily services and goods to be readily available for the surrounding neighborhoods in addition to context-sensitive live/work developments, residential units, office, and smaller-scale commercial uses that lend themselves to encouraging a walkable, pedestrian oriented neighborhood. These areas are also intended to accommodate uses which can serve as transitional areas between residential districts and Eastpointe's more intensive, auto-focused business districts and major thoroughfares. Permitted uses include retail, personal services, work/live units, upper floor residential, and office uses.
- B) MU-2, Main Street Mixed-Use District.** Intended to permit small- to medium-scale mixed-use development that encourages pedestrian, bicycle, and transit uses as a means of accessing and supporting these uses along the 9 Mile Road corridor. This includes a variety of commercial, office, recreation, civic, and residential uses to enhance the vitality and appeal of the corridor. This district further intends to protect the integrity of the surrounding residential uses by requiring the installation of landscaping, buffers, etc. Along the 9 Mile Road frontage, the district requires build-to widths, high levels of transparency on the front building facade, frequent entrance spacing, and ground floor elevation at or near sidewalk grade, to promote a legible street wall and activate the public realm with pedestrian activity and visual interest.
- C) DT, Downtown District.** Intended to provide a defined city center and concentrated downtown area with a "city identity", indicating to residents and visitors that they are in Eastpointe. The district intends to create a walkable commercial area with diverse uses, including mobile vendors, and increased night-time population.
- D) MU-3, Regional Mixed-Use District.** Intended to allow for a wide variety of retail, commercial, and residential uses that services Eastpointe and the surrounding communities. Many of the business uses permitted in the district are thoroughfare oriented and may generate greater volumes of traffic and activities. Moderate density, missing middle housing typologies are encouraged.
- E) Central Downtown Overlay.** This overlay is intended to require a higher floor density on key parcels at Eastpointe's downtown core intersection: Gratiot Avenue and 9 Mile Road. This increased density will create a major node in the city, therefore bolstering a vibrant downtown.
- F) Gratiot Gateway Overlay.** This overlay is intended to promote a southern gateway to Eastpointe and Macomb County, improving perception and creating a welcoming and culturally rich environment. The overlay encourages increased heights and densities for both commercial and residential buildings and acts as a transit hub. The overlay also provides public spaces where people of all ages can gather and participate in activities by incorporating the existing and potential expansion of the transit system.

Section 4.02 Commercial and Mixed-Use Permitted Use Table

See Article 2, section 2.07: Table of Land Uses by Zoning District for a complete list.

Section 4.03 Site Development Standards

See Article 6: Schedule of Regulations, Building Form, and Design Standards for requirements.

Section 4.04 Additional Use Standards

A) Adult Business.

1) Location Regulations.

- a) **Like-Uses.** No adult business use shall be located within 1,000 feet of any other adult business use.
- b) **Sensitive Uses.** No adult business use shall be located within 600 feet of any of the following uses:
 - i. All class C establishments licensed by the state liquor control commission.
 - ii. Pool or billiard halls.
 - iii. Coin-operated amusement centers.
 - iv. Teenage discos or dancehalls.
 - v. Ice or roller skating rinks.
 - vi. Pawnshops.
 - vii. Indoor or drive-in movie theaters.
 - viii. Any public park.
 - ix. Any church.
 - x. Any public or private school having a curriculum including kindergarten or any one or more of the grades one through 12.
 - xi. Any public building.
 - xii. Any residential zoned area. Such required distance shall be measured by a straight line between the nearest point of the boundary line of a residential zoning district to the nearest building wall or contemplated building wall of the building intended to house an adult business use.
 - xiii. Any other regulated use as defined herein.
- c) **Distance Measurements.** Except for residentially zoned areas, all distances shall be measured along the center line of the street or address between two fixed points on the center lines

determined by projecting straight lines at right angles from the part of the uses set forth in this subsection nearest to the contemplated location of the structure containing the adult business use and from the contemplated location of the structure containing the adult entertainment use.

- d) **Freestanding Building.** Any adult business use shall be contained in a freestanding building. Enclosed malls, commercial strip stores or, common wall structures and multiple uses within the same structure, do not constitute freestanding buildings.
- 2) **No Public Visibility.** No adult business use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not regulated as an adult entertainment use. This subsection shall apply to any display, decoration, sign, show window or other opening.
- 3) **Intent.** It has been demonstrated that the establishment of adult businesses in business districts which are immediately adjacent to and which serve residential neighborhoods has deleterious effects on both business and residential segments of the neighborhood, causing blight and a downgrading of property values. A prohibition against the establishment of more than two regulated uses within 1,000 feet of each other serves to avoid the clustering of certain businesses, which, when located in close proximity to each other, tend to create a marginal atmosphere. However, such prohibition fails to avoid the deleterious effects of blight and devaluation of both business and residential property values resulting from the establishment of adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult motion picture arcades, adult motels, adult massage parlors, adult model studios, adult sexual encounter centers and adult cabarets in a business district which is immediately adjacent to, and which also serves adjoining residential neighborhoods. Concern for the pride in the orderly planning, development and preservation of the integrity of a residential neighborhood should be encouraged and fostered by those businesses and those persons who might otherwise comprise the business and residential integrity of the neighborhood. The planning commission and the city council should therefore be guided by the expressed will of those businesses and residences which are immediately adjacent to the proposed location of, and therefore, most affected by, the existence of any adult bookstore, adult motion picture, adult mini-motion picture theater, adult cabaret, etc.
- 4) **Council Waivers.** The council may waive the limiting regulations of this section if all of the following are found:
- a) The proposed use will not be contrary to the public interest or injurious to the nearby properties, and the spirit and intent of this chapter will be observed.
 - b) The proposed use will not enlarge or encourage the development of an undesirable area.
 - c) The person seeking to establish the adult business use shall include a petition which affirmatively demonstrates the approval of the proposed adult entertainment use by at least 50 percent of the persons owning or occupying premises within a radius of 600 feet of the proposed use. The petitioner shall attempt to contact all occupied premises within this radius and must maintain a list of all addresses at which no contact was made. The person who circulates the petition requesting approval shall subscribe to a sworn affidavit attesting to the fact that the petition was circulated, that the person who circulated the petition personally witnessed the signatures on the petition and that, to the best of his or her knowledge, the same were affixed to the petition by the person whose name appeared thereon. The city council shall not consider the application until such petition has been filed and verified to the satisfaction of the city council.

B) Gas Stations.

- 1) Must be located 300 feet away from a residential zoning district, measured by property line to property line. This distance considers the possibility of spills, leaks, odors, and other accidents that can occur at a gas station.
- 2) Must be located on a lot with at least 150 feet of frontage along arterial streets only (e.g., 10 Mile and Gratiot).
- 3) Must be located on a lot with at least 15,000 SF.
- 4) A traffic impact study may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

C) Drive-Thru Facility.

- 1) Must be located 25 feet away from a residential zoning district, measured by residential property line to stacking space.
- 2) If the drive-thru principal use is a restaurant, then there must be both indoor and outdoor seating or dining opportunities. If there is not enough lot space, the Zoning Administrator can waive this provision.
- 3) Vehicle access must be located 100 feet or more from the intersection of two streets.
- 4) When considering approval of a use, the authority must consider if the circulation and sanitation plans create a healthy and safe environment.
- 5) Buildings of businesses that use drive-thrus to serve food primarily for off-site consumption may not be located within 1,000 feet of one another.
- 6) A traffic impact study may be required by the Planning Commission if the Commission determines that the traffic generated by the use could adversely affect the area.

D) Landscape Nursery / Greenhouse. Landscape nurseries and greenhouses are permitted as a Special Land Use in the MU-1 District only if the parcel has direct access to a major thoroughfare.

E) Parking Lot. A parking lot is allowed if it is a municipal lot or if it is an accessory use to a principal business establishment and the lot is adjacent or adjoining to the principal business' parcel.

F) Smoking Lounge. State of Michigan law does not allow food establishments within a smoking lounge. However, take-away or carry-out food can be permitted within smoking lounges. Smoking lounges are defined as a business establishment that is dedicated to the smoking of tobacco, including but not limited to establishments commonly known as cigar lounges, hookah bars/cafes, tobacco clubs, or smoking parlors.

G) Wholesale Office, Vehicle Sales. Wholesalers cannot buy, sell or otherwise deal vehicles to a person other than a licensed vehicle dealer. Storage or display of vehicles for sale is not permitted, unless the applicant receives a vehicle sales use permit.

Article 5.

Light Industrial District

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 5.01 Intent Statement

L1, Light Industrial District. The Light Industrial District offers areas for manufacturing, assembling, fabricating businesses, and limited commercial activities, all of which generate minimum adverse impacts beyond the boundaries of their site. To minimize the adverse effects upon neighborhoods, the majority of uses must be enclosed within buildings, or outdoor activities must be screened from view from residences, neighboring businesses, and rights-of-way.

Section 5.02 Industrial Permitted Use Table

See Article 2, section 2.07: Table of Land Uses by Zoning District for a complete list.

Section 5.03 Site Development Standards

See Article 6: Schedule of Regulations, Building Form, and Design Standards for requirements.

Article 6.

Schedule of Regulations, Building Form, and Design Standards

ZONING ORDINANCE · CITY OF EASTPOINTE, MI



Section 6.01 Intent Statement

- A) Schedule of Regulations.** No building may be erected, nor any existing building be altered, enlarged, or rebuilt, nor any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the regulations for the district in which the building or use is located, per this Article.
- B) Building Form and Design Standards.** Eastpointe's building form and design standards guide the establishment of harmonious building appearance on all exterior walls of a building to create, enhance and promote a uniform and quality visual environment throughout the city. Site lighting standards are also detailed that are attractive to the eye, while adequately illuminating a site for safety and convenience.

Section 6.02 Schedule of Dimensional Regulations

Zoning District	Min. Lot Size		Max. Height of Structures		Min. Yard Setback			Max. Impervious Lot Coverage	Footnotes
	Area	Width	Stories	Ft.	Front	Min. Side / Total	Rear		
R-1, Low Density Residential	4,000 sq. ft.	40 ft.	3-stories	36 ft.	25 ft.	4 ft. / 13 ft.	30 ft.	60%	A, B, C
R-2, Medium Density Residential	4,500 sq. ft.	50 ft.	4-stories	50 ft.	10 ft.	4 ft. / 13 ft.	0 ft.	70%	C, D
MU-1, Neighborhood Mixed-Use	-	-	3-stories	36 ft.	10 ft. max.	0 ft.	20 ft.	70%	D, E, F
MU-2, Main Street Mixed-Use	-	-	3-stories	36 ft.	10 ft. max.	0 ft.	0 ft.	100%	D, F
MU-3, Regional Mixed-Use	-	-	6-stories	65 ft.	20 ft.	0 ft.	20 ft.	80%	D, E, F
DT, Downtown	-	-	6-stories	65 ft.	10 ft. max.	0 ft.	0 ft.	100%	D, F
LI, Light Industrial	10,000 sq. ft.	60 ft.	-	50 ft.	25 ft.	10 ft. / 20 ft.	10 ft.	80%	

Section 6.03 Footnotes to the Schedule of Regulations

- A)** Non-conforming lots of record may be permitted for use as single-family dwelling units, provided that any principal or accessory structures constructed on the lot complies with all other dimensional standards (excluding lot area).
- B)** On blocks with 50% or more frontage established, the average depth of the five adjacent front yards to determine the setback may be used (plus or minus 3-feet).

- C) The minimum square footage for a single-family dwelling unit or duplex is: 800 square feet ground floor for a one-story dwelling, and 600 square feet of ground floor area for a two-story dwelling unit.
- D) Minimum square footages apply to all multiple-family dwelling units:
 - 1) Studio / efficiency unit: 450 square feet
 - 2) 1-bedroom unit: 600 square feet
 - 3) 2-bedroom unit: 800 square feet
 - 4) 3+ bedroom unit: 1,000 square feet
- E) If the side yard is adjacent to a residential use or zoning district, a minimum side yard of 15-feet is required.
- F) If the parcel is located within an Overlay, the Overlay dimensional standards apply.

Section 6.04 Exceptions to the Schedule of Regulations

- A) **Height Exceptions.** The height limitations do not apply to chimneys, religious institution spires, cupolas, domes, water towers, smokestacks, ventilators, skylights, elevators, conveyors, cooling towers, flagpoles, public monuments, or power transmission towers, masts, and other similar mechanical appurtenances pertaining to and necessary to the permitted uses of the district. The Planning Commission may specify a height limit for any such structure when special land use approval is required, and such height limit is reasonably necessary for public safety or to otherwise to comply with the standards set forth in this Ordinance.
- B) **Parapet Wall Extension.** The provisions of this Ordinance do not prevent the erection, above the maximum building height limit, for a parapet wall or cornice for screening purposes (without windows), extending above such height limit not more than 5-feet.

Section 6.05 Overview of Building Form and Design Standards

The following sections detailed standards for building design and form: while some criteria are relevant for all projects in each zoning district (e.g., lighting and materials), other criteria are specifically relevant to particular Mixed-Use district development projects with the intent to design an attractive commercial district.

- A) **Building Form.** Building form standards include a minimum façade height, minimum ground floor height, maximum building height, minimum building separation, and maximum front yard setback.
- B) **Design Elements.** Design element standards include guidelines on the primary entrances, blank wall lengths, first floor minimum glass percentage, additional floor minimum glass percentage, permissible lighting, materials and colors, and architectural features.

Section 6.06 Mixed-Use Building Form and Design Standards

The building form and design standards apply to all mixed-use and commercial buildings located in each of the following districts and overlays.

- A) MU-1, Neighborhood Mixed-Use District.** Buildings are setback from the street with a landscaped or activated front yard area (e.g., an outdoor dining area). Parking may be in the front of the building (this building typology is especially relevant to Kelly Road where the existing buried utilities restricts building footprints closer to the road). Sites have a 10-foot pedestrian sidewalk to provide for enhanced placemaking activities and support a parkway design. The following design requirements apply:



DESIGN REQUIREMENTS		
Building Form		Standard
A	Min. façade height	16 ft.
B	Min. ground floor height	12 ft.
C	Max. building height	3-stories, 36 ft.
D	Min. building separation	0 ft.
E	Max. front yard setback	10 ft. (<i>*on Kelly Road, no max. setback is required</i>)
Design Elements		Standard
F	Primary entrance	Opens onto a street, sidewalk, or public space. At grade for accessibility. Defined by recessing the entrance a min. of 3 ft. from the front setback, or using elements such as lintels, pediments, pilasters, columns, awnings, overhangs, or solar shades.
G	Blank wall length	16 ft.
H	Min. window glass percentage	40% (first floor) 25% (additional floors)
I	Architectural features	All facades are of equal importance and must be designed with attention to detail and quality material. No blank or unarticulated facades are permitted unless façade is not visible from public right-of-way. Buildings with multiple storefronts are unified in design treatment, such as window design, door openings, materials, and color.

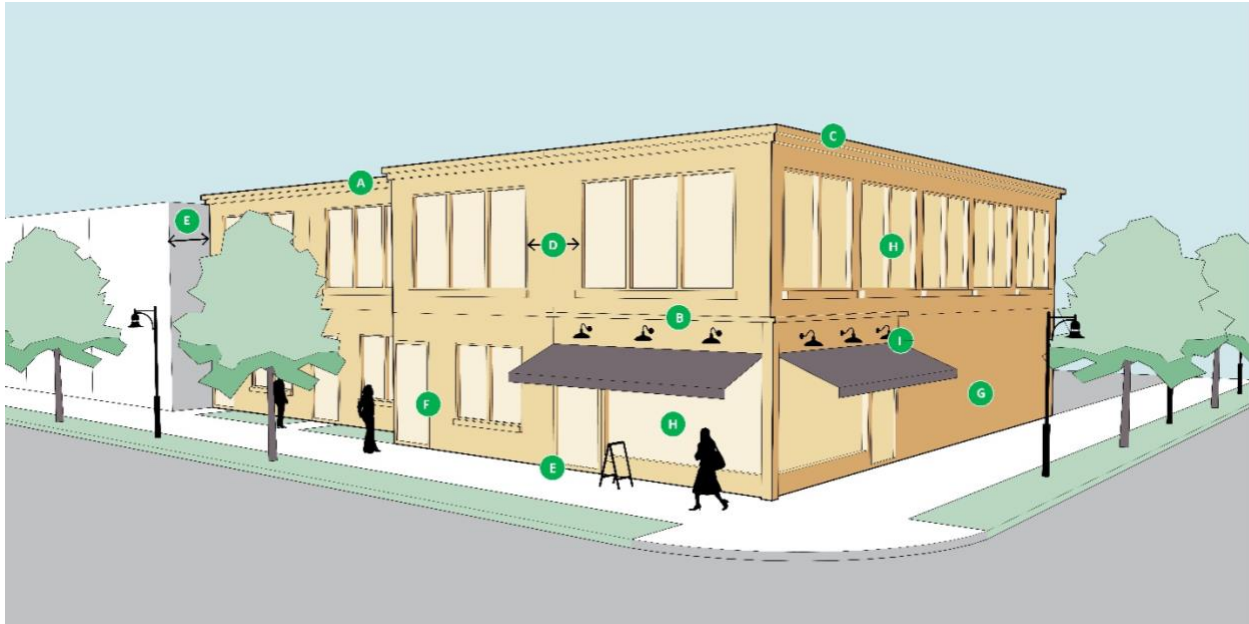
- B) MU-2, Main Street Mixed-Use District.** This district promotes a main street, pedestrian-oriented building typology along 9 Mile Road with active ground floor uses and primary access on a public street or from a public sidewalk. These buildings include pedestrian amenities (i.e., sidewalks, plazas, parks, and outdoor seating areas, etc.) that are integrated into the site design. The following design requirements apply:



DESIGN REQUIREMENTS

Building Form		Standard
A	Min. façade height	16 ft.
B	Min. ground floor height	12 ft.
C	Max. building height	3-stories, 36 ft.
D	Min. building separation	0 ft.
E	Max. front yard setback	10 ft.
Design Elements		Standard
F	Primary entrance	Opens onto a street, sidewalk, or public space. At grade for accessibility. Defined by recessing the entrance or using elements such as lintels, pediments, pilasters, columns, awnings, overhangs, or solar shades.
G	Blank wall length	16 ft.
H	Min. window glass percentage	60% (first floor) 35% (additional floors)
I	Architectural features	All facades are of equal importance and must be designed with attention to detail and quality material. No blank or unarticulated facades are permitted unless façade is not visible from public right-of-way. Buildings with multiple storefronts are unified in design treatment (window design, door openings, materials, color).

- C) DT, Downtown District.** This district promotes mid-to-high rise building typologies yet does not assign any minimum building height requirements. The following design requirements apply:



DESIGN REQUIREMENTS

Building Form		Standard
A	Min. façade height	24 ft.
B	Min. ground floor height	12 ft.
C	Max. building height	6-stories, 65 ft.
D	Min. building separation	0 ft.
E	Max. front yard setback	10 ft.
Design Elements		Standard
F	Primary entrance	Opens onto a street, sidewalk, or public space. At grade for accessibility. Defined by recessing the entrance a min. of 3 ft. from the front setback, or using elements such as lintels, pediments, pilasters, columns, awnings, overhangs, or solar shades.
G	Blank wall length	16 ft.
H	Min. window glass percentage	60% (first floor) 35% (additional floors)
I	Architectural features	All facades are of equal importance and must be designed with attention to detail and quality material. No blank or unarticulated facades are permitted unless façade is not visible from public right-of-way. Buildings with multiple storefronts are unified in design treatment, such as window design, door openings, materials, and color.

- D) Central Downtown Overlay.** This overlay promotes a mid-to-high rise building typology for buildings located in the heart of the downtown: their real estate and design are valuable to the city. Due to the iconic location of these buildings, situated within the four corners of the city (9 Mile and Gratiot), the following design elements apply to stimulate economic growth and attraction:



DESIGN REQUIREMENTS

Building Form		Standard
A	Min. building height	3-stories; 36 ft.
B	Min. ground floor height	16 ft.
C	Max. building height	6-stories; 65 ft.
D	Min. building separation	0 ft.
E	Max. front yard setback	10 ft.
Design Elements		Standard
F	Primary entrance	Opens onto a street, sidewalk, or public space. At grade for accessibility. Defined by recessing the entrance a min. of 3 ft. from the front setback, or using elements such as lintels, pediments, pilasters, columns, awnings, overhangs, or solar shades.
G	Blank wall length	16 ft.
H	Min. window glass percentage	60% (first floor) 40% (additional floors)
I	Architectural features	All facades are of equal importance and must be designed with attention to detail and quality material. No blank or unarticulated facades are permitted unless façade is not visible from public right-of-way. Buildings with multiple storefronts are unified in design treatment, such as window design, door openings, materials, and color.

- E) Gratiot Gateway Overlay.** This overlay promotes a high rise, mixed-use building typology. Due to the location of these parcels, at the busy and highly visible intersection of 8 Mile and Gratiot, these buildings act as a gateway to the Eastpointe community. Therefore, these buildings have additional design standards:



DESIGN REQUIREMENTS

Building Form		Standard
A	Min. building height	4-stories; 48 ft.
B	Min. ground floor height	16 ft.
C	Max. building height	6-stories; 65 ft.
D	Min. building separation	30 ft., unless connected to adjacent building
E	Max. front yard setback	10 ft.
Design Elements		Standard
F	Primary entrance	Opens onto a street, sidewalk or public space. At grade for accessibility. Defined by recessing the entrance or using elements such as lintels, pediments, pilasters, columns, awnings, overhangs or solar shades.
G	Blank wall length	16 ft.
H	Min. window glass percentage	60% (first floor) 40% (additional floors)
I	Architectural features	All facades are of equal importance and must be designed with attention to detail and quality material. No blank or unarticulated facades are permitted unless façade is not visible from public right-of-way. Buildings with multiple storefronts are unified in design treatment, such as window design, door openings, materials, and color.

Section 6.07 Parking Structures

A liner building must be integrated into the parking structure (i.e., the ground floor on the outside of the parking garage must be used for retail/office or another pedestrian-oriented use to maintain an active and lively streetscape).

Section 6.08 Exterior Building Materials and Colors

A) Permitted Building Materials. The table below details the permitted exterior building materials allowed on each façade in each zoning district, whether it is a principal material or an accent material.

- 1) **Principal Material (P):** Primary building materials must constitute at least 75% of the total façade on each building elevation.
- 2) **Accent Material (A):** Accent building materials, altogether, cannot constitute more than 25% of the total façade, on each building elevation.

Exterior Building Materials	R-1	R-2	MU-1	MU-2	DT	MU-3	LI
Brick (including face brick but not veneer), burnished concrete masonry or masonry	P	P	P	P	P	P	P
Cut stone, field stone, ceramic cladding, cast stone, natural stone, or manufactured stone	P	P	P	P	P	P	P
Wood, including cross laminated timber, dimension lumber, and reclaimed wood	A	A	P	P	P	P	P
Burnished and textured concrete masonry units (CMU)	A	A	P	P	P	P	P
Standard concrete masonry units (CMU)							A
Fiber cement siding or panels	P	P	P	P	A	P	P
Precast concrete panels						A	A
Stone composite panels (e.g., Steni Colour)	A	A	A	P	P	P	P
Closed cavity façade (e.g., glass curtain wall system)	P	P	P	P	P	P	P
Clear or lightly tinted glass	P	P	P	P	P	P	P
Green façade	A	A	P	P	P	P	P
Metal wall panel (including steel) <i>*Only up to 50% of the façade as a primary material</i>			P	P	P	P	P
Vinyl	A	A	A	A	A	A	A
Exterior Insulation and Finishing System (EIFS) / Stucco (both not to exceed 10%)	A	A	A	A	A	A	A

B) Engineered Materials. Engineered equivalent materials are permitted as the original material is permitted in each district. Engineered materials must match the appearance of natural binding materials.

- C) Painted Building Materials.** Building materials may not be painted or stained unless approved by the Planning Commission. Preference will be given to existing building materials that are already painted or stained and when the applicant proposes to stain, not paint, the façade.
- D) Building Colors.** Exterior finish materials and colors must be in natural tones and consistent, or compatible, with the character of the surrounding district to create a uniform and recognizable identity. Harmonization of colors is necessary. Accent colors are permitted to activate the street front and exercise artistic placemaking; this standard is to not be interpreted as prohibiting the incorporation of public art, such as a mural, to buildings or sites.
- E) Architectural Features.** All architectural features, including awnings, overhangs, roof projections, window accents, and the like must be compatible with the style, materials, and colors of the building.
- F) Waivers.** The Planning Commission may modify the material standards, based on determination that the proposed materials or colors are high-quality and compatible with the architecture and style of the primary building and context.

Section 6.09 Lighting Standards

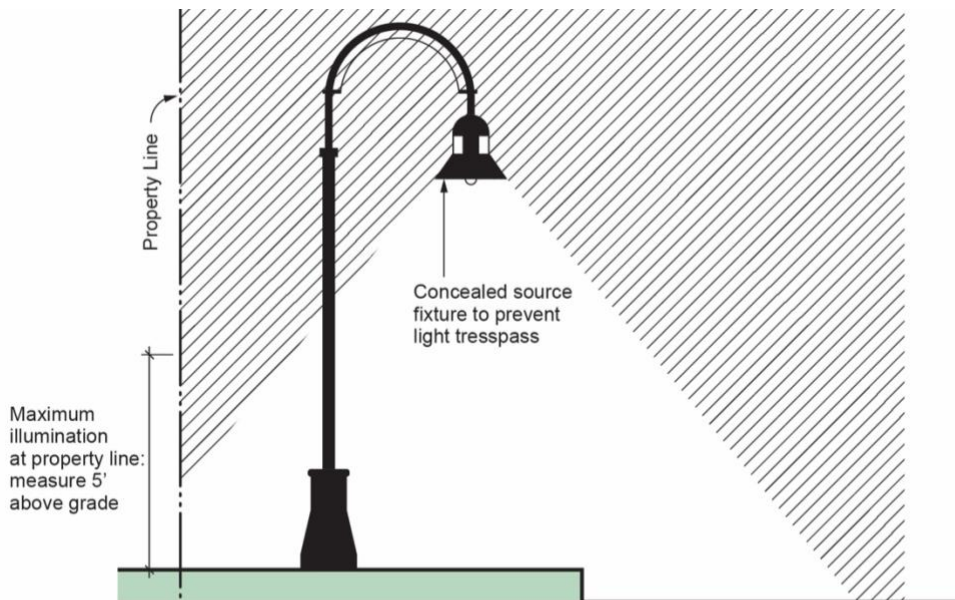
- A) Purpose.** To ensure that sufficient lighting is provided in publicly accessible areas of buildings and properties that complements and enhances the environment and character of Eastpointe by aiming to:
- 1) Permit reasonable uses of exterior lighting for night-time security, utility, productivity, enjoyment, and commerce.
 - 2) Minimize glare, obtrusive light, and artificial sky glow by limiting exterior lighting that is misdirected, excessive, or unnecessary.
 - 3) Conserve energy and resources.
 - 4) Protect the natural environment from the damaging effects of light pollution.

B) General Standards.

- 1) **Illumination Levels.** Existing and proposed lights may not exceed the following maximum intensity levels (measured at a height of 5-feet above grade).

Location / Use	Maximum Level of Illumination (footcandles "fc")
Overall average for the site	5.0 fc
At any point within the site	10.0 fc
At any property line	0.5 fc
Gas station (<i>under the canopy only</i>)	20.0 fc

- 2) **Shielding.** All exterior lighting, excluding accent lighting in residential districts, must be fully cut off and shielded so the surface of the source of the light is not visible, and is directed downward and shielded away from adjacent properties, with particular consideration to protecting residential uses.



Lighting Fixture Orientation and Shielding

- 3) **Non-Essential Lighting.** Non-essential lighting must be turned off after business hours, except for the minimum necessary security lighting. The use of a motion detector or other automatic timing system of security lighting is encouraged.
- 4) **Consistent Fixtures.** The type and design of lighting must be consistent throughout a site.
- 5) **Impact.** Lighting must be arranged so as to not adversely affect driver visibility on rights-of-way.
- 6) **Decorative Lighting.** Buildings within the MU-1, MU-2, and DT districts must feature decorative lighting on all façades which face the public right-of-way or residentially zoned or used property. Wall pack type lighting is prohibited.
- 7) **Gas Station Lighting.** Lighting under gas station canopies is limited to fully recessed lighting fixtures.
- 8) **Height.** The maximum height of light fixtures (measured from the finished grade to the top of the fixture) may not exceed the height of the building or the following, whichever is less:

Zoning District	Maximum Light Fixture Height
R-1, R-2	14 ft.
MU-1	16 ft.
MU-2, DT	12 ft.
MU-3	20 ft.
LI	25 ft.

C) Exempt Lighting. The following are exempt from the requirements of this Article:

- 1) Required exit signs and safety lights for stairs and ramps.
- 2) Temporary holiday lights (provided that such lighting is installed no more than 60-days prior to, and 30-days following, the holiday such decorations represent).
- 3) Lights required by the Federal Aviation Administration, or other federal or state agency.
- 4) Interior lights.
- 5) Temporary lights necessary for construction or emergencies.

D) Prohibited Lighting. The following lights are prohibited:

- 1) Rope lights (including neon, except when used in outlined tubing signs) around and within window and door openings.
- 2) Aerial lasers and/or "searchlight" style lights.
- 3) Flashing, moving, or intermittent lights (including lighting that changes colors).
- 4) Other intense lights, defined as having a light source exceeding 4,000 lumens per fixture.

E) Special Exception Lighting.

- 1) Lighting systems not complying with the requirements of this Article, but consistent with its intent, may be considered by the Planning Commission, subject to special land use approval. This includes instances of:
 - a) Sport fields and stadiums.
 - b) Industrial lighting for hazardous areas or areas where higher pole heights are necessary to avoid interference with vehicles / operations.
 - c) Public monuments, public buildings, government facilities, and religious institutions.
 - d) Any other lighting application determined to be appropriate by the Planning Commission.
- 2) The Planning Commission must find that the proposed lighting will not create unwarranted glare, sky glow, or light trespass. The applicant must demonstrate that every reasonable effort has been made to mitigate obtrusive light and artificial sky glow, supported by a signed statement from a registered engineer or by a lighting certified professional describing the mitigation measures.

Article 7.

General Provisions

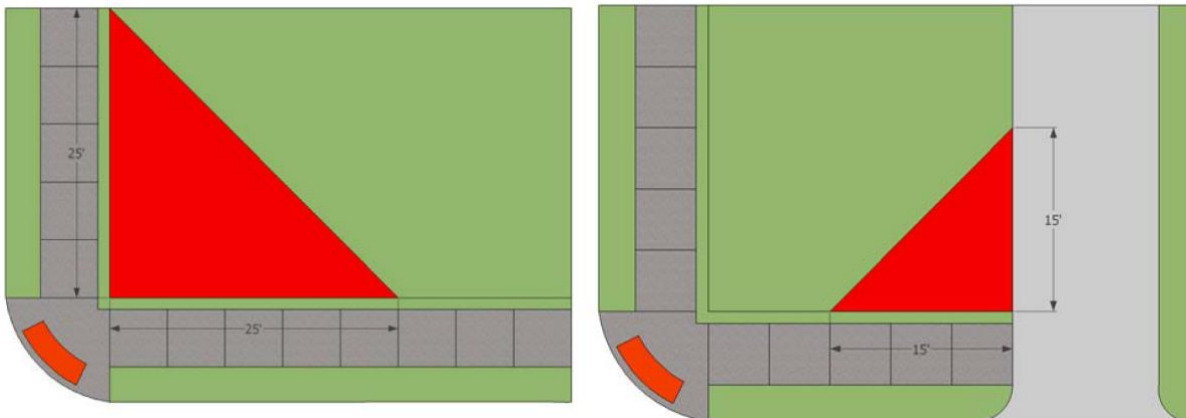
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Section 7.02 Clear Vision Triangle

No fence, wall, shrub, or other forms of landscaping, signs, or any other obstruction to vision above a height of 30-inches, measured from the established centerline grades of the abutting street, is allowed within any of the following restricted clear corner vision:

- A) Within a triangular area formed at the intersection of two or more streets in any zoning district by a straight line intersecting the two rights-of-way lines at a point 25-feet along from their point of intersection.
- B) Within a triangular area formed at the intersection of a driveway serving a nonresidential or multiple family use with a street or alley right-of-way line, or interior property line, by a straight line extending between the right-of-way line or interior property line and the nearest edge of the driveway at a point 15-feet along the right-of-way line, or interior property line and the intersecting driveway line.
- C) Within a triangular area formed at the intersection of a driveway serving a single-family residential use with a street or alley right-of-way line, or an interior property line, by a straight line intersecting the right-of-way line or interior property line and the nearest edge of the driveway, 6-feet from the point of intersection.



Section 7.03 **Parking and Storage of Commercial / Recreational Vehicles**

- A) Commercial Vehicles.** In all zoning districts, the parking or storage of any commercial vehicle which contains or has affixed to it commercial hardware, including, but not limited to, a dump truck, snowplow, or towing equipment, is prohibited. However, a commercial vehicle parked or stored which contains or has affixed to it a snowplow is permitted between November 15 and April 1.
- B) Recreational Vehicles.** Recreational vehicles, including, but not limited to, boats, jet skis, snowmobiles, truck camper bodies, travel trailers, off-road or other all-terrain vehicles, motor homes and utility trailers, as well as their trailers for carriage or storage, may be parked or kept on any lot or parcel in any residential district subject to the following:
- 1) Recreational equipment parked or stored cannot have fixed connections to electricity, water, gas, or sanitary sewers, and at no time may such equipment be used for living, sleeping, or housekeeping purposes.
 - 2) Any recreational vehicle not parked or stored in a garage must be parked or stored in the rear or side yard, provided that a minimum of 3-feet of side or rear yard is maintained between the vehicle and the side or rear lot line, and except that such vehicle may occupy a front yard for loading and unloading purposes, not to exceed 48 hours, so long as such location does not obstruct the view of driveways or vehicular and pedestrian traffic of adjoining properties. Any recreational vehicle stored in the rear or side yards is subject to review by the Building Department and the Fire Department for compliance with safety requirements.
 - 3) The storage of recreational vehicles on a residential lot or parcel for more than 48 hours is limited to only those vehicles owned by, and licensed or registered to, the occupant of the residential lot or parcel on which the vehicle is stored. In the case of multi-family dwelling, the City Council may upon recommendation of the Planning Commission and after site plan review, require that a screened area, in addition to required off-street parking spaces, be provided on the site for the parking and storage of recreational vehicles.
 - 4) Recreational vehicles must be fully operable, kept in good repair and display the current license plate and/or registration as may be appropriate under state law for the vehicle.
 - 5) Recreational vehicles cannot be used to store any flammable or explosive fuels or material contrary to federal, state, or local regulations.

Section 7.04 **Fences**

A) General Standards.

- 1) Fences cannot contain barbed wire or any other type of sharp-edged wire or have electric current or a charge of electricity.
- 2) No chain link or similar type fencing can contain slats, webbing, synthetic materials, or other fabric for the purpose of creating a privacy type fence.

- 3) Fences, over 30-inches in height (other than split rail and chain link) cannot be constructed within the clear corner vision triangle.
- 4) For fences erected along a lot line, a joint permit application must be submitted and consent to install the fence provided by all property owners. Except for a fence with a common end or corner post, no fence can be attached to or touch a fence located on another property owner's lot or on the same lot.

B) Residential District Fences. Fences erected in residential districts between residential properties are permitted as follows:

- 1) Fences on all lots which enclose property or are within the required side or rear yard cannot exceed 4-feet in height, measured from the natural grade of the lot, except for privacy fences. Fences are not required to be constructed on the property line if the fence extends from the residence to the detached garage or from the residence and/or the garage to the side property line.
- 2) Fences on corner lots cannot extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater.
- 3) A privacy fence may be erected along a side street property line which is in compliance with all provisions of this section regarding privacy fences.
- 4) No fence may extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater.
- 5) All fence support posts must be placed on the property line and face the property of the person erecting the fence. In the case of abutting property owners who elect to share the expense and erect a fence together, both are co-owners of the same and it is the responsibility of the property owners to determine the location of the posts in compliance with this Article.
- 6) Materials:
 - a) Residential fences may be constructed of metal, wire, iron, vinyl (or similar), composite, naturally durable wood or treated wood.
 - b) Hedges, ornamental shrubs, trees, and bushes may be considered fences for the purpose of this Article when placed in a manner or position to serve as such.

C) Business and Industrial Fences. Fences in the mixed-use and industrial districts are permitted as follows:

- 1) No fence may be erected where a wall, berm, or greenbelt is otherwise required. Unless considered by the Planning Commission, no fence may be erected between the building setback line and the front property line. This provision does not apply to decorative fencing for outdoor patio space.
- 2) A fence which is constructed on a side lot line between neighboring commercial and/or industrial properties cannot exceed 6-feet in height.

D) Privacy Fences. Privacy fences are only permitted in the side and rear yard along the property line and also along a side street property line on corner lots. Privacy fences are not permitted within the front yard or closer to the street than the established front building line of the adjacent property, whichever is greater.

- 1) All privacy fences must be erected on the lot line and may be up to 4-inches off the ground; this requirement does not apply to those privacy fences erected along a side street.

- 2) Privacy fences cannot exceed 6-feet, 4-inches in height measured from the surface of the natural grade of the lot.
- 3) The posts for the privacy fence must face the property of the person erecting the fence. The posts for privacy fences which front a street must face the interior of the property.
- 4) Privacy fences, once erected, must be of similar materials; a mixture of differing materials is not permitted unless otherwise dictated by existing neighboring fences.
- 5) Plantings in the area of a privacy fence cannot block the clear vision or exceed the lawful height of any fence allowed in this Ordinance.

E) Maintenance.

- 1) Fences erected between residential property and commercial or industrial property must be maintained in a neat and safe condition at the expense of the owner of the commercial or industrial property in accordance with this Ordinance.
- 2) Provisions regarding fences erected on or between residential properties are as follows:
 - a) Fences erected on or between residential properties must be maintained in a neat and safe condition at the expense of the owner constructing the fence or as may be mutually agreed upon with the adjoining property owner, except that the city will not enforce any agreement regarding a mutual or separate payment for the costs of maintenance or repair.
 - b) Where ownership of the fence and obligation to maintain or repair is, in the opinion of the Building Department, not reasonably and readily ascertainable, the city has the authority to require that any or all property owners abutting the fence maintain or repair the same. The city must not be required to have a property survey performed to discern ownership in any case.
- 3) Construction of fences must comply with the state construction code.

F) Erection, Alteration, Relocation; Permit Required. Unless otherwise provided, no person may erect, re-erect, alter, or relocate any fence unless a permit has first been obtained from the Building Department and a permit fee paid in accordance with the schedule adopted by resolution of the City Council, unless a review has been conducted by the Building Department verifying that no permit or fee is required.

G) Permit Application and Issuance. The Building Department has the authority to issue a fence permit, provided the application satisfies all requirements of this Article and other applicable laws of the city and the state. An application for a fence permit must include:

- 1) Plans and specifications showing the dimensions, materials and required details of erecting the fence.
- 2) Plans indicating the location of the parcel of land upon which the fence is to be erected, the property line and the position of the fence in relation to adjoining houses, buildings, or structures (it is the responsibility of the person erecting the fence to identify the property lines).
- 3) A plot plan or survey which details the property line.
- 4) Such other information as the Building Department may require showing full compliance with this and other applications of the city and the state.

H) Fence Appeals.

- 1) Any party who has been refused a fence permit by the Building Department for a proposed fence may seek a variance by filing a claim of appeal to the Zoning Board of Appeals; the Zoning Board of Appeals will follow its normal procedural requirements for variances.
- 2) At the variance hearing, the Zoning Board of Appeals may grant a variance from the provisions of this Article upon a finding of all the following:
 - a) The particular physical surroundings, shape or topographical conditions of the property would render compliance with the provisions of this Article difficult and would likely result in a particular hardship on the person erecting the fence as distinguished from inconvenience of the requirements or a desire to increase financial gain or avoid the financial expense of compliance.
 - b) Strict enforcement of the provisions of this Article would be futile.
 - c) The type of fence and the location proposed would not pose a significant risk to the public health, safety, and general welfare.
 - d) The benefit of the fence to the general public and/or the applicant under the circumstances outweighs any risk to the health, safety and general welfare of the residents of the city.
 - e) A variance is in the best interest of the city and not against the spirit and intent of the Ordinance.
- 3) In issuing a variance from the strict letter of the provisions of this Ordinance, the Zoning Board of Appeals may modify any fence requirement or place reasonable conditions or restrictions upon issuance of a permit.

Section 7.05 Keeping of Chickens

- A)** Any person residing in the R-1, R-2, or MU-1 Districts, in a single-family, detached structure, desiring to keep live chickens must first obtain a license from the city and that person may keep not more than three hen chickens for personal use only and not for any business or commercial use. Completed license applications must be submitted to the Building Department along with the required fee. Applications must set forth the name and residence of the applicant, the purpose and number of chickens sought to be kept and include any drawings or other information required by the Building Department.
- B)** The keeping of hen chickens cannot be permitted unless consent, in writing, is obtained by the applicant from all adjoining property owners (which must be detailed on a form provided by the Building Department). The Building Department must conduct an inspection of the proposed chicken coop and issue a license where the application is in compliance with all requirements, regulations and ordinances of the city.
- C)** Approved license holders must also schedule an inspection by the animal control officer within 30 days of license issuance. Failure to schedule an inspection will result in an automatic revocation of the license. If an inspection identifies noncompliance with any of the city's requirement, the permit holder has 15 days to achieve compliance with the requirements, or the Building Department may revoke the license or seek prosecution of the violation. Licenses are valid for up to 2-years, are non-transferable, site-specific and expire on December 31 of the second year of issuance. A person who wishes to continue keeping chickens must obtain a new license prior to expiration of the previous license, provided the animal control officer makes an inspection and approves the request for a renewal. Application for a new license is pursuant to the procedures and requirements applicable at the time a person applies for a new license.

- D)** Private restrictions on the use of property remain enforceable, including but not limited to deed restrictions, neighborhood association by-laws, and covenant deeds.
- E)** The following requirements must also be met:
- 1) Keep no more than three hen chickens at any time unless an additional amount is otherwise provided for by the ordinances of the city.
 - 2) Slaughtering of any chickens at the property is prohibited.
 - 3) Chickens must be maintained in a fully enclosed structure or a fenced enclosure and must be kept in the enclosed structure or fenced enclosure at all times. Fenced enclosures are subject to all fence provisions in this Ordinance. An enclosed structure must be constructed of permanent materials and properly maintained in accordance with the city's property maintenance code, as amended.
 - 4) Chickens cannot be kept in any location on the property other than in the backyard: that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines.
 - 5) No enclosed structure can be located within any side or rear yard setback area.
 - 6) An enclosed structure or fenced enclosure cannot be located closer than 10-feet to any residential structure on adjacent property.
 - 7) All structures and enclosures for the keeping of chickens must be constructed and maintained so as to prevent rats, mice, or other rodents or vermin from being harbored underneath or within the walls of the structure or enclosure. All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other rodents or vermin must be secured and protected in sealed containers.
 - 8) Chickens must be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as it relates to laying chickens, as amended.
 - 9) Any contact of chickens pursuant to this section by children is under the supervision of an adult.
 - 10) Roosters or male chickens and any other type of fowl or poultry are prohibited.

Section 7.06 Home Occupations

Permitted home occupations must meet the following regulations:

- A)** Conducted wholly and entirely within the principal dwelling.
- B)** Located either in the basement of the principal dwelling (subject to the building code), or when they are not located in the basement, they cannot occupy more than 25% of the floor area of the principal dwelling or accessory structures, excluding the basement.
- C)** Conducted only by the inhabitants of the dwelling, there being no other employees or assistants employed in connection with a home occupation.
- D)** No article made or sold or offered for sale except such as may be produced or provided by the inhabitants.

- E) No equipment or machinery used in connection with a home occupation which is industrial in nature, or which will have a negative impact on adjacent residential property.
- F) It does not change the character of the residential appearance, or the orientation of the dwelling unit as a residential use.
- G) It does not require internal or external alterations or construction other than that which may be required to meet local or state safety or construction code standards, as authorized by the city.
- H) Cannot require parking in excess of that required for a residential building by this Ordinance.
- I) No signs, advertising devices or other manifestation located on the exterior of the dwelling structure or within any yard area which suggests or implies the existence of a home occupation.
- J) The home occupation does not include clinics, hospitals, barber or beauty shops, tearooms, tourist homes, kennels, millinery shops or any other use similar to the above use, or which does not meet the above requirements.
- K) Home occupations must be reviewed by the Building Department; the Building Department may forward the request to the Planning Commission for its review. When the Building Department or Planning Commission has determined that the above conditions are met, the Building Department must issue an occupancy permit with conditions enumerated thereon. Once established, no home occupation can deviate from the above required conditions. No home occupation may be continued when the same is found by the Building Department to be a nuisance or to be in violation of the above conditions due to noise, electrical interference, dust, smoke, odor, vibration, traffic congestion, reduction of parking, or reduction in the overall living environment of the dwelling or the surrounding area.

Section 7.07 Private Pools

Permitted private pools must comply with the following regulations:

- A) Must be located in the rear yard.
- B) The outside edge of the pool must be setback at least 10-feet from any side street or alley right-of-way, or property line.
- C) A distance of not less than 4-feet between the outside pool wall and any building located on the same lot must be provided form
- D) No swimming pool can be located less than 35-feet from any front lot line.
- E) No swimming pool can be located in an easement.
- F) All areas containing swimming pools must be completely enclosed by a fence not less than 4-feet in height. Gates must be a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open and capable of being securely locked when the pool is not in use for extended periods. Fences of 4- to 6-feet in height may be permitted provided they meet the fence requirements of this Article. These requirements are in addition to all those applicable requirements of the Michigan Building Code.

Section 7.08 Wireless Communication Facility

A) Intent. To authorize communication facilities needed to operate wireless telecommunication systems and to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and aesthetic quality of the community at large. Recognizing the number of providers authorized to establish and operate such services and coverage, it is the further intended to:

- 1) Facilitate adequate and efficient provision of sites for wireless communication facilities.
- 2) Establish zoning district for the establishment of wireless communication facilities, subject to applicable standards and conditions.
- 3) Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land use, structures, and buildings.
- 4) Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
- 5) Promote the public health, safety, and welfare.
- 6) Provide adequate information about plans for wireless communication facilities, in order to permit the community to effectively plan for the location of such facilities.
- 7) Minimize the adverse impact of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
- 8) Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary.
- 9) City Council finds that the presence of numerous support structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall support structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety, and welfare.

B) Existing wireless communication facilities are permitted as follows:

- 1) An existing structure which serves as an attached wireless telecommunication facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the Zoning Administrator of the city, proposed to be either materially altered or materially changed in appearance.
- 2) A proposed colocation upon an attached wireless telecommunication facility which had been preapproved for such colocation part of an earlier approval by the city.
- 3) An existing structure which will serve as an attached wireless telecommunication facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a

manner which would materially alter the structure and/or result in an impairment of sight lines or other safety interests.

- 4) A wireless telecommunication support structure established within a right-of-way having an existing width of 204-feet or more.
- C)** New wireless communication facilities may be permitted as a special land uses in L-1, Light Industrial District.
- D)** All applications for wireless communication facilities must be reviewed in accordance with the following standards and conditions, and, if approved, constructed, and maintained in accordance with such standards and conditions. If the facility is approved, it must be constructed and maintained with any additional conditions imposed by either the Planning Commission or City Council in its discretion.
- 1) Facilities must be:
 - a) Found to not be injurious to neighborhoods or detrimental to the public safety and welfare.
 - b) Located and designed to be harmonious with the surrounding areas.
 - c) Must comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
 - d) Designed with the lowest height possible; the applicant must provide justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
 - 2) The following use standards must be also met:
 - a) The maximum height of a new or modified support structure and antenna is the minimum height demonstrated necessary for a reasonable communication by the applicant and other entities to collocate on the structure, but not to exceed 120-feet in height. The accessory building contemplated to enclose such ground equipment is limited to the maximum height for accessory structures within the zoning district.
 - b) The setback of the support structure from any residential district is at least the height of the highest point of any structure on the premises and the setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads is no less than the height of the structure.
 - c) Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, must be in accordance with the required setbacks for main or principal buildings for the zoning district in which the structure is located.
 - d) Unobstructed access to the support structure, for operation, maintenance, repair, and inspection purposes, which may be provided through or over an easement, must be secured. This access must have a width and location determined by such factors as the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and the type of equipment which will be needed to access the site.

- e) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
 - f) Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance on the building, it must be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it must conform with all district requirements for principal, building, including yard setbacks.
 - g) The Planning Commission must, with respect to the color of the support structure and all accessory buildings, review and approve the same so as to minimize distraction and reduce visibility in its surroundings. It is the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
 - h) The support system must be constructed in accordance with all applicable building codes and include the submission of a soils report from a geotechnical engineer licensed in the state. This soils report must include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration (FAA), the Federal Communication Commission (FCC), and the state aeronautics commission, must be noted.
 - i) A maintenance plan, and any applicable maintenance agreement, must be presented and approved as part of the site plan for the proposed facility, and designed to ensure long term, continuous maintenance to a reasonably prudent standard.
- E)** Applications for wireless communication facilities which may be approved as special land uses must be reviewed, and, if approved, constructed, and maintained in accordance with the standards and conditions of this section, and in accordance with the following standards:
- 1) The applicant must demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:
 - a) Proximity to an interstate or major thoroughfare.
 - b) Areas of population concentration.
 - c) Concentration of commercial, industrial, and/or other business centers.
 - d) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
 - e) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - f) Other specifically identified reasons creating facility need.
 - 2) The proposal must be reviewed in conformity with the colocation requirements of this section.
- F) Application requirements.**
- 1) A site plan prepared in accordance with Article 12 must be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping. The site plan must

include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there must be shown on the plan, fencing, which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.

- 2) The application must include a signed certification by a state-licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
- 3) The application must include a description of surety to be posed at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the surety shall, at the election of the applicant, be in the form of: cash; a surety bond; a letter of credit; or an agreement in a form approved by the attorney for the city and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys' fees incurred by the community in securing removal.
- 4) The application must include a map showing existing and known proposed wireless communication facilities within the city, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the city in the location and in the area, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the city, the applicant shall be required only to update as needed.
- 5) The application must include the name, address, and phone number of the person to contact for engineering, maintenance, and other notice purposes. This information must be continuously updated during the time the facility is on the premises.

G) Colocation.

- 1) It is the policy of the city to minimize the overall number of newly established locations for wireless communication and wireless communication support structures within the community, and to encourage the use of existing structures attached wireless communication facility purposes, consistent with the statement of purpose and intent set forth in this Ordinance. Colocation is permitted when all the following are met:
 - a) The wireless communication provider under consideration for colocation will undertake to pay market rent or other market compensation for colocation.
 - b) The site on which colocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - c) The colocation being considered is technologically reasonable, e.g., the colocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas, and the like.
 - d) The height of the structure necessary for colocation will not be increased beyond a point deemed to be permissible by the city, taking into consideration the several standards contained in this section.

2) Requirements for colocation:

- a) A special land use permit for the construction and use of a new wireless communication facility cannot be granted unless and until the applicant demonstrates that a feasible colocation is not available for the coverage area and capacity needs.
- b) All new and modified wireless communication facilities must be designed and constructed so as to accommodate colocation.
- c) The policy of the community is for colocation. Thus, if a person who owns or otherwise controls a wireless telecommunication facility fails or refuses to alter a structure so as to accommodate a proposed and otherwise feasible colocation, such facility cannot be altered, expanded or extended in any respect. If a party who owns or otherwise controls a wireless communication facility fails or refuses to permit a feasible colocation, and this requires the construction and/or use of a new wireless communication support structure, the person failing or refusing to permit a feasible colocation shall be deemed to be in direct violation and contradiction of the policy, intent, and purpose of the city, and, consequently, such persons must take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the city for a period of five years from the date of the failure or refusal to permit the colocation. Such a person may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief, which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

H) Removal.

- 1) A condition of every approval of a wireless communication facility is an adequate provision for removal of the facility by its users and owners upon the occurrence of one or more of the following events:
 - a) When the facility has not been used for 180 days or more. For purposes of this subsection, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals), is considered as the beginning of a period of nonuse.
 - b) 6-months after new technology which is available at reasonable cost as determined by the City Council, which permits the operation of the communication system without the requirement of the support structure.
- 2) The situations in which removal of a facility is required, as set forth in this section, may be applied and limited to portions of a facility.
- 3) Upon the occurrence of one or more of the events requiring removal, as specified in this section, the property owner or person who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Building Official.
- 4) If the required removal of a facility, or a portion thereof, has not been lawfully within 60 days of the applicable deadline, and after at least 30 days' written notice, the city may remove or secure the

removal of the facility, or required portions thereof, with its actual costs and reasonable administrative charges to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility, completed within 60 days of the applicable deadline, and after at least 30 days' written notice, the city may remove or secure the removal of the facility, or required portions thereof, with its actual costs and reasonable administrative charges to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

Section 7.09 Medical Marihuana

- A) Intent Statement.** Medical marihuana districts are intended to provide opportunities for the development of certain medical marihuana facilities that have been granted a permit by the city and have been granted a state license pursuant to the MMFLA. The city desires to allow approved medical marihuana facilities to operate exclusively within those zoning districts as identified in the table in subsection B below, and that comply with the requirements of the buffer districts, and separation standards in order to limit any secondary effects of such operations.
- B) Districts Permitted.** The number of permits and zoning districts upon which medical marihuana facilities are authorized are as follows:

Facility Type	Zoning District	Number Permitted (per city)
Processor	-	0
Grower	-	0
Secure Transporter	MU-3, Regional Mixed-Use District* and LI, Light Industrial District	2
Provisioning Center	MU-3, Regional Mixed-Use District* and LI, Light Industrial District	3
Safety Compliance	MU-3, Regional Mixed-Use District* and LI, Light Industrial District	2

**No marijuana businesses are allowed in the Gratiot Gateway Overlay.*

C) Buffer Districts and Separation Standards.

- 1) The buffer district is defined as the area within 50-feet of any property with a residential dwelling unit on the property.
- 2) The buffer district is further defined as the area within 500-feet of the following:
 - a) Any private or public preschool, elementary, secondary, vocational or trade school, college, or university.
 - b) Any public park.
 - c) Existing licensed childcare centers.
 - d) Any existing place of worship or religious assembly.
- 3) A licensee cannot operate a medical marihuana facility within the buffer districts.

- 4) Medical marihuana provisioning centers cannot be closer than 1,000-feet from any other medical marihuana provisioning center, measured from property line to property line.

D) General Provisions.

- 1) A licensee cannot operate a marihuana facility at any place in the city other than the address provided in the application on file with the city clerk.
- 2) A licensee must operate the medical marihuana facility in compliance with all applicable state and city regulations for that type of medical marihuana facility.
- 3) The required separation distances from a marihuana facility to the various buffered uses listed above shall be measured at a right angle from the nearest point of ingress/egress of the proposed marihuana facility to the centerline of the road, along the centerline of the road and connecting at a right angle to the nearest property line of the buffered uses listed above.
- 4) The medical marihuana facilities in this Article follow the definitions provided the Glossary.

Section 7.10 Donation Bins

Donation bins are permitted in non-residential districts, or on properties occupied by religious institutions, subject to the following:

- A) Proceeds from the sale of such clothing and/or household goods are utilized for charitable purposes.
- B) The owner, lessee, or other person or legal entity in control of the property where the clothing and/or household goods bin is being maintained and the person or entity which owns, maintains, or operates the clothing and/or household goods bin in violation of the city are jointly and severally liable for such violation(s).
- C) A clothing and/or household goods bin must have clearly identified, in writing, on its face the entity or organization that is maintaining the bin. A phone number and address for such entity must also be written on the bin.
- D) The bin(s) must be appropriately located so as not to interfere with sight vision triangles, on-site circulation, required setbacks, landscaping, parking, and any other requirements that may have been imposed as part of the site plan approval for the premises, and placed on a concrete surface.
- E) The bin(s) must be of the type that are enclosed by use of a receiving door and locked so that the contents of the bin(s) may not be accessed by anyone other than those responsible for the retrieval of the contents.
- F) Each bin cannot cover a ground surface area in excess of 6-feet by 6-feet, nor be more than 7-feet in height.
- G) Each bin must be regularly emptied of its contents so that it does not overflow, resulting in used goods being strewn about the surrounding area.
- H) No more than two donation bins may be located outdoors on any single property.

Article 8.

Parking, Loading and Access

ZONING ORDINANCE · CITY OF EASTPOINTE, MI



Section 8.01 Intent Statement

To ensure the provision of off-street parking facilities that are sufficient in number, adequately sized and properly designed to meet the range of parking needs and demands that are associated with land uses in the city or with land uses allowed by this Article. Off-street parking is a site, or portion of a site, which includes the off-street parking of vehicles, including parking spaces, aisles, access drives, and providing vehicular access to a public street. Additionally, this Article recognizes that parking requirements have been excessive and existing lots may be overparked; overly large parking lots are a drain on economic vitality, present safety hazards to pedestrians and motorists, and create environmental hazards such as heat islands, stormwater runoff, loss of habitat, and flood hazard. For these reasons, this Article attempts to right size off-street parking requirements, establishes flexible parking requirements and eliminates parking requirements for certain projects. Furthermore, this Article provides access management standards to ensure safe, efficient travel for all street users, managing access resolves conflicts between vehicles, pedestrians, and bicycles.

Section 8.02 General Standards

- A) Parking Required.** Except for when as listed in Section 8.03 Flexibility in Standards, off-street parking requirements must be met when one or more of the following occurs:
- 1) Construction of any new building or structure.
 - 2) Commencement of any special land use.
 - 3) Any addition or alteration to a building or structure that intensifies the use and there is an increase in seating capacity, which requires additional parking.
 - 4) Required employee parking must be identified by a sign or pavement striping, unless waived by administration.
- B) Uses Not Listed.** Where no default parking standard is offered in this Article, the Zoning Administrator may apply a standard for a similarly determined use listed in the Zoning Ordinance.
- C) Uses Meeting More Than One Category.** Where more than one use is present in a building or on a site, the various components of the use must comply with the parking requirements applicable to each component. The applicant must provide information regarding the floor area, employees, or other relevant information about each use to allow the city to determine the minimum parking requirements for the building or site. Shared parking provisions may be applied if applicable.
- D) Permit Required.** No parking lot may be constructed until a permit is issued by the Building Department.
- E) Parking in the Rear, Side and Front Yards.** Parking must be located within a rear yard or within a screened side yard in the MU-2, DT and LI districts (front yard parking is not permitted). In the MU-1 and MU-3 District, parking areas in the front yard are permitted, provided they are screened from the right-of-way, pedestrian areas, and any residentially zoned or used property.
- F) Storage of Vehicles Prohibited.** Parking must be for the use of occupants, employees, visitors, and patrons and is limited in use to motor vehicles. The storage of merchandise or motor vehicles for sale and the repair of vehicles is prohibited.

- G) 10-Foot Landscaped Yard Required.** Where a parking lot is contiguous to or across the street from a residential district or use, a 10-foot landscaped yard is required, unless the parcel is too narrow. Then the required landscaped yard dimension is set by the Zoning Administrator.
- H) Outdoor Display Areas.** Where permitted, any outdoor display areas for ancillary sales of products such as, vehicles or merchandise, must be provided in a specific area designated on the site plan and may not block parking spaces or interfere with site circulation of automobiles or pedestrians.
- I) Residential Parking.**
- 1) Parking may consist of a parking strip, parking bay, driveway, garage, or combination thereof that consists of asphalt or concrete. Driveways cannot be wider than 3-feet on either side of the opening of the garage door(s) or carport opening.
 - 2) Parking is prohibited on lawn areas.
 - 3) The parking or storage of commercially licensed motor vehicles is not permitted in the following cases if such parking or storage exceeds a one-hour period (this subsection does not apply to the lawful and expeditious loading, unloading, delivery or pick-up of materials, goods, merchandise, or persons):
 - a) The parking or storage of commercially licensed motor vehicles for which the Secretary of State requires either gross vehicle weight or International Registration Plan registration plates for operation, including, but not limited to, semi tractors, semi-trailers, semi-trucks, and tow trucks.
 - b) The parking or storage of commercially licensed motor vehicles used to transport persons for hire, including, but not limited to, taxicabs, limousines, hearses, and buses.
 - c) The parking or storage of commercially licensed motor vehicles which weigh over 6,000 pounds when empty but fully equipped for service.
- J) Maximum Parking.**
- 1) To minimize excessive areas of pavement which negatively impact aesthetic standards and contribute to high volumes of stormwater runoff, the maximum amount of required off-street parking permitted for any use cannot exceed 130% of the minimum parking requirements for a specific use. This does not apply to one- or two-family dwelling units or for the approved storage of vehicles for auto repair, sales, and storage and distribution.
 - 2) The Planning Commission may permit additional parking over and above the maximum parking limit based on documented evidence indicating that the maximum parking permitted will not be sufficient to accommodate the use on a typical day.

Section 8.03 Flexibility in Standards

- A) Exceptions.** If off-street parking spaces are for general members of the public and they are non-accessible parking spaces (i.e., non-designated ADA parking), then minimum spaces are not required for the following instances. Parking spaces for employees are still required, as outlined in the Off-Street Parking Requirements table.
- 1) Non-residential projects in the DT, Downtown District.
 - 2) Accessory dwelling units.

- 3) Affordable housing units.
- 4) Small businesses with an occupancy level of 50 persons or less, only when not subject to Special Land Use approval.

B) Credits Towards Off-Street Parking Requirement. The city allows for flexibility in how businesses provide parking. For non-residential projects, required parking spaces must be within 500-foot radius of such lot. For residential projects, required parking spaces must be within 300-foot radius of such lot. Both measurements are performed from property line to property line. Businesses may meet the number of required parking spaces by any of the following:

- 1) Offer off-street parking within the same lot.
- 2) Count the on-street parking spaces located along the public parking lane corresponding to the lot frontage, including side streets.
- 3) Provide an adjacent shared parking lot or parking facility via a Shared Parking Agreement.
- 4) Ask Planning Commission for a waiver in parking.
- 5) Allow one bicycle parking structure with the ability to lock at least two bicycles to substitute for one parking space. Bicycle parking structures can only count towards 10% or less of total parking requirements.
- 6) Allow only one electronic vehicle charging station with the ability to serve at least two vehicles to reduce the overall parking requirement by four spaces.
- 7) Locate the business near transit stops (at least 300-feet) for one parking space reduction. Local transit stops can only count towards 20% or less of the total parking requirements.

C) Shared Parking Agreement. In all non-residential and mixed-use zones, private parking facilities may be shared by multiple uses whose activities are not normally conducted during the same hours, or when hours of peak use vary. The applicant has the burden of proof of a reduction in the total number of required off-street parking spaces. No reduction in the number of spaces reserved for persons with disabilities is permitted on site.

- 1) **Proof from Applicant.** Evidence must be submitted that demonstrates shared parking will not result in inadequate parking. Below is a list of required application information:
 - a) An analysis of available and used parking spaces based on parking counts taken at certain time intervals and days to verify parking usage patterns.
 - b) The type and hours of operation and parking demand for each land use.
 - c) A sketch or site plan displaying shared use spaces in the lot and walking distance to the uses sharing the lot.
 - d) A description of the character of land use and parking patterns of adjacent land uses.
 - e) An estimate of anticipated turnover in parking space use over the course of 12 to 24 hours at the site.
- 2) **Distance and Design Standards.**

- a) See 194 (B) for distance and measurements. A waiver of the maximum allowable distance between the user and associated shared parking may be approved by the Planning Commission, with written justification and supporting information provided by the applicant.
 - b) Users sharing a parking facility shall provide for safe, convenient walking between land uses and parking, including safe, well-marked pedestrian crossings, signage, and adequate lighting. Pedestrian paths should be as direct and short as possible, without compromising safety. A pedestrian circulation plan that shows connections and walkways between the parking facilities and subject uses must be provided.
 - c) Shared parking areas must be paved and properly striped. Details regarding the maintenance of the shared parking areas, including snow removal, must be provided within the shared parking agreement.
 - d) Signage to direct drivers to the most convenient parking areas for each use shall be provided.
- 3) **Process.** A shared parking agreement requires a public hearing with the Planning Commission. Planning Commission has final authority over granting shared parking agreements. The Zoning Administrator must follow the public hearing procedures. If the Planning Commission approves the shared parking agreement, and prior to the issuance of a certificate of compliance, a written agreement shall be reviewed and approved by the city attorney and executed by the property owner to assure the continued availability of the shared parking spaces for the life of the development. The agreement shall, at a minimum:
- a) List the names and ownership interest of all parties to the agreement and contain the signatures of those parties.
 - b) Provide a legal description of the land upon which the parking area(s) and building(s) appurtenant to the parking areas are located.
 - c) Include a sketch or site plan showing the area of the parking parcel, pedestrian and driver circulation, maintenance, etc.
 - d) Provide details regarding the maintenance of the shared parking areas, including snow removal.
- 4) **Change in Use.** Should any of the shared parking uses be changed, or should the planning department find that any of the conditions described in the approved shared parking study or agreement no longer exist, or if insufficient parking is an issue due to complaints, the owner shall have the option of submitting a revised shared parking study and an amended shared parking agreement in accordance with the standards of this subsection or of providing the number of spaces required for each use as if computed separately. If the Building Department determines that the revised shared parking study or agreement does not satisfy the off-street parking needs of the proposed uses, the shared parking request shall be denied, and no certificates of occupancy shall be issued until the full number of off-street parking spaces are provided.

D) Parking Waivers. The Zoning Administrator and Planning Commission may grant waivers in off-street parking requirements, provided that there is no reduction in the number of spaces reserved for persons with disabilities.

- 1) **Building Official.** The Zoning Administrator may waive 5 off-street parking spaces or less, provided that the 5 parking spaces do not make up more than 10% of the total site parking.

- 2) **Planning Commission.** The Planning Commission may modify the numerical requirements for off-street parking. The Planning Commission may attach conditions of approval to a modification in the minimum required parking.
- 3) **Proof from Applicant.** In order for the Zoning Administrator or Planning Commission to waive off-street parking requirements, the applicant must demonstrate that the required amount of parking spaces is excessive based on the needs of the proposed use or that the site cannot physically accommodate the required number of parking spaces.
- 4) **Process.** If the parking space reduction is 6-spaces or more OR more than 11% of the total site parking, then a public hearing is required. Planning Commission has final authority over granting parking waivers.

Section 8.04 Off-Street Parking Requirements

- A) **Minimum Off-Street Parking Requirements.** Unless otherwise specified in this article, the minimum number of off-street parking spaces is determined in accordance with the table in subsection (below).
- B) **Usable Floor Area.** To compute the number of parking spaces required, the definition of usable floor area (UFA) governs: that area used for, or intended to be used for, the sale of merchandise or service or to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise or for hallways, utilities, or sanitary facilities, is excluded from this computation. Measurement of usable floor area is the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.
- C) **Rounding of Spaces.** Any fraction up to and including one-half is rounded down; any fraction greater than one-half is rounded up.
- D) **Employee Parking.** Employee parking spaces are required for the number of employees in the largest working shift.
- E) **Required Off-Street Parking Spaces:**

Land Use	Minimum Number of Parking Spaces per Unit of Measure
Dwelling Units	
Accessory Dwelling Unit (ADU)	-
Courtyard Home	1 per dwelling unit
Duplex (Side-By-Side or Stacked)	
Economy Efficiency Dwelling (EED)	
Fourplex	
Live-Work	
Multiple-Family Dwelling	
Single-Family Dwelling	
Single-Family Dwelling, Manufactured	
Townhome	
Triplex (Side-By-Side or Stacked)	

Land Use	Minimum Number of Parking Spaces per Unit of Measure
Upper-Level Residential Dwelling	
Group Homes	
Adult Foster Care, Family Home (1-6 persons)	1 per employee, plus 1 per 10 resident beds, and an adequate drop-off/pick-up space
Adult Foster Care, Small Group Home (7-12 persons)	
Adult Foster Care, Large Group Home (13-20 persons)	
Child Care Home, Family (1-6 children)	1 per employee, and an adequate drop-off/pick-up space
Child Care Home, Group (7-12 children)	
Foster Care, Family Home (1-6 children)	
Foster Care, Group Home (7+ children)	
Transitional Housing / Shelters	
Senior Living (Assisted / Independent)	1 per employee, plus 1 per 20 resident beds, and an adequate drop-off/pick-up space
Public / Quasi Public Uses	
Cemetery	-
Parking Lot (Surface)	-
Parking Structure	-
Public / Municipal Building	1 per 5 people in the capacity authorized by the Fire Code
Public Utility Building	-
Recreation, Indoor (Public or Private)	1 per 5 people in the capacity authorized by the Fire Code
Recreation, Outdoor (Public or Private)	1 per 500 sq. ft. of UFA
Religious Institution, Major	1 per 5 people in the capacity authorized by the Fire Code
Religious Institution, Minor	
School, Elementary	1 per employee, plus adequate pick-up/drop-off space
School, Middle and High	1 per 3 people in the capacity authorized by the Fire Code
School, College and University	
Schools, Trade and Vocational	
Wireless Communication Facility	-
Commercial Uses	
Artisan / Maker Space	1 space per workstation
Bar	1 per 2 seats, plus 1 per employee
Bed And Breakfast / Short-Term Rental	1 per unit, plus 1 per employee
Body Art / Tattoo Shop	1 per tattoo chair, plus 1 per employee

Land Use	Minimum Number of Parking Spaces per Unit of Measure
Childcare Center	1 per employee, and an adequate drop-off/pick-up space
Community Incubator Kitchen	1 per 3 people in the capacity authorized by the Fire Code
Cultural Institution (e.g., museum, library)	1 per 500 sq. ft. of UFA, plus 1 per employee
Drive-Thru Facility	1 per employee; plus 1 per 3 people in the capacity authorized by the Fire Code
Event Hall	1 per 3 people in the capacity authorized by the Fire Code
Experiential Retail	1 per 300 sq. ft. of usable floor area, plus 1 per employee
Financial Institution	1 per 500 sq. ft. of UFA
Food Trucks / Carts	-
Fraternal Lodge	1 per 2 seats, plus 1 per employee
Funeral Homes / Mortuaries	1 per 100 sq. ft. of UFA, plus 1 per employee
Gas Station	1 per 150 sq. ft. of UFA, plus 1 per employee. Fuel pump spaces count towards the minimum required space
Grocery Store	1 per 600 sf of UFA, plus 1 per employee
Health or Fitness Club	1 per 400 sq. ft. of UFA, plus 1 per employee
Hospital	1 per 10 resident beds, plus 1 per employee, and an adequate drop-off/pick-up space
Hotel / Motel	1 per occupancy unit, plus 1 per employee
Hotel, Boutique	1 per occupancy unit, plus 1 per employee
Landscape Nursery / Greenhouse	1 per 800 sf of usable floor area, plus 1 per employee
Laundry / Dry Cleaner	1 per 1,000 sq. ft. of UFA, plus 1 per employee
Massage Establishment	1 per massage room, plus 1 per employee
Medical Marijuana Facility	1 per 300 sq. ft. of UFA, plus 1 per employee
Medical Office	1 per 400 sq. ft. of UFA, plus 1 per employee
Microbrewery / Distillery / Winery	1 per 2 seats, plus 1 per employee
Night Club	1 per 3 people in the capacity authorized by the Fire Code
Outdoor Dining Area	-
Outdoor Sales	-
Pawn Shop	1 per 300 sq. ft. of UFA, plus 1 per employee
Personal Service Establishment	1 per beauty or barber chair, plus 1 per employee or 1 per 300 sq. ft. of UFA
Pet Grooming / Pet Boarding Facility	1 per employee, plus adequate drop-off spaces
Professional Office	1 per 400 sq. ft. of UFA, plus 1 per employee
Restaurant, Full Service	1 per 4 seats in a restaurant, lounge, or tavern, plus 1 per employee
Restaurant, Café/Take-Away	1 per 100 sq. ft. of usable floor area, plus 1 per employee
Retail Sale Establishment	1 per 300 sq. ft. of usable floor area, plus 1 per employee
Secondhand / Rummage Shop	1 per 300 sq. ft. of usable floor area, plus 1 per employee
Smoking Lounge (Hookah or Cigar)	1 per 2 seats, plus 1 per employee
Studio (Dance, Art, Photography)	1 per 3 people in the capacity authorized by the Fire Code

Land Use	Minimum Number of Parking Spaces per Unit of Measure
Theatre / Entertainment Venue	1 per 3 people in the capacity authorized by the Fire Code
Vehicle Repair Shop	2 per auto mechanical service stall, plus 1 per employee
Vehicle Sales (Establishment, Open Air, Showroom)	1 per 500 sq. ft. of UFA in the sales room, plus 1 per employee
Vehicle Wash Facility	1 per employee
Veterinary Clinic	1 per employee, plus adequate drop-off / pick-up space
Industrial Uses	
Construction Equipment (Sales and Repair)	1 per employee
Data Processing / Computer Center	
Junkyards	
Lumber / Building Material Yards	
Manufacturing Facilities	
Outdoor Storage	
Packaging and Distribution Facility	
Recycling Facility	
Self-Storage Facility	
Solar Energy System	
Testing / Experimental / Research Facility	
Transportation and Logistics	
Warehousing Facilities	
Wholesale Facilities	

Section 8.05 Barrier-Free Parking

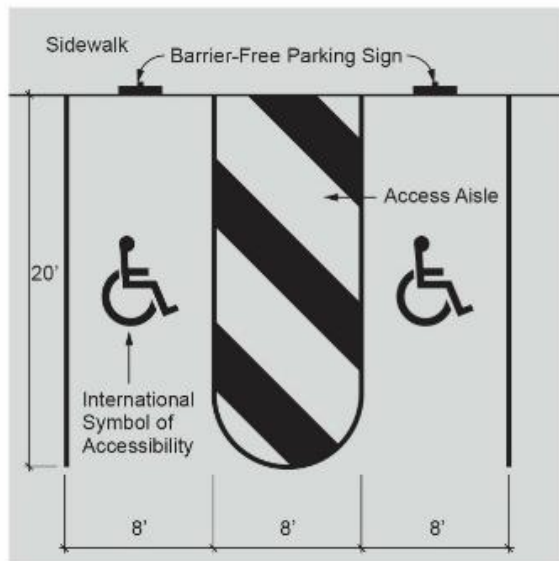
- A) Each parking lot that serves a building, except one- and two-family dwelling units, must provide parking that meets the requirements for barrier-free access. A barrier-free route of travel from accessible parking spaces to the nearest barrier-free building approach must be provided.
- B) A minimum number of barrier-free spaces is required, as described in the table below:

Total Number of Provided Off-Street Parking Spaces	Total Min. Number of Barrier-Free Spaces Required	Min. Number of Spaces that must be Sized for Van-Accessible
Up to 25	1 total	At least 1
26 to 50	2 total	At least 1
51 to 75	3 total	At least 1
76 to 100	4 total	At least 1
101 to 150	5 total	At least 1
151 to 200	6 total	At least 1
201 to 300	7 total	At least 1

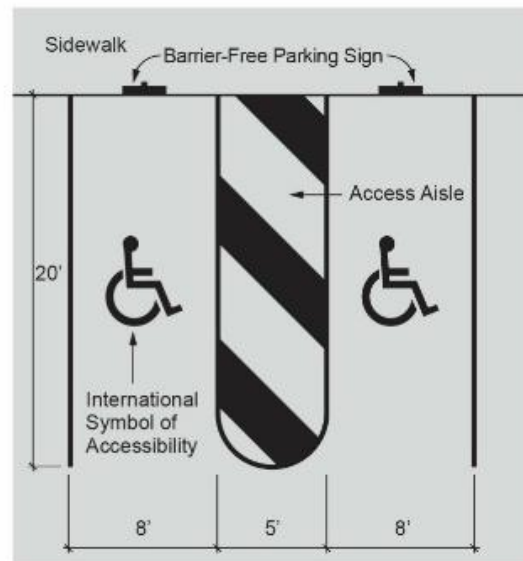
301 to 400	8 total	At least 1
401 to 500	9 total	At least 2
501 to 1,000	2% of total parking provided	At least 1/6 of total barrier-free spaces
1,001 and greater	20, plus 1 for each 100 over 1,000	At least 1/6 of total barrier-free spaces

C) The minimum dimensions for barrier-free spaces are:

Van Accessible



Standard



Barrier-Free Parking Space Layout

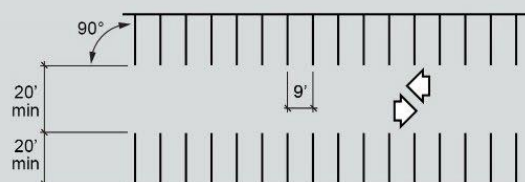
Section 8.06 Parking Lot Layout and Design

Off-street parking lots must be laid out, constructed, and maintained as follows:

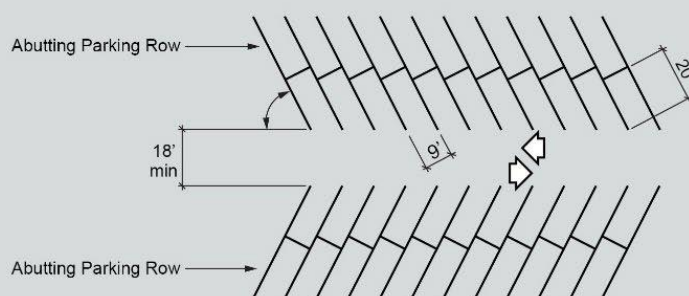
A) **Dimensions.** Parking facilities must be in accord with the following dimensions:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of 1 Tier of Spaces and Maneuvering Lane	Total Width of 2 Tiers of Spaces and Maneuvering Lane
0° (Parallel)	-	9 feet	23 feet	-	-
35° – 50°	15 feet	9 feet	20 feet	35 feet	57 feet
51° – 74°	18 feet	9 feet	20 feet	35 feet	60 feet
75° – 90°	12 feet	9 feet	20 feet	32 feet	60 feet

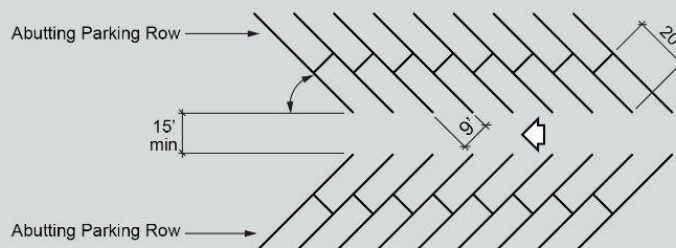
75 to 90 Degree



54 to 74 Degree



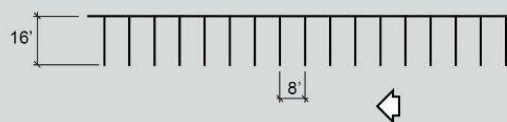
30 to 53 Degree



0 Degree (Parallel Parking)



Compact Car Parking



Parking Space Layout

- B) Length Reduction.** Parking stall length may be reduced from 20-feet to 18-feet when the vehicle overhang is positioned over open green space or would not interfere with pedestrian access.
- C) Lane Widths.** All maneuvering lane widths permit one-way traffic movement, except that the 90° pattern may permit two-way movement.
- D) Street Backing.** All spaces must be provided adequate access by means of maneuvering lanes; backing directly onto a street is prohibited.
- E) Aisle Length.** Parking aisles cannot exceed 300-feet without a break in circulation.
- F) Signage and Striping.** Appropriate signage and striping must be included within all parking lots. Designating the traffic flow at all entrances and exits (i.e., directional arrows) may be required by the Planning Commission if traffic safety is a concern.
- G) Curbing.** Bumper stops, wheel chocks are not permitted, parking areas must be curbed. Curbing prevents a vehicle from touching any required wall or fence, extending beyond the property line or extending into landscaped areas and/or pedestrian ways.
- H) Screening Wall.** A wall must be provided on all sides of an off-street parking area abutting or adjacent to a residential district. Where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, the wall may end not more than 10-feet from such alley line in order to permit a wider means of access to the parking area.
- 1) The masonry wall cannot be less than 6-feet in height (measured from the surface of the parking lot) and must consist of either stone, brick, stamped concrete, or split-faced concrete block.
 - 2) The Planning Commission, upon application by the property owner of the off-street parking area, may waive or modify the wall requirement by approving either an earth berm or evergreen screen (minimum 6-feet in height) in its place.
- I) Grading.** The parking lot must be graded and adequately drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward building.
- J) Surfacing.** The entire parking area, storage area and non-landscaped portion of the lot, including parking spaces and maneuvering lanes, must be provided with asphalt or concrete surfacing.
- K) Parking Dimension Deviations.** Upon review of a site plan, the Planning Commission may permit reduced parking space dimensions for off-street parking lots that are not used by the general public and in a controlled environment, including but not limited to vehicles in storage awaiting repair and subsequent pick-up by their owners, provided the following conditions are met:
- 1) The subject vehicles cannot be used by the general public and must be located off-street.
 - 2) Traffic and activity of the subject vehicles does not result in the daily turnover of the site and is of low frequency, including but not limited to valet parking lots.
 - 3) Requests for parking space dimensional reductions are the minimum deviation possible from the ordinance; in no instance may any parking space be less than 7-feet by 16-feet.
 - 4) The parking area where such vehicles are located are demarcated by an enclosure, landscaping, or similar barrier.

Section 8.07 Loading Zones

- A) Location.** In connection with every building, structure, or use hereafter erected (except one- and two-family dwelling units) an off-street loading zone must be provided in the rear yard or if in the side yard, screened from the public right-of-way and any residentially zoned or used property. A dedicated alley may satisfy the requirement for off-street loading and unload.
- B) Dimensions.** Loading zones must be a minimum of 10-feet by 40-feet, with a 14-foot height clearance.
- C) Access.** Loading zones cannot back out directly onto a public road.
- D) Quantity.** In the case of a mix of uses or a mixed-use building on one developed lot, the total requirements for loading zones is the sum of the various uses computed separately. Loading zones must be provided as follows:

Usable Floor Area (square feet)	Number of Loading Zone(s) Required
0 – 1,000 square feet	None
1,001 – 20,000 square feet	1 loading zone
20,001 – 100,000 square feet	1 loading zone, plus 1 for each 20,000 sq.ft. in excess of 20,001 sq.ft.
100,001 square feet and greater	5 loading zones, or more if needed in the opinion of the Planning Commission

- E) Waiver.** The Planning Commission may modify or waive the requirement for a loading zone, upon determination that adequate loading space is available to serve the building/use, or that provision of such a loading zone is unnecessary for the use.

Section 8.08 Access Management

- A) Number of Non-Residential Driveways.** Access must be provided for each site; where feasible, access must be provided via a shared access driveway. One additional driveway may be allowed for properties with a continuous frontage of over 500-feet and one additional driveway for each additional 250-feet of frontage. The Planning Commission may determine additional driveways are justified due to the amount of traffic generated by the use without compromising traffic operations along the street, based upon a traffic impact study submitted by the applicant.
- B) Driveway Spacing.** The minimum space between two non-residential driveways on the same side of the road is based upon posted speed limits along the parcel frontage. The minimum spacings indicated below are measured from centerline to centerline, as follows:

Posted Speed Limit (MPH)	Minimum Spacing Between Driveways
25 MPH	130 feet
30 MPH	185 feet
35 MPH	245 feet
40 MPH	300 feet
45 MPH	350 feet
50+ MPH	455+ feet

- C) Intersection Setback.** The minimum space between a proposed non-residential driveway and an intersection must be setback 50-feet.
- D) Modification of Standards.** During the site plan review, the Planning Commission has the authority to modify these standards upon consideration of the following:
- 1) The standards would prevent reasonable access to the site or access via a shared driveway or service/frontage road is not possible due to the presence of existing buildings or topographic conditions.
 - 2) Roadway improvements (such as the addition of a traffic signal, center turn lane, or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
 - 3) The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
 - 4) The proposed location and design are supported by the Michigan Department of Transportation (MDOT) or Macomb County as an acceptable design under the existing site conditions. The Planning Commission may also request the applicant provide a traffic impact study to support the requested access design.
 - 5) Where there is a change in use or expansion at a site that does not comply with standards of this Zoning Ordinance, the Planning Commission may determine the amount of upgrade needed in consideration of the existing and expected traffic pattern and the capability to meet the standards of this Ordinance to the extent practical.
- E) Traffic Impact Studies.** The city may require a traffic impact study (TIS) for all development proposals that it reviews. The TIS must be submitted by the applicant to determine the potential future traffic conditions on adjacent roadways once the proposed development is finished. The TIS must include a prediction of the peak-hour operational conditions at site driveways and road intersections affected by the development. The results of the TIS may be used in the final design of access points and internal circulation and may identify necessary off-site road improvements. At a minimum, the TIS shall meet standards as published by the Southeast Michigan Council of Governments (SEMCOG) and MDOT in the handbook titled *Evaluating Traffic Impact Studies* and found acceptable by the city prior to being used.
- F) Commercial Cross-Access.**
- 1) Cross access drive(s) are an easement which will permit the use of the drive for traffic circulation to provide ingress and egress to the two or more properties. All non-one or two-family residential developments in the MU-1, MU-2, MU-3, and DT Districts must permit pedestrian and vehicle cross access for adjacent non-one or two-family sites.
 - 2) A cross access agreement must be in a recordable form, approved by the City Attorney and will run with the land and benefit/burden the heirs, assigns and transferees of the properties to be served by the drives. The easement must specify the means by which the drives will be maintained, including a specification of responsible parties for snow plowing, repair, and other maintenance practices.
 - 3) The applicant must have the easement(s) recorded with the Macomb County Register of Deeds office and submit a copy to the city for permanent records.

Section 8.09 Maintenance

All parking lots and loading zones must be maintained in accordance with this Article, an approved site plan, and the following:

- A)** Alterations to an approved parking lot or loading zone that are not in accordance with an approved site plan are a violation of this Ordinance.
- B)** All parking lots, perimeter landscaped areas, and required screening must be kept clean and free from tall grass, weeds, trash, and debris. Surfacing, curbing, lighting fixtures, signage, and related improvements must be kept in good repair.
- C)** Parking lots and loading zones must be diligently kept clear of snow; up to 10% of the parking lot may be used for snow deposit.

Article 9.

Landscaping

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 9.01 Intent Statement

Recognizing that the proper management and use of trees, plants and other types of vegetation improves the appearance, value, character, quality of life, and the natural environment in Eastpointe, this Article establishes standards for the development, installation, and maintenance of landscaping to accomplish the following:

- A) Preserve existing trees and vegetation.
- B) Conserve energy, provide adequate light and air, prevent the overcrowding of land, and reduce impervious surfaces.
- C) Encourage the use of native plant materials and a diversity of species in plantings.
- D) Provide visual buffers and enhance the beautification of Eastpointe.
- E) Safeguard and enhance property values and protect public and private investment.

Section 9.02 Scope of Landscaping Requirements

- A) On developed sites (excluding one-family residential dwelling units, when developed on a parcel-by-parcel basis), landscaping must be brought into compliance with the Zoning Ordinance. New single family residential development must meet section 9.05 requirements. This scope of landscaping requirements standard applies to:
 - 1) New construction (or the modification of an existing building where the total building square footage is increased by 25% or greater).
 - 2) The total amount of impervious surface on the site has increased by 50% or greater.
 - 3) A special land use is required.
 - 4) A nonconforming use that seeks Class A designation.
 - 5) A re-occupancy that has required site improvements. Required site improvements include but are not limited to a screening device and a dumpster enclosure.
- B) No landscaped area may be abandoned, paved, or otherwise employed without submission and approval of a site plan.
- C) These requirements are minimum requirements, and nothing precludes a developer from proposing a more extensive landscape plan.
- D) The Planning Commission and Building Official may waive landscaping requirements at their discretion and offer a payment in lieu of landscaping plan.

Section 9.03 General Standards

- A) **Plans.** Landscape plans must be prepared, sealed, and signed by a licensed landscape architect, unless the application is for a re-occupancy only and no special planning processes (e.g., special land use, variance) are required.

- B) General Requirements.** The entire landscaped area (including lawn areas) must be planted with grass, groundcover, shrubbery, or other suitable plant material (excludes areas used as paved patios, terraces, sidewalks, and similar site features). If the site is a re-occupancy, then planter boxes may be allowed to meet landscaping requirements, to avoid asphalt excavation.
- C) Landscaped Islands.** Landscaped islands must be located below grade.
- D) Maintenance of Existing Landscaping.** All existing landscaping must be maintained in good condition to present a healthy, neat, and orderly appearance, free from refuse and debris. All unhealthy and dead materials must be replaced within 45 days of notice from the city (or within the next planting period, whichever comes next). Grass areas must be kept weed free and mowed on a regular basis and all edges trimmed and maintained, unless designated as an approved no mow zone. Landscape inspections may be conducted on a regular basis to ensure long-term compliance.
- E) Preservation of Existing Vegetation.** Existing healthy vegetation must be protected during construction with temporary fencing around the drip line. To promote the preservation of natural features, sites should be designed to preserve existing woodlands and wetlands to the greatest extent possible.
- F) Planting Setbacks, Rear and Side Yards.** The trunks of trees cannot be planted closer than 4-feet to a property line.
- G) Private Ponds.** Ponds are permitted for recreational, scenic, or stormwater management purposes and must meet all federal, state, county, and city requirements. The property owner must maintain the pond and the filter system, including, but not limited to the cleaning of the pond, the mowing of grass, and the elimination of any nuisances created by standing water or a water body. Ponds must incorporate water tolerant grasses and seed mixes at the bottom of the pond/basin and appropriate trees, shrubs, and grasses along the banks based on the environment to improve views, filter runoff, and enhance wildlife habitat.
- H) Plant Minimum Requirements.**
- 1) Trees planted in Eastpointe must conform to the adopted list of approved species published by Macomb County: 2017 Green Macomb Recommended Tree Species List, as amended.
 - 2) All landscape plans must include a minimum of 50% native plants.
 - 3) All plant material must conform to the description consistent with generally accepted and published nursery and landscape standards. Plant materials must be typical of their species or variety, have normal habitat of growth, well-branched and densely foliated when in leaf.
 - 4) Artificial plants and invasive species are prohibited from satisfying landscape requirements.
- I) Mulch.** Planting and tree beds must present a finished appearance, with shredded hardwood bark mulch or a similar natural material at a minimum depth of 3-inches. All mulched areas must be refreshed seasonally.
- J) Lawn Areas.** Lawns must be planted with species of grass normally grown as permanent lawns in southeast Michigan. Grass may be sodded or seeded and mulched. Sod or seed must be clean, free of weeds and noxious pests or disease. Where possible, Xeriscape design is highly encouraged.
- K) Minimum Planting Size.** All plantings must meet the following minimum size at the time of planting:
- 1) **Deciduous Trees.** 2½-inches in caliper, measured at 18-inches above grade.
 - 2) **Ornamental Trees.** 2-inches in caliper, measured at 18-inches above grade.

3) **Evergreen Trees.** 8-feet in height, measured from grade.

4) **Shrubs.** 30-inches in height, measured from grade.

L) Prohibited Species. Based on their undesirability, the following species are prohibited; the city may prohibit other species not listed in the following table:

Prohibited Tree Species			
Ash	Cottonwood	Mulberry	Tree of Heaven
Black Locust	Elm	Norway Maple	Willow
Box Elder	Ginkgo (Female)	Olive	Poplar
Buckthorn	Honey Locust (With Thorns)	Poplar	Buckeye
Catalpa	Horse Chestnut (Nut Bearing)	Silver Maple	

M) Installation. All landscaping must be installed in a manner consistent with generally accepted and published nursery and landscape standards, the approved landscape plan, and the following:

- 1) All trees must be balled and burlapped at the time of planting.
- 2) Plant material must be freshly dug, and nursery grown. Plant material must be of sound health, vigorous and uniform in appearance with a well-developed root system and free from disease, insects, pests, eggs, or larvae. Trees must have straight trunks with leaders intact, undamaged, and uncut.
- 3) A minimum of 4-inches of topsoil must be provided for all lawn areas, groundcovers, berms, and planting beds.

N) Payment In-Lieu of Tree Planting. The Planning Commission may allow for a payment in-lieu of tree planting, in an amount to be established by resolution of the City Council, on a case-by-case basis, to be used for tree planting elsewhere in the city. In doing so, rough proportionality between the number of trees that would be required to be planted and those that are being planted per the site plan is achieved.

Section 9.04 Non-Single-Family Landscape Design Standards

All landscaping must comply with the following minimum standards:

- A) Site Trees.** One 2.5-inch caliber deciduous tree or one 10-foot evergreen tree per 1,000 square feet of non-paved surface must be provided, in addition to other trees required elsewhere.
- B) Frontage Landscaping.** When a site abuts a road right-of-way, frontage landscaping must be provided in the front yard area adjacent to the right-of-way or within the right-of-way, per the table below. For the purposes of computing length of road frontage, openings for driveways and sidewalks are counted towards the total linear frontage. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.

Type of Frontage Landscaping	Min. Required per Linear Foot of Road Frontage (or fraction thereof)
Deciduous Trees*	1 per 20 linear feet <i>*Evergreen trees may be considered by the Planning Commission when so located as to not obstruct sight lights).</i>
Ornamental (Flowering) Trees	1 per 50 linear feet
Shrubs (Evergreen or Flowering Bushes)	8 per 40 linear feet
Flowering Plants and Grasses	Some must be incorporated, but the amount is at discretion of landscape architect

- C) Parking Lot Landscaping.** To improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of parking lots, off-street parking lots (with 20 or more parking spaces) must dedicate at least 5% of the total parking lot area to interior landscape islands: each island must be a minimum size of 150 square feet, contain at least 1 deciduous tree, and covered with mulch, grasses, or groundcover.
- D) Screening from Parking Lot.** Screening adjacent to a parking lot is not required if the parking surface area is completely screened from the right-of-way by an intervening building or structure. Where a parking lot is located adjacent to sidewalks, streets, and other rights-of-way, screening must be provided within 10-feet of the parking lot with the following (or a combination thereof):
- 1) **Vegetative Buffer.** A 3-foot-wide greenbelt with an evergreen, rose bush or deciduous hedge, at least 3-feet in height.
 - 2) **Screen Wall/Fence.** A decorative masonry wall or black aluminum fencing, at least 3-feet in height. Walls must contain a stone or masonry cap and fences must incorporate stone or masonry piers at regular intervals.
 - 3) **Boulder Buffer.** Boulders must be placed in a pattern acceptable to the Fire Department.
- E) Screening from Residential Uses.** All non-residential uses that abut a residentially used property must provide screening by one or a combination of the following:
- 1) A reinforced, decorative masonry wall, 6-feet in height above grade, with a stone cap.
 - 2) A 3-foot-wide greenbelt with evergreen trees forming a continuous screen (trees planted 10-15 feet apart (on center) in 2 staggered rows).
 - 3) A 6-foot in height earth berm, with a slope (measured on the cross-section) no greater than 1:3 and at least a 2-foot-wide planting area at its crest and landscaped.
- F) Landscaping Adjacent to Buildings, Front and Side Yards.** All building walls visible from a right-of-way or publicly accessible area must have a 3-foot-wide landscape area adjacent to them for at least 25% of their total width. This area may include inground landscaping, raised landscape beds, decorative landscape containers, or a combination thereof.
- G) Dumpster/Refuse Containers.** Containers and permitted outdoor storage must be screened by a decorative masonry (brick or concrete) or composite wall, at least 6-feet in height above grade, or 1-foot above the object which it is screening, whichever is greater. A 10-foot concrete apron is required. A gate (constructed from metal or composite material) is required; chain link fencing with obscuring fabric or slats is prohibited.

- H) Loading Zone Screening.** Loading zones (including service areas, staging areas, truck docks, etc.), must be screened from adjacent residentially used land and rights-of-way with a decorative masonry wall, building wing wall, or densely planted landscape buffer, or other means acceptable to the Planning Commission. The planning commission has the option to waive a permanent loading zone screening wall if they find it beneficial to the project and the community.
- I) Mechanical and Utility Equipment Screening.** Transformers, wireless communication facilities, climate control and mechanical equipment, and other above ground utility cabinets must be screened with evergreen plantings or a decorative opaque fence at least 1-foot taller than the height of the cabinet / equipment. This requirement does not apply to equipment serving one- or two-family dwelling units or solar energy systems.

Section 9.05 Residential Landscape Design Standards

- A) Single-Family Residential.** Within 1-year of the issuance of a temporary certificate of compliance, the following is required for new single-family dwelling units:
- 1) **Lawns.** Lawns must be sodded, seeded or hydro seeded, and installed in all areas of residential property not otherwise landscaped, and must be maintained and present complete coverage within 3-months of planting. The property owner is responsible for soil erosion protection prior to the installation and for maintaining the approved grade before and after lawn installation.
 - 2) **Trees.** Two deciduous trees (at least 2-inches caliper) must be planted; at least one tree must be planted within the front yard, which includes the public right-of-way, and one in the rear yard.
- B) Multiple-Family Residential.** In addition to the standards listed in 9.04, multiple-family residential uses must provide a minimum of two deciduous or evergreen trees per dwelling unit, unless otherwise determined by the Planning Commission.

Article 10.

Signs

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 10.01 Intent Statement

To balance public and private interests: signs promote a safe, well-maintained, vibrant, and attractive community, while accommodating the need to inform, direct, identify, advertise, advocate, promote, endorse, and otherwise communicate information. The placement and design of signs must further the land use planning objectives of Eastpointe and protect neighborhood character and the value of surrounding properties.

Section 10.02 Sign Standards by District

A) Residential District Sign Standards. The sign standards listed in the table below apply to the following zoning districts:

- 1) R-1, Low-Density Residential; and
- 2) R-2, Medium-Density Residential

Signage Type	Quantity	Placement	Maximum Square Footage	Maximum Height	Notes
Awning / Canopy / Marquee	1 per street frontage or tenant	Must face the front yard street frontage. Must be an integral and permanent part of the canopy, awning, or marquee.	1 SF for each 2 linear ft. of building length	-	Not permitted if a wall sign is present.
Freestanding (Ground Only)	1 per vehicular entrance from a public street	Not allowed within the existing or planned ROW	30 SF	6 ft.	Residential developments with seven or less units are not permitted to have a freestanding entrance sign.
Wall	1 per street frontage or tenant	Cannot project more than 12 in. from the building face	1 SF for each 2 linear ft. of building length	-	Cannot extend above the top or beyond the edges of the attached wall.

B) Mixed-Use Commercial District Sign Standards. The sign standards listed in the table below apply to the following zoning districts:

- 1) MU-1, Neighborhood Mixed-Use;
- 2) MU-2, Main Street Mixed-Use;
- 3) DT; Downtown;
- 4) Central Business District Overlay; and
- 5) Gratiot Gateway Overlay

Signage Type	Quantity	Placement	Maximum Square Footage	Maximum Height	Notes
Awning / Canopy / Marquee	1 per tenant	Must be an integral and permanent part of the canopy, awning or marquee	1 SF per 1.5 linear ft. of building length	-	Not permitted if a wall sign is present.
Monument (Ground sign)	1 per building, regardless of the number of tenants	Must be set back at least 10 ft from ROW*	48 SF	6 ft.	Corner lots with a minimum street frontage of 200 ft. (each) may have a second monument sign.
Pole (Ground sign)	1 per building, regardless of the number of tenants	Must be set back at least 10 ft from ROW*	50 SF; Multi-tenant signs with all tenants displayed: 75 SF	20 ft.	
Projecting	1 per tenant and/or public entrance	Cannot project more than 4 ft. from the building face at 90°	10 SF per sign; Maximum of 2 faces per sign	-	Must maintain height clearance.
Wall	2 per tenant	Cannot project more than 12-inches from the building face	Total sign area cannot exceed 1.5 SF per 2 linear ft. of building length	-	For multi-tenant buildings with only one main entrance, only one wall sign and directory sign are permitted. For buildings with frontage on two streets or more, each tenant is permitted to have an additional wall sign if they have a second public entrance. The secondary wall sign is permitted to have a size of 0.5 SF per 1 linear ft. of building length along the designated frontage. Cannot extend above the top or beyond the edges of the attached wall.
Wall (Directory)	1 per multi-tenant building with a shared main entrance		12 SF	-	Cannot extend above the top or beyond the edges of the attached wall.
Wall (Public Alleyway)	1 per building/tenant with a public access to a functional public alleyway		-	-	
Window			1/3 of the total window area		

*Signs along Kelly Road must be set back at least 10 ft from the curb line.

C) Light Industrial and Regional Mixed-Use District Sign Standards

The sign standards listed in the table below apply to the following zoning districts:

1. MU-3, Regional Mixed-Use; and
2. LI, Light Industrial

Signage Type	Quantity	Placement	Maximum Square Footage	Maximum Height	Notes
Awning / Canopy / Marquee	1 per tenant	Must be an integral and permanent part of the canopy, awning or marquee	1 SF per 1.5 linear ft. of building length	-	Not permitted if a wall sign is present
Monument	1 per building, regardless of the number of tenants	Cannot be located closer than 10 ft. to existing or planned ROW	60 SF; Multi-tenant signs with all tenants displayed: 75 SF	8 ft.	Corner lots with a minimum street frontage of 200 ft. (each) may have a second monument sign.
Pole	1 per building, regardless of the number of tenants	Cannot be located closer than 10 ft. to existing or planned ROW	50 SF; Multi-tenant signs with all tenants displayed: 75 SF	20 ft.	
Projecting	1 per tenant and/or public entrance	Cannot project more than 4 ft. from the building face at 90°	10 SF per sign; Maximum of 2 faces per sign	-	Must maintain height clearance. Cannot contain an electrical component.
Wall	2 per tenant	Cannot project more than 12-in. from building face	Total sign area cannot exceed 1.5 SF per 2 linear ft. of building length	-	Cannot extend above the top or beyond the edges of the attached wall.
Wall (Directory)	1 per multi-tenant building with a shared main entrance		12 SF	-	
Wall (Public Alleyway)	1 per building/tenant with public access to a functional public alleyway		12 SF	-	
Wall (Multiple Tenants / Frontages)	With frontage on more than 1 street, an additional wall sign is permitted		0.5 SF per 1 linear ft. of building length on designated frontage	-	
Window			1/3 of the total window area		

Section 10.03 Sign Definitions

- A) Air-Activated Signs.** A sign that is inflated by air or uses air flow to induce movement. Inflatable objects used for signs are often made of flexible fabric and are equipped with a motor to blow air into the object. Air-activated signs are typically temporary and are restrained, attached, or held in place by a cord, rope, cable, or similar method, but can be permanent.
- B) Animated Sign.** A sign that has any visible moving part either constantly or at intervals; flashing, scintillating, intermittent, or oscillating lights; visible mechanical movement of any description; or other apparent visible movement achieved by any means that move, change, flash, oscillate or visibly alters in appearance to depict action, create an image of a living creature or person, or create a special effect or scene. This definition does not include Changeable-Copy Signs and Electronic Message Center (EMC) Signs that comply with this Article.
- C) Awning (or Canopy).** A retractable or fixed shelter constructed of materials on a supporting framework that projects from the exterior wall of a building. A canopy or awning is placed over a door, window, entrance, outdoor service area or entire building. The canopy or awning sign is an integral and permanent part of that awning, canopy or other fabric, plastic, or structural protective cover. A marquee sign is not a canopy sign.
- D) Banner Sign.** A temporary sign on paper, cloth, fabric or other flexible or combustible material of any kind that is attached flat against a permanent sign face or strung between two poles or structures. National flags, state or municipal flags, or the official flag of any institution or business are not considered banner signs.
- E) Billboard** (also known as an off-premises sign). Any sign which contains a message or advertises an establishment, product, service, space, or activity not available on the lot on which the sign is located.
- F) Building Marker.** Any sign indicating the name of a building, date of construction and any incidental information about its construction and history, which sign is cut into a masonry surface or made of bronze or other permanent material.

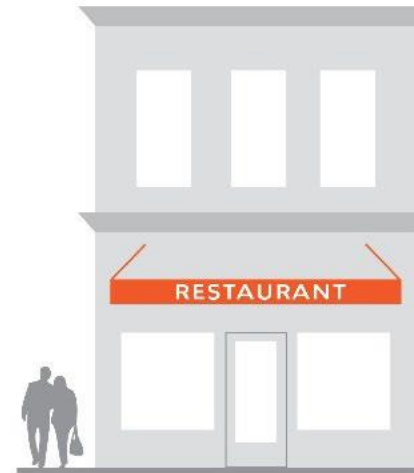
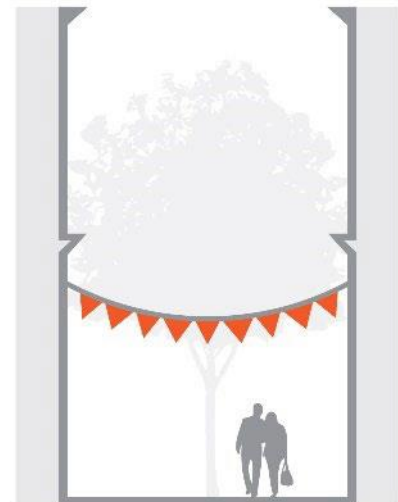


Awning



Banner

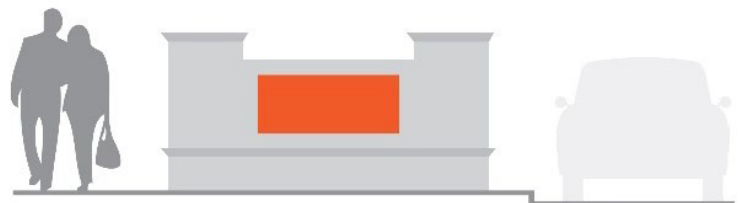
- G) Canopy (or Awning).** See Awning.
- H) Changeable-Copy Sign.** A permanent sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means or manually through placement of copy and symbols on a panel mounted in or on a track system.
- I) Commercial Message.** Any sign wording, logo, or other representation that directly or indirectly names, advertises, or calls attention to a business, product, service, or other commercial activity.
- J) Construction Sign.** Any sign which identifies the owners, financiers, contractors, architects, engineers, or tenants of a project under construction.
- K) Directional Sign.** A sign, commonly informational, that directs movement, provides instructions or is secondary to the use of the lot. Generally, signs of this type indicate the entrance/exit, drive-through location, “no parking” areas, etc.
- L) Electronic Message Center (EMC) Sign.** An electrically activated changeable-copy sign whose variable message and/or graphic presentation capability can be electronically programmed. EMCs typically use light emitting diodes (LEDs) as lighting sources.
- M) Entranceway Sign.** A sign that identifies the name of a residential subdivision or development and is located at the major entranceways to the subdivision or development.
- N) Festoons.** A string of ribbons, pennants, spinners, streamers, tinsel, small flags, pinwheels, or lights typically strung overhead and/or in loops.

*Canopy**Festoon*

- O) Flag.** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used to distinguish a government, political subdivision, or other political entity. Flags are typically supported on one side of the sign. Flags are not considered air-activated signs for the purposes of this ordinance.
- P) Government Sign.** Any sign posted by a unit of government for the health, safety, and welfare of the public.
- Q) Incidental Sign.** A small sign, usually two square feet or less, designed and located to be viewed by persons on a property and is generally not visible or legible from the right-of-way or adjacent properties. Examples of incidental signs include, but are not limited to, credit card signs, signs indicating hours of business, no smoking signs, signs used to designate bathrooms, handicapped signs, traffic control signs that conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices, and other signs providing information to be read at close proximity.
- R) Interior Sign.** A sign placed within a building, but not including a Window Sign as defined in this Article, which is not visible from any public street, sidewalk, alley, park, or public property
- S) Marquee Sign.** Any permanent roof-like structure constructed of permanent materials projecting beyond a building or extending along and projecting beyond the wall of the building. Generally, a marquee is designed and constructed to provide protection from the weather. The marquee sign is affixed to, in any manner, or made part of the marquee and often includes a changeable copy component in addition to the display of a permanent message.
- T) Monument Sign.** A base-mounted, freestanding sign placed on the ground and not attached to any building or other structure. A Monument Sign includes a solid supporting base of at least 24-inches in height and a width equal to or greater than the width of the sign face.

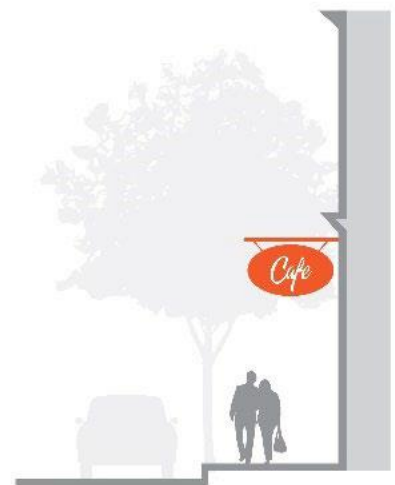


Marquee



Monument

- U) Mural.** An approved and planned design or representation painted on or drawn on a wall which does not contain any promotional or commercial advertising.
- V) Non-Conforming Sign.** A sign that was lawfully permitted at the time it was erected but is not permitted under current law.
- W) Permanent Sign.** Any sign which has a permanent location on the ground, or which is attached to a structure having a permanent location and which meets the structural requirements for signs as established in this Article and in the current Michigan Building Code.
- X) Placard.** A sign that provides notices of a public nature, such as “No Trespassing” or “No Hunting” signs.
- Y) Pole Sign.** A freestanding sign which is supported by one or more poles that are attached to the ground in a permanent location and is separated from the ground by air.
- Z) Portable Sign (and Sandwich Board Sign).** Any sign not permanently attached to the ground or other permanent structure, as a sign designed to be transported, including but not limited to signs transported by means of wheels; A- or T-frames; menu and sandwich boards; balloons, banners or umbrellas used for advertising; and signs attached to or painted on stationary or abandoned vehicles parked and visible from the public road that are not used in the day-to-day operation of a business.
- AA) Projecting Sign.** Any sign, generally doubled-faced, affixed to a building or wall in such a manner that it extends more than 12-inches from the wall.
- BB) Sandwich Board Sign.** See Portable Sign.
- CC) Sign.** Any display or object which is primarily used to identify or display information or direct or attract attention by any means which is visible from any public street, sidewalk, alley, park, or public property and is otherwise located or set upon or in a building, structure, or piece of land. The definition does not include goods displayed in a window.
- DD) Roof Sign.** Any sign erected or constructed wholly on and over the roof of a building, supported by the roof structure.



Projecting

EE) Temporary Sign. A display sign, banner or other device constructed of cloth, canvas, fabric, plastic, or other light temporary materials, with or without a structural frame, or any other sign intended for a limited period of display that is not permanently anchored to the ground or a building.

FF) Vehicle Sign. A sign, painted or otherwise, attached to an operable vehicle that is regularly used and moved, including signs on a truck trailer.



Vehicle

GG) Wall Sign. Any single-faced sign that is attached directly parallel to a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or structure; this includes permanent window signs.

HH) Window Sign. Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, which is placed inside a window located on a wall or door or upon the windowpanes or glass and is visible from the exterior of the structure.

II) Yard Sign. A small, temporary sign typically used for non-commercial purposes. Yard signs are characterized by a wire frame, non-durable message surface such as cardboard or paper, and are often inserted into a lawn with wire posts. Although variations exist to the materials of the frame and message board, a consistent physical characteristic is its temporary and disposable nature.



Wall

Section 10.04 General Standards

The following general standards apply:

- A) Clear Corner Distance.** Signs must maintain clear corner vision for all street intersections and driveway entrances. No signs can be located within a triangle formed by two points, each 25-feet away from the intersection of the right-of-way line and the driveway, and the line connecting them.
- B) Consistency.** All signs developed for one building, structure or shopping center must incorporate a theme using similar methods of display and construction, which limits the number of fonts, colors, and sign face sizes. Signs must be compatible with the architectural style, elements, and materials of the principal building or structure.
- C) Colors.** Sign colors must complement the color scheme of the building and structures on the lot. Day-Glo, fluorescent, or reflective color materials that give the appearance of changing color or brilliant luminescent colors are prohibited.
- D) Materials.** Signs must be constructed of wood, glass, masonry, cast metal or high-density urethane (which must be painted and is intended to mimic wood). Prohibited materials include sheet plastic, plastic substrates, interior grade wood, unlaced plywood, sheet metal, neon, and LED.
- E) Illumination and Lighting.** External illumination is permitted in all zoning districts (backlighting of opaque letters is considered external illumination) and subject to the following standards. Temporary signs may not be illuminated.
 - 1) Lights must be steady, stationary, and shaded and/or shielded downward with light directed away from adjacent properties and streets.
 - 2) Signs with internal illumination must have the lettering and graphics in a lighter color than the background to the maximum extent practical.
 - 3) All signs must comply with relevant lighting requirements.
 - 4) Illumination by bare bulbs or flames is prohibited, except that bare bulbs are permitted on electronic changeable copy signs and theatre marquees.
- F) Electronic Messaging Center (EMC) Signs.**
 - 1) The message display area cannot change more than once per 10-seconds; any sign that changes its message more frequently is considered a flashing sign.
 - 2) Only one EMC sign is permitted per lot.
 - 3) The use of a video display or special effects such as, but not limited to, scrolling, fading, wiping, flashing, changing colors or exploding is prohibited.
 - 4) The sign cannot create glare or have characteristics that impair the vision of motorists or create a nuisance for surrounding properties. Glare must be reduced and/or minimized in such a manner as to maintain an appropriate level of contrast during the day. To reduce driver distraction at night and light trespass into residential areas, electronic signs must have an automatic dimmer to control brightness, which cannot be manually overridden.

G) Canopies and Awnings.

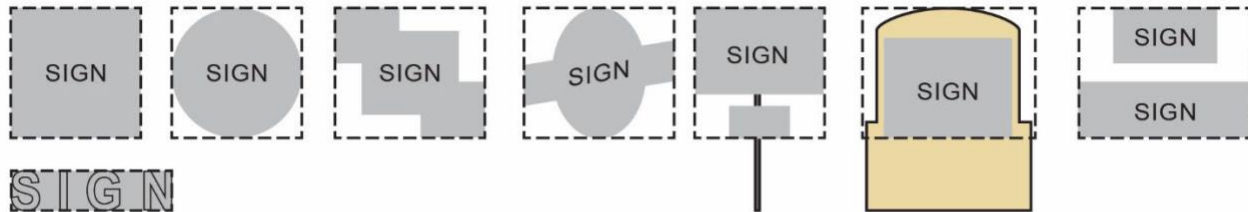
- 1) Canopies and awnings are permitted around the entire perimeter of a building. However, canopy and awning signs are only permitted to cover 25% of the total area of the canopy or awning.
- 2) The scale, design, and color of the canopy and awning sign must be compatible with the architectural features of the building, including the color of the building.
- 3) Awnings cannot extend more than 6-feet in front of the building.

H) Height Clearance. Canopy, awning, marquee, and projecting signs must maintain a minimum 8-foot clear space distance from the bottom of the structure to the grade or sidewalk.**I) Landscaping.** The area surrounding freestanding signs must be landscaped to match the design characteristics of the site (only for new signs).**J) Murals.** Murals are permitted in all zoning districts, with Zoning Administrator approval. In reviewing a mural, the following criteria must be applied:

- 1) Be well designed and incorporate high-quality materials that enhance the overall appearance of the site and will not adversely impact safe and efficient movement of vehicles and pedestrians.
- 2) Colors, though vibrant, must be complementary and harmonious with the exterior colors of the building structure, as well as consistent with the chosen theme.
- 3) Its design, construction, and location cannot obscure or detract from the significant architectural features of the building structure; nor should the building's architecture be altered to accommodate the mural.
- 4) Routine maintenance of the mural is the responsibility of the building owner where the artwork is located. If, for whatever reason, the mural falls into disrepair, the building owner will be notified in writing and required to make necessary repairs per the city's policy for correcting violations. If the repairs are not made within the specified time, the city reserves the right to repair or remove the mural at the owner's expense.

K) Measurement.

- 1) **Signable Area.** Signs are measured as the area within a single, continuous perimeter composed of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display. This includes any frame or other material or color, forming an integral part of the background of the display or used to differentiate the sign from the background against which it is placed.
 - a) The support structure necessary to support the sign is excluded from this calculation.
 - b) Signage for multi-tenant buildings only calculates the wall length of individual tenant space, and not the building as a whole.



Computation of Sign Area

- Sign Area
 □ Computed Sign Area

- 2) **Height.** The height of a sign is calculated by measuring the distance from the base of the sign at grade, to the top of the highest attached framed component of the sign.

- L) Master Sign Plan.** Within a project, buildings, or clusters of buildings, which have more than one tenant must submit a master sign plan with the sign permit application. The master sign plan must include the location, area, height, color, and font of all ground and wall signs, including the area designated for individual tenant signs. Elevations of ground signs must be included. The sign plan must be designed so that it establishes a common theme or design, uses similar construction methods, and is compatible in color, size, and scale.

Section 10.05 Temporary Signs

Temporary signs must meet the following:

- A) Sign Permit.** Temporary signs on private property are allowed only upon the issuance of a temporary sign permit by the Building Department.
- B) Display Period.**
 - 1) Each lot or single tenant building is allowed a maximum of three temporary sign permits within a 12-month period. Each permit is for a maximum period of four weeks. In the instance where more than one business is located on a lot or in a building, structure or shopping center, each business is permitted two temporary sign permits within a 12-month period.
 - 2) One temporary banner pertaining to the opening or "Grand Opening" of a new commercial use may be temporarily affixed to the commercial building or the new business for a period of not more than four weeks. The length of such banner cannot exceed 25-feet.
 - 3) Portable temporary commercial signs (such as A-frames) can be placed outside only during the hours when open to the public and must be stored indoors at all other times.
- C) Right-of-way.** No sign can be placed, strung, or located within the right-of-way.

- D) Area and Height.** Signs have a maximum surface area of 32 square feet (except for A-frame signs, which are limited to 12 square feet per side), and a maximum height of 6-feet measured from grade (except for A-frame signs, which are limited to a maximum height of 5-five feet). Temporary balloon signs are exempt from these area and height requirements unless balloons are included as an integral part of the requested temporary sign. Signs cannot impede or endanger pedestrian or automobile traffic, including maintaining required clear corner vision.
- E) Materials.** Signs must be constructed of a durable material designed to withstand normal weather conditions. Wooden signs must be constructed of a pressure treated wood that is acceptable to the Zoning Administrator and painted or stained with an exterior grade of paint/stain. Property owners must receive a permit as described in this Article prior to the erection of any temporary commercial signs and must follow all applicable requirements as described below. Portable ground signs are considered temporary commercial signs.
- F)** Any temporary sign found by the Building Department to be in an unsafe condition must be removed by the sign owner within three business days after receipt of written notice.
- G)** Signs must be removed immediately at the end of the display period provided for in this Article. If temporary signs are not promptly removed at the end of the display period, a written violation notice will be issued by the city and a cumulative daily fee shall be assessed to the temporary sign permit holder until such sign is removed.

Section 10.06 Permit Process

- A) Permit Required.** It is unlawful for any person to erect, alter, or structurally change a sign (unless the sign is specifically exempt), without first obtaining a permit from the city. Any sign that makes use of electricity must, in addition to a sign permit, have an electrical permit.
- B) Permit not Required.** The following signs do not require a permit:
- 1) Government signs, including those used to identify public facilities, government buildings, parks, and temporary government signs used for decoration or for seasonal events or holidays. This includes highway and street signs, and signs authorized by a road agency in conjunction with infrastructure improvements.
 - 2) Address numbers, with a numeral height of no greater than 12-inches.
 - 3) Historic markers under the authority/designated authority of the local, state, or federal organization.
 - 4) Essential service signs and signs required by law.
 - 5) Placard/building markers, no larger than 2-square feet in area.
 - 6) Flags, subject to the following:
 - a) Flags and flagpoles cannot be located within any right-of-way.
 - b) Flag poles have a maximum height of 30-feet.
 - c) No more than 1 flag is permitted per lot in a residential district, and no more than 3 flags are permitted per lot in all other districts.

d) 60 square feet in size.

7) Directional signs, no larger than 4-square feet in area and 4-feet in height.

C) Review Process.

- 1) Applications for a sign permit are made to the Building Department and at least contain the following:
 - a) The name, address, email, and telephone number of the applicant.
 - b) Letter of approval, which outlines the consent of the property owner, if different from the applicant.
 - c) The location of the building, structure, or lot to which or upon which the sign is attached to or erected on.
 - d) Photographs showing the location of the proposed sign.
 - e) Two sets of plans and specifications indicating the method of construction and attachment to the building or in the ground.
 - f) A copy of the stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by the current Michigan Building Code. Where the Zoning Administrator deems necessary, a registered engineer must approve the structural design.
 - g) The name of the person or company erecting the structure.
 - h) An elevation of the proposed sign with dimensions, materials, colors, and wording.
 - i) Any other information deemed necessary by the city to ensure compliance.
- 2) The Zoning Administrator reviews all final sign applications and determines if the proposed request meets all the requirements.

D) Prior to the issuance of a sign permit, a fee must be paid, as established by the city's fee schedule.

E) Inspections. Signs for which a permit has been issued are inspected by the Zoning Administrator once erected. Approval is granted only if the sign is constructed in compliance with the approved plans and all applicable Zoning and Building Code standards. Periodically, the Zoning Administrator may inspect signs for the purpose of ascertaining whether the sign needs repair or removal.

F) All rights and privileges acquired by any person under the provisions of this Article may be revoked upon violation of any of the conditions herein. If the work authorized under a permit has not been started within 6-months after the date of issuance, the permit is null and void.

G) Any person filing an application for a permanent or temporary sign permit who feels they have been aggrieved by the decision of the Zoning Administrator may appeal such decision to the Zoning Board of Appeals.

Section 10.07 Construction, Maintenance, and Removal

A) Construction and Fastenings. Signs must be construed of durable material and in conformance with the requirements and specifications of the current Michigan Building Code. All signs must be erected in such a

manner and with such materials to remain safe and secure during the period of use and all bolts, cables, and other parts of such signs must be kept painted and free from corrosion. Any defect due to the fault of the erector must be repaired by the owner.

- B) Maintenance.** All signs and their components, including anchors, braces, and supports must be maintained in a condition of good repair. The Zoning Administrator is authorized to cause the removal of any sign, at the expense of the owner, which is deemed to be in disrepair or an immediate peril to persons or property. This does not alter the effect of non-conforming signs, which prohibits the replacement of non-conforming signs.
- 1) If a sign is found to be insecure, illegible, fading, in a state of disrepair, or the message portion of the sign is removed leaving only the support structures, written notice will be given to the property owner, agent or person having interest in the building or property on which the sign is located.
 - 2) Improvements, corrections, or removal of the sign must be completed with 30-days of receipt of the written notice.
 - 3) If such condition is not corrected within the time allotted, the Zoning Administrator is authorized to cause the sign to be removed at the expense of the property owner, agent or person having interest in the building or property.
- C) Abandoned Signs.** Signs which have not been in use for a period of more than six-months, including all previously approved variances for such signs, are considered abandoned signs. Abandoned signs must have all lettering or reference to the former business removed. Custom signs, which are only relevant to the defunct business that it served, must be removed completely from the site.
- D) Removal.** Any sign now or hereafter existing which, at the time of construction, advertised a business being conducted or a product being sold or produced on the premises on which the sign is located, but no longer does so, must be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or premises upon which such sign is found within 30-days after written notice to remove such sign from the Building Official.

Section 10.08 Non-Conforming Signs

- A)** Every permanent, legally existing sign which does not conform to the requirements of this Article are deemed a non-conforming sign.
- B)** Non-conforming signs may not be expanded, enlarged, or extended. Non-conforming signs may be maintained and repaired so as to continue the useful life of the sign. Normal maintenance includes the painting of chipped or faded signs; replacement of faded or damaged surface panels; or repair or replacement of electrical wiring or electrical devices.
- C)** Whenever the principal building on a site on which a non-conforming sign is located is modified to the extent that site plan review and approval is required, the non-conforming sign must be removed.
- D)** A non-conforming permanent sign may be changed on the face of the sign without jeopardizing the status of non-conforming use.
- E)** No additional signs shall be permitted on a lot or building while a non-conforming sign exists on the lot or building.
- F)** If, at any given location, there is a change in the occupancy, all non-conforming signs must be removed.

- G)** Any non-conforming sign, sign structure or frame, which is more than 50% destroyed by fire, weather or other casualty loss cannot be restored or rebuilt.
- H)** No review fee is charged for a new sign when the owner voluntarily proposes to remove a non-conforming sign.
- I)** When a non-conforming permanent sign is removed it must be replaced only with a sign that conforms to all the requirements of this Article. Non-conforming signs may be removed for maintenance or repair purposes as outlined in division (b) of this Section. Removal of a non-conforming sign for repair or maintenance must receive a permit from the city. If the non-conforming sign is not reinstalled within 6-months, the non-conforming status of the sign must be deemed abandoned.

Section 10.09 Prohibited Signs

The following signs are prohibited:

- A)** Any sign not expressly permitted.
- B)** Signs, which by reason of their position, shape, illumination, location, or color obstructs the vision of drivers or of pedestrian traffic.
- C)** Signs which incorporate in any manner flashing, moving, oscillating, and/or blinking lights.
- D)** The following signs are only permitted on a temporary basis: Exterior pennant strings, flutter flags, spinners, banners, and streamers.
- E)** Any obscene, indecent, or immoral content.
- F)** Any sign or object, including inflatable objects, which has any visible motion, moving or animated parts or image, whether movement is caused by machinery, wind, or otherwise, except for permitted digital message signs and exempt flags, as defined in this Article.
- G)** Any sign structure or frame that no longer contains a sign.
- H)** Rope lights.
- I)** Roof signs or a sign which projects above the roof line.
- J)** Signs that prevent the free ingress and egress from any door, window, or fire escape. No sign can be attached to a standpipe or fire escape.
- K)** Any sign erected on any property, public or private, without the consent of the property owner.
- L)** Any sign which simulates or imitates in size, color, lettering, or design, any traffic sign or signal or other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse the drivers or motorized vehicles.
- M)** Off-premises signs, including, but not limited to billboards or vehicle business signs.
- N)** Tube lights, whether LED, neon, or any other type of light, including those that line windows and doors.

- O)** Signs which are structurally or electrically unsafe, in the opinion of the Building Official. "Structurally and electrically unsafe" includes, but is not limited to rust, non-functional wiring, leaning or in danger of toppling over, detaching from a wall, or in danger of falling off the wall, and visible damage.
- P)** Signs which, in the opinion of the Building Official, have deteriorated to the point where they have become a blight on surrounding properties. "Blight" includes but is not limited to sign messages deteriorated to the point of unreadability, peeling paint, broken parts, and burnt out lighting.
- Q)** The Zoning Administrator has the authority to immediately remove or cause to be removed any sign which has been placed or located within the public right-of-way contrary to the provisions of the Ordinance. The city or its agents must not incur any obligation to retain, store, or maintain any materials or salvage resulting from the removal of such signs.
- R)** The Zoning Administrator has the authority to immediately remove or cause to be removed any sign listed as prohibited in this Ordinance unless the sign existed prior to the effective date of this Ordinance and was permitted under the previously effective Ordinance.

Article 11.

Non-Conformities

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 11.01 Intent Statement

- A) **Definition.** There are three types of nonconformities within a city: lots, uses and structures. When the city amends a zoning ordinance, it sometimes creates nonconforming lots, uses, and structures. Nonconformities are authorized and lawful at the time the lot/use/structure was created but are no longer allowed due to changes made in a zoning ordinance.
- B) **Regulation.** This article intends to permit these nonconformities to continue until they are removed, but not to encourage their survival. With the knowledge that some nonconforming uses, lots, or structures shall not disappear, the city desires and requires, in pursuit of the public interest, to distinguish between nonconforming uses or structures that must be eliminated as rapidly as possible and nonconforming uses or structures that ought to be given separate treatment. Therefore, the city establishes two classes of nonconformities: class A and class B. All non-conforming uses and structures are classified as class B unless designated as class A. The Planning Commission has the authority to designate uses as Class A.

Section 11.02 Classification of Nonconformities

All nonconforming uses and structures are classified as Class B nonconforming uses at adoption of this article. The planning commission, city council, building department, or any person with a property interest may apply for designation as a Class A nonconforming use or structure. The planning commission has the sole authority to designate a nonconforming use or structure as a Class A nonconformity upon finding that (see approval standards in sub-section below):

- A) Continuance of the nonconformity would not be contrary to the public health, safety or welfare, or the spirit and intent of this chapter;
- B) The existing character of the area is maintained, and expansion will not have a detrimental effect on neighboring properties;
- C) The nonconformity was lawful at the time of its inception; and
- D) No useful purpose would be served by strict application of the provisions or requirements of this chapter with which the use or structure does not conform.

Section 11.03 Procedure for Obtaining Class A Designation

- A) **Application Process.** A written application must be filed setting forth the following information:
- 1) The address, parcel identification number and legal description of the total land area of the application.
 - 2) **Use(s).** A map showing the existing and proposed use(s) of the subject property and adjacent lands with sufficient detail to properly define nearby parks, public lands, roads, highways, available discharge points or routes for surface drainage, sewer and water facilities and zoning district boundaries.
 - 3) **Sketch Plan.** A plan for alterations, enlargements, extensions, and other site improvements, if any, associated with the application for a Class A designation.
 - 4) Any information as may be deemed necessary by the Planning Commission to decide on the request.

- B) Public Hearing.** A public hearing must be held by the Planning Commission for a request on a Class A designation for a non-conforming structure or use, to acquaint the public and particularly adjoining property owners with the request.
- C) Planning Commission Decision.** After a public hearing, the Planning Commission may deny, approve or approve with conditions a request for a Class A designation, after review of the application and the standards established in this section. The decision of the Planning Commission must be incorporated in a statement to be made part of the official minutes of the meeting and must contain the conclusions relative to the application under consideration. The Commission must specify the basis for the decision and any conditions imposed. No vested interest must arise out of a Class "A" designation.
- D) Effect of Approval.**
- 1) **Class A non-conforming structures.** These structures may be permitted to be perpetuated, expanded, enlarged, altered, improved, or reconstructed if damaged or destroyed only after approval of the Planning Commission, and in accordance with an approved plan, the provisions of this section and any conditions of approval. Should such a structure be moved for any reason for any distance whatsoever, it must conform to the regulations for the district in which it is located after it is moved.
 - 2) **Class A non-conforming uses.** These uses may be perpetuated, expanded, enlarged, increased, or extended, either on the same or adjoining lot or parcel, only after approval of the Planning Commission, and in accordance with an approved plan, the provisions of this section and any conditions of approval. No such non-conforming use must be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance, except after approval of the Planning Commission.
- E) Effect of Denial.**
- 1) **Zoning Board of Appeals:** The following must not be eligible for appeal to the Zoning Board of Appeals:
 - a) An application for a Class A designation that has been denied by the Planning Commission.
 - b) An administrative decision made by the Chief Zoning Administrator regarding a modification of a Class B structure or use that has been previously denied by the Planning Commission for Class A status.
 - 2) **Re-submission.** Notwithstanding the above, a previously denied application for Class A status may be resubmitted for Planning Commission consideration as a new application after a minimum of 365 days have elapsed from the date of denial by either the Planning Commission or Building Official.

Section 11.04 Removal or Revocation of Class A Designations

- A) Cessation or Removal.** If a Class A non-conforming structure is permanently removed, or when a Class A non-conforming use is discontinued or ceases to exist for a period of more than three hundred sixty-five (365) days, the Class A designation may be revoked by the Planning Commission. If the Class A non-conforming use is changed or replaced by a conforming use, the designation shall be deemed removed.

Any subsequent structure or use shall conform with the provisions of this Ordinance for the district where it is located unless a change to another non-conforming use has been approved by the Planning Commission.

- B) Revocation.** Upon a finding that the structure or use no longer qualified for Class A designation, because of any change of conditions or circumstances, or failure to maintain or improve a Class A non-conforming structure or use in accordance with the provisions of this section, an approved site plan or any conditions of approval, the Planning Commission may take action to revoke the Class A designation. Such action shall be subject to the following:
- 1) **Public Hearing.** The Planning Commission shall hold a public hearing subject to the notice requirements, at which time the owner, operator or person having use of property occupied by a Class A designated non-conforming structure or use shall be given an opportunity to present evidence in opposition to revocation.
 - 2) **Determination.** Subsequent to the hearing, the decision of the Commission with regard to the revocation shall be made and written notification provided to said operator or person having use of property occupied by a Class A designated non-conforming structure or use.

Section 11.05 Class A Approval Standards

The Planning Commission may approve a Class A designation for a non-conforming structure or use only upon determining that the following conditions exist:

- A) Protect the Health, Safety and Welfare of Community from Nuisances.** The proposed use must not generate activities that are detrimental to the public health, safety, and welfare. Are there any detrimental effects or nuisances involved in the project and how are these nuisances mitigated? Consider the production of traffic, noise, vibration, smoke, fumes, odor, dust, glare, light, etc.
- B) Protect Adjacent Property Value and Existing Character.** Continuance of the non-conforming structure or use does not and is not likely to significantly depress the value of nearby properties and will not have a negative effect on the existing character of the neighborhood.
- C) Recognize Lawful Structures and Uses.** The structure or use was lawful at the time of its inception and is non-conforming as defined in this Ordinance.
- D) Protect from Abandoned Uses/Structures.** No nonconforming use or structure shall be resumed if it has been for any reason discontinued for a continuous period of at least twelve (12) months.
- E) Promote Alignment and Conformity with Community and Zoning Ordinance (Uses).**
 - 1) The proposed use will have less of a negative impact on neighboring properties than the existing land use.
 - 2) The proposed use, although inappropriate to a uniform zoning pattern, is desirable and useful in pursuit of the public interest or is more appropriate to the zoning district than the existing nonconforming use.
- F) Promote Alignment and Conformity with Community and Zoning Ordinance (Structures).**
 - 1) The proposed alteration/extension/expansion/replacement will not have a negative impact on neighboring properties.
 - 2) The materials are compatible with the existing building.
- G) Require Appropriate Safeguards/Conditions.** In permitting such a change in use or structure, the Planning Commission may require appropriate conditions and safeguards in accord with the purpose and intent of this

chapter, inclusive of upgrading the premises to comply as nearly as is practicable with requirements of this chapter.

- H) Improve Landscaping and Screening.** The applicant must update their property to meet the landscaping and screening requirements established within this Chapter.

Section 11.06 Class B Regulations

Where, on the effective date of this Zoning Ordinance, a lawful use or structure of land exists that is no longer permitted and it is not deemed Class A, such use may be continued, subject to the following:

- A) Changes in Ownership.** When the nonconforming use or structure changes ownership, the new owner must bring the site into landscaping compliance, provide the required screening device(s), and provide a dumpster enclosure. The Building Official can waive a portion of landscaping requirements—but cannot waive requirements entirely.
- B) Enlarged or Alteration Restrictions.** A non-conforming use or structure of land cannot be enlarged, expanded, or extended to occupy a greater area of land or altered in a way that increases their nonconformity.
- C) No Incidental Uses or Structures.** No accessory use or structure can be established as incidental to a non-conforming use.
- D) No Re-Location.** No non-conforming use or structure of land can be moved in whole or in part to any other portion of the land on which it is located.
- E) No Extension or Displacement.** No non-conforming use or structure can be extended to displace a conforming use or structure.
- F) Expiration.** If a non-conforming use or structure of land ceases for any reason for a period of more than 12-months (consecutive), the use or structure cannot be re-established, and future uses and structures must conform to the regulations of this Zoning Code. To determine the 12-month period, the Zoning Administrator will use the date at which the property's business license expired.
- G) Destruction.** Should such structure or nonconforming portion of the structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at a time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- H) Unsafe Structures.** Non-conforming structures that are determined by the Zoning Administrator to be unsafe must not thereafter be restored, repaired, or rebuilt, but rather must be immediately removed.
- I) Other Regulations.** The use or structure must be maintained in compliance with all applicable federal, state, county and City laws, ordinances, regulations, and codes, other than the use regulations for the district where the use is located. Failure to do so, or failure to bring the use into compliance with current laws, ordinances, regulations and codes within one hundred eighty (180) days of their effective date, shall constitute grounds for the City to seek court approval to terminate or remove the use.

Section 11.07 Class B Exceptions

- A) Normal Repairs and Maintenance.** This Article must not prevent work required for compliance with the provisions of the State Construction Code or Michigan housing laws regulating the maintenance of buildings or structures. Normal repair, maintenance or replacement of interior non-bearing walls, fixtures, wiring, plumbing, or heating and cooling systems in Class B non-conforming structures may be permitted in accordance with applicable code requirements, provided that such improvements do not result in an enlargement of a non-conforming structure or use, and provided that the cost of such improvements does not exceed the state equalized value of the structure at the time such work is conducted, unless such building is changed to a conforming use.
- B) Changes to a Use Permitted.** Existing nonconforming structures and uses may experience minor site modifications that enlarge or structurally alter the building only if the use of the addition/structural alteration is changing to a use permitted in the district.
- C) Structures under Construction.** Nothing in this Article must require a change in the plans, construction or designated use of any building or structure for which construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Ordinance and diligently carried on until completion. Construction must include the placement of materials in a permanent manner or demolition and removal of an existing structure preparatory to rebuilding in accordance with an approved site plan.
- D) Restoration of Damaged Structures, including their Use.**
- 1) The reconstruction, repair, rebuilding, or continued use of any non-conforming building, including their use, damaged by fire, collapse, explosion, or act of natural disaster or unusual circumstance wherein the expense of such reconstruction does not exceed the assessed valuation of the building at the time such damage occurred is permitted, provided there is no increase to its non-conformity. However, every effort shall be made to rebuild or repair such non-conforming building in complete conformity with this Zoning Ordinance.
 - 2) When any non-conforming building is destroyed by any means to the extent of more than the assessed valuation, said structure or use cannot be rebuilt, restored, or reoccupied for any purpose except in conformity with the provisions of this Zoning Ordinance. If the cost of repairs and restoration is less than the state equalized value of the structure, then it may be restored to the same configuration as existed before such damage, provided that such restoration must be subject to site plan approval by the Planning Commission. Said restoration must be commenced within 180 days of the date of site plan approval and must be diligently carried on to completion.
- E) Change of Tenancy Permitted.** There may be a change in tenancy, ownership, or management of an existing nonconformity without affecting its non-conforming status, if there is no change in the nature or character of the nonconformity.

Section 11.08 Non-Conforming Lots or Parcels in the R-1 District

In the R-1 District, there are recorded lots or parcels, which lawfully existed at the time of adoption of this Ordinance, which do not meet the minimum requirements for width, area, or setbacks. The purpose of this Article is to allow such lots or parcels of record to be utilized if reasonable living standards can be provided. The following regulations must apply to non-conforming lots or parcels of record within the R-1 District:

- A) Development.** A single-family dwelling and customary accessory structures may be erected on any single lot or parcel of record in the R-1 District that was in existence at the effective date of adoption or amendment of this Article. This provision must apply even if the lot or parcel does not meet the minimum area or width requirements of the R-1 District, provided that any principal or accessory structure constructed on the lot or parcel complies with all other yard, floor area, height, and access requirements of the R-1 District.
- B) Review and Approval Procedure.** An application for the construction of a single-family residence on a non-conforming lot or parcel of record in the R-1 District must be submitted to the Zoning Administrator for review and approval prior to the issuance of a building permit. In reviewing the application, the Zoning Administrator must determine that all other requirements not involving area or width have been met. In addition, the Zoning Administrator must determine whether any additional information and/or approvals must be obtained to ensure compliance with this Article, and to preserve the general public health, safety, and welfare.

Section 11.09 Removal of Non-conformities by City Action

The City may acquire by purchase, condemnation, or otherwise, private property or an interest in private property for the purpose of removing nonconformities. The elimination of the nonconformities in a zoning district may be declared to be for a public purpose and for a public use. The Planning Commission may institute and prosecute proceedings for condemnation of nonconformities under the power of eminent domain in accordance with Public Act 149 of 1911, as amended, being sections 213.21 to 213.41 of the Michigan-Compiled Laws, or other applicable statute.

Article 12.

Zoning Plan Reviews

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 12.01 Intent Statement

- A) Purpose.** The purpose of a zoning plan review is to ensure project compliance with the city of Eastpointe's Zoning Ordinance, along with other applicable ordinances and laws (e.g., Michigan's Building Code), all of which protect the health, safety, and well-being of a community.
- B) All Projects Require a Zoning Plan Review.** No building can be erected, moved, relocated, or structurally altered and there cannot be a change or addition of use, nor expansion or reduction of off-street parking, and no filling, excavation or grading can be undertaken until a required plan has been submitted for review and approval, as specified in this section.

Section 12.02 Types of Zoning Plans and Reviews

- A. Types of Zoning Plans and Reviews.** There are two types of zoning plans and reviews in the city of Eastpointe:
1. *Planning Commission Site Plans.* Planning Commission site plan projects involve major new construction and special planning processes such as special land use reviews, variances and planned unit development.
 - (a) All projects require a Planning Commission site plan, unless specified otherwise by the Zoning Administrator and unless the project falls within one of the administrative plan categories.
 2. *Administrative Sketch Plans.* Administrative sketch plan projects involve minor new construction and changes in site exterior, temporary uses, re-occupancies. Additionally, sketch plans are used for projects featuring new construction of one- to two- family structures and accessory structures.
- A) Discretion of the Zoning Administrator.** The Zoning Administrator makes the final determination on the type of zoning plan review required and the criteria needed for each plan. The Administrator has a the right to waive and add additional criteria to a zoning plan review.

Section 12.03 Types of Projects for Zoning Plans

Development Review	Types of Projects	Review Authority	Contents
Administrative Sketch Plan	<p>Renovation / Construction</p> <ul style="list-style-type: none"> • Renovation, addition to or construction of a one- to two-family structure (up to 4 units). • Construction of a new accessory structure. • Change in building height that does not add floor area. • Projects that involve minor modifications and do not require special land use or variance. Minor modifications are defined as a change to an existing building that does not increase the footprint by more than 25%. <p>Re-Use / Re-Occupancy</p> <ul style="list-style-type: none"> • Re-use, re-occupancy or existing multi-family structures that do not require site modifications. <p>Temporary Uses</p> <ul style="list-style-type: none"> • Temporary uses and structures (including outdoor sales and dining). <p>Exterior Site Improvements</p> <ul style="list-style-type: none"> • Change in building height that does not add floor area. • Infrastructure and paving improvements including sidewalks and pathways. • Landscape updates, including but not limited to excavating, filling, removing soil. • Non-structural architectural design changes to non-residential uses. • Modification, resurfacing or expansion of existing off-street parking, stacking spaces or loading and unloading areas less than 10%. • Construction, relocation or erection of signs, screening walls, fences, walls, waste receptacles, sidewalks, antennas, lights, poles, cooling/heating or other mechanical equipment. • Modifications to comply with accessibility requirements. 	Building Official / Zoning Administrator / City Planner	Plans must be drawn to scale. See criteria listed in the following sections. Additional requirements are at the discretion of the Zoning Administrator or their designee.
Planning Commission Site Plan	<p>New Construction</p> <ul style="list-style-type: none"> • Projects that involve (not minor) new construction. <p>Special Planning Process</p> <ul style="list-style-type: none"> • Projects that involve a special land use, variance and Planned Unit Development. <p>Intensified Uses</p> <ul style="list-style-type: none"> • Change of use to a more intensive use, which may result in changes in parking, hours of operation, physical character of the site 	Planning Commission	Plans require a certified land survey stamped and sealed by a licensed architect/engineer/build er/land surveyor and landscape architect.

Section 12.04 Required Plan Elements

The Zoning Administrator has final discretion over zoning plan submission criteria and requiring applicant's to bring their property closer into compliance with zoning ordinance standards, such as architectural details. For most accurate information, reach out to the Planning and Zoning Department. See overview of criteria below.

In the table below, the following colors represent the criteria required for an Administrative Sketch Plan and Planning Commission Site Plan.

- Light gray: Administrative Sketch Plan, and Planning Commission Site Plan
- Medium gray: Planning Commission Site Plan

APPLICATION DATA

Requirements

One pdf copy and one paper copy of the site/sketch plan (additional copies shall be provided upon request).

Review fee.

Completed application form. Form includes proof of ownership. If the applicant is not the owner, a written explanation of their legal relationship shall be submitted. Other form requirements: written project description; contact information for all parties involved in project; and a proposed timeline of project completion.

DESCRIPTIVE AND IDENTIFICATION DATA

Requirements

Project title, street address and parcel number.

Location map showing relationship to streets, major thoroughfares, adjacent properties and north point.

Legal property description.

Property Size: Acres, square feet, dimensions.

Zoning classification of petitioner's parcel and all abutting parcels.

Written project description including proposed uses of buildings and site improvements. Include estimate number of employees, if applicable.

Name, address, phone number of owner/lessee and professional who prepared the plans.

Seal of registered architect, landscape architect, land surveyor, or engineer that prepared the plan.

Proposed time of project completion and phasing schedule.

Note indicating any variances previously received.

Note indicating additional use standards.

GENERAL SITE DATA

Requirements

North point and scale drawn no less than 1" = 30'. Sites greater than three acres must be drawn at a scale not less than 1" = 50'.

Date of preparation of drawings and revisions.
Location of all existing and proposed lot lines, lot dimensions, property lines, easements, right-of-way, road centerlines.
Location and/or size and depth (±) of all existing sewer, water, gas, telephone, and electrical utility lines, and associated structures, both on-site and adjacent to the site.
Verification of ownership of all existing utilities and/or rights-of-way.
All existing (recorded) easements for utilities and/or rights-of-way.
Location of any 100-year floodplain and floodway locations present on the subject property, or within 50 feet of the subject property.
Location of any known or anticipated wetlands present on the subject property, or within 50 feet of the subject property.
Topography on the site and within 100 ft of the site at two ft contour intervals, referenced to a U.S.G.S. benchmark.
Note indicating any anticipated changes in terms of dust, odor, smoke, fumes, noise, light, etc.
Assessment of potential impacts from the use, storage, processing, or movement of hazardous materials or chemicals, if applicable.

BUILDING FORM AND DESIGN STANDARDS

Requirements: Article 7

Front, side, and rear yard setbacks.
Distances between existing and/or proposed buildings.
Location, dimensions, height, and number of stories for all existing and/or proposed structures.
Façade and ground floor heights.
Building façade elevations for each side of the building indicating the type of building materials, colors, height, architectural detail and wall lengths. Note, be mindful to avoid blank walls.
Primary entrance details.
Percentage of first floor and additional floors glass windows.
Floor Plan.
Gross floor area and usable floor area of all existing and/or proposed structures.
For multiple-family structures, include a schedule of dwelling units indicating the total number of units broken down by the number of bedrooms and keyed to the buildings.
Schedule showing maximum allowable lot coverage and proposed lot coverage.
Other pertinent features, including entrance details, decks, porches, fences, flag poles, mailboxes or other structures.
Method of solid waste collection. For waste receptacles, provide location, detail, and method of screening for the enclosure.
Rooftop equipment and the method of screening.

PARKING & CIRCULATION

Requirements: Article 9

Parking lot layout showing the dimensions of the parking bays, maneuvering lanes, islands, turnarounds, the location of directional signage, and pavement markings. Space layout cannot impede circulation.
Location and type of surfacing for all pavement areas and curbs.
Location and dimensions of barrier-free spaces and barrier-free ramps.

PARKING & CIRCULATION

Requirements: Article 9

Table showing the total number of parking spaces required and proposed. Include the calculations used to determine the number of parking spaces.

Location and dimensions of any loading and unloading spaces, service areas, and/or stacking spaces.

Location and width of access drives and abutting streets and sidewalks, including radii information.

Illustration of route and dimensions for turning movements of expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles, etc.

Location and width of existing and/or proposed sidewalks.

Demonstration that all pedestrian walking lanes are safe and provide uninterrupted path to entrance.

Area designated for "snow storage".

Note indicating that approaches to roads under the jurisdiction of Macomb County are required to meet County standards and permit requirements.

Note indicating that approaches to roads under the jurisdiction of MDOT are required to meet State of Michigan standards and permit requirements. A note to that effect must be provided.

Letter from the road agency with jurisdiction indicating the approval of the location and geometrics of any proposed ingress/egress.

LANDSCAPE & SCREENING

Requirements: Article 10

Location of all existing and proposed landscaped areas, including trees and shrubs

Linear length (in feet) of road frontage.

Landscape Schedule indicating the type, size, and quantity of plant and tree materials. Calculations used to determine the quantity of trees and shrubs required.

Off-street parking lots with 20 or more spaces must dedicate at least 5% of total parking area to interior landscaping islands. Each island must be a minimum of 150 SF and contain at least 1 deciduous tree, covered with mulch, grass or groundcover.

Written description indicating the landscape maintenance procedures.

Note indicating that all landscaping shall be kept in a neat, orderly, and healthy growing condition, free of debris and refuse.

Note indicating that pruning shall be minimal to ensure the proper maturation of plants.

Note indicating that all landscape areas will be irrigated by an automatic, underground irrigation system.

Note indicating tree and shrub planting details.

Cross-sections illustrating relationship between proposed grades, materials, landscaping, screening, etc.

Location and description of existing and proposed screening walls and fences, including dimensions, placement, relationship to grading, materials and color. Review City's standards in Article 10 for more information on screening devices required for parking lots and from residential uses.

LIGHTING

Requirements: Article 7

Location, type, and height of all outdoor lighting.
Photometric Plan.
Manufacturers cut-sheets for all proposed outdoor light fixtures.

SIGNAGE

Requirements: Article 11

Location and illumination of all proposed signage and sign structures.
Note indicating that "No signage has been approved as part of this Site Plan Approval, and prior to erecting a sign, an application and appropriate documentation and submissions must be made to the Building Department for review, approval, and the issuance of a sign permit."

ENGINEERING INFORMATION

Requirements

Proposed grade elevations showing all high points, low points, and grade changes on the site, including the grades of the property corners and along the perimeter of the site.
Finish grades of the building corners, driveways, sidewalks, parking areas, culvert inverts, ditch or swale lines, and along the right-of-way. Clearly differentiate from existing grade elevations by underlining, boxing, or some other means.
Schematic layout of the location and/or size and depth of all proposed sewer, water, gas, telephone, and electrical utility lines, and associated structures, both on-site and adjacent to the site.
Length, size, and slope of the pipe to be used for each of the proposed storm sewer, sanitary sewer, and watermain lines.
Type of pipe to be used for each of the proposed storm sewer, sanitary sewer, and watermain lines.
Rim and invert elevations of all proposed structures for each of the proposed storm sewer, sanitary sewer, and watermain lines.
Invert elevation at the building and at the point of connection for the main sanitary sewer line.
Bedding and backfill requirements for each of the proposed storm sewer, sanitary sewer, and watermain lines.
Profile views of all proposed storm sewer, sanitary sewer, and watermain lines.
Depth of the lead at the easement or right-of-way line from the final grade.
Note indicating the proposed water service to the building, and the size.
Location of fire hydrants and gate valves.
Storm sewer calculations must be provided for all sites.
Soil erosion and sedimentation control measures.
Proposed pavement specifications and/or cross-section detail.
Acceleration, deceleration, and passing lanes and tapers on major thoroughfares, as required by MDOT or Macomb County.
Written description of utility easements.
Written detailed cost estimate for the construction of the proposed sanitary sewer or watermain.
List of all public improvements as result of this project.

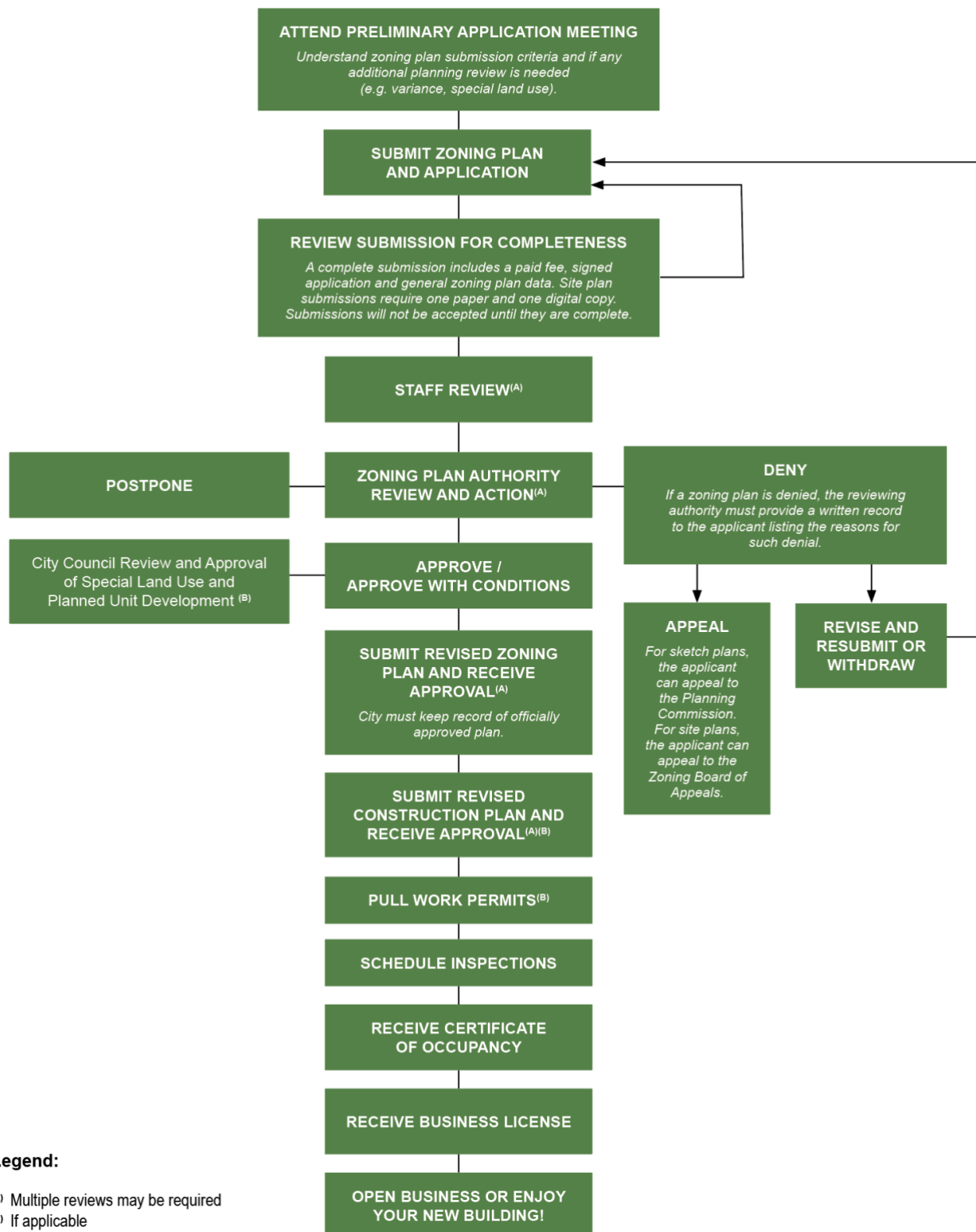
Section 12.05 Review Standards

In the process of reviewing the sketch plan and site plan, consider the following standards:

- A) Application, Descriptive and General Site Data.** The proposed use has the potential to be compatible with the zoning district and surrounding uses. The plan submission provides all basic site information in a visually legible manner.
- B) Building Form and Design Standards.** Building form and design must relate to and be harmonious with the surrounding neighborhood in terms of texture, scale, mass, proportion, materials, and color. Buildings and structures must meet or exceed setback standards, build-to lines, height and other dimensional standards, and so placed to preserve environmentally sensitive areas.
- C) Parking and Circulation.** The pedestrian and vehicular circulation system planned for the proposed development must be in the best interest of the public health, safety, and welfare in regard to on-site circulation and the overall circulation of the neighborhood and community. Attention must be directed to the ingress/egress access points, maneuvering lane, turning movements, loading areas, street and alley intersections. The parking pattern proposed shall be in the best interest of the public health, safety, and welfare in regard to size, layout and quantity, and the location of parking facilities will not be detrimental to nearby developments, properties, or public streets.
- D) Landscaping and Screening.** Walls, earth berms, planting screens or combinations act as buffers to provide a more compatible, safer and visually attractive physical separation between various land use types. Where necessary, these devices create a definitive site improvement, thereby minimizing the impact that one type of land use may have on another. General landscaping enhances the appearance, character and value of property while having a positive impact on the community. Landscaping breaks up masses of paved and building areas and provides a cooling effect, encourages the preservation of existing vegetation where possible, and can provide a physical separation between pedestrian and vehicle traffic.
- E) Lighting.** Encourage site lighting that will be attractive to the eye while at the same time adequately illuminating a site for safety and convenience. It is further the intent of this section to discourage excessively bright and harsh site illumination that creates undesirable halo effects on the property, diminishes the residential environment and presents a potential hazard to vehicle and pedestrian traffic on abutting streets and sidewalks.
- F) Signage.** Site signing must meet the requirements of the zoning ordinance and must be approved by the Director of Public Services.
- G) Engineering Information.** Utility services, including sanitary, water and storm runoff, must not exceed the existing or planned capacity of such services, and shall be developed in the best interest of the public health, safety, and welfare of the community. The proposed development must be designed and located so that public services, including streets and sidewalks, police and fire protection, and public schools have sufficient capacity to properly serve the development, and so that such services will not be adversely affected by the proposed development.

Section 12.06 Zoning Plan Review Process

- A) Process Overview.** See Flow Chart below.
- B) Pre-Application Meetings.** Prior to beginning any development or zoning plan process in the City, applicants are encouraged to meet with City staff for a conceptual review of the proposed project. This meeting can help promote a smooth approval process once a formal application is submitted. Please contact the [Planning Department](#) to schedule a meeting and discuss what to bring to the meeting and what to expect. Bring a preliminary sketch of the project to the meeting (hand-drawings are acceptable).
- It is at the discretion of Zoning Administrator to determine if a fee must be paid to attend the pre-application meeting. If a meeting is larger in scope and requires the attention of the City Engineer, then a fee must be paid, as stated in the fee schedule.
- C) Decision Statement.** The planning commission must state, in the record of its proceedings, the grounds for the actions taken concerning each site plan submitted for its approval and list any conditions imposed.
- D) Performance Guarantee.** The planning commission may require a performance guarantee to be deposited with the community development department at the time of issuance of the building permit to ensure completion of the proposed project in accordance with MCL 125.3505.



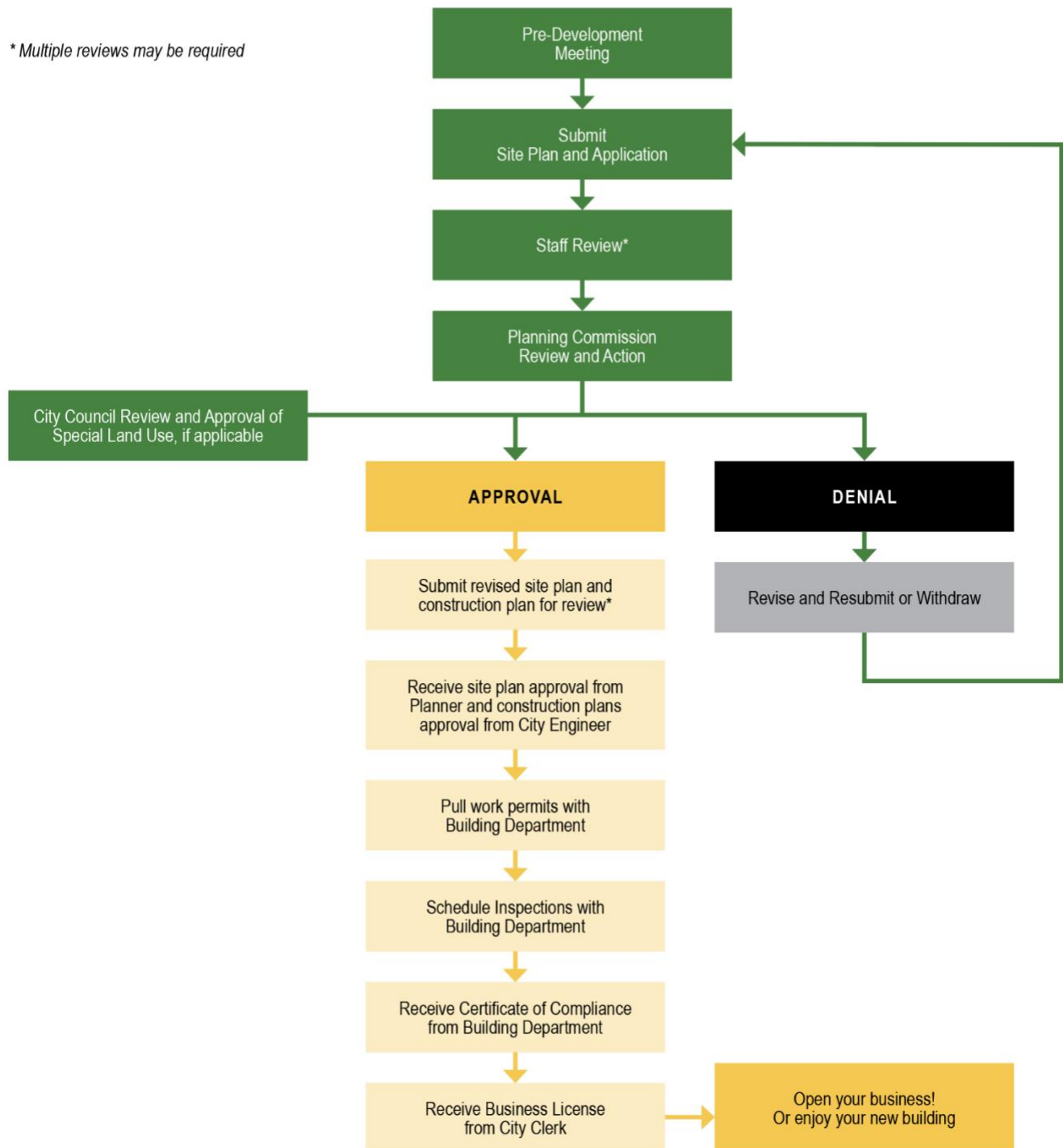
Section 12.07 Procedures after Plan Approval

- A) Final Approved Plan.** The applicant must submit a final approved zoning plan with the changes required by the Zoning Administrator and the Planning Commission and list any conditions as a note on the plan, before receiving a work permit or submitting construction drawings. The final plan is a requirement of the planning process, and no project can move forward without an authorized final plan. Final plans are authorized by the Zoning Administrator.
- B) Approval Expiration.** The approval of a zoning plan shall be effective for a period of 12 months from the date of such approval. If a building permit has not been obtained and construction has not commenced within the 12-month approval period, the zoning plan approval shall be null and void. In such a case, the applicant shall be required to obtain a new zoning plan approval as specified in this Article.
- C) Approval Extensions.** Administrative sketch plans shall not be granted an extension. An extension of up to 12 months for an approved planning commission site plan may be granted by the planning commission. An extension may be granted provided the approved site plan continues to adequately represent current conditions on and surrounding the site, and that the site plan conforms to the standards of the city regulations in affect at the time of the applicant's request for an extension.
- D) Site Maintenance after Approval.**
- 1) It is the responsibility of the owner of a property for which zoning plan approval has been granted to maintain the property in accordance with the approved plans, including all site design elements and improvements, on a continuing basis until the property is razed, new zoning regulations supersede the regulations upon which plan approval was based, or a new plan is approved.
 - 2) Any property owner who fails to maintain an approved zoning plan in full compliance with approvals granted by the city according to the provisions of these regulations, is in violation of these regulations and required to return the site conditions consistent with the approved plans or they will lose their zoning plan approval and risk the loss of their certificate of occupancy and business license.
- E) Revocation.** Any approved zoning plans may be revoked by the Planning Commission if construction on the site is not completed or is not progressing in a manner consistent with the approved plans. In such a case, the plan will be placed on the agenda of a Planning Commission meeting for consideration. The city must give written notice to the applicant at least 10 days prior to the meeting. The CED Director, other city staff, the applicant, and other interested persons shall be allowed to present information and testimony to the Planning Commission. If the Planning Commission finds that an inconsistency or violation of the approved site plan exists at the time of the hearing, then, by a majority vote of attending members, the Planning Commission may revoke the approval of the plan and order the site returned to its original condition by a date certain. Failure to comply with such an order is a violation of these regulations.
- F) Modification to Approved Plan.** A previously approved plan may be subsequently modified, subject to the review and approval requirements of this article based on the scope of the proposed modifications. It is up to the Zoning Administrator to decide if a revised zoning plan must receive administrative or Planning Commission approval.

Site Plan Review and Special Land Use Process

CITY OF EASTPOINTE, MICHIGAN

** Multiple reviews may be required*



Article 13.

Special Land Use Review

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 13.01 Intent Statement

Typically, various land use activities are provided for in one or more zoning districts. The criteria for such allocations are based upon similarities in the nature of the uses and their relationship to other uses and thoroughfares. Essentially, the zoning districts are established to coordinate with and provide for effectuation of the city's master land use plan in a logical and desirable manner. There are, however, various specialized uses whose operational characteristics and influences require special consideration if they are to be effectively and reasonably permitted in the city. It is, therefore, the intent of this section to set forth the basic and specialized review process and requirements necessary to evaluate and control these uses within the city and further determine any other reasonable requirements which will provide for their development and operation without adversely affecting the public health, safety, and welfare of the city as a whole.

Section 13.02 Special Land Uses Required

Special Land Uses are required when the zoning table in Article 2 designates a use as a special land use. Additionally, SLUs are required when there is not a record of special land uses on file and the ordinance designates the desired use as a special land use. In this case, when there is not an SLU record on file, the applicant must go through the special land use process, including submitting a site plan. If the proposed use is re-occupying a building, the Zoning Administrator may recommend waivers in site plan submittal requirements. It is up to Planning Commission to grant official site plan submittal waivers.

Section 13.03 Special Land Use Approval Standards

Prior to the Planning Commission making a recommendation and the City Council approving any application for a special land use approval, the Planning Commission and City Council shall find adequate evidence that the proposed use:

- A) Compatible with Adjacent Uses and an Improvement to Community.** The proposed use must be compatible to the adjacent uses and an improvement to the community. In determining whether this requirement has been met, consideration shall be given to location and screening of vehicular circulation and parking; location and screening or outdoor storage; hours of operation, bulk and placement of proposed structures in relation to surrounding uses, proposed landscaping and other site amenities.
- B) Consistent with Master Plan.** The proposed use must be consistent with the goals and vision of the Master Plan and any other strategic plans relevant to the area. How is this Special Land Use consistent with the policies of the Master Plan and other relevant strategic plans?
- C) Adequately Served by Essential Public Facilities.** The proposed use must be in a place that is served by essential public facilities and services. Is this Special Land Use located so as to be adequately served by essential public facilities, such as highways, streets, police, water and sewage, etc.? Explain.
- D) Impact on Pedestrian and Vehicle Traffic.** The proposed use must minimize the impact of the traffic generated by the proposed use on surrounding uses. Does the location of the proposed Special Land Use within the zoning district minimize the impact of the traffic generated by the proposed use? Consider, proximity and access to major thoroughfares, estimated traffic generated by proposed use, proximity and

relation to intersection, adequacy of driver sight distances, location of and access to off -street parking, required vehicular turning movements and provision for pedestrian traffic.

- E) Protect Health, Safety and Welfare of Community from Nuisances.** The proposed use must not generate activities that are detrimental to the public health, safety, and welfare. Are there any detrimental effects or nuisances involved in the Special Land Use and how are these nuisances mitigated? Consider production of traffic, noise, vibration, smoke, fumes, odor, dust, glare, light, etc.
- F) Consistent with Zoning Ordinance.** The use must be consistent and promote the intent and purpose of the Zoning Ordinance. Explain how this application for Special Land Use approval meets all specific criteria and design standards for the specific use outlined in the Zoning Ordinance.

Section 13.04 Application Requirements

- A) Application Submittal.** An application for special land use review shall be filed with the Building Department on a form provided by the City along with the required application fee and any necessary escrow payment. The completed application shall be signed by the property owner. Applications will not be processed unless they are complete and unless all fees are paid in accordance with the schedule of fees adopted by the City Council.
- B) Required Information.** An application for special land use shall be accompanied by a detailed description of the operations and characteristics of the proposed use sufficient for the Planning Commission to make an informed decision. A sketch plan or site plan that meets the requirements of this Article can also be submitted with an application. The applicant can decide to wait and submit a formal site plan until after receiving approval.
- C) Technical Review.** Special land use applications may be forwarded to the planner, engineer, and city department heads for review to determine compliance with applicable City, County and State ordinances and standards. For special land use applications determined not to be in substantial compliance by any technical reviewer, the applicant may be required to complete revisions and re-submit the application for further review prior to final action.

Section 13.05 Planning Commission Review

- A) Public Hearing Required.** Prior to making a recommendation and as a part of completing a review and study of a special land use application, the Planning Commission shall hold a public hearing in accordance with the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended).
- B) Planning Commission Recommendation.** The Planning Commission shall review the application for Special Use, together with the public hearing findings and reports and recommendations from the Building Official, City Planner, City Engineer, and other departments. The Planning Commission shall then make a determination on the Special Land Use application. The Planning Commission may recommend approval, approval with conditions, or denial of a Special Land Use request to the City Council as follows.
 - 1) **Recommendation of Approval.** Upon determination by the Planning Commission that the final plan for Special Use is in compliance with the standards and requirements of this Article and other applicable ordinances and laws, approval shall be granted.

- 2) **Recommendation of Approval with Conditions.** The Planning Commission may impose reasonable conditions with the approval of a Special Use proposal, to the extent authorized by law. Conditions imposed shall meet all of the following requirements.
 - a) Conditions shall be designed to protect natural resources, the health, safety and welfare, and the 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, and the community as a whole.
 - b) Conditions shall be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - c) Conditions shall be necessary to meet the intent and purpose of this Article, related to the standards established in this Article for the land use or activity under consideration, and necessary to ensure compliance with those standards.
 - 3) **Recommendation of Denial.** Upon determination by the Planning Commission that a Special Use proposal does not comply with the standards and regulations set forth in this Article, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the city, the Special Use proposal shall be denied. Planning Commission must provide its reasoning for recommending denial of the project.
- C) The Planning Commission shall prepare and transmit a report to the City Council stating its conclusions and recommendation, the basis for its decision, and any conditions relating to an affirmative decision.

Section 13.06 City Council Review

The City Council shall make a determination based on review of the application and site plan, together with the findings and recommendation of the Planning Commission, the reports from the Building Official, City Planner, City Engineer, and other departments. Following completion of its review, the City Council shall approve, approve with conditions, or deny a Special Land Use. If the City Council denies the Special Land Use request, then they must provide findings of fact and reasoning for the denial.

Section 13.07 Procedures after City Council Review

- A) **Site Plan Requirement.** All Special Use applications shall require Site Plan Approval in addition to Special Use Approval. In order for the Site Plan to be approved, the site must be brought up to all relevant standards of this Ordinance, including, but not limited to, lighting, signage, dumpster enclosures, landscaping, and parking. The Planning Commission may refer the required Site Plan Approval to the Zoning Administrator for Administrative Site Plan Review, upon determining that the physical site changes proposed or required are minor in nature.
- B) **Performance Guarantee.** The Planning Commission may recommend, and the City Council may require that a performance guarantee be deposited with the city to ensure faithful completion of the improvements. Improvements that shall be covered by the performance guarantee include, but are not necessarily limited to landscaping, open-space improvements, streets, lighting, and sidewalks.
- C) **Recording and Continued Compliance with Conditions of Approval.** Approval by the City Council may require additional conditions and safeguards as deemed necessary for the protection of the health, safety,

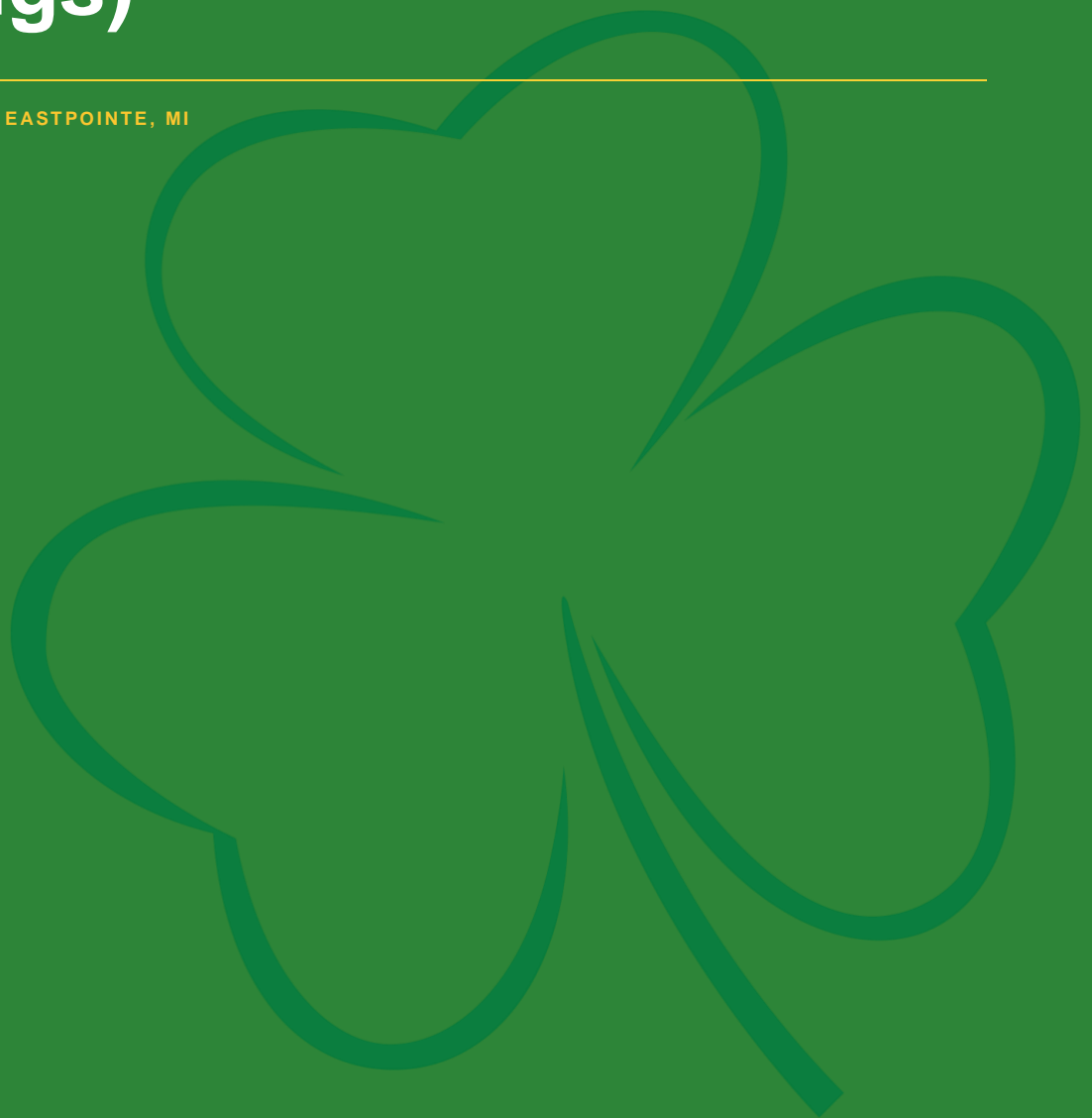
and general welfare and individual property rights as well as ensuring that the intent and objectives of this Article are observed. The breach of any condition, safeguard or requirement and the failure to correct such breach within 30 days after an order to correct is issued by the city shall be reason for immediate revocation of the permit. Additional time for correction of the cited violation may be allowed by the city upon submission of proof of good and sufficient cause. Conditions and requirements stated as a part of special land use approval authorizations shall be continuing obligations of the holders of such permits and are binding upon their heirs and assigns and upon any persons taking title to the affected property while such special use permit is in effect. Accordingly, the special land use approval and any conditions shall be recorded with the Macomb County Register of Deeds.

- D) Approval Effective Date.** Special Land Use Approval is effective for a period of 1-year. If after a period of one year from the date of City Council approval, site plans have not been submitted for review and approved, Special Land Use approval shall automatically be revoked. The Planning Commission may however, upon written request of the applicant, prior to the expiration period, grant one extension up to 12-months.
- E) Amendments to Approved Special Land Uses.** When an application is received to expand or change the use, traffic pattern, or other elements of a special land use, the application is subject to the same procedures followed for an original special approval of land use.
- F) Resubmission.** No application for a special use permit which has been denied by the City Council can be resubmitted until the expiration of 1-year from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions sufficient to justify reconsideration by the Planning Commission. Each reapplication will be treated as a new application.
- G) Revocation of Special Land Use Approval.** Approval of a Special Land Use proposal and site plan may be revoked by the City Council if construction has not commenced or if the use is operating contrary to the conditions of approval. In such a case, the Zoning Administrator shall place the Special Use proposal be placed on the agenda of the City Council. Written notice shall be provided to the applicant at least five days prior to the meeting at which the case will be considered. The applicant shall be given the opportunity to present information and to answer questions. The City Council, as appropriate, may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.
- H) Discontinuance of a Special Land Use.** The discontinuance of a special land use approval for 12 months or more after a specified time may be grounds for the termination of the permit. Renewal of a special use permit may be granted after a new application, review, and determination by the city council, after recommendation of the planning commission. The special land use approval may also require that a specified percentage of authorized construction be completed within a stated time as a condition of the issuance of the permit.

Article 14.

Text / Map Amendments (Rezoning)

ZONING ORDINANCE · CITY OF EASTPOINTE, MI



Section 14.01 Intent Statement

A Zoning Ordinance is a living document, which means that it must evolve to changes within the community and outside of the community—such as amendments in planning law. Amending a zoning ordinance means the community is modernizing its policy to reflect the changing needs and desires of the community. Furthermore, a zoning ordinance is the primary tool to implement the Master Plan. Zoning ordinances are encouraged to be amended so they match the vision of the Master Plan.

Section 14.02 Review Authority

The City Council may amend, supplement, or change the regulations of this Zoning Ordinance pursuant to the Michigan Zoning Enabling Act (PA 110 of 2006), as amended.

Section 14.03 Overview

Zoning amendments come in one of two forms: zoning text amendments and zoning map amendments. Simply put, a zoning amendment is a change made to a specific section of a zoning code, or area on a zoning map, without requiring a complete rewriting of the zoning code.

- A) Text Amendment.** A zoning text amendment will rewrite a section of a zoning code that applies to every use permitted in the district, writing the rezoning of land into the zoning code, or by revising specific policy language in the zoning code. Examples of text amendments are changing the list of uses permitted in any zoning district; changing the setback required for a building; or changing the permitted size for signs.
- 1) **Amendment Request.** Requests may be initiated by the City Council, Planning Commission, or any interested person or organization.
- B) Map Amendment.** A zoning map amendment changes the zoning district on a particular property or collection of properties. A zoning map amendment may be the result of a conditional re-zoning. An example of a zoning map amendment is changing the parcel from a residential district to a commercial district. Another example of a map amendment is changing the zoning of a parcel via a conditional re-zoning. Conditional rezoning is where an applicant wishes to petition to change the zoning of a parcel(s), with conditions. To reduce controversy or concerns regarding the rezoning request, the applicant might volunteer to offer conditions that restrict the use of the parcel(s). For example, an applicant wants to open an ice cream store in a residential district, so they need to rezone their parcel to a commercial zone. To avoid allowing all types of commercial uses on that parcel, the applicant submits a condition that only ice cream stores can operate on that parcel. If the zoning amendment is approved something like a deed restriction is placed on the parcel so that only the restricted uses are possible to occur on the parcel. Only applicants can voluntarily offer conditions; the city is prohibited from requiring conditions.
- 1) **Amendment Request.** Requests may be initiated by the City Council*, Planning Commission*, or the owner(s) of the premises concerned, or by the designated agent of a person having a freehold interest in the property. *Conditional re-zonings may only be initiated by the owner or designated agent of the property of interest.

Section 14.04 Approval Standards*

*See Conditional Re-zoning section below for additional standards.

In considering any amendment, the Planning Commission and City Council must consider the following criteria. The city may consider other factors that are applicable to the application, but not listed below.

- A) Consistency with Plans.** Consistency with the goals, policies and objectives of Eastpointe's Master Plan and other city or regional planning documents. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area may be considered.
- B) Consistency with Ordinance.** Consistency with the intent and purpose of Eastpointe's Zoning Ordinance.
- C) Compatibility with the Street System.** The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- D) Sufficient Public Utilities and Services.** The capacity of the City's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of Grosse Pointe Park.
- E) Additional Criteria for a Map Amendment.** If a map amendment (rezoning) is requested, the following criteria also applies:
 - 1) **Compatibility with Built Form.** Compatibility of the site's physical, hydrological, and environmental features with the uses permitted in the proposed zoning district.
 - 2) **Compatibility with Uses.** Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, density, nature of use, traffic impacts, aesthetics, and infrastructure.
 - 3) **Compatibility with Zoning District.** The requested zoning district will be compatible in relationship to surrounding zoning districts, and future construction can meet the dimensional regulations for the requested zoning district.
 - 4) **Map Amendment Preferred.** If requested to allow for a specific use, rezoning the land is more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.
 - 5) **Spot Zoning.** Will not create an isolated or incompatible zone in the city.

Section 14.05 Application Procedures

- A) Application for Rezoning.** An application for an amendment to the text or map of this Zoning Code is initiated by submitting an application on the forms provided by the city and accompanied by the fees specified. The completed application shall be signed by the property owner. Applications will not be processed unless they are complete and unless all fees are paid in accordance with the schedule of fees adopted by the City Council.

The application must clearly describe the proposed amendment and signed by the applicant. Applications for rezoning of a specific site must be accompanied by a survey which specifies the boundaries and legal

description of the site. The city may request additional information with the application. The applicant may request that the proposed text amendment be drafted by the city, in pursuit of a clearly stated policy goal requested by the applicant and accompanied by specified fees.

B) Required Information.

- 1) **Text Amendment.** An application for text amendment shall include the existing ordinance language to remain, the existing ordinance language to be deleted and the proposed new ordinance language. The proposed changes shall be easily discernible from each other using various types of font enhancements.
- 2) **Map Amendment.** Petitions for property rezoning of a specific site shall be accompanied by a plot plan or survey and shall contain the following information:
 - a) Applicant's name, address, and telephone number.
 - b) Scale, north point, and dates of submission and revision.
 - c) Zoning classification of petitioner's parcel and all abutting parcels.
 - d) Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 100 feet of the site.
 - e) Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
 - f) Location of existing drainage courses, floodplains, and natural features.
 - g) All existing and proposed easements.
 - h) Location of all existing and proposed utilities.

C) Technical Review. Text amendments and amendments to the official zoning map (i.e., property rezonings) may be forwarded to the planner for review to determine compliance with the City Master Plan and applicable ordinance standards for approval. For amendment applications determined not to contain all required information, the applicant may be required to complete revisions and re-submit the application for further review prior to final action.

Section 14.06 Review Process

After the completed petition and all required supporting materials have been received and fees paid, the petition will be placed on the next regularly scheduled meeting of the Planning Commission.

A) Public Hearing Required. Prior to making a recommendation and as a part of completing a review and study of a text amendment or property rezoning, the Planning Commission shall hold a public hearing in accordance with the procedures of PA 110 of 2006 (MCL 125.3101 et seq.), as amended.

- 1) **Map Re-Zoning Request of 10 properties or less.** For amendments to the official zoning map, if an individual property or ten or fewer adjacent properties are proposed for rezoning, the Planning Commission shall fix a reasonable time for the hearing of the rezoning request and a notice that a request has been received shall be published in a newspaper that circulates in the city, and sent by mail to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all

structures within 300 feet. The notice shall be given not less than 15 days before the date the application will be considered.

- 2) **Map Re-Zoning Request of 11 properties or more.** For amendments to the official zoning map, if 11 or more adjacent properties are proposed for rezoning, the Planning Commission shall fix a reasonable time for the hearing of the rezoning request and a notice that a request has been received shall be published in a newspaper which circulates in the city. The notice shall be published not less than 15 days before the date the application will be considered.

- B) Planning Commission Recommendation.** After the public hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this Article, and shall report its findings and recommendation to the City Council.
- C) City Council Action.** Upon receipt of the report and recommendation from the Planning Commission, the City Council may approve or deny the proposed amendment. If determined to be necessary, the City Council may refer the amendment back to the Planning Commission for further consideration. In the case of an amendment to the official Zoning Map, the City Council shall approve or deny the amendment, based upon its consideration of the criteria contained herein this section. If the City Council denies the re-zoning application, they must provide grounds for denial to the applicant during the meeting.
- D) Protest Petition.** An amendment to the official zoning map is subject to a protest petition in accordance with section 403 of the Michigan Zoning Enabling Act, PA 110 of 2006 (MCL 125.3101 et seq.) as amended. The protest petition shall be presented to the City Council before final legislative action on the amendment, and shall be duly signed by the owners, or part owners, of 20 percent of the land proposed to be altered, or by the owners of at least 20 percent of the area of land included within the area extending outward 100 feet from any point on the boundary of the land included in the proposed change. Publicly owned land shall be excluded in calculating the 20% land area. If a protest petition is filed that meets the criteria outlined above, approval of the property rezoning shall require a 2/3 affirmative vote of the City Council.

Section 14.07 Procedures after City Council Action

- A) Petitions Previously Denied.** Whenever an application for an amendment to this Ordinance has been denied by the City Council, a new application for the same amendment shall not be accepted by the Planning Commission for consideration for a period of one year from the date of denial, unless the Planning Commission determines that one or more of the following conditions has been met:
- 1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application.
 - 2) New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.
 - 3) The new application is materially different from the prior application.
- B) Notice and Record of Amendment Adoption.**

- 1) **Adoption.** Following adoption of an amendment by the City Council, a notice of adoption must be filed with the City Clerk and published in a newspaper of general circulation within 15-days after adoption, in accordance with the Michigan Zoning Enabling Act (PA 110 of 2006), as amended. The notice must include the following information:
 - a) 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 of Eastpointe."
 - b) In the case of an amendment to the existing Zoning Ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
- 2) **Records.** A record of all amendments and the Zoning Map must be maintained by the city.

Section 14.08 Conditional Rezoning

A) Intent. The city recognizes that, in certain instances, it would be advantageous to both Eastpointe and to a property owner seeking rezoning, if the property owner proposes certain conditions and limitations as part of their rezoning petition. Therefore, the city provides a process consistent with the provision of section 405 of the Michigan Zoning Enabling Act (PA 110 of 2006), as amended, to permit property owners to offer conditions regarding a use and/or development of land as part of the rezoning request. A conditional rezoning is intended to accomplish, among other things, the objectives of the Zoning Code and the Master Plan.

B) Definitions. The following definitions apply in the interpretation of this section:

- 1) **"Applicant"** means the property owner, or a person acting with the written and signed authorization of the property owner to make application under this section.
- 2) **"Conditional Rezoning Agreement" (CRA)** means a written agreement approved and executed by the city and property owner setting forth the conditions attached to the rezoning pursuant to Michigan Zoning Enabling Act (PA 110 of 2006), as amended, and any other terms mutually agreed upon by the parties relative to land for which the city has approved a conditional rezoning.
- 3) **"Conditional Rezoning Plan"** means a plan of the property, which is the subject of a conditional rezoning, with conditions, prepared by a Michigan licensed civil engineer or architect, that may show the location, size, height, design, architecture, or other feature for and/or of buildings, structures, improvements, and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the conditional rezoning plan are determined by the applicant, subject to approval of the City Council after recommendation by the Planning Commission.
- 4) **"Rezoning Conditions"** means conditions regarding the development and use of property proposed by the applicant and approved by the city.
- 5) **"Rezoning"** means the amendment of this Zoning Code to change the Zoning Map classification on property from its existing district to a new district classification.

C) Authorization and Eligibility.

- 1) The standards of this section grant an applicant the option of voluntarily proposing conditions for the development and use of property in connection with the submission of a rezoning petition. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.
- 2) To be eligible for consideration, an applicant must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a conditional rezoning agreement) that are stricter or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:
 - a) The location, size, height, or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other physical features of the proposed development.
 - b) Specification of maximum density or intensity of development and/or use (i.e., units per acre, maximum usable floor area, or hours of operation).
 - c) Preservation of open space and/or natural features.
 - d) Improvements to address traffic issues, including paving, and/or substantial improvements to or funding of improvements to roads to the benefit of the entire city.
 - e) Site improvements such as signage, lighting, landscaping, and exterior building materials, above and beyond what would otherwise be required.
 - f) Limitations on permissible uses of the property.
 - g) Any other conditions that are voluntarily proposed by the applicant.

D) Review Criteria. A conditional rezoning may only be approved if it meets the following criteria:

- 1) **General Standards.** All criteria listed in “Approval Standards” section above.
- 2) **Conforms with the Zoning District Requirements.** The use of the subject property is in conformity with all regulations governing development and use within the proposed zoning district, including, without limitation, permitted uses, lot area and width, setbacks, height limits, buffers, open space, and density; provided, however, the following apply:
 - a) Development and use of the property is subject to the more restrictive requirements shown or specified in the conditional rezoning agreement and supersedes all inconsistent regulations otherwise applicable under the Zoning Code.
 - b) City Council is authorized to grant modifications to the strict terms of the Zoning Code governing dimensional requirements on the property; provided, such authorization to grant modifications is conditioned upon the City Council finding that each Zoning Code provision sought to be modified will result in an enhancement of the development that is in the public interest, and that approving the modification is consistent with the Master Plan and with the surrounding area.
- 3) **Improves Community.** Conditional rezoning results in an enhancement to the subject area, as compared to the existing zoning, and such an enhancement would be unlikely to be achieved or would not be assured in the absence of the use of conditional rezoning.

- 4) **Serves Public Interest.** As compared to the existing zoning and considering site-specific conditions and/or the proposed land uses, it is in the public interest to grant a conditional rezoning. In determining whether a proposed application is in the public interest, the benefits which would reasonably be expected to accrue from the proposal must be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration best practices in planning, engineering, environmental and other principles.
- 5) **Enforceable Conditions.** The offered condition(s) are likely to be enforceable.
- 6) **Use Variance Prohibited.** Does not have the same effect as a use variance.
- 7) **Site Plan and Special Land Use Approvals Required.** Does not relieve the applicant of the responsibility of securing any applicable site plan, plat, or condominium approvals. Special land use approvals, if permitted as part of the Conditional Re-Zoning Agreement (CRA), do not have to be separately considered, noticed, and approved.

E) Effect of Approval. Approval of the conditional rezoning confirms only the rezoning of the property, subject to any conditions reflected in the conditional rezoning agreement. Any applicable site plan, plat, condominium, or variance approvals is required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the subject property must consist of the district to which the property has been rezoned, accompanied by a reference to "CR, Conditional Rezoning". The Zoning Map must specify the new zoning district, plus a reference to "CR". Use of the property classified and approved must comply with the conditions set forth in the CRA. No development or use of the land inconsistent with the CRA is permitted.

F) Compliance.

- 1) Any person who establishes a development or commences a use upon land that is conditional rezoned must continuously operate and maintain the development or use in compliance with all of the conditions set forth in the conditional rezoning agreement. Failure to comply constitutes a violation of this Zoning Code and deemed a nuisance per se and subject to judicial abatement as provided by law.
- 2) No permit or approval may be granted under this Zoning Code for any use or development that is contrary to an applicable conditional rezoning agreement.

G) Period of Approval.

- 1) Conditional rezoning approval expires 1-year from the effective date of the rezoning, unless substantial progress towards obtaining site plan and other required approvals has been made and expires 2-years from the effective date of the rezoning, unless development of the property is substantially started and proceeds diligently and in good faith as required by the Zoning Code to completion.
- 2) In the event substantial progress towards obtaining site plan and other required approvals has not commenced within 1-year and bona fide development has not commenced within 2-years from the effective date of the rezoning, the conditional rezoning and agreement is void and of no effect.
- 3) The applicant may apply for a 1-year extension. The request must be submitted to the city in writing before the approval time limit expires. The applicant must demonstrate why an extension should be granted and that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently to completion.

- 4) An extension request may be considered by the City Council following a recommendation by the Planning Commission.
- 5) If the conditional rezoning becomes void in the manner provided in this section, the following procedures apply:
 - a) The applicant may seek a new rezoning of the property within 30 days of the expiration of the period of approval.
 - b) If no application is made for a new rezoning of the property, the land reverts to its former zoning classification.

H) Conditional Rezoning Agreement Requirements. A Conditional Rezoning Agreement (CRA) must be executed between the applicant and the city at the time of City Council approval, and at a minimum, contain the following:

- 1) Identification of the requested zoning district and a listing of the conditions offered by the applicant.
- 2) A statement acknowledging that the conditional rezoning was proposed by the applicant, and further agreement and acknowledgment that the conditions and agreement are authorized by all applicable state and federal law and constitution, and that the agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.
- 3) Agreement and understanding that the subject property cannot be developed or used in a manner inconsistent with the CRA.
- 4) Agreement and understanding that the approval and CRA is binding upon and to the benefit of the property owner and city, and their respective heirs, successors, assigns, and transferees.
- 5) The date upon which the conditional rezoning becomes void. If the City Council grants an extension of approval, a new conditional rezoning agreement with the new expiration date must be recorded.
- 6) Agreement and understanding that each of the requirements in the CRA represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.
- 7) A legal description of the subject property.
- 8) Development regulations impacted by the conditional rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.
- 9) Revocation of approval provisions returning the property to its original zoning designation if the applicant violates the terms of the conditional rezoning agreement.
- 10) A conditional rezoning plan may be included as an exhibit to the agreement and may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of such a plan as an exhibit shall not replace the requirement for site plan, subdivision, condominium, or variance review and approval.

I) Amendment of a Conditional Rezoning Agreement. Amendment of a CRA must be submitted, reviewed, and approved in the same manner as a new conditional rezoning application.

- J) Recordation of a Conditional Rezoning Agreement.** A conditional rezoning becomes effective following publication in the manner provided by law, and, after recordation of the conditional rezoning agreement with the Macomb County Register of Deeds.
- K) Termination.** City Council is the only body with the authority to terminate a CRA. The consideration to terminate the agreement must be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The termination must comply with any applicable provisions of this Zoning Code and/or the CRA.

Article 15.

Planned Unit Developments (PUD)

ZONING ORDINANCE · CITY OF EASTPOINTE, MI



Section 15.01 Intent Statement

A Planned Unit Development (PUD) process is intended to create a cohesive development plan for tracts of land, integrating transportation systems with a variety of housing types and other uses, like park and open spaces and commercial or retail uses. A key goal of PUD regulations is to allow flexibility in deciding how to integrate these various uses, in exchange for a higher quality development that fulfills the city's Master Plan goals.

Section 15.02 Permitted Uses

Any uses (e.g., residential, commercial, office and public uses), except for industrial uses, may be developed together in a planned unit development provided that the uses are compatible, complementary, and demonstrate good site design and planning principles.

A PUD that seeks industrial uses is only allowed in Industrial Districts as indicated on the Zoning Map. Industrial use PUDs may be in combination with the uses listed above if they do not impair the public health, safety and welfare or quality of life of residents or the city.

Section 15.03 Application and Review Process

- A) Process Overview.** A PUD is a development process that takes the form of an amendment (re-zoning) to the Zoning Map. A PUD may be applied for in any zoning district. A PUD application shall require a rezoning by way of an amendment to the zoning ordinance upon the recommendation of the Planning Commission and approval by City Council. The request may be made by the owner of record or by any person acting on behalf of the owner of record of the subject parcel, as long as they have owner permission. There are three phases of the PUD process in the City: Pre-Application; PUD Eligibility Plan; and Final PUD Site Plan. For a PUD Process Flowchart, [see subsection E](#) below.
- B) Phase 1: Pre-Application (Optional).** The Pre-Application phase features a preliminary meeting with City Staff and the Planning Commission to undergo a conceptual review of the project. This phase, although optional, is important because planned development projects are generally large or complex projects with higher intensity development that could have a larger impact on surrounding land uses and affect the health, safety and general welfare of city residents.
- 1) **Conceptual Plan Submission Elements.** A Conceptual Plan should contain the following: A layout of the entire planned area including all uses, building footprints, dwelling unit types, population densities, a traffic and pedestrian circulation plan, and areas reserved for recreational areas, parking areas, and other open spaces.
 - 2) **Conceptual Plan Review Procedure.** The City Planner will schedule the conceptual review of a PUD at the upcoming Planning Commission meeting. No formal action will be taken on a plan submitted for conceptual review.
 - 3) **Meeting Expectations.** The conceptual review shall not constitute any form of approval of the planned development or the site plan. The process is intended to give the applicant an indication of the issues and concerns prior to formal PUD Eligibility and Site Plan submission.

C) Phase 2: Eligibility Plan. PUD projects must undergo an Eligibility Plan review and approval process involving both the Planning Commission and the City Council. Note, an additional Site Plan Review is required, but this review happens in Phase 3.

- 1) Eligibility Plan Criteria and Approval Standards.
- 2) Eligibility Plan Submission Elements.
- 3) Eligibility Plan Review Procedure.
 - a) Applicant submits an application for Re-Zoning to amend the Zoning Map along with detailed Eligibility Plan submission.
 - b) City Planner and Engineer engage in a professional review and submit reviews to the Planning Commission.
 - c) City Planner schedules a public hearing and abides by all public notice requirements. Planner places the PUD request on an upcoming Planning Commission agenda.
 - d) Planning Commission hosts public hearing to observe the PUD project request.
 - e) Planning Commission reviews the Eligibility Plan and application for a PUD, along with public hearing findings, Planner and Engineer reviews, and any additional reports. Planning Commission makes a recommendation to City Council based on the requirements and standards of this Ordinance. The commission may recommend approval, approval with conditions, denial, or they may table the project.
 - f) Planner or City Staff schedule the project to be presented at an upcoming City Council meeting. Planner or Staff transmit the Planning Commission findings to the City Council.
 - g) City Council reviews the Eligibility Plan and application for a PUD, along with the findings of the Planning Commission, the City and Engineer reviews, and any other additional relevant reports. Following completion of its review, City Council shall approve, approve with conditions, or deny the PUD Eligibility Plan. If the City Council determines that there is additional information needed to make a decision, and the developer is willing to provide such information, then the council may table the case to a subsequent meeting.
 - i. Approval/Conditional Approval. An Eligibility Plan approval (or conditional approval) means that the planned development project and plan meet the Eligibility Plan requirements of this Ordinance.
 - ii. Denial. A denial shall mean that the proposed project and plan does not meet the requirements of this Ordinance. Any denial shall specify the reasons for denial and those requirements of the ordinance that are not met.

D) Phase 3: Site Plan Review. The final review and approval phase of a PUD project, apart from any state or county approvals, is the Site Plan Review. The Planning Commission has final authority over site plans.

- 1) Site Plan Submission Elements.
- 2) Site Plan Review Procedure.

- a) Applicant receives Eligibility Plan approval. If there are conditions of approval, applicant may incorporate Eligibility Plan conditions within the site plan submission.
- b) Applicant prepares Site Plan with the necessary elements as listed in the Ordinance.
 - i. Applicant and Planner work together to determine when site plan is ready.
- c) Planner schedules Site Plan at an upcoming Planning Commission meeting.
- d) Planning Commission reviews site plan and either approves, approves with conditions, denies, or tables the project. A project must be approved if it meets the zoning ordinance standards.

E) PUD Process Flowchart:



Section 15.04 Eligibility Plan Review Criteria and Approval

The following criteria applies to all PUD Eligibility Plan reviews:

Criteria	Approval Standards
Conformance with the Intent of a PUD	<p>The overall design and uses in a PUD must be consistent with and promote the intent of Eastpointe's PUD Ordinance, as well as the specific project design standards.</p> <p>Must result in a recognizable and substantial benefit to the ultimate users of the project and to the community and result in a higher quality of development than could be achieved under conventional zoning. Project must have two or more separate and distinct uses, for example, multi-family and commercial uses. Project must have two or more separate and distinct uses, for example, multi-family and commercial uses.</p>
Compatibility with Adjacent Uses	<p>The PUD, with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features, is compatible to the development of surrounding properties and their uses. In determining whether this requirement is met, consideration will be given to:</p> <ol style="list-style-type: none"> 1. The bulk, placement, and building materials of proposed structures. 2. The location and screening of vehicular circulation and parking areas. The resulting vehicular circulation must encourage cross-connectivity within the site and along its edges. 3. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development. 4. The hours of operation of the proposed uses. 5. The provision of landscaping and other site amenities. 6. The anticipated level of noise, vibration, smoke, odor, or other environmental discharge.
Compatibility with Master Plan	<p>The proposed PUD must further the goals and objectives of the master plan (and/or sub-area plan). However, a PUD proposal that includes uses or a residential density which are not called for on the future land use map may be considered when the deviation is justified in light of the current planning and development objectives. In this case, the Planning Commission must initiate action (where necessary) to amend the master plan.</p>
Public Services	<p>The PUD cannot exceed the capacity of existing and available public services, including but not necessarily limited to, utilities, public roads, police and fire protection services, and educational services, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the PUD is completed.</p>
Traffic Impact	<p>The PUD must minimize the impact of traffic generated by the proposed project on surrounding uses. In determining whether this requirement is met, consideration will be given to:</p> <ol style="list-style-type: none"> 1. Access to major thoroughfares. 2. Estimated traffic to be generated by the proposed development. 3. Proximity and relation to intersections. 4. Adequacy of driver sight distances. 5. Location of and access to off-street parking. 6. Required vehicular turning movements. 7. Extent and nature of road improvements. 8. Provisions for pedestrian and bicycle traffic.
Connectivity: Pedestrians and Vehicles	<p>If applicable, the site must be divided into blocks (with a maximum length of 500-feet to support walkability). Cul-da-sacs are not permitted, and sub-streets must be extended to complete the grid street network.</p> <p>Travel lanes for new development must be 10-feet and cannot exceed two lanes (excludes on-street parking areas and bike lanes). For existing sites, curb cuts must be reduced in width or eliminated to comply with MDOT standards (based on the speed of road).</p>

Criteria	Approval Standards
	<p>Traffic calming techniques, such as horizontal deflections, road narrowing, ripples, pavers, central islands, entry, or gateway treatments, raised medians, on-street parking, roundabouts, textured pavements, must be provided where appropriate.</p> <p>Sidewalks and non-motorized infrastructure to adjacent sites must be provided.</p>
Streetscape Design	<p>At least three of the following streetscape design elements must be incorporated:</p> <ol style="list-style-type: none"> 1. Pedestrian scale, decorative lighting 2. Planter 3. Trash receptacles 4. Street furniture (benches, etc.) 5. Bus shelter (including enhancements) 6. Traffic calming tools 7. Extensive sidewalks 8. Bicycle parking or lanes
Usable Open Space	<p>Exhibits significant natural features or open space encompassing at least 10% or greater of the land area of the PUD.</p> <p>In addition to providing the required landscaping and open space of the zoning district, the PUD must create a least two places of interest (this includes art installations, community gardens, plazas, outdoor dining areas, etc. that are inviting and accessible to the public).</p>
Sustainable Design	<p>The project must incorporate sustainable design features, including but not limited to at least three of the following:</p> <ol style="list-style-type: none"> 1. Public or alternative transportation access. 2. EV charging stations, non-motorized transportation amenities / improvements. 3. Low-impact design (LID) features. 4. Energy efficient building materials and utilities. 5. LEED or Living Building Challenge building design. 6. Adaptive re-use or redevelopment of a building or site.
Preservation of Natural, Cultural, or Historic Features	<p>The proposed development shall preserve distinctive natural features on the site to the maximum extent feasible, such as, but not limited to, woodlands, <u>wetlands (including hydric soils)</u>, cultural or historic buildings or features, etc.</p>
Positive Economic Impact	<p>The project cannot result in an unreasonable negative economic impact upon surrounding properties. In determining whether this requirement is met, consideration will be given to projects that meet at least one of the following:</p> <ol style="list-style-type: none"> 1. Creates an economically impactful number of jobs for Eastpointe residents or gives job priority to Eastpointe residents. 2. Develops valuable social infrastructure such as schools, daycare centers, restaurants/cafes, public parks, owner occupied housing or establishments similar to those listed. 3. Offers affordable housing units. 4. Provides skill-trades job training for Eastpointe residents.
Unified Control	<p>The PUD must be under single ownership or such control (a single person or entity having responsibility for assuring completion of the project in conformity with this Ordinance). If there is more than one owner or entity, then a commitment in writing must be provided by each owner/entity to work in unison to complete the project.</p> <p>The applicant(s) must provide legal documentation of single ownership, or joint unified control in the form of agreements and deed restrictions which demonstrate that the PUD can be completed as approved, and that all portions of the PUD that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. This provision does not prohibit a transfer of ownership or control, provided notice of such transfer is given to the city.</p>

Section 15.05 Eligibility Plan Submittal Requirements

The following is a list of items to be incorporated within the Eligibility Plan Submission. All items must address each requirement for the application to be considered complete.

Submission Requirements	More information
Application Form and Fee	<p>The name, address, and telephone number of:</p> <ol style="list-style-type: none"> 1. All persons with an ownership interest in the land on which the planned development project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, lessee, or land contract vendee). 2. All engineers, attorneys, architects, or registered land surveyors associated with the project. 3. The developer or proprietor of the planned development project. <p>The legal description and area of land (in acres) of the land on which the PUD will be developed, together with appropriate tax identification numbers.</p>
Project Narrative	A narrative describing the proposed project, including the period of time within which it is contemplated the project and all phases will be completed.
Conceptual Land Use Plan	<p>An overall conceptual land use plan for the planned development, drawn to scale. The overall plan shall graphically represent the development concept using maps and illustrations to indicate each type of use, square footage or acreage allocated to each use, and approximate locations of each principal structure and use in the development. The overall plan shall indicate types of residential use; office, commercial, industrial, and other nonresidential uses; each type of open space; community facility and public areas; and other proposed land uses.</p> <p>The conceptual plan also must include:</p> <ol style="list-style-type: none"> 1. A general location map; 2. Proposed vehicular circulation; 3. Location of existing streets adjacent to the proposed development and indicate how they will connect with the proposed circulation system; 4. Approximate number of proposed nonresidential buildings and residential units. For residential developments, an analysis must be provided to determine the number of units that could be developed on the property under existing conventional zoning; 5. Approximate layout of dwelling units, parking, open space and recreation/park areas; 6. Landscaped screening along the perimeter of the development.
Existing Zoning	A map showing existing zoning designations for the subject property and all land within one-quarter mile.
Master Plan and Future Land Use Map	A map and written explanation of the relationship of the proposed planned development to Eastpointe's master plan for future land use.
Development Experience	Documentation that the applicant has sufficient development experience to complete the proposed project in its entirety (e.g., provide a list of developments completed by the applicant in the past ten years, with a description of the project, number of units, and time required to complete).
Community Impact Statement	<p>The Community Impact statement must be derived from a study of the city based on information from the following community elements:</p> <ol style="list-style-type: none"> 1. Planning and zoning issues, including conformance with the Master Plan, Zoning Ordinance, and other applicable City codes and policies. 2. Land development issues, including topographic, soil conditions, and site safety concerns. 3. Private utilities consumption, including electrical needs and natural gas utilization. 4. Noise level conditions. 5. Air quality conditions. 6. Environmental design and historic values including visual quality and historic resources. 7. Community facilities and services, including refuse collection, sanitary and storm sewer, and water supply.

Submission Requirements	More information
	8. Public safety needs, including police, fire and emergency medical services. 9. Open space landscaping and recreation, including cultural elements. 10. Traffic impacts.
All Eligibility Requirements	Demonstrate how the PUD meets the Eligibility Criteria.

Section 15.06 Site Plan Submittal Requirements

The following items must be incorporated within the Site Plan Submission; all items must address each requirement for the application to be considered complete.

Submission Requirement	Min. Information Required
Topographic survey and soils inventory	General locations and approximate dimensions of wetland areas, floodplains, and significant site features such as tree stands, unusual slopes and water drainage areas.
Description of proposed stormwater management, drainage, sewage treatment and water supply systems	Plans should be sufficiently detailed to demonstrate compliance with Macomb County's standards.
Maps and written analysis of significant cultural, historical and land features of and near the site	Land features include but are not limited to rights-of-way, easements, and shared parking agreements. This includes written verification of access easements or agreements, if applicable.
Schedule	A general schedule for completing the planned development, including the phasing or timing of all proposed public and private improvements.
PUD Agreement	PUD agreement between the City and the applicant, which shall include, among other items, a provision as to such revisions to the site plan that may be approved administratively by the Planning Commission, any specific terms and conditions relating to an approved PUD including specific terms relating to the administration of the project.
Site Plan Requirements	Include all items required by Site Plan Review in Article 12.

Article 16.

Planning Commission

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Section 16.01 Creation and Membership

- A) The Planning Commission is designated as the commission specified in the Michigan Planning Enabling Act (PA 33 of 2008), as amended, and performs the duties of such commission as provided in the statute and the City Code of Ordinances, as amended.
- B) **Appointments.** The Council shall, by a majority of all of its members, appoint a City Planning Commission of seven citizens chosen because of their interest in and knowledge of City Planning.
- C) **Terms.** Of the members first appointed, one shall be appointed for a term of one year, two for a term of two years, and one for a term of three years, two for a term of four years, and one for a term of five years, from and after the first day of January following appointment. Their successors shall be appointed for a term of five years.
- D) **Vacancy.** If a vacancy occurs, otherwise than by expiration of term, it shall be filled by appointment of some suitable person to fill the place for the unexpired term.
- E) **Officers.** At the first Commission meeting of the calendar year, the members must elect a Chair, a Vice-Chair, Secretary, and such other officers as it deems necessary for the ensuring year (by resolution). The terms of all officers are for 1-year; officers may be reelected.
- F) **Attorney.** The City Attorney acts as Attorney for the Commission.
- G) **Removal.** Any member of the Commission may be removed per the adopted bylaws and city charter. City charter guides that any member of the Commission may be removed by the Council after a public hearing.

Section 16.02 Jurisdiction and Powers

The Commission is responsible for the following key duties:

- A) **Formulation of the Zoning Ordinance and Amendments.** Formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding public hearings, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the City Council.
- B) **Development Review.** Review of applications for site plan approval in accordance with Article (this includes Planned Unit Development reviews, special land use reviews and holding any required public hearings).
- C) **Master Plan.** The Commission formulates, adopts, and ensures review at least every 5-years to the Master Plan for land use to guide the future development of Wayne, in accordance with the Michigan Planning Enabling Act (PA 33 of 2008), as amended.
- D) **Annual Report on Operations.** The Commission must annually prepare and submit a report for City Council on the status of the Zoning Ordinance, the Master Plan, and all relevant planning and zoning matters, including recommendations as to the enactment of amendments to the Zoning Ordinance.

Section 16.03 Meetings and Procedures

- A) **Regular Meetings.** The Commission must hold at least four regular public meetings within a calendar year, on such date and at such time and place as may be established by resolution.

- B) Special Meetings.** Special meetings may be called, as established by the bylaws.
- C) Bylaws.** The Commission may adopt such rules for the transaction of its business as it may by resolution determine.
- D) Records.** The city must keep a written or printed public record of the Commission's resolutions, findings, and determinations.

Section 16.04 Quorum and Majority Vote

- A)** A majority vote of those present and voting is required for a motion.
- B)** When a motion involves amending of the Master Plan, an affirmative vote of a least 2/3 of the membership is required.

Article 17.

Zoning Board of Appeals

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



Section 17.01 Creation and Membership

- A) The Zoning Board of Appeals performs its duties and exercises its powers as provided in the Michigan Zoning Enabling Act (PA 110 of 2006), as amended.
- B) **Membership and Terms.** The board shall consist of seven members, all appointed by the mayor with the consent of the City Council. The ZBA consists of at least two officers: the Chair and Vice-Chair.
- 1) **Length of Term.** Appointments shall be for a period of three years except for a member serving because of their membership on the City Council whose term shall be limited to the time they are a member of City Council. When members are first appointed, appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than 1 month after the term of the preceding member has expired.
 - 2) **City Council Member.** One regular member may be a member of the City Council but shall not serve as chair of the Zoning Board of Appeals. An employee or contractor of the city may not serve as a member of the Zoning Board of Appeals.
 - 3) **Alternate Members.** The mayor, with the consent of the City Council, may appoint not more than two alternate members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member, if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve on the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
 - 4) **Removal.** A member of the Zoning Board of Appeals may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify themselves from a vote in which the member has a conflict of interest. Failure of a member to disqualify themselves from a vote in which the member has a conflict of interest constitutes malfeasance in office.
 - 5) **Vacancy.** A vacancy on the Zoning Board of Appeals shall be filled for the remainder of the unexpired term in the same manner as the original appointment.
 - 6) **Majority Needed for Business.** The Zoning Board of Appeals shall not conduct business unless a majority of the regular members of the Zoning Board of Appeals are present.
 - 7) **Election of Officers.** The first meeting of the year with business on the agenda must also host an election of officers. Members must elect a Chair, a Vice-Chair, and such other officers as it may deem necessary for the ensuring year. The terms of all officers are for 1-year and officers are eligible for reelection.

Section 17.02 Jurisdiction and Powers

The Zoning Board of Appeals has the following jurisdiction and powers:

- A) **Appeal of Administrative Decision.** To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator. The Board may reverse or affirm wholly or partly, or may

modify such order, requirement, decision, or determination, and to that end, has the power to direct the issuance of a permit.

- B) Appeal of a Planning Commission Decision.** An appeal from the Planning Commission must be taken to Board if a written appeal is filed within 30-days after the Planning Commission's decision. Exceptions to this power is the approval or denial of a special land use or Planned Residential and Planned Development Districts by City Council; those decisions are final and not appealable.
- C) Interpretation.** To act upon all questions as they may arise in the administration and enforcement of this Zoning Code, including interpretation of the Zoning Map, the location of district boundaries on the Zoning Map, and text provisions.
- D) Variances.** There are two types of variances: Dimensional variances (also considered non-use variances) and use variances:
- 1) **Dimensional or Non-Use Variances.** Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Zoning Code, the Board has the power in passing upon appeals to vary or modify any of its rules, regulations, or provision so that the spirit of this Zoning Code is observed, public safety secured, and substantial justice done. The Board does not have the authority to make changes in the Zoning Ordinance.
 - 2) **Use Variances.** The Zoning Board of Appeals does not authorize use variances.
 - 3) **Variance required due to condemnation by public authority.** A variance may be applied for and granted under section 4 of the Uniform Condemnation Procedures Act, Public Act No. 87 of 1980 (MCL 213.54). Such a variance shall not be a use variance.
- E) Limitations on Authority.** Nothing herein contained shall be construed to give or grant to the board the power or authority to alter or change the zoning ordinance or the zoning map, such power and authority being reserved to the City Council in the manner provided by law. The approval or denial of Special Uses, Rezoning, Conditional Rezoning and Planned Unit Developments may not be appealed to the Zoning Board of Appeals.

Section 17.03 Rules of Procedure

The Board may fix rules and regulations governing its procedures as it deems necessary.

Section 17.04 Meetings

- A)** All meetings of the Board are held at the call of the Chair and at such other times as a quorum of the Board may determine. In the absence of the chair, the acting chair, e.g. vice chair, may administer meetings.
- B)** All hearings are open to the public. The city must keep minutes of the Board's proceedings, showing the vote of each member in question, or if absent, or failing to vote, indicating such fact.
- C)** The Board has the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony, and require the production of books, papers, files, and other evidence pertinent to the matters before it.

Section 17.05 Quorum and Majority Vote

A majority vote of those present and voting is required for a motion of approval or denial, in addition to reversing an order or decision.

Section 17.06 Standards for Review

- A) **Appeal of Administrative Decision.** An appeal to an administrative decision should be approved if the ZBA finds that the order, requirement, decision or determination was arbitrary or capricious, based upon an erroneous finding of a material fact, constituted an abuse of discretion, or based upon an erroneous interpretation of the Zoning Ordinance.
- B) **Interpretation.** The ZBA must make interpretations to the zoning code and map in such a way as to preserve and promote the character of the zoning district in question and carry out the intents and purposes of the Zoning Ordinance and Master Plan.
- C) **Dimensional Variances.** To authorize a non-use or dimensional variances from the strict applications of the provisions of this Zoning Ordinance, each of the following criteria must be met. A standard can be found not applicable, but no standard can be in conflict with another standard.
 - 1) **Practical Difficulty Standards.**
 - a) **The variance request is due to unique circumstances of property.** Examples of unique circumstances include properties with odd dimensions or unusual easements. Unique circumstances do not include business, family or financial reasons.
 - b) **The variance request is due to unique circumstances of property and is not shared by neighboring properties in the same zone.** If the circumstances for which a variance is warranted are shared among numerous properties in the same zone, then the variance request should be denied. It may be better to consider amending the zoning ordinance. For instance, a historic portion of a community developed around the turn of the 20th Century might have 50-foot lots throughout a neighborhood of single-family homes. If this neighborhood is subject to the same zoning standards as neighborhoods developed later with 70-foot-wide lots, projects not requiring a dimensional variance in the newer neighborhood will most likely require a variance in the historic neighborhood. The proper solution is to create a new zoning district for the historic neighborhood that is more reflective of the existing character.
 - c) **The problem is not self-created, either by the applicant or an applicant's predecessor.** The proper interpretation is to ask whether the applicant took some affirmative action that created the need for the variance, such as making an unusual land division (shape), filling the entire building envelope so that a porch must necessarily extend into the setback area, digging a pond, etc. A practical difficulty cannot be self-created (*Norman Corp v. City of East Tawas*, 263 Mich App 194 (2004)). Being "self-created" includes actions of the current property owner and actions of all previous owners.

At the same time, the Court of Appeals recognizes that merely purchasing property with the knowledge of ordinance limitations does not preclude someone from apply for (and receiving) a variance (*City of Detroit v. City of Detroit BZA*, 326 Mich App 248 (2018)). The key is whether a property owner — present or past, took affirmative action to alter the property counter to the

controlling ordinance at the time. The purchase of a unique lot, even with knowledge of the current ordinance, should not be held against a new owner. This standard is inappropriately applied if a ZBA member sees the presence of the applicant before the ZBA as a self-created situation. This mindset would lead to the conclusion that all variance requests are self-created. It is not an applicant's desire for a variance that is a self-created problem; it is an applicant's previous action to fill the buildable envelope with structures, or divide the parcel into an unusual shape that is the self-created problem.

- d) **Strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the landowner from using the property for a permitted purpose and would thereby render the conformity unnecessarily burdensome for other than financial reasons.** Figure out if there is a way to accomplish the same purpose without a variance even if it will be more inconvenient or more expensive for the applicant. For example, if the design for an addition proposed by the applicant can be changed such that a variance is no longer needed, the variance request should be denied. A variance is granted for circumstances unique to the property (e.g. odd shape), not those unique to the property owner (e.g. large family).
 - e) **The variance would provide substantial justice to the applicant, as well as to other property owners in the district. A reduced relaxation would give substantial relief and be more consistent with property design and rights in the neighborhood.** There are valid health and safety reasons for zoning setbacks, but when these regulations treat an applicant unfairly in relation to unique aspects of the land they should be relaxed. For example, if all property owners in a neighborhood enjoy a front porch, yet the applicant is not able to construct a front porch because of their property's unique circumstance (e.g. setbacks and unusual easement), then a variance should be granted. This is because strict compliance of the zoning ordinance would prevent the applicant from using the property for a permitted use: a front porch.
 - f) **No lesser variance options are practical.** If a lesser variance than requested would provide substantial justice to the property owner, the lesser variance should be considered. For example, if the request is to encroach into the setback by 4 feet, but a 2-foot encroachment would allow the owner to use their property for the permitted use then the appeals board must not approve a greater variance than minimally necessary. Another example, if the property owner wants to enjoy the right to own a garage, but would like a four car garage, it may be reasonable for the ZBA to allow a variance for a one car garage.
- 2) **Health, Safety, Well-fare Standards.**
- a) **Zoning Ordinance and Master Plan.** The variance will not adversely affect the purpose of the Zoning Ordinance or the Master Plan.
 - b) **Adjacent Property and Surrounding Neighborhood.** The variance will not be of substantial detriment to the adjacent property, will not alter the essential character of the neighborhood and will not diminish or impair established property values within the surrounding area.
 - c) **Community of Eastpointe.** The variance will not impair the public health, safety, comfort, morals, or welfare of the community.
 - d) **Nuisances.** The variance will not create a nuisance such as light, air, sound and odor pollution, traffic congestion, or fire and flood damage.

- D) **Use Variance.** No variance can be made in the use of land, and the Board does not consider use variance requests.
- E) **Exception.** The granting of a variance for minimum lot size (square feet) and lot width (feet) is not required when the subject lot is a lot of record, and the Board has determined the property to be a buildable zoning lot.

Section 17.07 Application Procedure

- A) **Application.** The appellant shall file an application with the Building Department. A fee in the amount set by resolution of the City Council shall be paid.
- B) **Required information.** An application for an appeal shall specify the grounds for the appeal by submitting the required information specified on the application form. Submittal information includes, but is not limited to:
 - 1) The plot plan, sketch plan or site plan for a project that was used to determine the need for a variance.
 - 2) The specific section from which a variance is being sought, an interpretation is being requested or is the subject of an administrative review.
 - 3) For dimensional variances, a signed and sealed survey prepared by a licensed professional surveyor shall be submitted that clearly illustrates the existing conditions, proposed improvements, dimensioned location of required setback or standard, the dimensioned location of existing/proposed improvement and the needed variance.
- C) **Stay of Proceedings.** An appeal shall stay all proceedings in furtherance of the action unless the Zoning Administrator certifies to the Zoning Board of Appeals, after notice of appeal is filed that a stay would, in the opinion of the Building Official, cause imminent peril to life or property. In such a case, the proceedings shall not be stayed other than by a restraining order which may be granted by the circuit court.
- D) **Public Hearing Required.** Following receipt of a written request to appear before the Zoning Board of Appeals, the Zoning Administrator shall fix a reasonable time for a public hearing and give required notice.
- E) **Representation.** At the hearing, the applicant shall appear in person or may be represented by agent or attorney.

Section 17.08 Procedures after Determination

- A) **ZBA Decision and Appeal of Determination.** The decision of the Zoning Board of Appeals shall be final.
 - 1) **Approval with Conditions.**
 - a) The Board may impose reasonable conditions in conjunction with the approval of a variance. The conditions may include conditions necessary to ensure that public services and facilities are adequate, 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 the requirements of the Michigan Zoning Enabling Act (PA 110 of 2006), as amended.

- b) Conditions must be recorded in the record of the approval action and remain unchanged except upon the mutual consent of the Board and the landowner.
 - 2) **Denial.** A party aggrieved by the decision of the board may appeal that decision to the county circuit court as provided in sections 605 and 606 of the Zoning Enabling Act (PA 110 of 2006), as amended.
- B) Effective Approval Period.** No order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. The Zoning Board of Appeals may grant an extension of the approval, provided that the applicant demonstrates that construction has been delayed for reasons beyond their control, and that construction is likely to commence within a timeframe deemed reasonable by the Zoning Board of Appeals. The Zoning Board of Appeals shall be under no obligation to grant any extension. Any determination by the Zoning Board of Appeals on an administrative appeal or interpretation shall take immediate effect.
- C) Resubmittal.** No request or appeal which the Zoning Board of Appeals has denied wholly or in part may be resubmitted to or reheard by the Zoning Board of Appeals for a period of one year following the effective date of the decision by the Zoning Board of Appeals, except where the Zoning Board of Appeals determines there is valid new evidence that was unavailable to the applicant at the time of the prior hearing or a substantial change in circumstances. Applications for a rehearing shall be in writing and shall be subject to the same rules and requirements as an original request.

Article 18.

Administration and Enforcement

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Section 18.01 Overview of Administrative Responsibilities

The City Manager, or their duly authorized representative as specified in this article, is hereby charged with the duty of enforcing the provisions of the Zoning Ordinance. Furthermore, administrative responsibilities are vested in the following City entities and further detailed in this Article.

- A) City Council
- B) Planning Commission
- C) Zoning Board of Appeals
- D) Building Official, and any person designated by the Building Official.

Section 18.02 Responsibilities of Administrative Entities / Officials

- A) **City Council.** The City Council shall have the following responsibilities and authority in addition to any other responsibilities outlined in this Article.
 - 1) **Adoption of Zoning Ordinance and Amendments.** In accordance with the intent and purposes of this Ordinance, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), the City Council shall have the authority to adopt this Ordinance, as well as amendments previously considered by the City Council at a hearing or as decreed by a court of competent jurisdiction.
 - 2) **Setting of Fees.** The City Council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the City Council to set a fee for a specific permit or application, the appropriate City administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
 - 3) **Approval of Planning Commission Members.** In accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended, members of the Planning Commission shall be appointed by the Mayor with the approval of the City Council.
 - 4) **Final Approval.** Where specified in this ordinance, the City Council shall serve as the final approval authority for special land uses, planned unit developments and other development approvals as cited in this Ordinance.
- B) **Planning Commission.** The Planning Commission is designated as the commission specified in Public Act No. 33 of 2008, as amended. The Planning Commission is hereby designated as the succeeding body of the Zoning Commission specified in Public Act 110 of 2006, as amended, and shall perform the duties of said Commission as provided in the statute.
- C) **Zoning Board of Appeals.** The Zoning Board of Appeals (hereinafter referred to as “ZBA”) is created pursuant to Article VI of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended). The ZBA’s membership, organization and duties are hereby established as cited in Article 17 of this Ordinance.
- D) **Building Official.** The Zoning Administrator shall have the following duties and responsibilities as outlined below and as cited in this ordinance. The Zoning Administrator may designate another individual to be the

person responsible for enforcing and enacting certain tasks and responsibilities. When the Zoning Administrator is cited in this ordinance for a certain task or responsibility the person so designated by the Zoning Administrator with said task or responsibility shall be deemed to be equivalent to the Building Official.

- 1) The Building Department may grant occupancy permits or zoning compliance permits for each new use upon recommendation of the Building Official.
- 2) May make inspections of building or premises necessary to carry out his or her duties in the enforcement of this Article.
- 3) The Building Department shall record all non-conforming uses existing on the effective date of the Ordinance.
- 4) Under no circumstances is the Building Department or Zoning Administrator permitted to make changes to this Article in carrying out his or her duties.
- 5) The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Article are complied with by the applicant, despite violations of contracts such as private covenants or private agreements which may occur upon the granting of such permit.

Section 18.03 Enforcement, Penalties, and Remedies

A) Penalties and Remedies.

- 1) Whoever violates or fails to comply with any of the provisions of this Ordinance, or any permit, license or exception granted hereunder, or any lawful order of the Building Department, a Building Official, the Zoning Board of Appeals or City Council, issued pursuant to this Article, shall be subject to a penalty as established.
- 2) The owner of any building, structure or premises or part thereof which is in violation of this Article, who has assisted knowingly in the commission of such violation, shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.
- 3) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
- 4) The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

B) Enforcement. This Article shall be administered and enforced by a Zoning Administrator of the Building Department of the city or his or her designee, unless otherwise directed by City Council. In the temporary absence of the Zoning Administrator or his or her designee, the city manager may designate a person to temporarily serve in this capacity.

Section 18.04 Building Permits, Certificates of Occupancy and Zoning Compliance Permits

A) No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof or for the use of any land which is not in accordance with this Article.

- B)** No vacant land and no existing use of land shall be changed to a different use group or type, unless a certificate of compliance and/or zoning compliance permit is first obtained for the new or different use.
- C)** No building or structure, or part thereof, shall be changed to or occupied by a use of a different use group or type unless a certificate of compliance and/or zoning compliance permit is first obtained for the new or different use.
- D)** No building or structure, or part thereof, shall be erected, altered, moved or repaired unless a building permit has first been issued. The terms "altered" and "repaired" include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress or other changes affecting or regulated by the city, except for minor repairs or changes as determined by the Building Official.
- E)** A non-residential building or tenant space shall not be occupied with a new use, whether the use is the same type of use that previously occupied the building or tenant space or a different use, until the building or tenant space has been inspected by the Zoning Administrator and fire marshal and a new occupancy permit has been granted.

Section 18.05 Temporary Uses

- A) Purpose.** Temporary uses such as mobile vendors, outdoor sales, or pop-up cafes and pop-up art galleries are tools to activate underutilized space. Temporary uses can be short term or long term, depending on the nature of the use, and contribute to the placemaking, entrepreneurship and business friendly culture of the City. This section outlines different types of temporary uses, along with standards to minimize adverse impact on surrounding uses and retain a high-quality environment. No temporary use within this section shall display any goods or merchandise in such a manner as to interfere with pedestrian or vehicular traffic safety, nor shall any use violate any fire or police regulation.
- B) Types of Temporary Uses.** Below is a table of temporary uses differentiating between those that require a temporary use permit from the Building Department and those that do not require a permit.

Temporary Use	Permit Required	Permit Not Required	Definition	Sub-Section Location
Established Business seeking SLU (3-Months)	x		Established businesses that experience a change in ownership and no change in business use or building footprint, and that are required to pursue a special land use permit to continue operating, these businesses may operate with a temporary use permit at the discretion of the Building Official. The temporary use permit expires 3 months after Building Department approval. No extensions are allowed.	E
Mobile Vending	x		The act of selling items, usually food, from a vehicle that is not permanently affixed to the site of sale and can be readily transported to and from that site.	F
Outdoor Sales			The outdoor display of products (excluding fireworks) by a permanent business establishment or temporary retail operations including but not limited to farmer's market, sidewalk sales, seasonal sales (e.g., Christmas trees, pumpkins), art, vehicles.	G
Outdoor Sales	x		-	
Outdoor Sales, Principal Business Establishment		x	Outdoor sales provided by the principal business establishment must meet general standards only. However, if sales involve food, the vendor must receive a permit.	
Outdoor Sales, Charitable Organizations		x	Charitable organizations and non-profits (e.g., Girl Scout Cookies) are allowed to sell without a permit if they obtain property owner approval.	
Outdoor Dining	x		Any area where food and other refreshments are served or consumed within the public right-of-way, i.e., the sidewalks immediately in front of any food establishment, cafe, or place of business where food and/or other refreshments are served, or where permitted on private property.	H
Pop-Up	x		A pop-up is a use that activates a site, indoors or outdoors, with a temporary purpose. A pop-up usually takes over an existing building, for example a restaurant pop-up or art gallery pop-up.	I
Yard / Garage / Estate Sales & Auctions			Outdoor sales within residential districts.	J
Yard Sales, City Declared		x	-	
Garage / Estate Sales & Auctions	x		Residential households are allowed to operate two garage / estate sales or auctions for a period of three days within one calendar year at one address.	
Tents / Canopies / Bounce Houses			A temporary portable tent, canopy, or inflatable bounce house. Public is defined as any space that is public or quasi-public, such as a park, parking lot, church and commercial property (areas where members of the public can access). Private is defined as private use within one's residential property.	K

Temporary Use	Permit Required	Permit Not Required	Definition	Sub-Section Location
Tents or Canopies, 10x10 SF or less		x	-	
Tents or Canopies, greater than 10x10 SF, Public	x		-	
Bounce House, Public	x		-	
Bounce House / Tent / Canopy, Private Residential		x	-	
Construction Buildings, Structures & Storage	x		Temporary buildings, structures and storage devices used during construction.	L
Portable Moving / Storage Containers & Dumpsters	x		Containers used for moving and storage or dumpsters used for construction / home improvements,	M

C) Process. Temporary use requests will be reviewed administratively by City staff. The staff will coordinate reviews by the City Police, Fire, Planning and Building departments. The submittal requirements for a temporary use permit are as follows:

1. **Complete Application.** A completed application and required fee. A complete application requires a copy of the business' insurance policy.
2. **Written Description.** A written statement describing the requested use and the proposed hours and days of operation.
3. **Illustrative Plan.** An illustrative plan that shows the following, plus any other information needed to demonstrate compliance with the specific use requirements contained within this article as requested by the Building Official:
 - a. The site boundary.
 - b. Location of fire hydrants.

- c. Existing and proposed buildings / structures.
 - d. Boundaries of proposed sales or activity areas.
 - e. Location and method of waste disposal.
 - f. Any other information deemed necessary by the Planning and Building Departments.
4. **Signs.** Temporary signs are permitted as part of a temporary use with the following standards:
- a. Signs must be in the same location as the vendor/display.
 - b. Signs located on a canopy or vending unit must be banner.
 - c. Signs located apart from a canopy or vending unit must be a yard sign or sandwich board sign.
 - d. Signs must meet the standards listed in Article 10: Signs.
5. **Proof of Ownership / Property Owner Permission.** Proof of ownership or, if the applicant is not the owner of the land, written permission from the owner to use the property for said use. If the activity is proposed to occur in public right-of-way, then the Building Official must provide written permission.
6. **Liability Insurance.** A temporary use permit applicant must provide a copy of their insurance policy demonstrating the company and policy number upon application submission.
7. **Additional Permits / Approvals.** Outside agency permits and approvals, if necessary.

D) Prohibited and Violations.

- 1. **Alteration/construction of a permanent building.** The construction or alteration of any permanent building or structure is not considered a temporary use.
- 2. **No negative impact on adjacent properties or municipal services.** Temporary uses cannot negatively affect adjacent properties or municipal facilities.
- 3. **Use not allowed in Zoning District.** The temporary use must be consistent with the uses permitted in a zoning district.
- 4. **Violations.** If a temporary use violates any of its standards, it must cease operations and receive approval to operate by the Office of the City Manager.

E) Established Business seeking Special Land Use (3-Months). For established businesses that experience a change in ownership and no change in business use or building footprint, and that are required to pursue a special land use permit to continue operating, these businesses may operate with a temporary use permit at the discretion of the Building Official, or their designee. The temporary use permit expires 3 months after Building Department approval. No extensions are allowed. The purpose of this temporary use is to allow established businesses to continue operating while they pursue their special land use and site plan

obligations. This use is not for new businesses that are not established in the community—it is for businesses with a recent change in ownership.

F) Mobile Vending. Mobile vending is the act of selling items, usually food, from a vehicle that is not permanently affixed to the site of sale and can be readily transported to and from that site. Listed below are the types of mobile vendors and general standards. Mobile vendors must obtain a temporary use permit to operate. Permitted locations of operation are commercial, industrial, parks and parking lots. Vendors must abide by all general standards listed below.

1. **General Standards.** When applicable:

- a. **Property Owner Permission.** The mobile vendor must provide evidence of written permission from the owner of the site. A vendor that extends beyond the property lines shall require the permission of the affected property owners. If the site is located on public property and in front of a storefront, then the vendor must receive the business owner's permission to operate at that location.
- b. **City Permission (if Public Space).** The mobile vendor must provide evidence of written permission from the Office of the City Manager if operating in public space.
- c. **Maintain 5 ft Pedestrian Walkway.** If a vendor is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside.
- d. **Parking Area.** The use occupies less than 25% of the required business parking area. No vendor can obstruct or place their display within accessible, barrier-free parking spaces.
- e. **Traffic and Motor Vehicle Code.** Mobile vending shall be subject to Chapter 44, Article II: Traffic Code. Vendors must not block or impair vehicular or pedestrian travel.
- f. **Health Code.** Vendors must comply with all health requirements of the state or county health departments.
- g. **Noise Control.** Vendors must comply with Chapter 28, Article V, Offenses Against Public Peace.
- h. **Contain Materials.** Vendors must contain all materials and supplies in the mobile vending unit and shall not store supplies or other materials on public property.
- i. **Unattended Vending Unit.** A mobile vending unit shall not be left unattended for longer than 15 minutes.
- j. **American Disabilities Act.** Mobile vending activity shall not violate the American with Disabilities Act.
- k. **Hours of Operation.** No mobile vendor shall operate between the hours of midnight and 7:00 a.m., unless they have private property owner permission.
- l. **Trash Management.** A mobile vending unit or mobile food vending unit shall always keep the areas around its vending operation clean and free from litter, garbage and debris. A vendor shall remove all garbage and debris originating from its vending operation from the city and shall not dispose of its garbage and debris in city trash receptacles or city trash compactors unless authorized by the city.

Unless authorized by the city or by a private entity via a shared dumpster agreement, a vendor must supply their own trash receptacle.

- m. **No Outdoor Cooking.** A mobile food vendor shall at no time make use of any outdoor cooking facilities, including grills.
- n. **Public Utilities.** Vendors shall not connect a mobile vending unit or a mobile food vending unit to a source of city electricity, water, or sewer, unless permitted by City Manager.
- o. **Protect Public Property.** Public property must not be altered, and permanent fixtures of any kind shall not be installed on public property by the vendor unless authorized by the city. A mobile vending unit shall not be secured or affixed to any public structure unless authorized by the city.
- p. **Outdoor Dining.** A mobile vendor may set up an outdoor dining area if the design complies with the general standards for mobile vending (i.e., including parking area standards) and the general standards for outdoor dining.

- G) Outdoor Sales.** The outdoor display of products by a permanent business establishment or temporary retail operations including but not limited to farmer's market, sidewalk sales, seasonal sales (e.g., Christmas trees, pumpkins), art, vehicles. Outdoor sales do not include the selling or preparation of food or the selling of fireworks. Any food preparation must receive a temporary use permit and county health certificate. The outdoor display and sales of fireworks is prohibited within the City of Eastpointe.

Permits are required for outdoor sales with the following exceptions. Permits are not required when the business licensee operates an outdoor sale adjacent to or in front of their business. Additionally, permits are not required for the outdoor sales by charitable organizations and non-profits (e.g., Girl Scout vendors). The items proposed to be sold outdoors are related to and displayed immediately adjacent to an existing licensed place of business. The proposed sales area must constitute an accessory use to the principal use of the premises or as provided by a charitable or nonprofit organization. Permitted locations of operation are commercial, industrial, parks and parking lots. Vendors must abide by all general standards listed below.

1. General Standards. When applicable:

- a. **Property Owner Permission.** The vendor must provide evidence of written permission from the owner of the site. A vendor that extends beyond the property lines shall require the permission of the affected property owners. If the site is located on public property and in front of a storefront, then the vendor must receive the business owner's permission to operate at that location.
- b. **City Permission (if Public Space).** The vendor must provide evidence of written permission from the Office of the City Manager if operating in public space.
- c. **Maintain 5 ft Pedestrian Walkway.** If a vendor is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside.
- d. **Parking Area.** The use occupies less than 25% of the required business parking area. No vendor can obstruct or place their display within accessible, barrier-free parking spaces.

- e. **Traffic and Motor Vehicle Code.** Mobile vending shall be subject to Chapter 44, Article II: Traffic Code. Vendors must not block or impair vehicular or pedestrian travel.
- f. **Health Code.** Vendors must comply with all health requirements of the state or county health departments.
- g. **Noise Control.** Vendors must comply with Chapter 28, Article V, Offenses Against Public Peace.
- h. **Contain Supplies.** Vendors must contain all materials and supplies in the display and shall not store supplies or other materials on public property.
- i. **Unattended Vending Units.** A vending display shall not be left unattended while on a public sidewalk for longer than 15 minutes.
- j. **Hours of Operation.** No vendor shall operate between the hours of 11 p.m. and 7 a.m.
- k. **Trash Management.** A vendor shall always keep the areas around its vending operation clean and free from litter, garbage and debris. A vendor shall remove all garbage and debris originating from its vending operation from the city and shall not dispose of its garbage and debris in city trash receptacles or city trash compactors unless authorized by the city.
- l. **Public Utilities.** Vendors shall not connect a pushcart or vending display to a source of city electricity, water or sewer, unless permitted by City Manager.
- m. **Protect Public Property.** Public property shall not be altered, and permanent fixtures of any kind shall not be installed on public property by the vendor unless authorized by the city. A pushcart or vending display shall not be secured or affixed to any public structure unless authorized by the city.

H) Outdoor Dining. Outdoor dining improves the general business climate, activates public space, and provides flexibility for current trends and future demands for outdoor dining. Outdoor dining is permitted immediately adjacent to and abutting the principal use of a business, subject to review by the Zoning Administrator with the conditions below.

1. **Maintain 5 ft Pedestrian Walkway.** If an outdoor display is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside.
2. **Hours of Operation and Site Maintenance.** All outdoor activity including cleaning, maintenance and closing procedures must cease at the close of business.
3. **Sketch Plan / Plot Plan Requirements.** Reviews of outdoor dining facilities shall include, but are not limited to, the following elements: tables, chairs, umbrellas, portable heating elements, barriers, service stations, landscaping/plantings, utilities, awnings, canopies, lighting, host/hostess stands, entertainment, valet operations, and any other adjacent neighboring outdoor dining facilities.
4. **Storage.** When not used in a daily fashion, the storage of the outdoor dining facility must be indoors and concealed from public view.

5. **Months of Operation.** Outdoor dining is only permitted during the months of May through November, unless the applicant sufficiently demonstrates to the Zoning Administrator that this period should be expanded based on the circumstances of the applicant. For a business that has already been granted special exception for outdoor dining, such a business may make a request to the city manager to allow for outdoor dining at other times if weather permits or for individual specific events.
6. **Building and Fire Codes.** All outdoor dining facilities shall be designed to meet the requirements of this section, as well as all applicable building and fire codes.
7. **Permit Required.** Outdoor dining at any location is not permitted without a city-issued permit.
- I) **Pop-Up.** A pop-up is a use that activates a site, indoors or outdoors, with a temporary purpose. A pop-up usually takes over an existing building, for example a restaurant pop-up or art gallery pop-up. Pop-ups must obtain a permit and must abide by all general standards.
 1. **General Standards.** When applicable:
 - a. **Property Owner Permission.** The vendor must provide evidence of written permission from the owner of the site. A vendor that extends beyond the property lines shall require the permission of the affected property owners. If the site is located on public property and in front of a storefront, then the vendor must receive the business owner's permission to operate at that location.
 - b. **City Permission (if Public Space).** The vendor must provide evidence of written permission from the Office of the City Manager if operating in public space.
 - c. **Maintain 5 ft Pedestrian Walkway.** If a vendor is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside.
 - d. **Parking Area.** The use occupies less than 25% of the required business parking area. No vendor can obstruct or place their display within accessible, barrier-free parking spaces.
 - e. **Traffic and Motor Vehicle Code.** Mobile vending shall be subject to Chapter 44, Article II: Traffic Code. Vendors must not block or impair vehicular or pedestrian travel.
 - f. **Health Code.** Vendors must comply with all health requirements of the state or county health departments.
 - g. **Noise Control.** Vendors must comply with Chapter 28, Article V, Offenses Against Public Peace.
 - h. **Contain Supplies.** Vendors must contain all materials and supplies in the pop-up and shall not store supplies or other materials on public property.
 - i. **Hours of Operation.** No vendor shall operate between the hours of 11 p.m. and 7 a.m.
 - j. **Trash Management.** A vendor shall always keep the areas around its vending operation clean and free from litter, garbage and debris. A vendor shall remove all garbage and debris originating from its vending operation from the city and shall not dispose of its garbage and debris in city trash receptacles or city trash compactors unless authorized by the city.

- k. **Public Utilities.** Vendors shall not connect a pushcart or vending display to a source of city electricity, water, or sewer, unless permitted by the City Manager.
- l. **Protect Public Property.** Public property shall not be altered, and permanent fixtures of any kind shall not be installed on public property by the vendor unless authorized by the city. A pushcart or vending display shall not be secured or affixed to any public structure unless authorized by the city.

J) Yard Sales / Garage Sales / Estate Sales / Auctions. These sales occur in residential districts.

- 1. **Yard Sales.** When the City declares a Yard Sale Day, no permit is required. Use must meet general standards.
- 2. **Garage Sales / Estate Sales / Auctions.** Residents can apply to host two garage / estate sales or auctions a year (12 months) at one address. Sales/auctions may last up to three consecutive days. Sales/Auctions must meet general standards.
- 3. **General Standards.** When applicable:
 - a. **Hours of Operation.** No sale shall operate between the hours of 8 p.m. and 8:00 a.m.
 - b. **Maintain 5 ft Pedestrian Walkway.** If a vendor is located on a public sidewalk, a minimum of five (5) feet of unobstructed, pedestrian access along the sidewalk shall be maintained. Sufficient room shall also be provided to allow car doors to open along the curbside.
 - c. **Noise Control.** Vendors must comply with Chapter 28, Article V, Offenses Against Public Peace.
 - d. **Trash Management.** A vendor shall always keep the areas around its vending operation clean and free from litter, garbage and debris. A vendor shall remove all garbage and debris originating from its vending operation from the city and shall not dispose of its garbage and debris in city trash receptacles or city trash compactors unless authorized by the city.

K) Tents / Canopies / Bounce Houses. Public is defined as any space that is public or quasi-public, such as a park, parking lot, church and commercial property (areas where members of the public can access). Private is defined as private use within one's residential property. Tents, canopies and bounce houses do not include cooking and heating activities. Cooking and heating activities always require a temporary use permit.

- 1. **Tents or Canopies, 10 x 10 SF or less.** A permit is not required. Must meet general standards.
- 2. **Tents or Canopies, greater than 10 x 10 SF, Public.** A temporary use permit is required. Additionally, a special event permit may be required. Must meet general standards.
- 3. **Bounce House, Public.** A temporary use permit is required. Additionally, a special event permit may be required. Must meet general standards.
- 4. **Bounce House / Canopy, Private Residential.** No permit is required. Must meet general standards.
- 5. **General Standards.** When applicable:

- a. **Operation Standards.** Rental of membrane structures for the purpose of special events such as graduations, weddings, and other similar events or the use of membrane structures for temporary storage is permitted on residential properties for a period of time up to seven days.
- b. **Prohibited Uses.** Membrane structures used for the purpose of parking or storage of vehicles, recreation vehicles and/or equipment, maintenance equipment and utility trailers are prohibited.

L) Construction Buildings, Structures and Storage. Temporary construction buildings, structures or storage require a permit and shall be reviewed in accordance with the following standards:

1. **Duration.** Temporary construction buildings or structures or storage are permitted for a period of up to 12 months. An additional extension can be approved at the time of application submission by the Director of Public Services or their designee.
2. **Loading Zone.** Uses cannot be located within the designated loading zone.
3. **Landscaping.** Landscaping may be required based on site location, visibility and duration of the trailer.
4. **Electrical Permit.** If electricity is required, an electrical permit must be obtained.
5. **Trailer Design Standards.** Trailers must meet the following requirements:
 - a. One trailer per builder or contractor.
 - b. Setback requirements for the zoning district must be met.
 - c. Anchored per Building Department requirements.
 - d. Must have skirting.
 - e. Roads and parking areas must be an all-weather surface capable of supporting a fire apparatus.
 - f. Meet Michigan Building Code, Michigan OSHA, and Michigan barrier free requirements.
 - g. Must have one ten-pound ABC fire extinguisher.
6. **Storage under Trailer.** Storage of materials under the trailer is not permitted.
7. **Certificate of Occupancy.** All equipment, materials, goods, poles, wires and other items associated with the temporary building shall be removed from the premises within five days of issuing a final certificate of occupancy.

M) Portable Moving / Storage Containers and Roll-Off Dumpsters. Portable moving and storage containers and roll-off dumpsters require a permit and shall be reviewed in accordance with the following standards:

1. **Location.** Containers shall be located on an improved driveway surface and shall not be in the public right-of-way or a private road easement.

2. **Time.** Moving pods and dumpsters are allowed at a location for a period not to exceed 14 days. Applicants may apply for an extension.

Section 18.06 Public Hearings

The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be subject to the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (MCL 125.3103 et seq.), as amended.

The public hearing procedures of PA 110 in effect at the date of adoption are summarized as follows. Any further amendments to PA 110 that alter the public hearing procedure requirements following the date of adoption of this Zoning Ordinance will supersede the following procedures.

- A) **Publication in a Newspaper of General Circulation. Notice** of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.
- B) **Personal and Mailed Notice.**
 - 1) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
 - 2) Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property, regardless of municipal jurisdiction.
 - 3) Notice shall be given to the occupants of all structures within 300 feet of the property regardless of municipal jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance(s) to the structure.
 - 4) All notices delivered by mail or personal delivery must be given not less than 15 days before the date of the public hearing. Notice shall be deemed given when personally delivered or when deposited during normal business hours for delivery with the US postal service or other public or private delivery service. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
 - 5) The City shall prepare a list of property owners and occupants to whom notice was mailed.
- C) **Content.** Any notice published in a newspaper or delivered by mail shall:
 - 1) Describe the nature of the request.
 - 2) Indicate the property that is the subject of the request.
 - 3) Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
 - 4) When and where the public hearing will occur.

- 5) When and where written comments may be submitted concerning the request.
- 6) For amendment to the zoning ordinance, a notice shall also include the place and times at which the proposed text or amendment to the official zoning map may be examined.

D) Public Hearing Procedures for Zoning Ordinance Amendments. Public hearings for Zoning Ordinance amendments, including both text and map amendments, must be noticed. Notice of the time and place of the public hearing shall also be given by mail to any of the following entities that have registered their name with the City Clerk for the purposes of receiving public notice: any electric, gas, or pipeline public utility company; each telecommunication service provider; each railroad operating within the district or zone affected; and the airport manager of each airport.

Section 18.07 Fees

Fees for inspections, permits, certificates or copies thereof required or issued under this Article shall be collected by the Building Department in advance of issuance. The amount of such fees shall be established by resolution of City Council and shall cover the enforcement costs of this Article.

In addition, prior to the issuance of a building permit, the applicant shall file with the Building Department a performance guarantee in the form of cash deposit or certified check. The amount of such guarantee shall be as set forth by the City Council as adopted by resolution and shall cover all improvements not normally covered in the building permit, i.e., berms, walls, landscaping, lighting, surfacing of drives, parking service drives, traffic control devices within the jurisdiction of the city, reclamation, etc. The guarantee shall include a schedule of costs assigned to the different improvements and approved by the City Council. Moneys may be released to the applicant in proportion to work completed on the different elements after inspection of work and the approval of the Building Department. No partial release of funds shall exceed 90 percent of the guarantee, i.e., at least ten percent shall be retained by the city until all work has been completed and subsequently inspected and approved by the Building Department.

Section 18.08 Declaration of Nuisance, Abatement

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

Section 18.09 Moratoria

In certain rare instances it may be in the best interest of the city, its residents and property owners to establish a temporary ban on development as it may either protect the public at large by providing for proper regulation of a use or it may provide a lesser risk that individual landowners will be singled out to bear a special burden that should be shared by the public as a whole. Such instances might be where there is a use proposed which has not been regulated previously, a use which has been overdeveloped, an issue with the critical infrastructure necessary to develop certain uses or other justifiable criteria which advance a legitimate public interest.

- A) Approval Standards.** With that purpose in mind, upon making certain findings, the City Council shall have the authority and is authorized to establish and implement moratoria. A moratorium shall only be established by the City Council when a determination is made that such action:
- 1) The temporary ban is necessary to protect the public health, safety and welfare of the community.
 - 2) The temporary ban advances a legitimate public interest.
 - 3) The temporary ban represents diligence and good faith.
 - 4) The temporary ban is being applied uniformly and fairly.
 - 5) The temporary ban will not deprive a property owner of all reasonable use for an unreasonable time in light of the issues at hand.
 - 6) The temporary ban is supported by findings of fact set forth in the public record.
- B) Time Period.** A moratorium shall be set for the least period of time necessary to address the matter and in any event shall not be set for a period of more than six months initially. If supported by subsequent finding of facts and a showing of due diligence and no delay, additional extensions of the moratorium may be provided for by the City Council. Any such moratoria shall be established by adoption of an Ordinance or an amendment thereto.

Article 19.

Glossary

ZONING ORDINANCE • CITY OF EASTPOINTE, MI



A

Abandonment. To cease or discontinue a use or activity without intent to resume (excluding temporary or short term interruptions to a use or activity during periods of remodeling, maintaining or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure).

Abutting/Adjacent. Having a common border with, or being separated from such a common border by, a right-of-way, alley, or easement.

Accessory Dwelling Unit. See Dwelling, Accessory Dwelling Unit.

Accessory Use. A use of land or of a building or portion thereof conducted in conjunction with another principal use which is clearly incidental and commonly associated and related to the principal activity that takes place and (except in the case of accessory off-street parking spaces or loading) is located on the same lot with such principal use. Examples of Accessory Uses are Carports, Fences, Garages, Garden Sheds, Swimming Pools, Growing of Crops, Home Occupation, Keep of Chickens, Satellite Dishes, Solar Energy System, Wind Energy System.

Addition. A physical enlargement or expansion in floor area or height of a building/structure.

Adult Business. Establishments which are distinguished or characterized by entertainment, devices, or services which are sexually explicit in nature.

- 1) Examples of adult businesses include but are not limited to adult supply stores, adult motion picture theaters, nude body painting/modeling studios, escort services, cabarets, etc.
- 2) The following are not considered adult businesses:
 - a) Establishments which routinely provide such services by a licensed: physician, chiropractor, osteopath, physical or massage therapist, practical nurse, or any other similarly licensed medical professional.
 - b) Electrolysis treatment by a licensed operator of electrolysis equipment.
 - c) Instruction in martial or performing arts or in organized athletic activities.
 - d) Hospitals, nursing homes, medical clinics, or medical offices.
 - e) Barbershops or beauty parlors, health spas and/or salons which offer massage to the scalp, face, neck, or shoulders only.

Affordable Housing. Housing that qualifies with the Department of Housing and Urban Development affordable unit pricing standards.

Alley. A public or private right-of-way providing secondary means of access to abutting properties, and which is not designed for general travel.

Alteration. Any change in the supporting member of a building/structure, including but not limited to bearing walls, columns, posts, beams, girders, and similar components.

Animal, Domestic. An animal that has traditionally, through long association with humans, lived in a state of dependence upon humans and has been kept as a tame pet, no longer possessing a disposition or inclination to escape, to bite without provocation or to cause death, maiming or illness of a human, nor used for commercial breeding purposes. Examples include, but are not limited to dogs, cats, birds, aquatic animals, rabbits, small rodents, and similar animals which do not present an unusual risk to persons or property.

Animal, Wild or Exotic. An animal not indigenous to the city that is incapable of being completely domesticated, requiring the exercise of art, force, or skill to keep it in subjection; this includes any animal which a person is prohibited from possessing by law. Examples include, but are not limited to alligators, big cats, venomous snakes and spiders, birds of prey, primates, deer, racoons, and opossums.

Apartment. A multi-story building with three or more residential units. Individual units may share common interior corridors and exterior entrances. Apartment buildings may be walk-up or elevator buildings, depending on the height.

Arcade. A place, premises, establishment, or room set aside in a retail or commercial establishment in which are located three or more coin-operated amusement devices. "Coin-operated amusement device" means a machine or device operated by means of the insertion of a coin, token, or similar object, for the purpose of amusement or skill, and for the playing of which a fee is charged. The term does not include vending machines which do not incorporate gaming or amusement features, coin-operated mechanical music devices or mechanical motion picture devices. The definition must not apply to coin-operated amusement devices owned or leased to establishments that are properly licensed for the sale of beer or intoxicating liquor for consumption on the premises.

Architectural Features. Features include but are not limited to cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys, and decorative ornaments.

Artisan/Maker Space. A work, studio, and/or retail space for artisans, craftsmen, and small-scale manufacturers to work in an individual or communal setting, where the activities produce little to no vibration, noise, fumes, or other nuisances more typical in industrial or manufacturing uses. Artisan/Maker Spaces can offer a retail component that is open to the public.

B

Balcony. Balconies must extend at least 40 inches or more from the face of the building.

Bar. An establishment or part of an establishment devoted primarily to the selling, serving, or dispensing of alcoholic beverages for on-site consumption. The sale of prepared food or snacks may also be permitted. Bars are different from Night Clubs and Fraternal Lodges.

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

Bed and Breakfast. See also Short-Term Rental. A residential facility that is owner-occupied in which overnight accommodations are provided or offered for compensation, including the provision of bathing and lavatory facilities, and a breakfast meal, for periods of 30-days or less.

Berm. A mound of earth graded, shaped, and improved with landscaping as to be used for visual and/or audible screening purposes to provide a transition between uses of differing intensity or to raise a structure above the natural grade.

Blight. Unsightly or hazardous conditions, including, but not limited to the accumulation of debris, litter, junk, or rubble; structures characterized by holed, breaks, rot, crumbing, cracking, peeling, or rusting; landscaping that is dead, characterized by uncontrolled growth or lack of typical maintenance, or damage; outdoor storage of inoperable motor vehicles, recreational vehicles, trailers, and watercraft; and any other similar conditions of disrepair and deterioration.

Block. The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating), or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or stream; or between any of the foregoing and any other barrier to the continuity of development, or the corporate boundary lines of the city.

Body Art/Tattoo Shop. A business properly licensed by the State of Michigan involving body tattoos, piercings, and similar activities.

Building. Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, or property of any kind.

- 1) **Accessory Building.** A subordinate structure detached from but located on the same lot as the principal building, the use of which is customarily incidental to the principal building or use.
- 2) **Building Area.** The total area on a horizontal plane at the average grade level of the principal building and all accessory buildings, excluding uncovered porches, terraces, steps, swimming pools, and patios.
- 3) **Building Blank Wall.** An exterior building wall with no openings and a single material and uniform texture on a single plane. Blank walls must be avoided in order to create more dynamic, walkable environments.
- 4) **Building Envelope.** The open space on a lot, exclusive of the required yards (setbacks) and rights-of-way, on which a building may be constructed.
- 5) **Building Façade.** The portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.
- 6) **Building Height.** The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the average height between eaves and ridge for gable, hip, and gambrel roofs.
- 7) **Building Site.** The lot on which a building is under construction, and that portion of a condominium development consisting of the condominium unit, and limited common element, intended for the exclusive use of less than all the co-owners.
- 8) **Principal Building.** The building in which is conducted the principal use of the lot on which it is situated.

- 9) **Building Permit.** A permit for commencing construction issued in accordance with a plan for construction that complies with all the provisions of this Zoning Code and the Building Code.

Business Incubator. An organization that— (A) provides physical workspace and facilities resources to startups and established businesses; and (B) is designed to accelerate the growth and success of businesses through a variety of business support resources and services, including— (i) access to capital, business education, and counseling; (ii) networking opportunities; (iii) mentorship opportunities; and (iv) other services intended to aid in developing a business.

C

Carport. A partially open structure, intended to shelter at least one vehicle.

Cellar. The portion of a building partly below the average grade and so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling, with a ceiling height of less than 6.5-feet.

Cemetery. Land used or intended to be used for burial of the human dead or customary household pets and dedicated for such purposes. Cemeteries include accessory columbaria and mausoleums but exclude crematories.

Certificate of Compliance. A document signed by the Zoning Administrator as a condition precedent to the commencement of the legal use of a building that acknowledges that the structure complies with the Building Code in force in the city.

Change of Use (Occupancy). A use which is outside the group number classification of the previous use as set forth in the Standard Industrial Classification manual.

Childcare. The provision of care and supervision for periods of less than 24 hours a day.

- 1) **Childcare Center.** A facility that allows an individual, agency, or corporation to provide care in a commercial space or building for 1 or more children under the age of 13. The children are in care less than 24 hours a day, parents or guardians are not immediately available, and the center operates for more than two consecutive weeks. The facility is generally described as a childcare center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before-school or after-school program, or drop-in center. The term “childcare center” does not include any of the following:
 - a) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three hours per day for an indefinite period or for not more than eight hours per day for a period not to exceed four weeks during a 12-month period.
 - b) A facility operated by a religious organization where children are in the religious organization's care for not more than three hours while persons responsible for the children are attending religious services.

- c) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age child-focused training.
 - d) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
- 2) **Childcare Home, Family.** A private home where care or supervision is provided for 1 to 6 unrelated children (where the licensee permanently resides as a member of the household) for less than 24 hours a day unattended by a parent or legal guardian. All family day care homes must be registered with or licensed by the Michigan Department of Licensing and Regulatory Affairs or successor agency.
 - 3) **Childcare Home, Group.** A private home where care or supervision is provided for 7 to 12 unrelated children (where the licensee permanently resides as a member of the household) for less than 24 hours a day unattended by a parent or legal guardian. All family day care homes must be registered with or licensed by the Michigan Department of Licensing and Regulatory Affairs or successor agency.

Clinic. An establishment where human or animal patients who are not lodged overnight are admitted for examinations and treatment by a group of physicians, dentists, veterinarians or similar professionals.

Community Incubator Kitchen. Use of a commercial kitchen by a party other than the tenants for production of food products to be marketed, sold, and consumed off-site.

Compatibility. "Compatibility" means the characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict.

Composting. The controlled, intentional, and monitored decomposition of organic material.

Condominiums.

- 1) **Condominium Development.** A plan or project consisting of not less than two condominium units established in conformance with the Condominium Act (PA 59 of 1978), as amended, in which some combination of buildings, units, and/or land will be sold to private owners; while some other combination of buildings, units, and/or land will be kept in common ownership among the owners.
- 2) **Condominium Subdivision Plan.** Site, survey and utility plans, floor plans and sections, as appropriate, showing the existing and proposed structures and improvements, including the location thereof on the land, of a condominium subdivision and illustrates the size, location, area, vertical boundaries, and volume for each unit comprised of enclosed air space, as well as the nature, location, and approximate size of common elements. A number is assigned to each condominium unit.
- 3) **Condominium Unit.** The portion of the condominium project designed and intended for separate fee-simple ownership and use, as described in the master deed.
- 4) **General Common Element.** Portions of the condominium project other than the condominium units that are designated for use by all owners within the development.

- 5) **Limited Common Element.** An area which is accessory to a site condominium unit and is reserved in the master deed for the exclusive use of the owner of that site unit. For the purposes of this Zoning Code, a site condominium unit's limited common element, when combined with the condominium building site, is the equivalent of a lot.

Construction. The erection, alteration, repair, renovation, demolition, or removal of any structure and the excavation, filling, and grading in connection thereto.

Court. An open, unoccupied space bounded on two or more sides by the exterior walls of a building or exterior walls and lot lines.

- 1) **Inner Court.** A court enclosed on all sides by exterior walls of a building or building exterior walls and lot lines, on which walls are allowable.
- 2) **Outer Court.** A court enclosed on not more than three sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley, or yard.

Coverage. The percentage of lot area covered by the building area.

Curb Cut. An opening from the public street to a private driveway or public drive serving an individual site or group of sites.

Curb Level. The established grade of the curb in front of the midpoint of the lot.

D

Data Processing Center or Computer Center. An establishment primarily engaged in providing electronic data processing, information storage and technical computer assistance.

Deed Restriction. A restriction of use or development that is set forth in an instrument recorded with the Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant.

Detention or Retention Pond. An artificially created pond or basin that holds collected storm water. A detention pond has an outlet that releases water at a controlled rate. Detention basins are designed to reduce how quickly runoff enters our natural waterways to protect downstream areas from flooding and erosion. Retention ponds are designed to hold water until it infiltrates the soil or evaporates without an outlet to a drainage way, except emergency overflows. Where this Article specifies requirements or restrictions on detention ponds, these regulations shall also apply to retention ponds, and vice versa.

Donation Collection Bin. A receptacle designed with a door, slot, or other opening that is intended to accept and store donated items; provided, however, that the definition of donation collection bins shall not include trailers where personnel are present to accept donations.

Drive-Thru Facility. A facility designed to serve customers in their vehicle from a window in the building. Drive-thrus may serve any type of permitted business but are generally associated with food service and banking.

Dwelling. A building, or portion thereof, designed to provide complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- 1) **Dwelling, Accessory Dwelling Unit.** A dwelling unit that is included in a detached accessory building that is incidental and accessory to a primary single-family dwelling on the same lot.
- 2) **Dwelling, Courtyard.** Multiple side-by-side or stacked dwelling units, courtyard housing is oriented around a courtyard or series of courtyards. Each unit often has its own individual entry, or up to three units may share a common stoop, stair or entry.
- 3) **Dwelling, Duplex (side-by-side or stacked).** A building designed for or occupied exclusively by two families living independently of each other. This does not include a single-family dwelling with an accessory dwelling unit.
- 4) **Dwelling, Economy Efficiency Dwelling (EED).** A dwelling unit that is between 400 and 700 square feet in size, built on an approved foundation, meeting the State of Michigan's building and sanitary codes, and qualifying for a Certificate of Compliance.
- 5) **Dwelling, Fourplex.** A building designed for or occupied exclusively by four families living independently of each other. This does not include a single-family dwelling with an accessory dwelling unit.
- 6) **Dwelling, Multiple-Family.** A building, or portion thereof, used and designed as a residence for three or more families living independently of each other and having their own cooking facilities therein, including townhouses, apartment buildings, and lofts.
- 7) **Dwelling, Single-Family.** A detached building designed for or occupied exclusively by one family.
- 8) **Dwelling, Single-Family, Manufactured.** A dwelling unit which is located and similar in appearance to traditional site-built dwelling units.
- 9) **Dwelling, Townhome.** Two or more multistory units with shared side walls on both sides. Townhomes typically have entries facing a street and a rear yard or small court with detached parking garage or parking area accessed from an alley.
- 10) **Dwelling, Triplex (side-by-side or stacked).** A building designed for or occupied exclusively by three families living independently of each other. This does not include a single-family dwelling with an accessory dwelling unit.
- 11) **Dwelling Unit.** The portion of a dwelling providing complete living quarters for one family.
- 12) **Dwelling Unit, Site Built.** A dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. This includes dwelling units constructed of precut materials and panelized wall, roof, and floor sections when such sections require substantial assembly and finishing on the premises which are intended to serve as the final location of the dwelling unit.
- 13) **Dwelling, Upper-Level Residential.** A dwelling unit that is located on any floor above ground floor level, within a mixed-use complex.

E

Easement. A permanent grant of one or more property rights by a property owner to, and/or for use by, the public, a corporation or another person or entity.

Elderly Housing. See Senior Living.

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

Event Hall. A special purpose room, or a building, used for hosting social and business events. Events are not open to the public; they are pre-planned and by invitation only. Event halls may or may not provide food and beverage services. Examples include but are not limited to catering and/or banquet halls.

Experiential Retail. A structure or part of a structure that offers retail experiences in the form of a class. Experiences may include art, pop-ups, live music, virtual reality, cafés and lounges, and large video display walls. Experiential retail uses are open to the public, yet also available via appointments. Example: Painting with a Twist.

F

Façade. The exterior wall(s) of a building exposed to public view. The façade shall include the entire building walls, including wall faces, parapets, fascia, windows, doors, canopies and visible roof structures.

Face Brick. Term used for brick that is not just for the structure, but also for look, energy efficiency and value. A face brick surface has a singular layer of bricks that have at least 50 mm or more in width. Anything less than 50 mm in width is considered brick veneer.

Facility. The entire building or any portion of the building, structure or area, including the site on which the building, structure or area is located, wherein specific services are provided, or activities are performed.

Family.

- 1) An individual or group of two (2) or more persons related by blood, marriage, or adoption, including foster children and domestic employees, together with not more than two (2) additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit; or
- 2) A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single, nonprofit housekeeping unit. This definition must not include any society, club, fraternity, sorority, association, lodge, coterie, organization, group of students, or other individuals whose domestic relationship is of a transitory or

seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period or to licensed and approved foster care facilities.

Fence. A wall composed of posts carrying boards, rails, pickets or wire, or iron structures consisting of vertical or horizontal bars or of open work.

- 1) **Fence, Decorative.** An open or semi-open fence, ornamental in nature, not intended to provide a permanent barrier to passage or for screening. Decorative fencing does not include chain link fencing.
- 2) **Fence, Partition.** A fence located along the line dividing two lots or parcels of land which are privately owned in the city by different owners, whether subject to an easement or not.

Floor Area, Total. The sum of the areas of all floors of all buildings on a lot. Basements, attic storage areas, balconies, porches and uncovered decks shall be excluded. All measurements shall be from the outside face of exterior walls.

Floor Area, Usable. The sum or the areas of all floors of a building used for service to the public. This excludes storage areas and non-public office space.

Financial Institution. An institution in the business of dealing with financial and monetary transactions such as deposits, loans, investments, and currency exchange.

Food truck/cart. A vehicle equipped with facilities for cooking and selling food.

Foster Care. The supervision, personal care, and protection of individuals (who require care on an ongoing basis, but who do not require continuous nursing care) in addition to room and board, for 24 hours a day for compensation, and includes the following uses as herein defined. All foster care facilities must be registered with or licensed by the Michigan Department of Licensing and Regulatory Affairs or successor agency.

- 1) **Foster Care, Adult Family Home.** A private residence with six or fewer adults; the adult foster care family home licensee must be a member of the household and an occupant of the residence.
- 2) **Foster Care, Adult Large Group Home.** A facility with at least 13, but not more than 20 adults, to be provided with foster care; the adult foster care small group home licensee is not required to be an occupant of the residence.
- 3) **Foster Care, Adult Small Group Home.** A facility with 12 or fewer adults to be provided with foster care; the adult foster care small group home licensee is not required to be an occupant of the residence.
- 4) **Foster Care, Family Group Home.** A private home that provides foster care to 7 or more children.
- 5) **Foster Care, Family Home.** A private home that provides foster care to 6 or fewer children.

Forecourt. A building typology where a portion of the façade is close to the frontage line and the central portion of the façade is setback, creating a garden or pedestrian area.

Fraternal Lodge. A building or part of a building used for the purposes of a club, society or association organized and operated on a non-profit basis exclusively for social welfare, civic improvement, pleasure, or recreation or for any other similar purposes. Lodges are not open to the public; attendees must be members.

Frontage. All property fronting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of a dead-end street or City boundary measured along the street line.

Funeral Home or Mortuary. An establishment where the dead are prepared for burial or cremation.

G

Garage, Commercial. Any garage, other than a private, community or public garage, for the storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

Garage, Community. An enclosed building having no public shop or service in connection therewith, for the storage of vehicles.

Garage, Private. An accessory building not over one story or fifteen feet in height and having not more than 750 square feet of usable floor area, to be used for the storage of noncommercial motor vehicles and not more than one commercially licensed vehicle of not greater than one ton capacity, and wherein no public shop or service is conducted and no retail, wholesale or other commercial storage is conducted.

Garage, Public. Any garage, other than a private garage or community garage, available to the public, which is used for the storage, repair, rental, greasing, washing, sales, servicing, adjusting or equipping of automobiles or other motor vehicles.

Gas Station. The retail sale and dispensing of fuel, energy, or lubricants from fixed equipment directly into motor vehicles. Such use may have retail sales of items such as pop, groceries, and similar products. Vehicle wash facilities are permitted as an accessory use if already permitted in the zoning district.

General Common Elements:

- 1) The land in the condominium project;
- 2) The foundations, main walls, roofs, halls, lobbies, stairways, entrances, exits or communication ways;
- 3) The basements, flat roofs, yards and gardens, except as otherwise provided or stipulated;
- 4) The premises for the use of janitors or persons in charge of the condominium project, including lodging, except as otherwise provided or stipulated;
- 5) The compartments or installations of central services such as heating, power, light, gas, cold and hot water, refrigeration, air conditioning, reservoirs, water tanks, pumps and the like;
- 6) The elevators, incinerators and, in general, all devices or installations existing for common use; and
- 7) All other elements of the condominium project owned in common and intended for common use or necessary to the existence, upkeep and safety of the project.

Grade, Established. The elevation of the centerline of the streets as officially established by City authorities.

Grade, Finished. The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

Graffiti. Any inscription, word, figure, marking, or design that is marked, etched, scratched, drawn, or painted on any building, structure, fixture, or other improvement, whether permanent or temporary, including by way of example only and without limitation, fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way.

Ground Cover. A planting of low-growing plants or sod that in time forms a dense mat covering the area, preventing soil from being blown or washed away and the growth of unwanted plants.

H

Health Care Facility. A facility or institution, whether public or private, principally engaged in providing services for animal or human health maintenance, diagnosis and treatment of disease, pain, injury, deformity or physical condition, that allows overnight stay, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, tuberculosis hospital or chronic disease hospital.

Health or Fitness Club. A facility whose principal use is the provision of exercise equipment, facilities or classes for use by members for compensation.

Home for the Aged (Congregate Care Facility). A supervised personal care facility, other than a hotel, adult foster-care facility, hospital, nursing home or County medical care facility, which provides room, board and supervised personal care to twenty-one or more unrelated nontransient individuals sixty years of age or older. The term "home for the aged (congregate care facility)" includes a supervised personal care facility for twenty or fewer individuals sixty years of age or older if the facility is operated in conjunction with, and as a distinct part of, a licensed nursing home.

Home Occupation. Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, not involving employees other than members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof and does not endanger the health, safety and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, excessive traffic, fire hazards and the like, involved in or resulting from such occupation, profession or hobby.

Homeless Shelter. A supervised residential care facility offering temporary shelter, designed, occupied or intended for occupancy by transient persons and families, and which, in addition to providing food and shelter, may also provide any personal care or service, including, but not limited to, supervision and assistance in dressing, bathing and the maintenance of good personal hygiene, care in emergencies or temporary illness usually for periods of one week or less, supervision in the taking of medications and other services conducive to the residents' welfare.

Hospital. A facility where sick or injured in-patients are given medical or surgical care, at either public or private expense, but excluding a nursing home and excluding institutions where persons suffering from permanent types of illness, injury, deformity or deficiency or age are supervised or given care and treatment on a prolonged or permanent basis.

Hotel. A building containing rooms intended and designed to be used, or which are used, rented or hired out to be occupied, or which are occupied, for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or within an accessory building.

Household. All persons who occupy a house, an apartment, a group of rooms or a single room occupied as separate living quarters.

I

Impervious Surface. Man-made material that covers the surface of land and substantially reduces the infiltration of storm water to a rate of five percent or less. Impervious surfaces include, but are not limited to, pavement, buildings and structures.

J

Junk. Materials recovery.

Junkyard. An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles.

K

Kenel. Any lot or premises on which four or more dogs, cats or other household pets of more than four months of age are either permanently or temporarily boarded, groomed, bred, trained or sold.

L

Land Divide or Division. The partitioning or splitting of a parcel of land for the purpose of sale or lease of more than one year, or for the building development that results in one or more parcels of less than 40 acres or the equivalent. It does not include a property transfer between two or more adjacent lots, if the property taken from one parcel is added to an adjacent parcel.

Landscape Nursery or Greenhouse. A place where plants are propagated and grown to a desired size. Mostly the plants concerned are for gardening, forestry or conservation biology, rather than agriculture. They include retail nurseries, which sell to the general public, wholesale nurseries, which sell only to businesses such as other nurseries and to commercial gardeners, and private nurseries, which supply the needs of institutions or private estates.

Landscaping. The treatment of the ground surface with live plant materials normally grown in Macomb County such as, but not limited to, grass, ground cover, trees, shrubs, vines and other live plant material. In addition, a landscape design may include other decorative natural or processed materials, such as wood chips, crushed stone, boulders or mulch. Structural features such as fountains, pools, statues and benches shall also be considered a part of landscaping if provided in combination with live plant material.

- 1) **Berm.** A mound of earth landscaped with living plant materials which blends with the surrounding terrain.
- 2) **Buffer.** A landscaped area composed of a greenbelt and a wall established and/or maintained to provide visual screening, noise reduction or transition.
- 3) **Caliper.** The diameter of a tree trunk measured as follows:
 - a) Existing trees are measured at four and one-half feet above the average surrounding grade.
 - b) Trees which are to be planted shall be measured 12 inches above the base of the tree if the tree caliper is more than four inches, or if the tree caliper is less than four inches, it shall be measured at six inches above the base of the tree.
- 4) **Deciduous tree.** A tree that obtains a mature height and branch structure and provides foliage primarily on the upper half of the tree. The purpose of a deciduous tree is to provide shade to adjacent ground areas. Foliage sheds at the end of its growing season.
- 5) **Diameter at breast height (dbh).** The circumference of a tree measured at four and one-half feet above grade.
- 6) **Evergreen tree.** A tree that has persistent foliage that remains green throughout the year.
- 7) **Greenbelt.** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Zoning Code.
- 8) **Ground cover.** Low-growing plants or sod that in time form a dense mat covering the area, preventing soil from being blown or washed away and the growth of unwanted plants.
- 9) **Hedge row.** A two- to three-foot tall row of evergreen or deciduous shrubs that are planted close enough together to form a solid barrier.
- 10) **Opacity.** The state of being at least 80 percent impervious to sight.
- 11) **Ornamental tree.** A deciduous tree that is typically grown because of its shape, flowering characteristics or other attractive features and that grows to a mature height of 25 feet or less.
- 12) **Screen.** An upright visual barrier such as a fence, wall or opaque landscaping.
- 13) **Shrub.** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than 15 feet in height.

- 14) **Tree.** A woody plant with an erect perennial trunk, which at maturity is 25 feet or more in height and which has a more or less definite crown of foliage.

Laundry Facility or Dry Cleaners. Laundry facilities range from coin-operated self-serve laundromats where people wash their own clothes to large commercial facilities that clean sheets and towels for businesses like hospitals.

Live-Work. A property that combines residential living space with commercial, office or manufacturing space.

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

Lot. Includes the words "plat" and "parcel" and means a portion or parcel of land considered or used as a single unit.

- 1) **Lot, Corner.** A parcel of land at the junction of and fronting on two or more intersecting streets.
- 2) **Lot, Depth of.** "Depth of lot" means the average horizontal distance between the front and rear lot lines measured in the general direction of the side lot lines.
- 3) **Lot, Interior.** "Interior lot" means a lot other than a corner lot.
- 4) **Lot Lines.** "Lot lines" means any line dividing one lot from another.
- 5) **Lot, Through.** "Through lot" means an interior lot having frontage on two parallel or approximately parallel streets.
- 6) **Lot Width.** "Lot width" means the length of a straight line parallel to the street line drawn between the points where the required front setback intersects the side lot lines.
- 7) **Lot, Zoning.** A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. "Zoning Lot" also means a single tract of land, located within a single block in a one-family residential district, which, prior to, or at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a one-family dwelling unit, under single ownership or control, providing the ZBA determines it to be buildable as defined in the next sentence below. A zoning lot must satisfy this Zoning Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located unless the ZBA, in the exercise of its power of interpretation, decides upon a modification of open space and other provisions for non-conforming lots of record. A zoning lot, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record, or a portion of a lot of record.

Lumber or Building Materials Yards. A place that sells lumber and other building materials.

M

Manufactured Home. A detachable single-family dwelling prefabricated on its own chassis, intended for long-term occupancy and designed to be transported on its own wheels or flatbed to the site where it is to be occupied as a complete dwelling without a permanent foundation. The unit shall contain sleeping accommodations, a flush toilet, a wash basin, a tub or shower, kitchen and living quarters.

Manufacturing Facility. A facility whose principal use is the physical, mechanical or chemical transformation of materials or substances into new products including assembling, making, preparing, inspecting, finishing, treating, altering or repairing, or the blending of materials such as oils, plastics or resins.

Marihuana. See Medical Marihuana.

Master Deed. The condominium document recording the condominium project as approved by the Director of Building and Planning to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

Master Plan. The Comprehensive Community Plan, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the Municipality, and including any unit or part of such Plan and any amendment to such Plan or parts thereof. Such Plan may or may not be adopted by the Planning Commission and/or the legislative body.

Massage Establishment. Any place or establishment where a massage is made available. A massage is any method of treating the superficial parts of a patron for medical, hygienic, exercise or relaxation purposes by rubbing, stroking, kneading, tapping, pounding, vibrating or stimulating with hands or any instrument, or by the application of air, liquid or vapor baths of any kind whatever.

Materials Recovery. Used machinery, scrap, iron, steel, other ferrous and nonferrous metals, tools, implements, or portion thereof, glass, plastic, cordage, building materials, rubber tires or other waste the original use of which has been abandoned.

Materials Recovery Facility. An open area where waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled. The term "materials recovery facility" includes automobile wrecking yards and any area of more than 200 square feet for the storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Medical Marihuana Facility or Facility. Facility that means one of the following:

- 1) **"Grower"** or **"Grower Facility"** as that term is defined in the Medical Marihuana Facilities Licensing Act.
- 2) **"Safety Compliance Facility"** as that term is defined in the Medical Marihuana Facilities Licensing Act.
- 3) **"Provisioning Center"** as that term is defined in the Medical Marihuana Facilities Licensing Act.
- 4) **"Processor"** as that term is defined in the Medical Marihuana Facilities Licensing Act.
- 5) **"Secure Transporter"** as that term is defined in the Medical Marihuana Facilities Licensing Act.

Medical Office. An office designed specifically for health care practices, meaning they have elements or design principles intended to improve patient outcomes and enhance the patient experience.

Microbrewery. See all distillery and winery. A brewery that produces less than 30,000 barrels of beer or ale per year, as allowed by state law (a barrel is equivalent to 31 US gallons). A microbrewery may also include retail sales, and/or a restaurant, bar, or tasting room.

Mobile Home. "Mobile home" means any portable structure exceeding thirty-two feet in length, at least eight feet in width, designed, used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons. Any such structure shall be considered to be a mobile home whether or not the wheels have been removed therefrom and whether or not resting upon a temporary or permanent foundation.

Mobile Home Lot. A designated site within a mobile home park for the exclusive use of the occupants of a single mobile home.

Mobile Home Park. A tract of land under single ownership which has been developed with all necessary facilities and services in accordance with a site development plan meeting all the requirements of this Zoning Code and which is intended for the express purpose of providing a satisfying living environment for mobile home residents on a long-term occupancy basis.

Mobile Vending. Mobile vending is the act of selling items, usually food, from a vehicle that is not permanently affixed to the site of sale and can be readily transported to and from that site.

Motel. A group of attached, semi-detached or detached rooming units of which not more than ten percent contain cooking or eating facilities, each unit having an entrance leading directly from the outside of the building. Such units, with the exception of the unit occupied by the management staff, must be used and intended primarily for the overnight accommodation of transients.

Motor Vehicle Bump and Paint Shop. A building or a portion of a building, arranged, intended and designed to be used for automobile collision service and bumping and painting of automobiles with activities such as repair, replacement, rebuilding, reconditioning, painting and straightening of automobile bodies, fenders, bumpers, frames, glass and trim, but not including rustproofing, engine or motor repair or rebuilding, or general repair.

Motor Vehicle Repair Shop. A building or portion of a building arranged, intended and designed to be used for making repairs to motor vehicles.

Mural. A graphic displayed on the exterior of a building, generally for the purposes of decoration or artistic expression, including but not limited to painting, fresco, or mosaic. If a business installs a mural, there can be no reference to the business name; a mural is not a sign.

N

Night Club. A building or structure or part thereof whose primary function is the provision of theatrical performances, pre-recorded music, or live musical entertainment whether such pre-recorded or live music is provided for listening or dancing by the patrons, or any combination of the above functions. Night clubs have an open floor plan. Secondary uses may include the sale and consumption of food and/or alcoholic beverages on the premise.

Non-conforming Building. A building or portion thereof lawfully existing on the effective date of this Zoning Code, or amendments thereto, that does not conform to the provisions of the district in which it is located.

Non-conforming Use. A structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

Nuisance Factor. "Nuisance factor" means an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to, the following:

- 1) Noise;
- 2) Dust;
- 3) Smoke;
- 4) Odor;
- 5) Glare;
- 6) Fumes;
- 7) Flashes;
- 8) Vibration;
- 9) Shock waves;
- 10) Heat;
- 11) Electronic or atomic radiation;
- 12) Objectionable effluent;
- 13) Noise from the congregation of people, particularly at night;
- 14) Passenger traffic; and
- 15) Invasion of nonabutting street frontage by traffic.

O

Occupied. Any land or structure arranged, designed, built, altered, converted to, rented or leased, or intended to be inhabited or used.

Offensive. The work in which the representations appear, taken as a whole, appeals to the prurient interest and patently depicts or portrays material in a manner which, taken as a whole, lacks literary, artistic, political or scientific value.

Office. A place, such as a building, room or suite, in which services, clerical work, professional duties or the like are carried out.

Open Air Business Use. Includes any of the following businesses when said business is not conducted from a wholly enclosed building:

- 1) Home equipment sale or rental services;
- 2) Outdoor display and sale of garages, swimming pools and similar uses.
- 3) Retail sale of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- 4) Tennis courts, archery courts, shuffleboard courts, horseshoe courts, miniature golf courses, golf driving ranges, children's amusement parks or similar recreational uses.

Open Front Store. A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations or automobile service stations.

Open Space. An unoccupied space open to the sky on the same lot with the building.

Outdoor Dining Area. Any area where food and other refreshments are served or consumed within the public right-of-way, i.e., the sidewalks immediately in front of any food establishment, cafe, or place of business where food and/or other refreshments are served, or where permitted on private property.

Outdoor Sales. The outdoor display of products by a permanent business establishment or temporary retail operations including but not limited to farmer's market, sidewalk sales, seasonal sales (e.g., Christmas trees, pumpkins), art, vehicles. Tents and canopies can be considered as part of outdoor sales, but see Temporary Use standard section for further regulation.

Outdoor Storage. The keeping, in an unenclosed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty-four hours.

P

Packaging and Distribution Facility. A facility where goods are stored, but also where goods are packed and shipped directly to the consumers or to businesses in another location.

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

Parking Lot. A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, designed and used for parking of any operable vehicle by the public. No storage of non-business-related vehicles is allowed. Business related vehicle storage is permitted if the vehicles are operable or if the storage of the vehicle is for a period of 24 hours or less.

Parking Structure. A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed including parking garages, deck parking and underground or under building parking areas. A parking structure can be the primary structure or accessory to another use. Parking is only for operable vehicles and no storage of vehicles is allowed. Parking is only for operable vehicles and no storage of vehicles is allowed.

Pawnbroker. A person, corporation or other entity that loans money on deposit or pledge of personal property or other valuable items, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable items on condition of selling the same back at a stipulated price.

Pawn Shop. A facility where a pawnbroker conducts business.

Personal Service Establishment. Establishments providing services, as opposed to products, to the general public, including financial services, pharmacies, insurance, real estate, dry cleaning, tailors, salons, spas, wellness, and similar uses. Personal services shall not include auto-related uses.

Pet Grooming and Boarding Facility. A pet grooming and boarding facility is a business for the temporary boarding and care of common household pets, including dogs and cats. Pet boarding facilities may provide related services, including grooming or training, but no animals may be bred or sold at a pet boarding facility unless the pet boarding facility is accessory to a principal retail use. Pet boarding facilities may be accessory to a veterinary office or hospital or pet supplies store.

Planned Unit Development. A development process that is intended to create a cohesive development plan for tracts of land, integrating transportation systems with a variety of housing types and other uses, like park and open spaces and commercial or retail uses. A key goal of PUD regulations is to allow flexibility in deciding how to integrate these various uses (e.g., allow different lot sizes and setbacks than those normally required) in exchange for a higher quality development that fulfills the city's Master Plan goals.

Plat. A map, plan or layout of a city, section or subdivision, or any part thereof, including the boundaries of individual properties.

Plot Plan. A plat of a lot, drawn to scale, showing the actual measurements, the size and location of any existing structures or structures to be erected, the location of the lot in relation to abutting streets, and other such information.

Pop-Up. A use that activates a site with a temporary purpose. City administration reviews pop-up requests on a case by case basis and may or may not require an active business license to be associated with the application.

Porch. A covered projection on a building or structure containing a floor, which may be either totally enclosed or open, except for columns supporting the porch roof, and which projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

Principal Use. The primary use of a lot, parcel of land, building or structure.

Professional Office. A structure or space which houses the business office of a person or persons who supply a professional service other than a financial service or personal service, as defined in this ordinance.

Public Buildings. Buildings that are publicly owned and are available for public use, as distinguished from buildings that are publicly owned but are intended for private use, e.g., public housing.

Public Utility. "Public utility" means any person, firm, corporation or Municipal department or board, duly authorized to furnish and furnishing, under State or Municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, water, sewerage or sewage disposal service.

R

Recycling Facility. A facility that collects, sorts, compacts, crushes, bales or reloads materials for reprocessing, reuse or remanufacture. See also "reuse facility."

Recreation, Indoor (public or private). A public or private facility providing indoor recreational activities, services, amusements, and instruction. Uses may include, but are not limited to bowling alleys, ice- or roller-skating rinks, and arcades.

Recreation, Outdoor (public or private). A recreational facility conducted for public or private purposes and outside of a building. Including such uses such as athletic fields, miniature golf, outdoor skateboard park; swimming, bathing, wading, and other therapeutic facilities; children's tennis, handball, basketball courts, and batting cages.

Religious Institution. An institution that people regularly attend to participate in or hold religious services, meetings or other activities. Also known as "place of worship" or "church". The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

- 1) **Religious Institution, Major.** A religious institution that has the Fire Code occupancy level of greater than 100 people.
- 2) **Religious Institution, Minor.** A religious institution that has the Fire Code occupancy level of 100 people or less.

Residential Maintenance or Management Facility. An establishment providing routine maintenance of buildings. This term includes but is not limited to a window washing, building cleaning, pest extermination, or disinfecting service.

Restaurant. Any establishment whose principal business is the sale of food, frozen desserts, or beverages to the customer in a ready-to-consume state. Restaurants are open to the public. Restaurants are not banquet halls. For banquet halls, see Event Halls definition.

- 1) **Restaurant, full-service.** A structure or portion of a structure which is maintained, operated, and advertised or held out to the public as a place where food, confections, frozen dessert and beverages are served and consumed at chairs and tables primarily within the structure.
- 2) **Restaurant, cafes/takeaways.** Establishments whose patrons generally order or select items and pay before eating. Food and drink may be consumed on premises, taken out, or delivered to customers' locations.

Retail Sale Establishment. An establishment engaged in the selling of goods and merchandise to the public for personal or household consumption and rendering services incidental to the sale of such goods.

Reuse Facility. A facility whose principal use is the collection, sorting, repair, resale or redistribution, on site, of used clothing, furniture, household goods, building materials or tools. A Reuse Facility is unlike a Recycling Facility because it does not involve high nuisance factor activity.

Rules of Construction. The following rules of construction apply to the text of this Zoning Ordinance:

- 1) The particular controls the general.
- 2) In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text controls.
- 3) A "building" or "structure" includes any part thereof.
- 4) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- 5) The word "person" includes an individual, a corporation, a partnership, an unincorporated association, or any other similar entity.
- 6) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction is interpreted as follows:
 - a) "And" indicates all the connected items, conditions, and provisions apply.
 - b) "Or" indicates the connected items, conditions, and provisions apply.
 - c) "Either...or" indicates the connected items, conditions, provisions, or events apply singly, but not in combination.
- 7) Terms not herein defined have the common meaning assigned to them.

S

Satellite Television Dish. A device that is designed to receive and/or process microwave communication via satellite and which is also known as a satellite earth station.

School. An institution for educating people.

- 1) **School, Elementary.** A school for the first four to six grades, and usually including kindergarten.
- 2) **School, Middle.** A school intermediate between an elementary school and a high school, typically for children in the sixth, seventh, and eighth grades.
- 3) **School, High.** A school that typically comprises grades 9 through 12, attended after primary school or middle school.
- 4) **College or University.** An institution other than a trade school that provides full-time or part-time education beyond high school.
- 5) **Trade and Vocational School.** A facility whose principal use is teaching automotive, construction (cabinet making, carpentry, electrical, HVAC, masonry, plumbing, etc.), manufacturing or welding skills, generally in a shop setting.

Secondhand or Rummage Shop. A store where second hand or used household and personal goods are bought and sold and may include the minor repair and preparation of such goods. Secondhand stores do not include the sale of used vehicles, recreation craft, farm equipment, construction equipment, or industrial equipment. Secondhand stores include antique furniture stores, thrift shops and pawnshops.

Self-Storage Facility. A building consisting of individual self-contained units that are leased or owned for the storage of personal property and/or household goods.

Senior Living (assisted and independent). A facility, other than a hospital, having as its primary function the rendering of 24-hour care for daily living for extended periods of time to persons afflicted with illness, injury, or an infirmity, including accessory uses that provide services to the residents, staff, and visitors. Such support may include meals, security, and housekeeping, daily personal care, transportation and other support services, where needed. Individual dwellings may contain kitchen facilities.

Setback. The minimum required horizontal distance between a building or structure and the front, side and rear lot lines. Setbacks are measured from the ROW to the building or the interior of the lot.

Short-Term Rental. A transient vacation rental or use in which overnight accommodations are provided in dwelling units to guests for compensation, for periods of less than 30 days.

Sketch Plan. A drawing containing less information than a site plan of a development intended to ensure compliance with zoning provisions.

Sign. See Article 10: Signs.

Site Area. The total area within the property lines of a project, excluding external streets.

Site Condominium. A condominium development consisting of single-family detached residential dwelling units.

Site Plan. The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including: topography, vegetation, drainage, flood plains, marshes, waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, structures, signs, lighting, screening devices and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

Smoking Lounge. A business establishment that offers the smoking of tobacco, including but not limited to establishments commonly known as cigar lounges, hookah bars/cafes, tobacco clubs, or smoking parlors.

Solar Energy System. Equipment that directly converts and then transfers, generates, or stores solar energy into usable forms of thermal or electrical energy.

Special Land Use. A conditional use permitted only after review and approval by the Planning Commission, such review being necessary because the provisions of this Zoning Code covering conditions, precedent or subsequent, are not precise enough for all applications without interpretation, and such review is required by this Zoning Code.

Stoop Building. A building with a frontage where the first floor is elevated from the sidewalk to provide privacy for first floor windows. The entrance is usually from an exterior stair and landing. This frontage is suitable only for ground-floor residential use. A stoop building is commonly used as a typology for building townhomes.

Story. A building included between the surface of a floor and the surface of the floor next above it, or, if there is no floor above it, then the space between a floor and the ceiling next above it.

Story, One-Half. A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story, and the floor area of which does not exceed two-thirds of the area of the floor below.

Street. A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property. Streets are further classified by the functions they perform as follows:

Street Line. The dividing line between a street and a lot.

Structure. A combination of materials, other than a building, forming a construction that is safe and stable, including, among other things, stadiums, platforms, radio towers, wind turbines, sheds, storage bins, fences and display signs.

Structural Alteration: Changes to the location of the exterior walls and/or the area of the building. This includes filling, grading or excavation that causes more than five cubic yards of disturbed earth material.

Studio (dance, art, photography). An artist or worker's workroom. This can be for the purpose of acting, architecture, painting, pottery (ceramics), sculpture, origami, woodworking, scrapbooking, photography, graphic design, filmmaking, animation, industrial design, radio or television production broadcasting or the making of music. The term is also used for the workroom of dancers, often specified to dance studio.

Sustainable. Practices or methods that meet the needs of the present generation without compromising the ability of future generations to meet their needs.

Swimming Pool. A pool used for swimming purposes rather than wading purposes and which has a depth of twenty-four inches or greater.

T

Temporary Use or Building. A use or building permitted to exist during periods of construction of the main building or use, or for special events.

Testing or Experimental or Research Facility. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Theatre or Entertainment Venue. A structure or facility for the presentation of the performing arts, including indoor motion picture theaters, theaters for live performances, and indoor and outdoor concert halls. Entertainment complex includes restaurants as an accessory use. Entertainment complex does not include adult motion picture theaters or establishments featuring burlesque.

Townhome. A series of attached single-unit dwellings that are separated from the adjacent dwelling unit by a structurally independent wall extending from the foundation through the roof. Townhomes have unobstructed front and rear walls to be used for access, light, and ventilation. A variation of the townhome is the stacked Townhome, which vertically integrates two similarly sized single-unit dwellings in the same building footprint.

Transitional Housing. Shelter provided to people in need (e.g. people/families experiencing homelessness, women, veterans, persons on release from more restrictive custodial confinement, and the like) for an extended period, often as long as 18 months, and generally integrated with other social services and counseling programs to assist in the transition to self-sufficiency through the acquisition of a stable income and permanent housing.

Transportation and Logistics Center. Any physical facility that moves or assists in the movement of people or goods which may include accessways, bicycle facilities, multi-use paths, pedestrian connections, or streets. This term does not include electricity, sewage, or water delivery systems.

U

Usable Floor Area, Nonresidential. "Non-residential usable floor area" means the area between the exterior face of exterior walls on the first story and any other story connected by a fixed stairway, escalator, ramp or elevator, which may be made fit for human habitation. Such measurement includes the floor area of all accessory buildings measured similarly, but excludes the floor area required for unenclosed porches, light shafts, public corridors and public toilets.

Use. "Use" means the principal purpose for which land, or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

V

Variance. An exception to the provisions of this Zoning Ordinance granted by the Board of Zoning Appeals.

- 1) **Variance, Nonuse.** A departure from the provisions of this Zoning Ordinance relating to setbacks, side yards, frontage requirements, lot size, parking, signage and other requirements of the applicable zoning district.
- 2) **Variance, Use.** A variance granted for a land use that is not permitted in the applicable zoning district.

Vehicle.

- 1) **Vehicle Sales.** The sales of the automobiles or other motor vehicles that are incidental to the primary use of an approved commercial garage.
- 2) **Vehicle Sales, Wholesale Office.** An administrative office use by a business with an approved Class W (Wholesaler Vehicle License) from the State of Michigan. Wholesalers engage in the business of buying and selling used vehicles from and to licensed used-vehicle dealers.
- 3) **Vehicle Repair Shops.** Where one or all of the following services may be carried out: general repair, engine rebuilding, or rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; and overall painting and rustproofing of motor vehicles.
- 4) **Vehicle Wash Facilities.** Either a mechanical or self-service establishment that contains facilities for washing automobiles (include trucks, buses, or any other vehicle). This definition does not include temporary car washes for the purposes of raising funds for charitable, non-profit, sports organizations, etc.

Veterinary Clinic. An institution which is licensed by the Michigan Department of Health to provide for the care, diagnosis and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic or hospital may include customary pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services and offices.

W

Wall. "Wall" means an artificially constructed upright barrier of any material or combination of materials erected to enclose, divide, screen or protect areas of land.

Wall, Obscuring. An artificially constructed upright barrier of any material or combination of materials approved by the Zoning Administrator erected to enclose, divide, screen or protect areas of land.

Warehousing Facility. A facility in which goods or merchandise are stored prior to distribution.

Wholesale Facility. A facility in which goods or merchandise are not sold at retail, not including membership-based warehouse facilities. This facility could contain a showroom to sell goods or merchandise.

Wind Energy Conversion System (WECS). A device used to convert wind energy into useful form, such as electricity, using wind turbines. WECS include a surface area, typically a blade or rotor; a shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device; and a tower and other support structure.

Y

Yard, Front. “Front yard” means an open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building, projected to the side lines of the lot. It is the minimum horizontal distance between the front lot line and the nearest line of the main building. Its depth shall be measured between the front line of the building and the street line.

Yard, Rear. “Rear yard” means an open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building, projected to the side lines of the lot and measured between the rear line of the lot or the centerline of the alley, if there is an alley, and the rear line of the building. However, this provision shall not be construed to prohibit parking of an owner's or occupant's motor vehicle or the construction of necessary accessory buildings.

Yard, Side. “Side yard” means an open, unoccupied space on the same lot with the main building, situated between the sideline of the building and the adjacent sideline of the lot and extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot. If no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot. However, this subsection shall not be construed to prohibit the parking of an owner's or occupant's motor vehicle.

Z

Zoning Administrator. The Zoning Administrator oversees the development plan review process and is the authority for reviewing administrative plot and sketch plans. The Zoning Administrator refers to either the director themselves or their designee, which can include but is not limited to the Building Official and the City Planner.

Zoning District. A portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within certain yards, open spaces, lot areas and other requirements are established by this Ordinance.

Zoning Ordinance. Ordinance ____, passed -_____, 2023, as amended.