



**AGENDA**  
**CITY COMMISSION MEETING**  
**WEDNESDAY, DECEMBER 18, 2024**  
**CITY HALL | 130 N. NOTTAWA ST.**  
**WIESLOCH RAUM**

**WORK SESSION 5:00 P.M.**

1. Electric Industry Update – Chris McArthur

**REGULAR MEETING 6:00 P.M.**

1. CALL TO ORDER BY MAYOR
2. PLEDGE OF ALLEGIANCE
3. INVOCATION
4. ROLL CALL
5. PROCLAMATIONS / PRESENTATIONS
6. VISITORS – (Public comments for items not listed as agenda items)
7. APPROVAL OF AGENDA
8. APPROVAL OF CONSENT AGENDA
  - A. Action of Minutes of Previous Meetings
    - **APPROVE the minutes from the December 11, 2024 work session as presented.**
    - **APPROVE the minutes from the December 11, 2024 regular meeting as presented.**
  - B. 2025 Commission Meeting Dates
    - **APPROVE the 2025 Commission Meeting schedule as presented.**
  - C. Mercury Broadband Easement
    - **APPROVE the Permanent Utility Easement with Mercury Wireless Indiana LLC as presented and AUTHORIZE the City Manager to sign all necessary documents.**
9. UNFINISHED BUSINESS
  - A. Zoning Ordinance Amendments Second Reading – William Prichard
  - B. Zoning District Amendment – 909/911 E. Chicago Rd. Second Reading – William Prichard
10. NEW BUSINESS
  - A. Employee Handbook Update – Andrew Kuk
  - B. Professional Services Agreement for N. Centerville Rd. Design – Barry Cox
  - C. US-12 On-Street Parking Project Contract – Barry Cox
  - D. Lafayette St. Utility Extension Bids – Barry Cox
11. COMMISSIONER / STAFF COMMENTS
12. ADJOURN

# Manager's Report

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DECEMBER 18, 2024



CITY OF  
**Sturgis**  
MICHIGAN

Submitted by:

A handwritten signature in black ink, appearing to read "Andrew Kuk", is written over a white background.

Andrew Kuk  
City Manager

## **Work Session**

### **1. Electric Industry Update**

**Staff: Chris McArthur**

Patrick Bowland, CEO & General Manager of the Michigan Public Power Association (MPPA), will give an update on who MPPA is and what they provide to the City of Sturgis. He will also provide an overview of the power industry and the changes since the passing of the PA 235 Clean Energy law.

Staff will also provide brief updates on the recent passing of PA 95 MEAP Law which mandates that energy providers in the state must participate in the state's energy assistance fund or come up with their own fund through local agencies.

#### Information Included in Packet:

1. MPPA Presentation Slides

## 8. Consent Agenda

### Proposed Motion:

Move that the Sturgis City Commission APPROVE/DENY the Consent Agenda for December 18, 2024 as presented.

### Staff Recommendation:

**APPROVE**

#### **8A. Action of Minutes of Previous Meetings**

##### Consent Agenda Motion:

*APPROVE the minutes from the December 11, 2024 work session as presented.*

##### Consent Agenda Motion:

*APPROVE the minutes from the December 11, 2024 regular meeting as presented.*

#### **8B. 2025 Commission Meeting Dates**

Included in your packet is a memo from Clerk/Treasurer Ken Rhodes regarding the City Commission meeting schedule for 2025. The City is required to publish the regular meeting schedule in the paper at the beginning of each year. There are only two changes this year from our typical 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of the month schedule. First, moving the second meeting in November from Wednesday to Monday due to Thanksgiving, and second, moving the second meeting in December to the third Wednesday of the month due to Christmas.

##### Consent Agenda Motion:

*APPROVE the 2025 Commission Meeting schedule as presented.*

### Information Included in Packet:

1. Commission Meeting Date Memo



## 8C. Mercury Broadband Easement

Mercury Broadband requested an easement along Sturgis Dam Rd. to serve customers in the City's rental houses. This easement will also allow fiber to be installed up to the hydro dam in the future; service through Mercury can serve as a backup for the City's SCADA system used to operate the hydro units.

A copy of the easement is included in your packet and has been reviewed by the City Attorney.

### Consent Agenda Motion:

*APPROVE the Permanent Utility Easement with Mercury Wireless Indiana LLC as presented and AUTHORIZE the City Manager to sign all necessary documents.*

### Information Included in Packet:

1. Mercury – Permanent Easement and Right of Way

## 9. Unfinished Business

### A. Zoning Ordinance Amendments Second Reading

**Staff: William Prichard**

The Planning Commission and City Staff have been undergoing a thorough review of the City of Sturgis Zoning Ordinance since June of 2023. Draft updates and revisions designed to modernize the ordinance, address areas where frequent issues or concerns have existed, and provide standards specific to the current land use and development in the City have been proposed.

At the December 11<sup>th</sup> meeting, a first reading was considered for zoning ordinance amendments. Included in your packet is a draft copy of the zoning ordinance showing the final proposed language. No changes have been made since the December 11<sup>th</sup> meeting.

Significant alterations to the zoning ordinance in this update include:

- **Definitions:** Updated to include relevant terms utilized within the ordinance and removed definitions that are not applied.
- **Permitted and Special Land Uses:** Revised and clarified for various zoning districts.
- **New Zoning District:** Creation of a Manufacturing 2 (M2) district to accommodate future zoning map amendments.
- **Property Lighting:** Added standards for commercial zoning districts to align with parking area lighting requirements.
- **Outdoor Merchandise Display:** Provided language to permit outdoor displays for applicable businesses.
- **Open Space Requirements:** Incorporated open space language in each zoning district.
- **Accessory Structures:** Updated regulations to specify prohibited structure types and offer detailed provisions for temporary structures. Additionally, the color of exterior materials for accessory and principal structures was discussed with no recommendations for changes being made.

- **Demolition Standards:** Created a dedicated section outlining the city's requirements for building demolitions.
- **New Special Land Uses:** Added cottage courts and large battery energy storage systems as special land uses.
- **Signage Updates:** Revised to ensure neutral content and included provisions for temporary signs and promotional materials.
- **One-Time Gravel Drive Expansion:** Allows for a one-time expansion of existing gravel driveways or parking areas. This amendment permits an increase of up to two feet, provided all other applicable requirements are met.

As mentioned previously, the proposed changes here are content related. If approved by the Commission, staff plans to bring back a reformatting of the Zoning Ordinance which will help enhance the ability to navigate it and make it more user friendly. The Planning Commission has already held a public hearing on those changes.

In addition, as discussed at the December 11<sup>th</sup> meeting, staff intends to bring back alternative language for Commission discussion related to accessory and principal structure roof and siding compatibility, as well as further discuss other specific content changes the Commission may wish to entertain, such as potential changes to provisions related to solid surface driveway and parking area requirements.

#### **Proposed Motion:**

**Move that the Sturgis City Commission CONSIDER/NOT CONSIDER this the second reading of and APPROVE/DENY the amendments to the City Code of Ordinances, Appendix A – Zoning Code Article I through XV as presented, effective January 9, 2025.**

#### **Staff Recommendation:**

**CONSIDER and APPROVE**

#### **Information Included in Packet:**

1. Resolution with Ordinance

## **9. Unfinished Business**

### **B. Zoning District Amendment – 909/911 E. Chicago Rd. Second Reading**

**Staff: William Prichard**

At the December 11<sup>th</sup> meeting, a first reading was considered for a zoning district amendment for the property located at 909 and 911 E. Chicago Rd.

At the November 19<sup>th</sup> Planning Commission meeting, a request to rezone the properties located at 909 and 911 E. Chicago Road from the Business Office Service (B-OS) zoning district to the Residential 3 (R-3) zoning district was recommended to the City Commission for approval. The applicants, Rodger and Joyce Moyer, have a purchase agreement for the property and are interested in changing the use to a single-family residence.

Single-family residential is not a permitted use in the B-OS zoning district, which is the reason for rezoning request. The most recent tenant, a real estate business (Rock Realty), has vacated the property, and the owner has now listed it for sale.

The Future Land Use (FLU) Map, adopted as part of the 2020 Master Plan, identifies these properties as remaining in the B-OS zoning district, consistent with the City's vision for this corridor as a commercial area.

In 2019, the Planning Commission recommended and the City Commission approved a zoning district change for these same properties from R-3 to B-OS. At the time, the current owner had requested the change to relocate the real estate business to the property. Prior to its use as a real estate office, the property was used by a professional consultation firm. Adjacent zoning is R-3 to the east and B-OS to the west. Copies of the Zoning Map and FLU Map outlining the parcels in question are included in the packet.

The Planning Commission reviewed the rezoning request and recommended rezoning the property from B-OS to R-3 to the City Commission.

**Proposed Motion:**

**Move that the Sturgis City Commission CONSIDER/NOT CONSIDER this the second reading for and APPROVE/DENY an amendment to the Zoning Code, Article III pertaining to the Zoning map for property 909 E. Chicago Road, parcel number 052-777-306-00 and 911 E. Chicago Road, parcel number 052-777-305-00, from the Business Office Service (B-OS) zoning district to Residential 3 (R-3) zoning district as presented, effective January 9, 2025.**

**Staff Recommendation:**

**CONSIDER and APPROVE**

**Information Included in Packet:**

1. Existing Zoning Map
2. Future Land Use Map
3. Resolution

## **10. New Business**

### **A. Employee Handbook Update**

**Staff: Andrew Kuk**

City staff have been working on updating the Employee Handbook over the last several years. Although individual policy updates have occurred from time to time, the current version of the complete document is from 2012.

Included in your packet are two version of the proposed handbook; first, a redlined copy comparing the draft to the 2012 handbook, and second, a clean copy of the proposed changes. The revised handbook was reviewed by City staff as well the City's labor attorneys at Miller Johnson.

In general, changes were made to incorporate approved policy changes not currently in the handbook, to update sections to reflect current state and Federal law where applicable, and to clean up handbook language.

A summary to highlight the changes is also included in the packet. Note that the Table of Contents has not been updated and will be once the document is approved.

#### **Proposed Motion:**

**Move that the Sturgis City Commission APPROVE/DENY the Employee Handbook as presented.**

#### **Staff Recommendation:**

**APPROVE**

#### **Information Included in Packet:**

1. Employee Handbook
2. Employee Handbook Compare Copy
3. Handbook Change Summary

## **10. New Business**

### **B. Professional Services Agreement for N. Centerville Rd. Design**

**Staff: Barry Cox**

As part of the FY 2024-2025 Capital Budget, the City has planned to complete improvements to N. Centerville Rd. between US-12 to the east leg of W. Lafayette Street in 2026. This project will be funded in part through a Michigan Department of Transportation (MDOT) Small Urban grant in the amount of \$385,000.00.

To facilitate this project, it is necessary to begin design to have the project package to MDOT for the first bid lettings on 2026 projects. The FY 2024-2025 budget includes \$30,000.00 for design work this year.

Included in your packet is Amendment #3 to the Professional Services Agreement with Fleis and Vandenbrink for the preliminary design phase, final design phase, and bidding phase of the project. Total cost of the design amendment is \$31,300.00. Staff anticipates having the project ready and approved for early fall 2025 MDOT bid letting.

#### **Proposed Motion:**

**Move that the Sturgis City Commission APPROVE/DENY Professional Services Agreement Amendment #3 with Fleis and VandenBrink Engineering, Inc. in the amount of thirty-one thousand three hundred dollars (\$31,300.00) for the preliminary design, final design, and bidding services on the N. Centerville Road Project.**

#### **Staff Recommendation:**

**APPROVE**

#### **Information Included in Packet:**

1. Professional Services Agreement #3
2. Budget & Costs Spreadsheet

## 10. New Business

### C. US-12 On-Street Parking Project Contract

**Staff: Barry Cox**

In May 2024, staff presented costs the City of Sturgis would incur to mill, resurface, and re-stripe the downtown on-street parking areas. These are costs MDOT views as non-participating when a trunkline project occurs. The City Commission approved undertaking this project at that meeting.

Included in your packet is MDOT Contract #24-5389 which formalizes the rights and obligations associated with the project improvements. MDOT's contractor will be milling, resurfacing, and re-striping all of the on-street parking areas from Jefferson Street to Monroe Street. As outlined in the document, the City's estimated share of the project costs is \$48,500.00 including construction, construction engineering, and all other expenses related to the project.

While not specifically budgeted, the project will be paid for out of the Street and Sidewalks Improvement fund. The cost of the project will be offset by the transfer in to the fund from Street Repair fund, which is being closed out this year. Depending upon the final costs of other projects budgeted out of the Street and Sidewalks Improvement fund, a budget amendment may be needed later this year.

#### **Proposed Motion:**

**Move that the Sturgis City Commission APPROVE/DENY the contract between the City of Sturgis and MDOT (#24-5389) for the completion of the downtown on-street parking areas and AUTHORIZE City Manager Andrew Kuk and City Clerk Kenneth Rhodes to sign all necessary documents.**

#### **Staff Recommendation:**

**APPROVE**

#### **Information Included in Packet:**

1. MDOT Contract #24-5389



## **10. New Business**

### **D. Lafayette St. Utility Extension Bids**

**Staff: Barry Cox**

When the sanitary sewer and water main was extended north on N. Franks Avenue and beyond the roundabout limits in 2021, the Michigan Department of Environment Great Lakes and Energy (EGLE) set a permit requirement to connect the sanitary sewer and water main along E. Lafayette Street by 2025. In order to satisfy this requirement, staff budgeted for completion of the project in FY 2024-2025.

Bids were received on November 25, 2024 to complete the water main and sanitary sewer extensions between the west drive of the Middle School and N. Franks Avenue. The utility extensions will provide sanitary sewer and water service along E. Lafayette and loop two dead end water mains. Two bids were opened and read. Parrish Excavating, Inc. submitted the low bid in the amount of \$636,803.70. An award recommendation letter from Fleis & VandenBrink Engineering, Inc. (F&V) and bid tabulation are included in your packet. The last Engineer's Estimate for the project was \$756,166.70.

As can be seen in the Budget and Costing spreadsheet provided, there is a substantial shortfall in capital funds budgeted for this project. The project design provided a very conservative approach to pavement removal needs to install the sanitary sewer and included half of the road width for road reconstruction where needed. The approach inflated the final project estimates from their initial project estimate.

In addition to the construction contract, staff is recommending a \$32,000.00 (approximately 5%) contingency budget for the project and a Professional Services Agreement Amendment with F&V for construction engineering, materials testing, and onsite project inspection. The agreement with F&V is for \$89,300.00.

In order to address the shortfall in the Wastewater fund staff plans to use the \$320,000.00 budgeted in the Collection System Rehab/Street Projects line item.

This line item is typically used for miscellaneous system improvements. In the Water Capital budget, staff will be delaying the M-66 Utilities Phase I construction that was budgeted in FY 2024-25 for \$2,015,000.00. The shortfall for the Lafayette Utility Extension can be covered by the funding budgeted for this uncompleted project in this fiscal year. Therefore, a budget amendment request is not required as this time.

**Proposed Motion:**

**Move that the Sturgis City Commission APPROVE/DENY the bid from Parrish Excavating, Inc. for the E. Lafayette Street Utility Extension project in the amount of six hundred thirty-six thousand, eight hundred three dollars and seventy cents (\$636,803.70).**

**Proposed Motion:**

**Move that the Sturgis City Commission APPROVE/DENY PSA Amendment #4 for construction-phase services in the amount of eighty-nine thousand three hundred dollars (\$89,300.00) with Fleis and VandenBrink Engineering.**

**Proposed Motion:**

**Move that the Sturgis City Commission APPROVE/DENY a project contingency budget of \$32,000.00 dollars for the E. Lafayette Street Utility Extension project.**

**Staff Recommendation:**

**APPROVE, APPROVE, and APPROVE**

**Information Included in Packet:**

1. Bid Summary
2. Recommendation of Award
3. Fleis & Vandenbrink PSA Amendment #4
4. Budget & Costs Spreadsheet

## Noteworthy Meetings / Events

- Township Supervisor Meeting | December 11<sup>th</sup>

## Upcoming Events

- City of Sturgis Christmas Party | Noon to 1:30 pm | SYCA | December 19<sup>th</sup>
- City Hall Closed to the Public | Noon to 5:00 pm | December 19<sup>th</sup>
- Cinema Circle – Miracle on 34<sup>th</sup> Street | SYCA | 7:00pm | December 19<sup>th</sup>
- City Hall Closed (Christmas Eve and Christmas Day) | December 24<sup>th</sup> & 25<sup>th</sup>
- City Hall Closed (New Year's Day) | January 1<sup>st</sup>
- Comedian Jon Reep | SYCA | 7:30pm | January 10<sup>th</sup>
- Cinema Circle – Gone with the Wind | SYCA | 2:30pm | January 12<sup>th</sup>

# **City of Sturgis City Commission Work Session**

## **Agenda Item 1**



# Michigan Public Power Agency

*“Delivering Value Added Energy Solutions and Services to its Members”*

Sturgis

Power Supply Work Session

December 18, 2024

# Michigan Public Power Agency

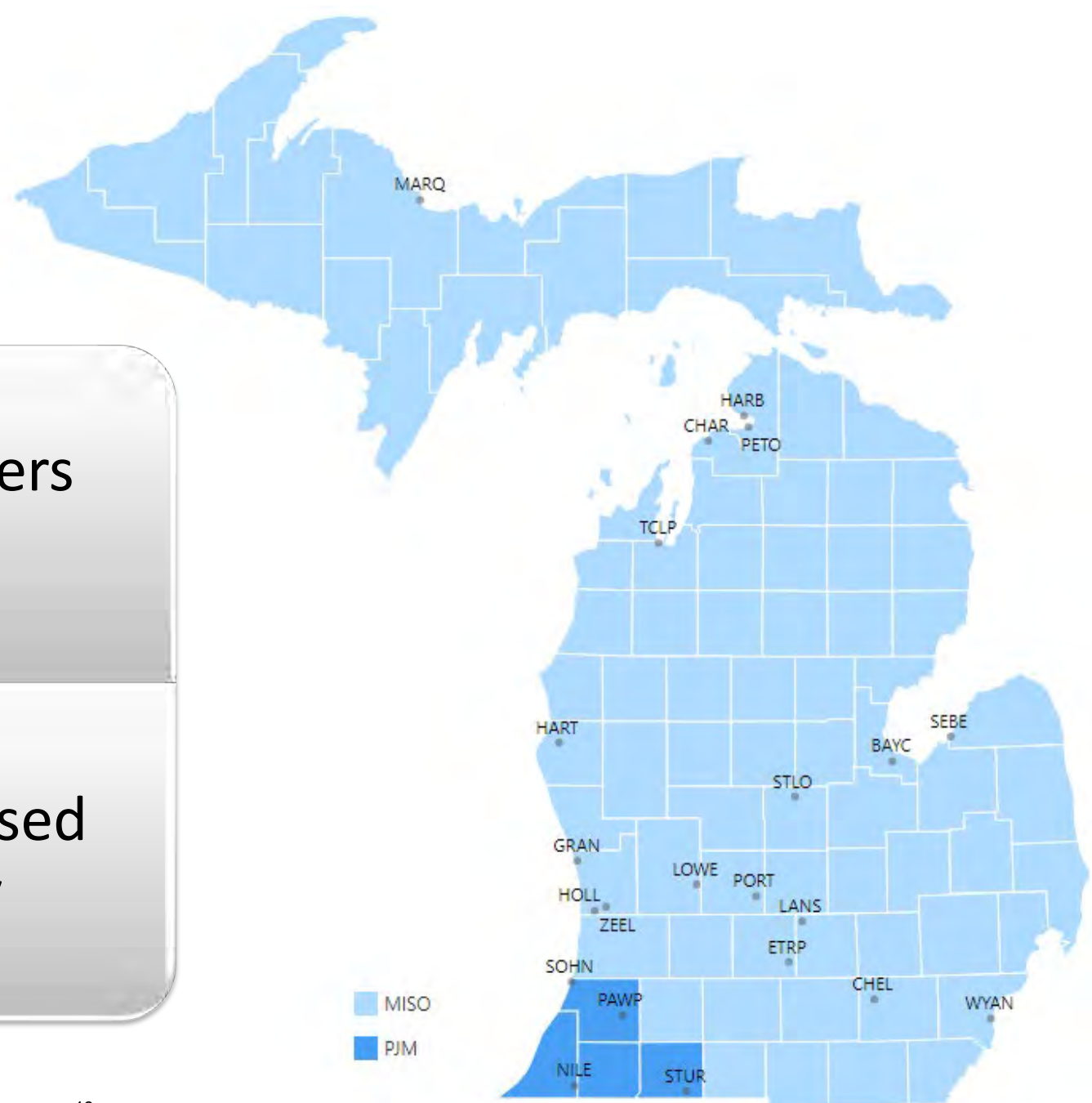
Established 1978

22 Members

PJM and  
MISO

Michigan  
Municipal  
Electric Utilities

Project Based  
Agency

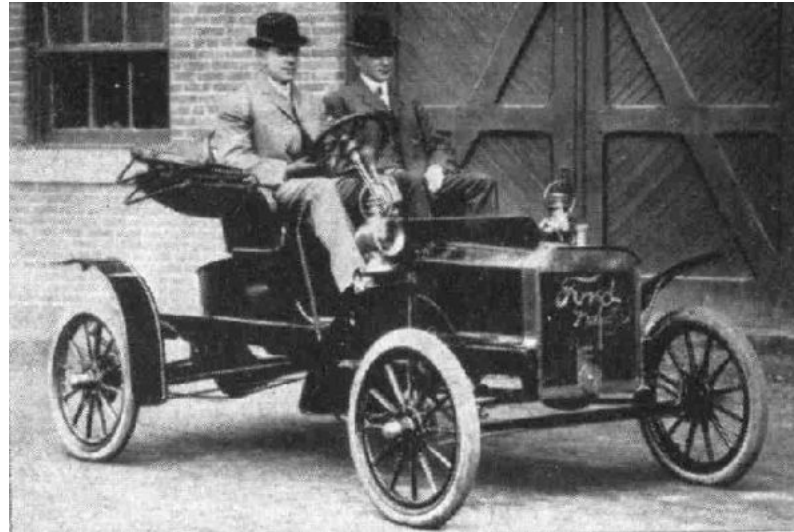


# Agency Member Profile

6.5 Million MWh  
Annual Sales

1.4 GW Peak Load

300,000 Retail  
Customers



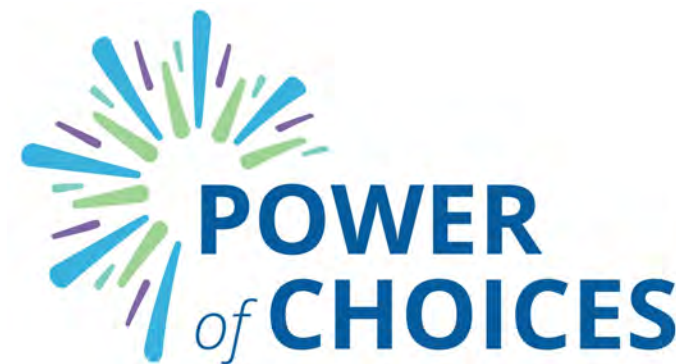
Note: all values are estimates

Members established 1890 -1912

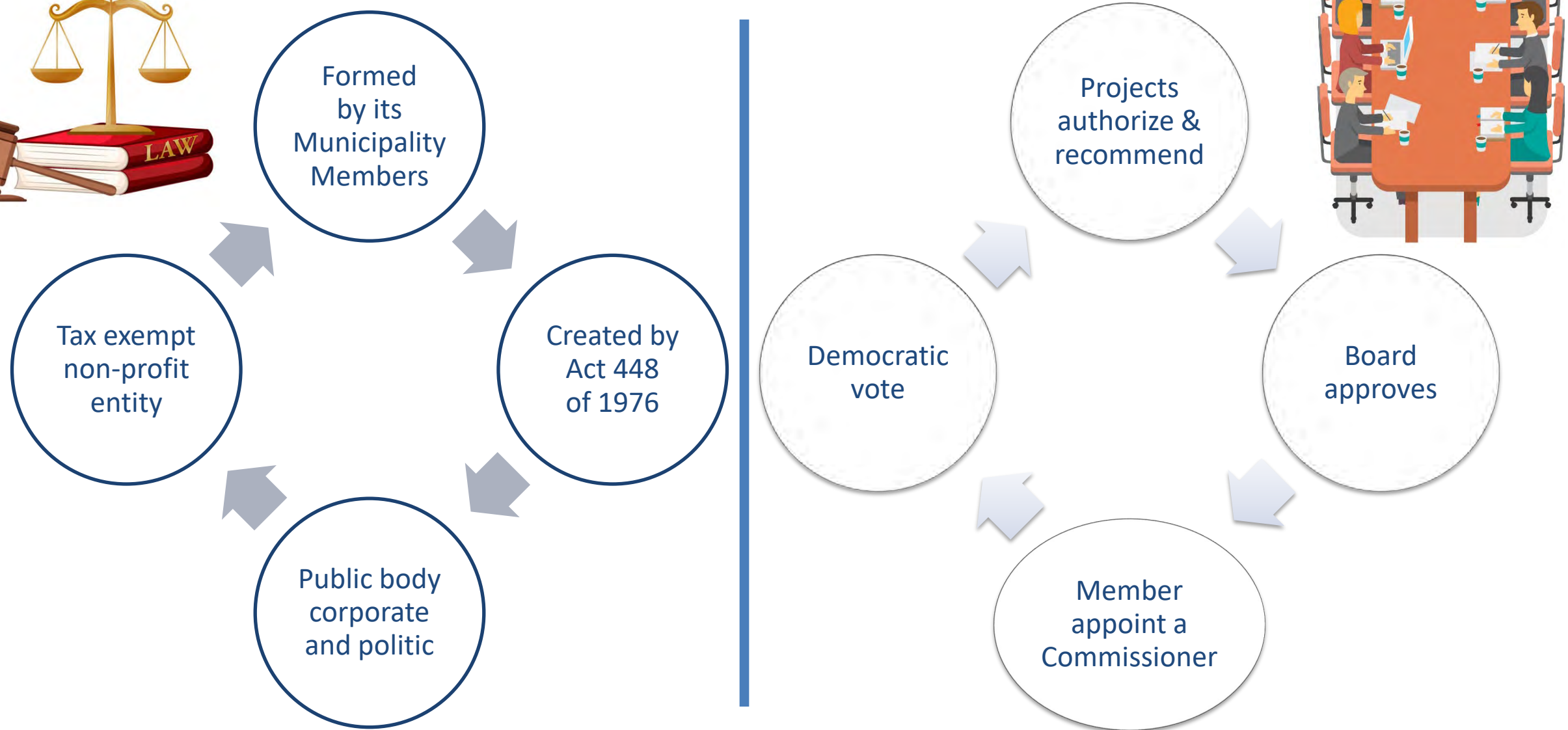


# Project Based Agency

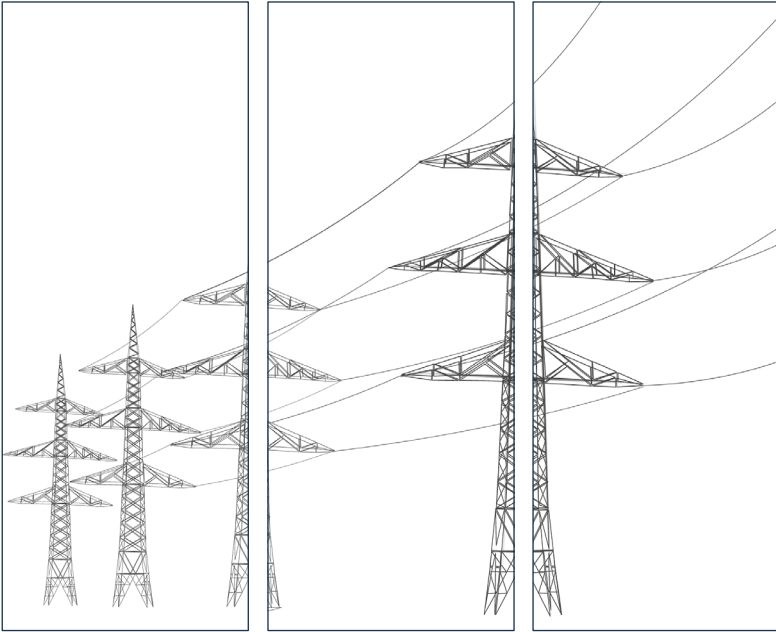
- Members choose the Projects and Services that best fit their needs
- Power Supply can be MPPA or Member owned or contracted
- Members always control decisions recommended by MPPA



# Legal Structure & Governance

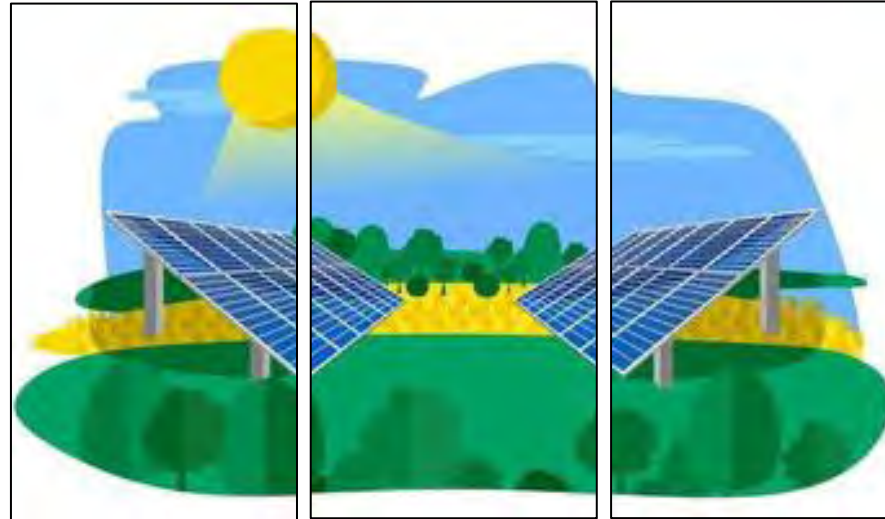


# What is Joint Action?



**Transmission**

Share Resources,  
Expertise & Services



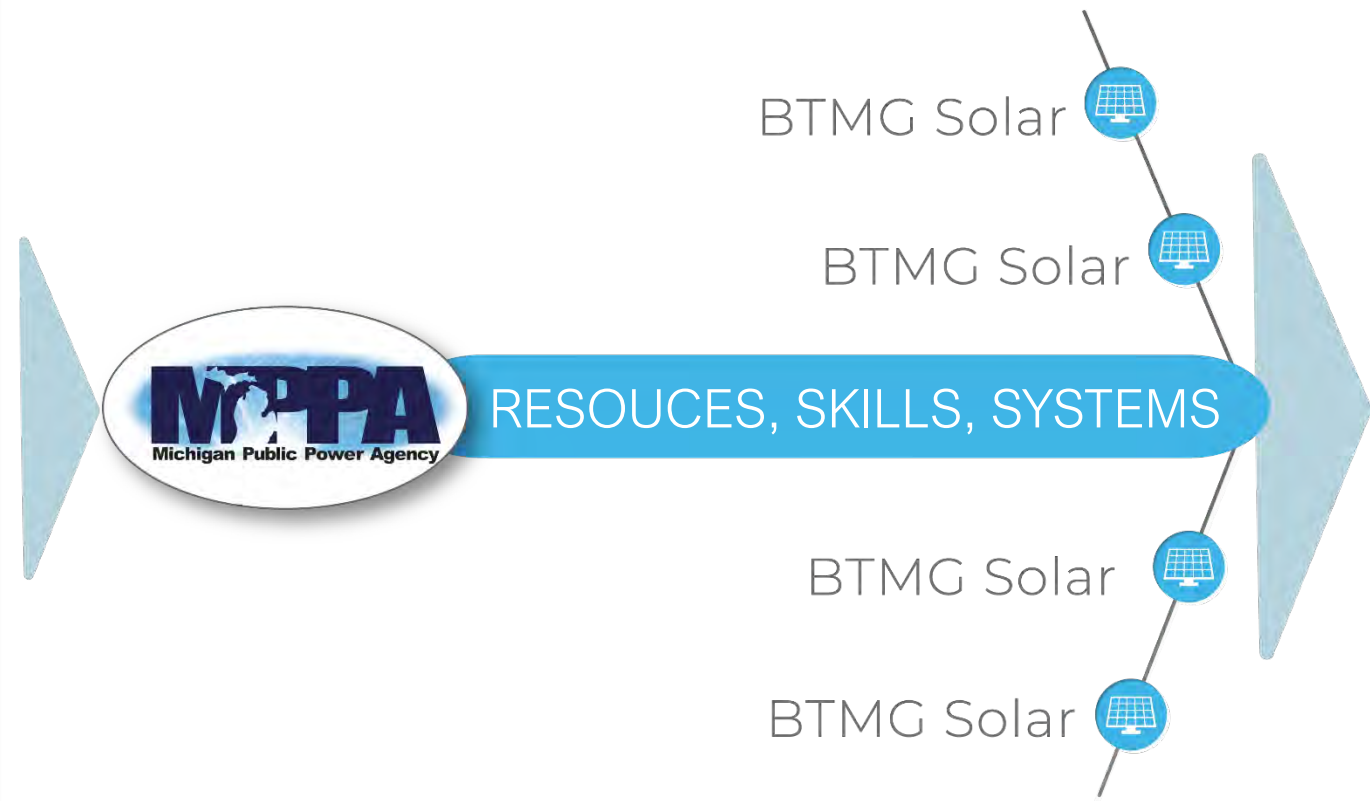
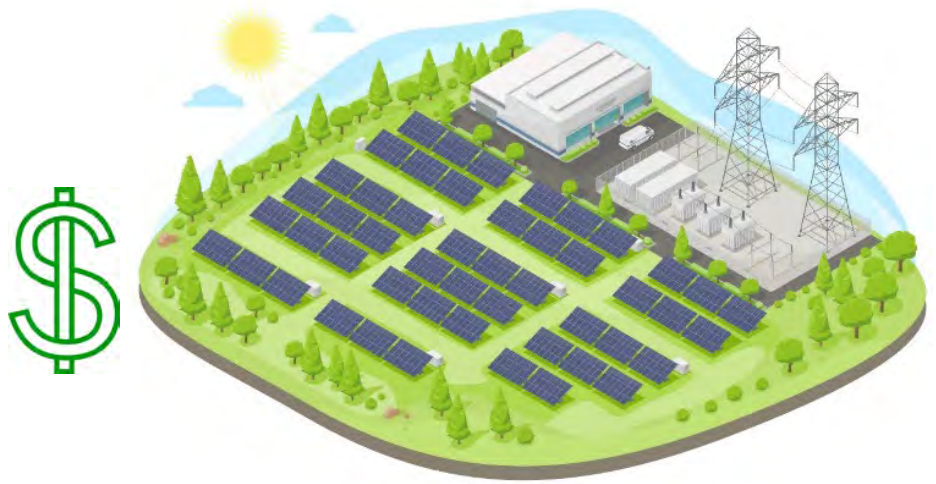
**Power Supply**



**Expertise & Services**

Lower Costs &  
Diversify Risk

# Joint Action – *expanding value*



4 Different Member Systems



# Vision

An energy supply and services **platform** that supports the resources and skills of our Members.



## Platform Specifications

Competition

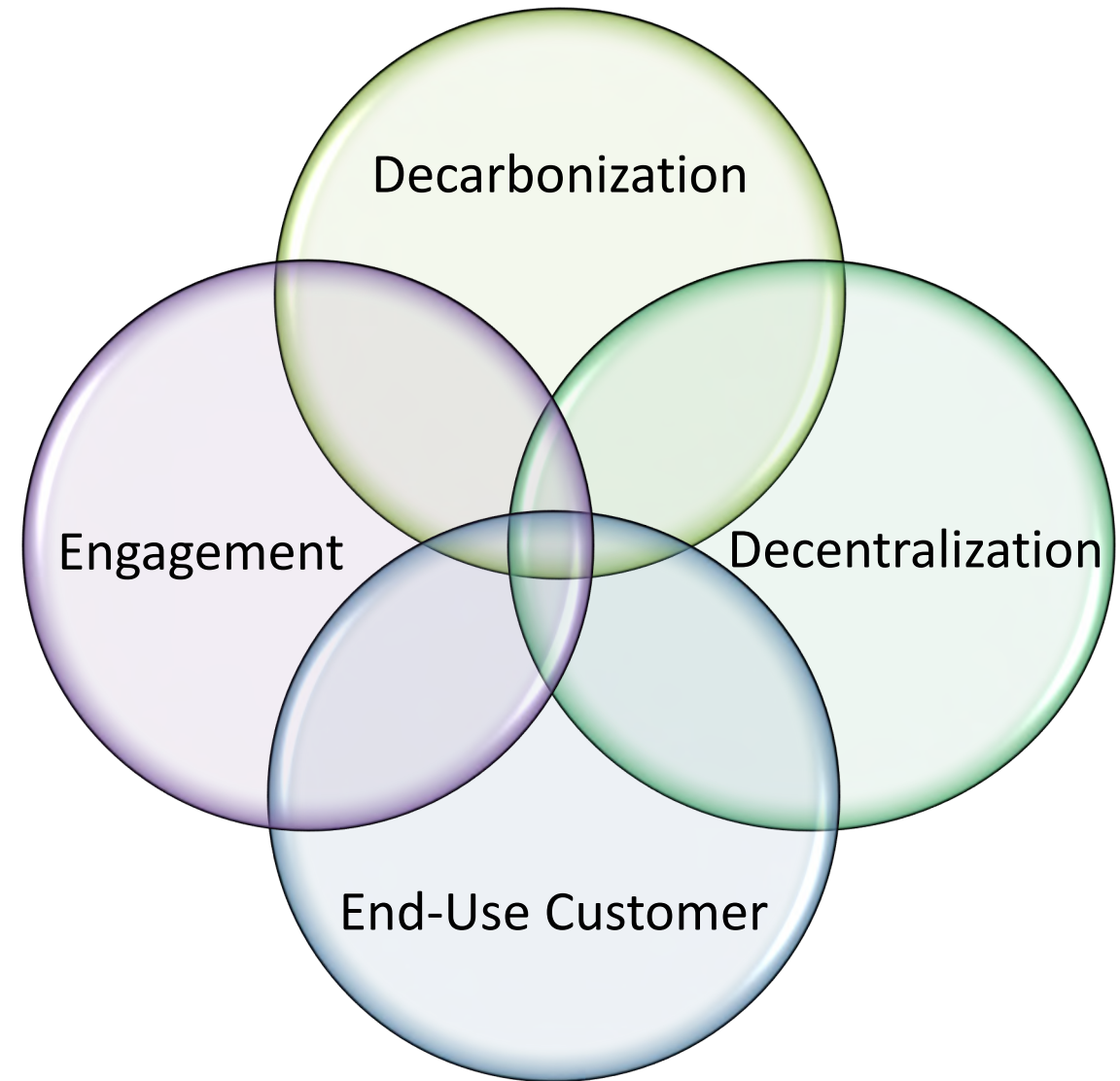
Risk Management

Industry Expertise

Sharing  
(scale or scope)

# Strategic Plan – 2024-2028

## KEY DRIVERS



# Michigan Energy Legislation – NOVEMBER 2023



## RENEWABLE ENERGY REQUIREMENTS

- through 2029, 15%
- 2030 -2034, 50%
- after 2035, 60%

## CLEAN ENERGY REQUIREMENTS

- 2035-2039, 80%
- after 2039, 100%

# Renewable Energy Plan (“REP”)

**Purpose:** To communicate how and when the electric provider will comply with the renewable energy credit (“REC”) compliance standard of 50% in 2030 through 2034, and 60% in 2035 and each year thereafter

- Municipal Electric Utilities must file REP with MPSC by February 27, 2025
- The REP is for the period 2025 through 2045 (20 years)
- Biennial (every 2 years) update to the REP
- MPPA is constructing these REPs for our Members (with their input and approval)
- MMEA recommending the REP be approved by Member governing body
- Many assumptions and obvious forecast error in a REP of that length and in an industry under such rapid transformation



# Renewable Energy Plan (“REP”) cont.

- Compliance can be achieved by:
  - Owning or contracting the power supply from a renewable energy producing resource
    - Anywhere in the PJM electric grid
    - Within your utility system
  - Purchasing the attributes only (renewable energy credits “RECs”) from an eligible resource in PJM through 2035 (after 2035, power supply must accompany RECs)
- Decision factors:
  - Term – owning or contracting new asset is a 15–25-year financial commitment
  - Commitment Size – economies of scale drive partnering with other electric providers via joint action
  - Risk – drive diversifying resources and transaction types
  - RECs – driven by the appeal of lower financial commitment

# Renewable Energy Plan - Format

2025.....2045

- Load forecast
- VGP Sales (\*\*\*\*\*you can subtract)
- RPS Compliance Requirement by year
- RECs acquired or forecasted to be acquired
- RECs acquired or forecasted to be acquired from PPAs or Generation

Lots of factors as RECs have a 5-year shelf life, RECs only can be used solely through 2035, voluntary programs on system reduce mandate amount, technology change, pricing, etc.

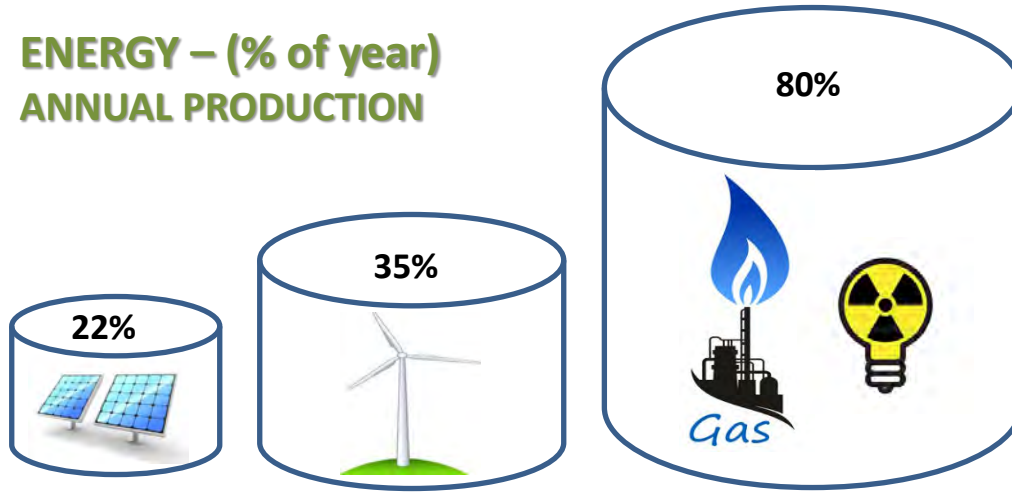
# Clean Energy Plan (“CEP”)

**Purpose:** To communicate how and when the electric provider will comply with the clean energy compliance standard of 80% in 2035 through 2039, and 100% in 2040 and each year thereafter

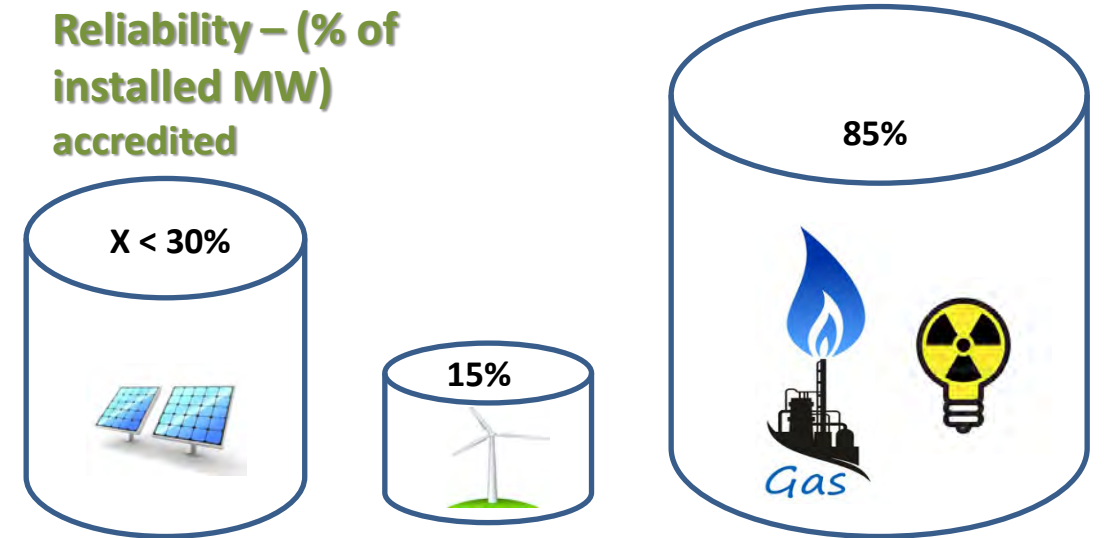
- Municipal Electric Utilities must file by January 1, 2028
- Clean Energy System doesn’t admit greenhouse gas (renewable resources, nuclear and natural gas with carbon capture and storage)

# Decarbonization challenges – power supply

## ENERGY – (% of year) ANNUAL PRODUCTION



## Reliability – (% of installed MW) accredited



# MPPA Power Supply Decarbonization



## Energy Supply Renewable %

Sturgis 2025, 17%

Sturgis compliance with local  
solar, hydro and purchase of  
RECs

Sturgis 2015, 10%

# Demand Response

MPPA wants to create a Demand Response Service Project so participating Members can launch a structured, controlled and managed program at their utility

**What: End-Use customers commit to reduce load in response to wholesale market requirements**

## Why?

- Its valuable
- Resource Adequacy - capacity is getting scarce and costly
- Permitting new electric generation resources is difficult
- Interconnecting resources to the transmission grid is complex, and a regulatory quagmire
- End-use customers are interested in energy, opportunities for engagement & satisfaction



# Utility Diagnostics



**These reports should be the subject of governing body analysis & deliberation resulting in action**







**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 8A**



**WORK SESSION - STURGIS CITY COMMISSION  
WEDNESDAY, DECEMBER 11, 2024  
WIESLOCH RAUM – CITY HALL**

Vice-Mayor Bir called the meeting to order at 5:00 p.m.

Commissioners present: Mullins, Boring, Moyer, Smith, Harrington, Abbs, Miller, Vice-Mayor Bir

Commissioners absent: Mayor Perez

Also present: City Manager, City Controller, Public Safety Director, Deputy Director – Police, Deputy Director – Fire, City Clerk

Public Safety Director Ryan Banazak provided details on Public Safety Strategic Planning. Discussion followed.

The meeting was adjourned at 5:55 p.m.

***Kenneth D. Rhodes, City of Sturgis Clerk/Treasurer***

**REGULAR MEETING - STURGIS CITY COMMISSION**  
**WEDNESDAY, DECEMBER 11, 2024**  
**WIESLOCH RAUM – CITY HALL**

Mayor Perez called the meeting to order at 6:00 p.m.

The Pledge of Allegiance was said by all present.

The Invocation was given by Comm. Moyer.

Commissioners present: Mullins, Boring, Moyer, Smith, Harrington, Abbs, Miller, Vice-Mayor Bir

Commissioners absent: Mayor Perez

Also present: City Attorney, City Manager, City Controller, City Engineer, Community Development Director, Public Safety Director, City Clerk

Kelly Hostetler, Executive Director United Way, drew the winning ticket for the Christmas Cash Raffle for Bob Johnson.

Vice-Mayor Bir presented the following proclamation to former Mayor Bob Hile:

WHEREAS, Robert Hile was first appointed as Fourth Precinct Commissioner for the City of Sturgis in October 2010; and

WHEREAS, upon the end of Bob's term on the City Commission in November 2024, he ranks in the top five of longest serving City Commissioners in the City of Sturgis; and

WHEREAS, Bob represented the City Commission on committees including the Employees Retirement Board, IFEC Committee, Finance Committee and others; and

WHEREAS, Bob served as Vice-Mayor from November 2011 through November 2016 when he was appointed Mayor and served through 2021; and

WHEREAS, During Bob's term as Mayor the City completed many significant projects and had many milestones, including the solar project agreement, creation of Spence Softball Complex, creation of the Deadwood Disc Golf Course, completion of City Subdivision II Housing Agreements, navigation and creation of the City's initial Medical and Recreational Marihuana ordinances, and leading the City through the COVID-19 pandemic.

NOW THEREFORE BE IT RESOLVED that the City Commission of the City of Sturgis thanks Robert Hile for his many years of dedicated service to his community.

BE IT FURTHER RESOLVED that the City Commission wishes Bob all the best in his retirement from formal public service and his impending retirement from Ayres Insurance.

Mr. Hile explained that he was honored to work with fellow Commissioners and City Staff throughout the years.

Nicholai Leigh, 315 S. Fourth, and another Sturgis resident asked about issues with homelessness and the housing situation.

Moved by Comm. Harrington and seconded by Comm. Mullins to approve the agenda as presented.  
**Voting yea: Eight      Voting nay: None      Absent: Perez      MOTION CARRIED**

Moved by Comm. Harrington and seconded by Comm. Smith to approve the Consent Agenda of December 11, 2024 as presented.

**8A. Action of Minutes of Previous Meetings**

APPROVE the minutes from the November 25, 2024 regular meeting as presented.

**B. Pay Bills**

AUTHORIZE the payment of the City bills in the amount of \$2,268,015.18 as presented.

**C. Accounts Payable Authorization**

AUTHORIZE the Finance Committee to approve the payment of City bills at their next meeting.

**D. Board Resignation**

ACCEPT the resignation of Gene Harrison from the EDC, BRA, and LDFA boards and SEND a letter of recognition for his service.

**Voting yea: Eight      Voting nay: None      Absent: Perez      MOTION CARRIED**

Community Development Director Will Prichard provided information on the amendments to the Zoning Code and explained that there have been few changes since the recent work session. Discussion followed. The Commission agreed that it would be acceptable to move forward with the amendments in total and then bring back particular issues at a later meeting.

Moved by Comm. Mullins and seconded by Comm. Smith to consider this the first reading of amendments to the Zoning Code as presented.

**Voting yea: Eight      Voting nay: None      Absent: Perez      MOTION CARRIED**

City Manager Andrew Kuk explained that Comm. Moyer would only be participating in the rezoning discussion as the applicant and not as a City Commissioner. Community Development Director Will Prichard provided information on the rezoning request for 911 E. Chicago Road including the current zoning, adjacent parcels, and the Future Land Use Map. Dave Clark, realtor, explained that he felt that the highest and best use of some of the parcels in this block along Chicago Road would be as residential. Barry Cox, 1421 S Merribe, concurred with Mr. Clark and supported flexibility.

Moved by Comm. Miller and seconded by Comm. Abbs to consider this the first reading for the rezoning of 909 E. Chicago Road, parcel number 052-777-306-00 and 911 E. Chicago Road, parcel number 052-777-305-00, from the Business Office Service (B-OS) zoning district to Residential 3 (R-3) zoning district as presented.

**Voting yea: Seven      Voting nay: None      Absent: Perez      Abstain: Moyer      MOTION CARRIED**

The meeting was adjourned at 7:15 p.m.

***Kenneth D. Rhodes, City of Sturgis Clerk/Treasurer***

**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 8B**





CITY OF  
**Sturgis**  
MICHIGAN

130 N. Nottawa St.  
Sturgis, MI 49091  
[www.sturgismi.gov](http://www.sturgismi.gov)  
Ph: 269-651-2321  
Fax: 269-659-7295

FROM: Kenneth D. Rhodes  
TO : City Commission  
DATE : December 13, 2024  
RE : City Commission Meeting Schedule

The current schedule of holidays and events for 2025 will cause very few adjustments to the regular schedule of meetings. To make accommodations for the holidays, the second meeting in November is moved to Monday and the second meeting in December is moved to the preceding Wednesday.

I have outlined below the regularly scheduled meeting days along with the proposed change. Changes are ***bold-italicized***. Special Meetings, Planning Sessions, Work Sessions, and Budget Workshops will still occur, but adopting this schedule will allow for better planning and reduce confusion.

**Important Dates:** MML Legislative Conference, Wednesday, 3/19/25; Sturgis Fest, 6/15/25-6/22/25; MML Convention, Wednesday – Friday, 9/17/25-9/19/25; Thanksgiving, Thursday, 11/27/25; Christmas, Thursday, 12/25/25



2 <sup>nd</sup> and 4 <sup>th</sup> Wednesday of the Month	Proposed Meeting Date
January 8, 2025	Wednesday, January 8, 2025, 6:00 pm
January 22, 2025	Wednesday, January 22, 2025, 6:00 pm
February 12, 2025	Wednesday, February 12, 2025, 6:00 pm
February 26, 2025	Wednesday, February 26, 2025, 6:00 pm
March 12, 2025	Wednesday, March 12, 2025, 6:00 pm
March 26, 2025	Wednesday, March 26, 2025, 6:00 pm
April 9, 2025	Wednesday, April 9, 2025, 6:00 pm
April 23, 2025	Wednesday, April 23, 2025, 6:00 pm
May 14, 2025	Wednesday, May 14, 2025, 6:00 pm
May 28, 2025	Wednesday, May 28, 2025, 6:00 pm
June 11, 2025	Wednesday, June 11, 2025, 6:00 pm
June 25, 2025	Wednesday, June 25, 2025, 6:00 pm
July 9, 2025	Wednesday, July 9, 2025, 6:00 pm
July 23, 2025	Wednesday, July 23, 2025, 6:00 pm
August 13, 2025	Wednesday, August 13, 2025, 6:00 pm
August 27, 2025	Wednesday, August 27, 2025, 6:00 pm
September 10, 2025	Wednesday, September 10, 2025, 6:00 pm
September 24, 2025	Wednesday, September 24, 2025, 6:00 pm
October 8, 2025	Wednesday, October 8, 2025, 6:00 pm
October 22, 2025	Wednesday, October 22, 2025, 6:00 pm
November 10, 2025 (Org. Mtg.)	Monday, November 10, 2025, 8:00 pm (Org. Mtg.)
November 12, 2025	Wednesday, November 12, 2025, 6:00 pm
November 26, 2025	<b>Monday, November 24, 2025, 6:00 pm</b>
December 10, 2025	Wednesday, December 10, 2025, 6:00 pm
December 24, 2025	<b>Wednesday, December 17, 2025, 6:00 pm</b>

**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 8C**



Drafted by:  
Matthew Faul, esq.  
Swanson Bernard LLC  
4600 Madison Ave., Suite 600  
Kansas City, MO 64112

## PERMANENT UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT [City of Sturgis]

WITH A MAILING ADDRESS OF [130 N Nottawa Street Sturgis MI 49091]

hereinafter called GRANTOR(S), for and in consideration of the sum of the agreed upon amount and other good and valuable consideration, the receipt of which is hereby acknowledged, do/does hereby grant, bargain and sell, convey and confirm unto the MERCURY WIRELESS INDIANA LLC, an Indiana limited liability company, with a mailing address of 3406 Metro Drive N, Fort Wayne, Indiana, 46818, its successors and assigns, hereinafter called GRANTEE, a temporary construction easement and a perpetual utility Easement and Right-of-Way to install, lay, construct, reconstruct, extend, alter, repair, replace, upgrade, uncover, maintain, operate, and remove telecommunication lines or systems and related conduit and lines (together, the "Equipment") over and through the premises in the County of St Joseph in the State of Michigan (the "Property"), more particularly described in the attached Exhibit A, attached hereto.

The permanent easement area ("Easement Area") shall include 5 feet on either side of the centerline of the telecommunications line(s) installed on the Property by GRANTEE, with such line(s) generally located as described in Exhibit B attached hereto.

This grant is a permanent easement for the purpose of providing telecommunications utility services.

The temporary construction easement area shall include 6 feet on either side of the centerline of the telecommunications line(s) to be installed or installed on the Property by GRANTEE, with such line(s) generally located as described in Exhibit B hereto. The temporary construction easement shall expire upon the earlier of: (i) completion of the construction of the lines and installation of the Equipment by GRANTEE, or (ii) six months after recording of this easement.

Grantor shall be responsible for maintaining the Property and Easement Area, provided, however, that the Grantee shall have the right to (a) cut, trim and control the growth of trees, shrubbery and other vegetation in the Easement Area to the extent necessary to keep them clear of the Equipment, and (b) cut down, trim or control the growth of all dead, weak, leaning or other trees on or near the Property that the Grantee reasonably believes may endanger or interfere with the Equipment and operation thereof.

The Easement shall be nonexclusive to the Grantee, such that Grantor may use the Easement area for purposes that do not impair the Grantee's rights hereunder, except that Grantor shall not permit any other third party to impair or interfere with the Grantee's Equipment and operation and maintenance thereof.

Grantor(s) shall retain the right to use the surface of said easement, so long as said use does not interfere with the installation and maintenance of the Equipment and so long as no building(s) or structure(s)

are erected within the easement. No alteration of land contours will be permitted without the express written approval of Grantee. Any placing of improvements or planting of trees on said permanent right-of-way will be done at the risk of subsequent damage thereto without compensation therefore.

All grass, sidewalks, streets, drives and parking lots damaged by the installation of said line or by making future repairs or in removing said property shall be replaced by Grantee.

This agreement is binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto, and it is understood that this agreement cannot be changed in any way except in writing, signed by the Grantor(s) and duly authorized agent of the Grantee.

IN WITNESS WHEREOF, the Grantor(s) have hereunto set their hand(s) and seal on this, the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

IN WITNESS WHEREOF, Grantor and the Grantee have caused this Permanent Utility Easement to be executed by their respective duly authorized officers or representatives as of the day and year first above written.

"Grantor"

By: \_\_\_\_\_  
[City of Sturgis]

STATE OF Michigan)  
 ) ss.  
COUNTY OF St Joseph)

On this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_, before me, a Notary Public in and for said County and State, personally appeared **[LANDOWNER]** executed the within Permanent Utility Easement and acknowledged to me that he executed the same for the purposes therein stated.

{Notary Seal}

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My commission expires:

## **EXHIBIT A**

### **Legal Description of Property**

COM AT PT ON N & S 1/4 LN SEC 1 T6S R11W 1600 FT S OF INT OF 1/4 LNS TH W 668 FT TH S TO ST JOE RIVER TH SELY ALG RIVER TO N&S 1/4 LN TH N TO POB. ALSO COM AT PT ON N & S 1/4 LN 1600 FT S OF INT OF 1/4 LNS TH E 200 FT TH S 370 FT ELY TO PT 596 FT N OF S LN TH S TO S LN W TO RIVER TH NWLY ALG RIV TO N&S 1/4 LN N TO POB.

**EXHIBIT B**

Easement Location

# MI00402\_004

## Sturgis Dam Road

### City of Sturgis





Notes

Install depth 48" subject to change based on environmental factors

Handhole size 24"x36"x36"

4'x4'x4' bore pit can be assumed at all proposed HH locations

Cabinet size 36"x27"x14" mounted on 3'x3' concrete pad

All conduits will be HDPE. Conduits being placed will not exceed 2" in diameter. Overall conduit size and micro duct bundle count can vary based on fiber cable size and quantity. Please see the Duraline spec sheets, pages ADDD 1198, ADDD 1095, and ADDD 1081 for specific dimensions

Protection Pipes 1.25" for Drop Cables Crossing Roads

Install, and maintain, in accordance with the current edition of the Michigan Manual of Uniform Traffic Control Devices, all necessary signs and sign support standards, barricades, and traffic control devices necessary for the protection of traffic

Bores under pavement 6' Depth

Legend

Central Office

Distribution Cabinets

Handhole

Install Method

BORE

PLOW

DROP

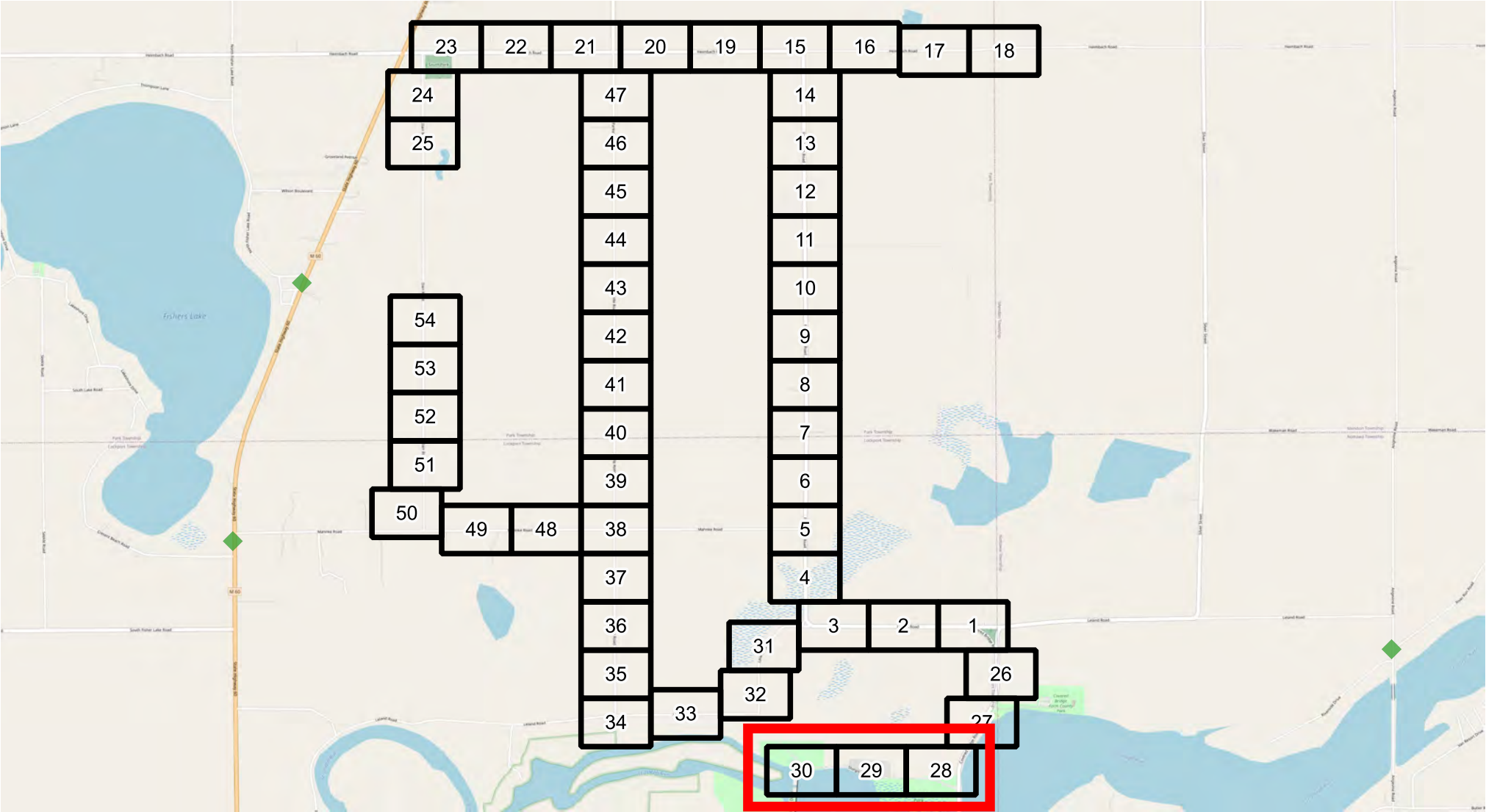
Protection Pipes

Drop Cables

Existing Handholes

Street Centerlines

Right of Way



MI00402\_004

Sturgis Dam Road

City of Sturgis

Project: Mendon

Page:2

Phase: 1

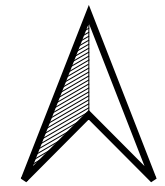
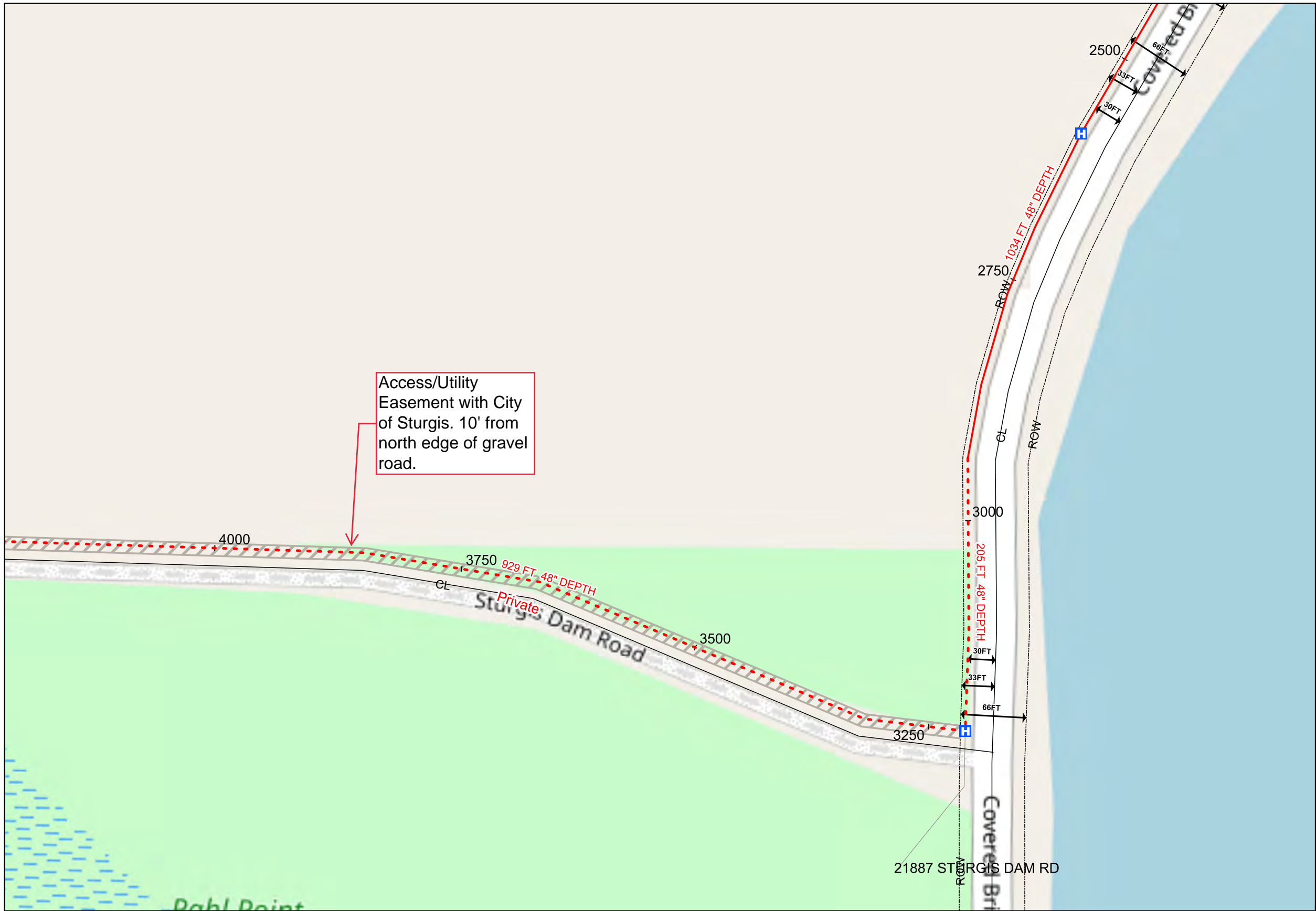
Permit Page:0

Date:07/02/2024

Revision: 0

MERCURY

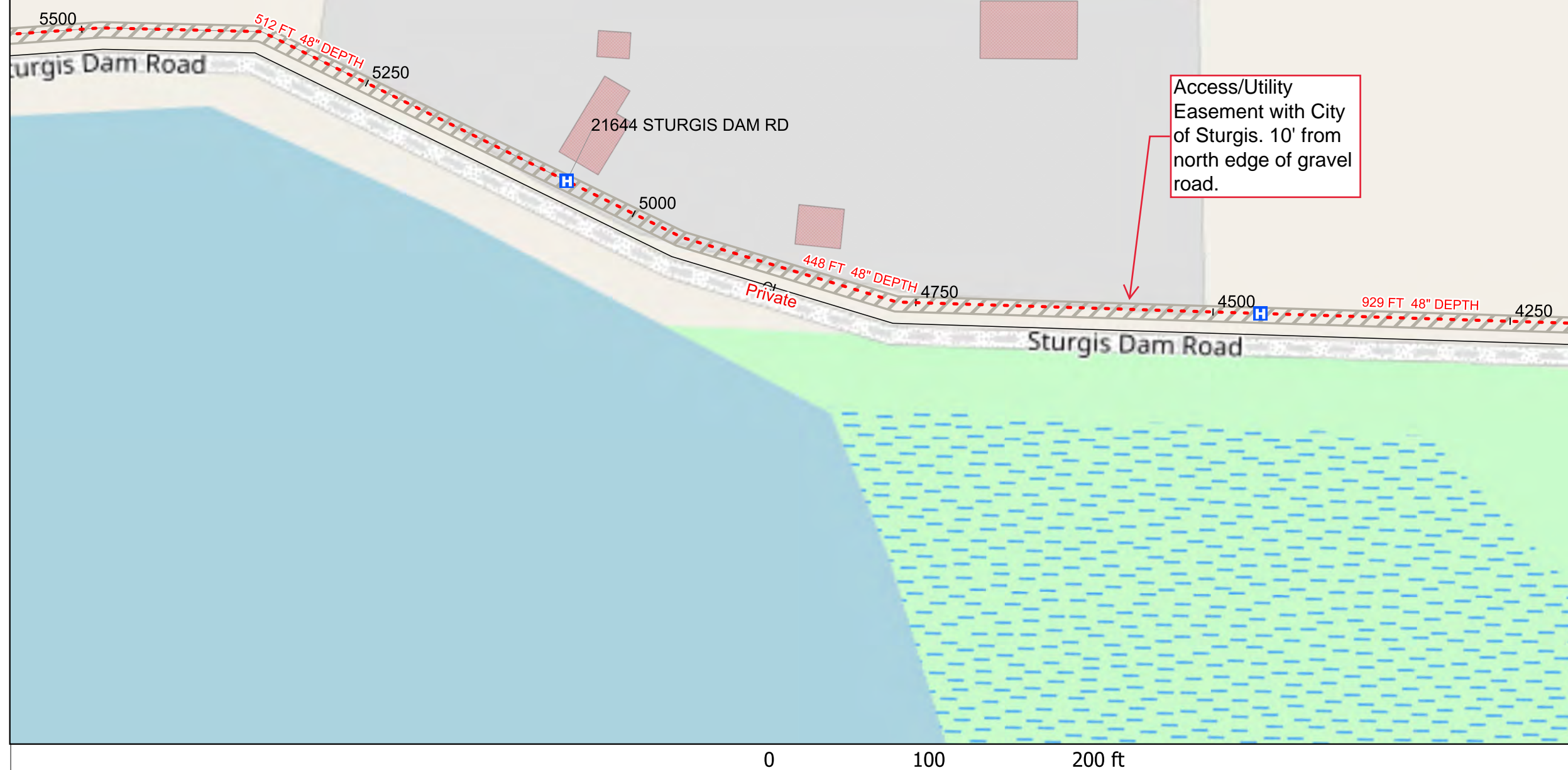
broadband



MI00402\_004  
Sturgis Dam Road  
City of Sturgis

Project: Mendon Page:30  
Phase: 1 Permit Page:28  
Date:07/02/2024 Revision: 0



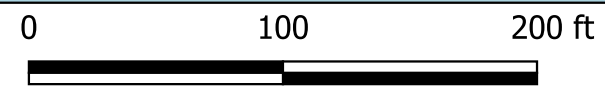
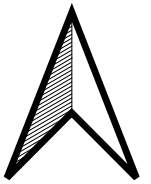
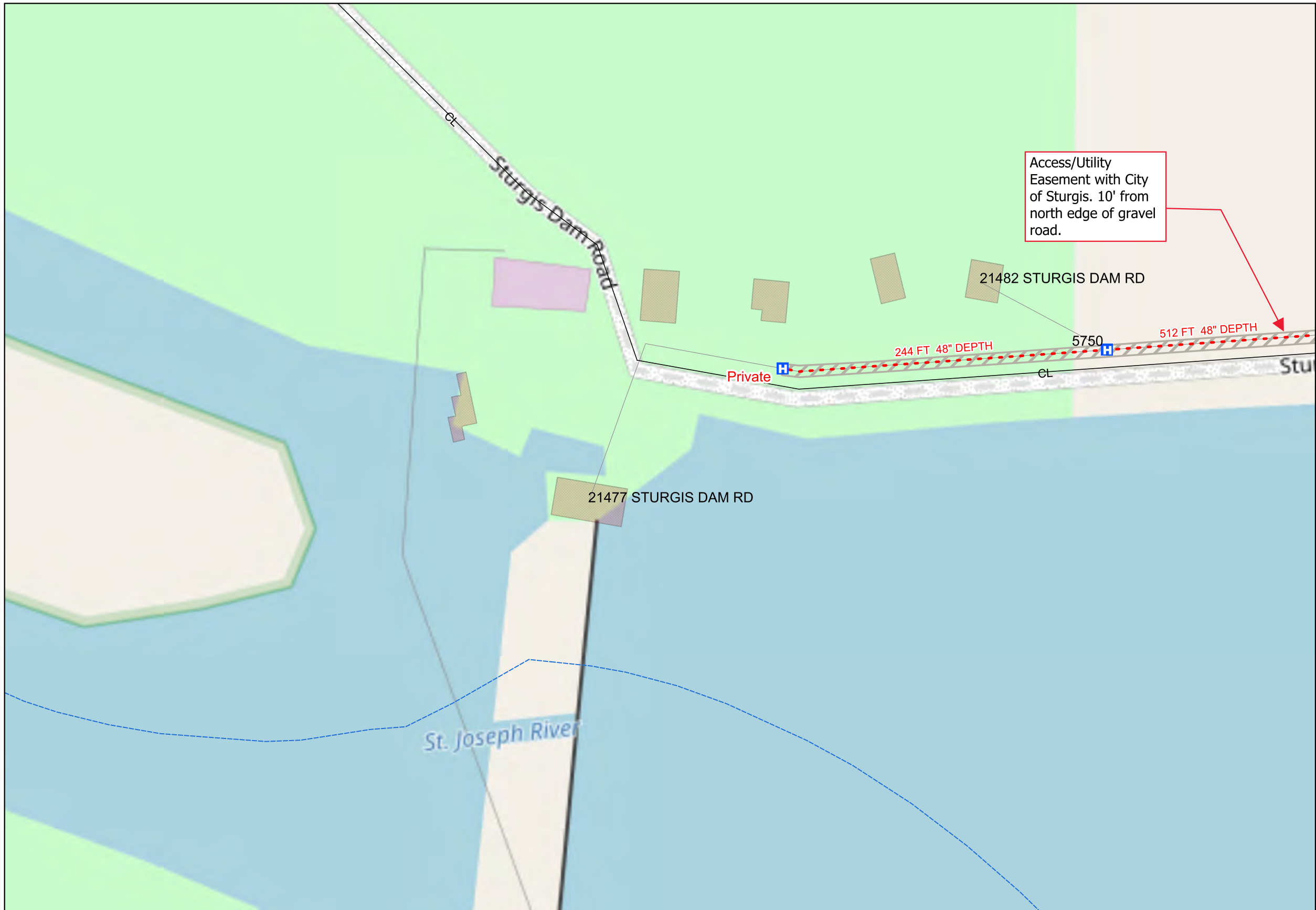


MI00402\_004  
Sturgis Dam Road  
City of Sturgis

Project: Mendon Page:31  
Phase: 1 Permit Page:29  
Date:07/02/2024 Revision: 0







MI00402\_004  
Sturgis Dam Road  
City of Sturgis

Project: Mendon Page:32  
Phase: 1 Permit Page:30  
Date: 08/08/2024 Revision: 0



**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 9A**



## AMENDMENTS TO ZONING ORDINANCE

An ordinance to amend Appendix A of the Zoning Ordinance of the City of Sturgis to provide for the modification of Articles I through XV for the purpose of updates, amendments, and compliance with updated laws and standards within certain districts in the City and an effective date of this Ordinance.

WHEREAS, the City Commission, upon recommendation from the Planning Board, has determined that it is in the best interest of the residents of the City to amend, modify and update the Zoning Ordinance for the City;

NOW, THEREFORE, the City of Sturgis, St. Joseph County, Michigan ordains:

Appendix A of the Zoning Ordinance of the City of Sturgis, Article I through Article XV is hereby modified to provide as follows effective as of January 9, 2025.

## ***ARTICLE I. SHORT TITLE AND PURPOSE***

### **1.0101. Short title.**

This chapter appendix A shall be known as the Zoning Ordinance of the City of Sturgis, under the powers provided by Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

### **1.0102. Purpose.**

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

### **1.0103. Intent.**

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

### **1.0104 Conflict of regulations.**

Where there are conditions imposed by any provision of this zoning ordinance that are either more or less restrictive than comparable conditions imposed by another ordinance, rule or regulations of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail. The Zoning Administrator shall determine which is more restrictive. Appeals from the Zoning Administrator's determination may be made in the manner provided in this Chapter. The provisions of this Chapter shall be the minimum requirements for the promotion of the public health, safety, and welfare.

### **1.0105 Vested right.**

Nothing in this Chapter should be interpreted or construed to give rise to permanent vested rights in the continuance of any particular use, district, zoning classification, or any permissible activities



therein, and they are hereby declared to be subject to subsequent amendment, change, or modification, as may be necessary to the preservation or protection of public health, safety, and welfare.

## **ARTICLE II. DEFINITIONS**

### **1.0201. General.**

When not inconsistent with the context, words in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. The word "shall" is always mandatory and not merely directive. The word "building" includes the word "structure" or vice versa. Terms not herein defined shall have the meaning customarily assigned to them.

### **1.0202. Specific terms.**

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

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

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

*Access or accessible* A way of approaching or entering a property.

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

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

*Accessory use.* A use which is clearly incidental to, customarily found in connection with, and located on the same zoning lot, unless otherwise specified, as the principal use to which it is related. When [the term] "accessory" is used in this text, it has the same meaning as [the term] "accessory use."

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

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

*Adult entertainment facilities.*

A. *Adult bookstore.* An establishment having more than 50 percent of its stock in trade, magazine and other periodicals with an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material and which excludes minors by virtue of age.

B. *Adult motion picture theater.* An enclosed building, with a capacity of 50 or more persons, used for presenting material with an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), for observation by patrons therein. and which excludes minors by virtue of age.

C. *Adult minimotion picture theater.* An enclosed building with a capacity for less than 50 persons, used for presenting material with an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein), for observation by patrons therein. and which excludes minors by virtue of age.

D. *Adult cabaret.* An establishment in which alcoholic beverages are not served and which provides dancers or other live entertainers who display or describe "specified sexual activities" or "specified anatomical areas" (as defined herein), for observation by patrons therein. and which excludes minors by virtue of age.

*Adult day care facility. The following definitions shall apply to types of adult day care facilities:*

A. *Adult day care center.* A facility, other than a private residence, receiving one or more persons, eighteen (18) years of age or older, for care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled or physically handicapped who require supervision on an ongoing basis. An adult day-care center does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day-care center.

B. *Adult group day care home.* A private residence in which more than six (6) but not more than twelve (12) adults eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped that require supervision on an ongoing basis. An adult day care home does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities which do not meet the definition of adult day care center.

C. *Adult family day care home.* A private residence in which six (6) or less adults eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped that require supervision on an ongoing basis. An adult day care home does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned

to a correctional facility, or any other facilities which do not meet the definition of adult day care center.

*Adult foster care facility.* A state licensed establishment that provides care to adults. Subject to Michigan Public Act 218 of 1979, as amended, Adult Foster Care includes facilities and homes or facilities for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis, but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act. The following definitions shall apply to types of adult foster care facilities:

*A. Adult foster care home, small group.* An adult foster care facility providing residency with the approved capacity to receive at least three (3) but not more than twelve (12) adults to be provided with foster care.

*B. Adult foster care home, large group.* An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

*C. Adult foster care home, family.* A private residence with the approved capacity to receive at least 3 but not more than 6 adults to be provided with foster care. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

*D. Adult foster care congregate facility.* An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

*E. Adult foster care camp or adult camp* means an adult foster care facility with the approved capacity to receive more than 4 adults to be provided foster care. An adult foster care camp is a facility located in a natural or rural environment.

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

*Aisle.* The area delineated to facilitate the movement of vehicles entering, exiting, or maneuvering within a parking area, ensuring efficient traffic flow and safe navigation for both pedestrians and drivers.

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

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

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

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

*Apartments.* A building containing more than one dwelling unit with one or more rooms with private bath and kitchen facilities comprising of independent self-contained dwelling units.

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

*Appeals.* The process, as prescribed in the [zoning] ordinance, for contesting a zoning interpretation made by the community development department or a decision made by the planning commission.

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

*Application.* Application means the process by which the owner of a parcel of land within the City or their designated agent or their contractor submits a request for any type of development review or approval identified in this chapter. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City concerning such a request.

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

*Approving authority.* The agency, board, commission, group, or other legally designated individual or authority which has been charged with review and approval of plans and applications. *Assembly areas.* A meeting place at which the public or membership groups are assembled regularly or occasionally, indoors or outdoors as a principal or accessory use, including but not limited to portions of schools, religious institutions, theaters, auditoriums, funeral homes, stadiums, lecture halls, private clubs and lodge rooms, conference rooms, convention centers, dining halls, and similar places of assembly.

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

*Attached garage.* An outbuilding customarily used for the storage of vehicles, which outbuilding is attached to a residential dwelling as either an integral part thereof, or, at minimum, connected to the dwelling by a completely enclosed breezeway. An attached garage is considered part of the principal building and shall meet setback requirements of principal building.

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

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

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

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

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

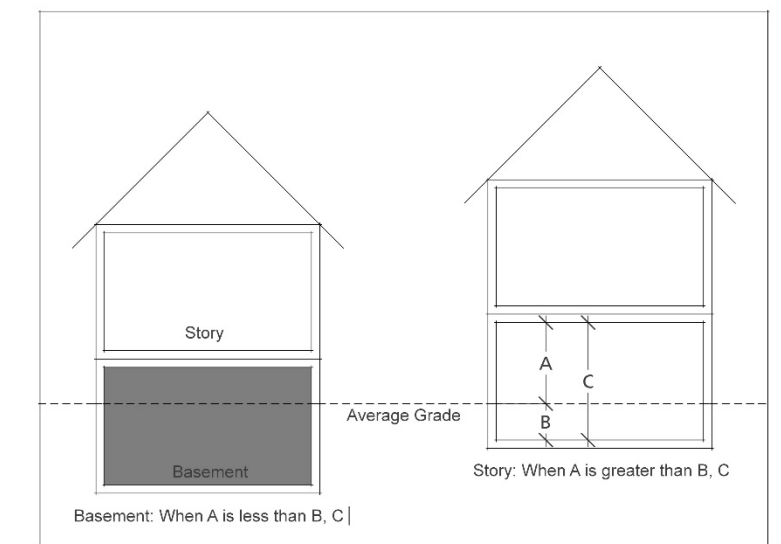
*Automobile service station.* A building used for the retail sale of fuel (stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water, and other commodities designed for motor vehicles, aircraft and boats. Such an operation includes space and facilities for selling,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

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

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

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

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



*Battery Energy Storage System, Large.* A system consisting of one or more battery energy storage units, assembled to store energy supply electrical energy at a future time. This system serves as a principal use or has an aggregate energy capacity greater than 600 kwh.

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

*Berm, obscuring.* An earthen mound designed to obscure views and meet zoning requirements for screening, featuring a landscaped construction with a slope ratio of no steeper than 3 to 1 for maintenance and visual screening purposes. It serves as an engineered natural barrier, incorporating vegetation and built to specific height and location specifications to fulfill zoning obligations while blending into the surrounding environment.

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

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

*Boardinghouse house.* A dwelling having one kitchen and used for the purpose of providing meals and lodging for pay or compensation of any kind to more than two persons other than members of the family occupying the dwelling which is not open to transient customers

*Brewery.* A manufacturer of beer which manufactures more than 60,000 barrels of beer a year. Can sell beer to Wholesaler licensees to sell to retailers. May also sell beer to consumers under an On-Premises Tasting Room Permit at the location where it manufactures beer. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.

*Brewpub.* A use containing a license issued in conjunction with a Class C, Tavern, B-Hotel, or A-Hotel license that authorizes the licensee to brew up to 18,000 barrels of beer per calendar year for sale for consumption on or off the licensed premises. A brewpub licensee shall hold a food service establishment license under the Food Law (MCL 289.1101 to 289.8111).

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

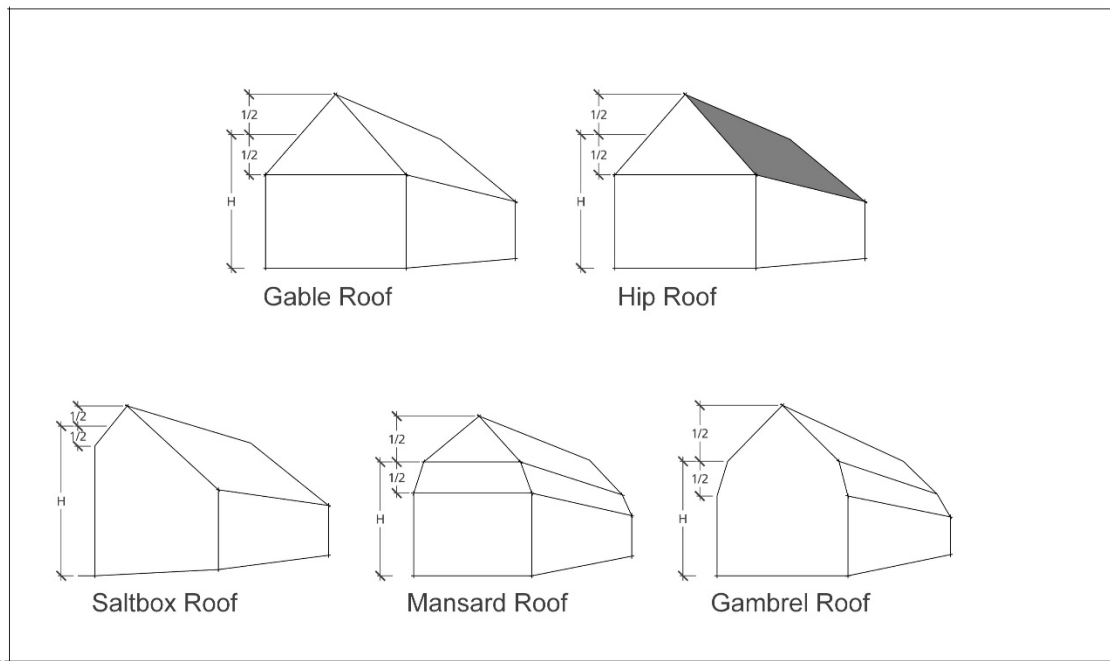
*Buildable area.* The space remaining on a lot or lots of record after the minimum setback and open space requirements have been met.

*Building.* Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the housing, sheltering, storing, or enclosure of persons, animals, or property of any kind or carrying on of business activities.

*Building height.*

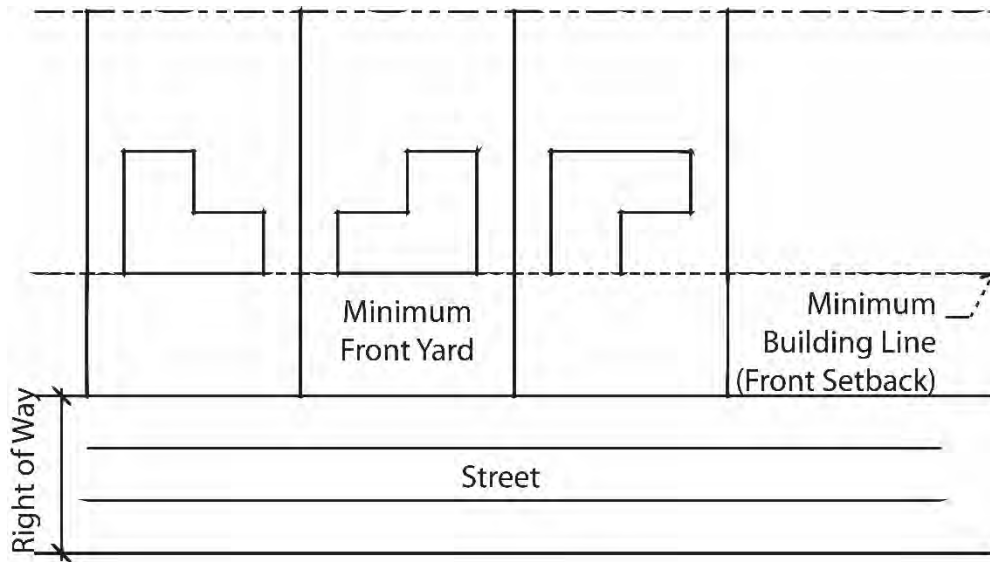
A. The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deckline of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs.

B. Any extension of a mansard, gambrel, hip or gable roof below a wall shall require building height measurements to take place at the average height between the top of the building wall and the ridge line and the established grade of the building.



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





*Community development department.* Building official, zoning administrator, and other city staff appointed by the city manager and responsible for enforcing and administering the zoning ordinance, property maintenance, and Michigan building code.

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

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

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

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

*Carport.* A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on two (2) or three (3) sides.

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

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

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

*Character.* Used in this Ordinance to describe consistency between existing and proposed development, or consistency in materials of construction and architecture.

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

A. *Child care center* means a facility, other than a private residence, receiving more than six preschool age or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, pay group, or drop-in center. Child care center or day care center does not include a Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

B. *Foster family home* is a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and super-vision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

C. *Foster family group home* means a private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

D. *Family child care home* means a private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

E. *Group child care home* means a private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. it includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

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

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

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

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

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

*Commercial vehicle.* Any vehicle serving purposes other than the transportation of persons or registered for the gross vehicle weight of more than 9,000 pounds. This definition includes, but is not limited to, buses and semi-trucks and trailers.

*Conditional Use.* A use that would be inconsistent with or detrimental to other uses permitted in the same zoning district unless carefully considered as to the number, area, size, exterior design, location or relation to the adjacent properties and to the neighborhood. May be permitted with proper conditions applied and safeguards taken.

*Condominium definitions.* The following definitions are related to condominiums:

A. Condominium act means Act 59, public acts of 1978, as amended.

B. Condominium documents means the master deed, recorded pursuant to the condominium act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

C. Condominium subdivision (site condominium) means a method of subdivision where land ownership of sites is regulated by the condominium act (MCL 559.101 et seq.), as opposed to the Land Division Act (MCL 560.101 et seq.). Condominium subdivision shall be equivalent to the term "subdivision" as used in this title and the city subdivision regulations ordinance.

D. Condominium subdivision plan means the drawings and information prepared in accordance with section 66 of the condominium act (MCL 559.166). Such drawings and information typically include the site, survey and utility plans, floorplans and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land.

E. Condominium unit means the portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential office, industrial, business, recreational, use as a timeshare unit, or any other type of use.

F. Consolidating master deed means the final amended master deed for a contractible or expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

G. Contractible condominium means a condominium project from which any portion of the submitted land or building may be withdrawn in accordance with this title [zoning ordinance] and the condominium act (MCL 559.101 et seq.).

H. Conversion condominium means a condominium project containing condominium units some or all of which were occupied before the filing of a notice of taking reservations under section 71 of the condominium act (MCL 559.171).

I. Expandable condominium means a condominium project to which additional land may be added in accordance with this title and the condominium act (MCL 559.101 et seq.).

J. Master deed means the condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by section 8 of the condominium act (MCL 559.108).

K. Notice of proposed action means the notice required by section 71 of the condominium act (MCL 559.171), to be filed with the city and other agencies.

L. Site condominium means a developmental concept for a condominium development containing residential, commercial, office, industrial or other structure for uses permitted in the zoning district in which located; in which each co-owner owns exclusive rights in a condominium unit as described in the master deed.

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

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

*Contractors' Office* mean a building or buildings and area where a building, plumbing, electrical, heating and cooling, glazing, painting, paper hanging, roofing, communications, masonry or refrigeration company operates its business and stores equipment and supplies.

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

*Cottage Court means* not fewer than four (4) and not more than twelve (12) detached one-family or two-family structures with separate ground floor entrances arranged around a common court that opens onto a street.



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

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

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

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

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

*Development.* The change to improved or unimproved land, such as the construction of buildings or structures, relocation of existing buildings, utilization of open land for new purposes, alterations to existing buildings, and activities like mining, dredging, filling, grading, paving, excavation, or drilling operations, all subject to zoning regulations governing changes to land use ,

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

A. A signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial sources.

B. A low-noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.

C. A coaxial cable the purpose of which is to carry or transmit said signals to a receiver.

*Dish* shall mean that part of satellite signal receiving antenna characteristically shaped like a saucer or dish.

*Distillery.* A manufacturer of spirits that contain more than 10% alcohol by volume and produces more than 60,000 gallons of spirits annually.

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

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

*Donation Box.* Any metal container, receptacle, or similar device that is located on any parcel or lot of record within the City and that is used for soliciting and collecting donations of clothing, household items, or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material, any rubbish or garbage receptacle or any donation box located within an enclosed building.

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

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

*Dwelling unit.* Dwelling unit means a building, or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.

*Dwelling, one-family.* One-family dwelling means a building designed exclusively for and occupied exclusively by one domestic family.

*Dwelling, multiple family.* Multiple-family dwelling means a building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

*Dwelling, two-family.* Two-family dwelling means a building designed exclusively for occupancy by two families living independently of each other.

*Elderly housing.* Elderly housing means an institution which provides room and board to non-transient persons primarily fifty-five(55) years of age and older. Housing for the elderly may include the following:

(1) *Senior Apartment.* Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.

(2) *Elderly Housing Complex.* A building or group of buildings containing dwellings where the occupancy is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older.

(3) *Congregate Housing.* A type of semi-independent housing facility containing a common kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.

(4) *Dependent Housing Facilities.* Facilities such as nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

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

*Electronic message display sign.* A sign on which the message changes automatically through the use of changing lights to form a text message or messages wherein the sequence of messages and the rate of

change is electronically programmed and can be modified by electronic process. Electronic message display or changeable copy signs do not include graphic display (i.e. static pictures, with or without text) or video display (i.e. moving pictures, with or without text).

*Emission.* A discharge of pollutants into the air.

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

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

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

*Equipment servicing.* General repair, rebuilding, or reconditioning of equipment not including automotive repair.

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

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

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

*Exceptions.* An exception is a use permitted only after review and approval of an application by the zoning board of appeals, or if specifically stated in the zoning ordinance by the zoning administrator, zoning board of appeals, design review committee, or planning commission.

*Family.*

A. Domestic Family. A domestic family, that is, one or more persons living together and related by the bonds of consanguinity, marriage or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling unit.

B. Functional equivalent family. The functional equivalent of a domestic family, that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family, with a demonstrable and recognizable bond which constitutes the functional equivalent bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise housekeeping as a single, nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangements and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. For the purposes of enforcement, the community development department shall presume that a functional equivalent of a domestic family is limited to six or fewer persons. A property owner may rebut this presumption to allow more than six persons by submitting an application for special land use approval subject to the standards set forth in this [zoning] ordinance.

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

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

A. Food, frozen desserts, or beverages usually served in edible containers or in paper, plastic, or other disposable containers;

B. More than 45 percent of the available floor space devoted to food preparation, related activities and other floor space not available to the public.

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



*Fence, ornamental.* A manmade structure that is constructed from wrought iron, vinyl, wood pickets, split rail, stone, brick or other material, designed to be aesthetically appealing, and having a minimum of 50% of the surface area open or transparent. Ornamental fences shall not be chain-link or of wire construction and not be two sided.

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

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

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

A. Contiguous areas paralleling a river stream or other body of water that constitute at their maximum edge the highest flood levels experienced in a period of 100 years.

B. Principal estuary courses of wetland areas that are part of the river flow system.

C. Contiguous area paralleling a live stream or other body of water that exhibit unstable soil conditions for development.

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

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

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

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

A. Customers are normally provided with an individual menu; are served their foods, frozen desserts, or beverages by a restaurant employee at the same table or counter at which the items are consumed; or

B. Cafeteria-type operation where foods, frozen desserts, or beverages are generally consumed within the restaurant building.

*Funeral homes and mortuary establishment.* A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services

used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

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

*Garbage.* Garbage typically refers to organic waste materials, such as kitchen scraps, food waste, and other perishable items that are discarded from households, commercial establishments, or institutions. It may also include non-organic waste generated from everyday activities, such as paper products, packaging materials, and other disposable items.

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

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

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

*Greenhouse, Industrial.* An establishment where flowers, shrubs, vegetables, trees, and other horticultural and floricultural products are grown in enclosed buildings with the exception of cannabis or marihuana.

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

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

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

*Harmonious.* Means the buildings on a property contribute positively to the overall character of the neighborhood without causing visual discord or disruption to the neighborhood or each other.

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

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

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

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

*Industrial, light.* The indoor manufacturing of finished products or parts, including processing, fabrication, assembly and disassembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, which produces minimal noise, odors, vibration, hazardous waste materials, or particulate that will not disturb or endanger neighboring properties. Examples of light industrial include the following:

- (a) Apparel (including clothing, shoes, dress making, and leather products);
- (b) Commercial bakeries;
- (c) Communication or computer equipment;
- (d) Drugs, medicines, pharmaceutical;
- (e) Electronic and computer products (including communication or computer equipment);
- (f) Electrical equipment or machinery;
- (g) Fasteners and buttons;
- (h) Food/baking (including coffee roasting, creameries, ice cream, ice, frozen food, confectionery, and beverage);
- (i) Food and beverage processing, canning, and storage;
- (j) Household appliances;
- (k) Machinery (including farm and industrial machinery);
- (l) Medical equipment and supplies;
- (m) Mill work and similar woodwork;
- (n) Manufactured and modular homes and components;
- (o) Office supplies;
- (p) Optical goods;
- (q) Photographic equipment;
- (r) Recreational vehicles and equipment;
- (s) 3-D printing;
- (t) Textiles (including dyeing, laundry bags, canvas products, dry goods, hosiery, millinery); and

(u) Tool and die making and repairs

*Industrial, heavy.* The manufacturing with significant external effects, or which pose significant risks due to the involvement of explosives, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. Examples of intensive manufacturing include the manufacture or production of the following goods or products:

- (a) Aluminum or other metal recycling and Asphalt mixing plant;
- (b) Batteries;
- (c) Chemicals (including chlorine, corrosive acid, cosmetics, disinfectants, fertilizer, insecticides, poisons);
- (d) Concrete mixing plant;
- (e) Explosives;
- (f) Industrial gases (such as acetylene);
- (g) Lime and gypsum products;
- (h) Medicines and pharmaceuticals;
- (i) Nonmetallic mineral products (such as concrete and concrete products, glass);
- (j) Paint (including lacquer and varnish);
- (k) Paper;
- (l) Primary metals;
- (m) Petroleum products; and
- (n) Plastic, rubber, and synthetic resins.

*Ingress.* Access or entry.

*Institutional or public uses.* Houses of worship, public schools, public parks, public playgrounds, hospitals, government buildings, and other similar public or semipublic use.

*Improvements.* Those features and actions associated with a project which are considered necessary by the municipality to protect natural resources or the health, safety and welfare of the residents of the city and future users or inhabitants of the proposed project or project area, including parking areas, landscaping, roadways, lighting, utilities, sidewalks, screening and drainage. Improvements do not include the entire project which is the subject of zoning approval.

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

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

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

*Laboratory.* A building or part of a building devoted to the testing and analysis of any product or animal. No manufacturing is conducted on the premises except for experimental or testing purposes. Laboratories do not include any building or use associated with recreational or medical marijuana.

*Landscape or landscaping* means living plant material such as, but not limited to, grass, ground covers, shrubs, vines, hedges or trees, and/or nonliving durable material commonly used in landscape development such as, but not limited to, crushed rock, wood chips, cobblestones, brick, tile or decorative blocks, whether used as a vertical element such as a wall or fence, or as a horizontal element such as a bed, walk or path. Landscaping shall not be used for parking.

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

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

*Legislative body.* The city commission.

*Live/Work unit.* A single unit consisting of both a residential and commercial component that is occupied by the same resident as their primary residence.

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

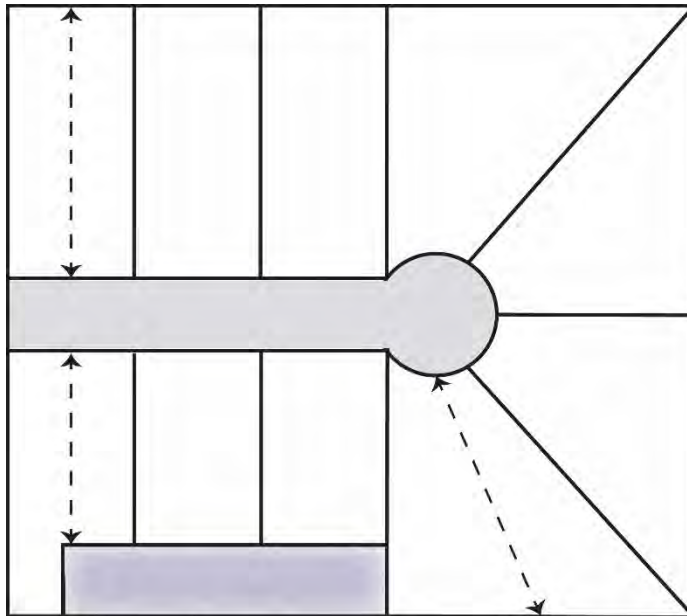
*Lot.* A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this [zoning] ordinance.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

*Lot area.* The total horizontal area included within lot lines, exclusive of area in a public or private right of way.

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

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

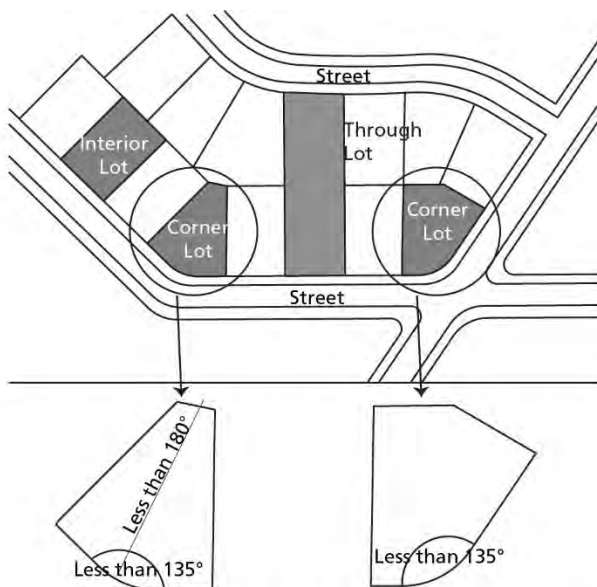
*Lot depth.* The shortest horizontal distance between the front and rear lot lines measured along the median between the side lot lines, not including a public or private right of way.



## Lot Depth

### *Lot Depth*

*Lot, interior.* Any lot other than a corner lot having frontage on one street.



## INTERIOR, THROUGH, AND CORNER LOTS

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

A. *Front lot line.* In the case of an interior lot, it is that line separating the lot from the street. In the case of through lot or corner lot, it is that line separating the lot from each street.

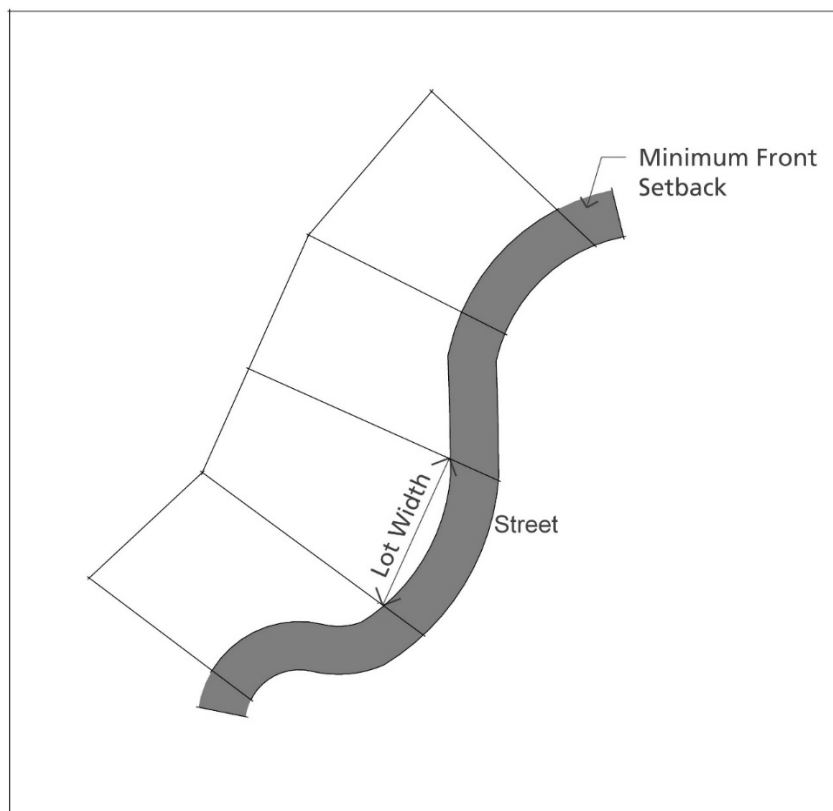
B. *Rear lot line.* The lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot. On curved streets or on cul-de-sac turn arounds, the rear yard shall be opposite the front set back line at ninety (90) degrees from such set back line.

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

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

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

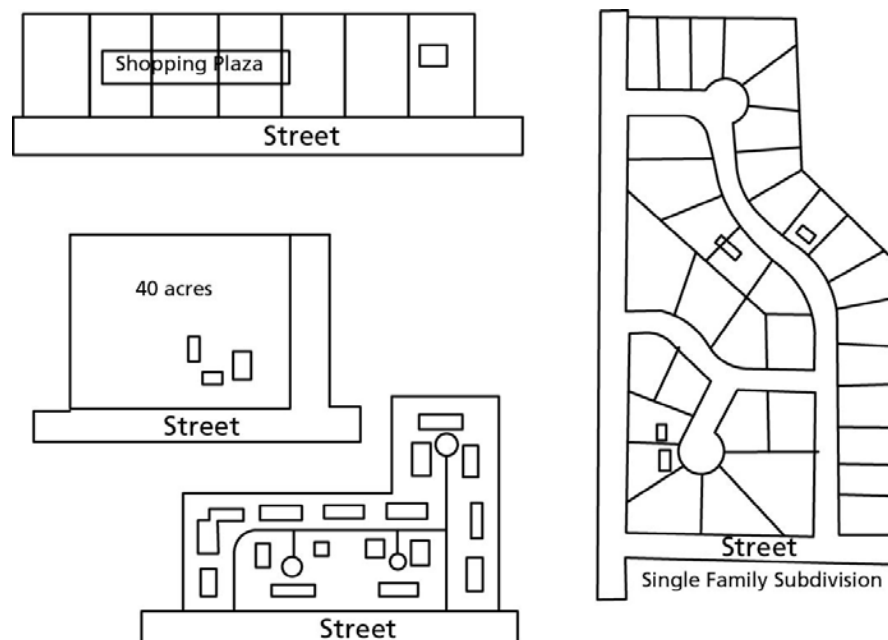
*Lot width.* The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.



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

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

*Master plan (comprehensive plan).* A comprehensive, long-range plan intended to guide the growth and development of a community or region and one that includes analysis, recommendations, and proposals for the community's population, economy, housing, transportation, community facilities and land use.



## EXAMPLES OF ZONING LOTS

*Mechanical amusement device.* Any machine or device which, upon the insertion of a coin, slug, token, plate or disc, operates or may be operated as a game of contest, of skill or amusement when the element of skill in such operation predominates over chance or luck. It includes mechanical, electrical, or electronic video games, mechanical grabbing devices, pinball games, mechanical, electrical, or electronic baseball, football, basketball, hockey or similar sports-type games, mechanical, electrical or electronic card games, shooting games, target games, card games or any other machine, device or apparatus which may be used as a game of skill and wherein the player initiates, employs or directs any force generated by such machine.



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

*Micro Brewery.* A manufacturer of beer which manufactures 60,000 or fewer barrels of beer a year. Can sell beer to Wholesaler licensees to sell to retailers. May also sell beer to consumers under an On-Premises Tasting Room Permit at the location where it manufactures beer. May also self-distribute beer it manufactures to retailers if it sells fewer than 2,000 barrels of beer a year. No local legislative approval required for licensure, if manufacturing only; On-Premises Tasting Room Permit requires local legislative approval.

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

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

*Ministorage.* Storage or warehousing building or buildings with more than one defined unit for individuals to store personal effects and for businesses to store materials for operation of an industrial or commercial enterprise elsewhere. In no case shall storage spaces in a ministorage facility function as an independent retail, wholesale, business, or service use. Spaces shall not be used for workshops, hobby shops, manufacturing, or similar uses. Human occupancy shall be limited to that required to transport, arrange and maintain stored materials.

*Mixed-use development.* A development with planned integration of residential and non-residential uses where residential is only permitted above the first floor.

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

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

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

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

*Modular home.* A dwelling unit consisting of two or more transportable factory-fabricated units designed to be assembled as a single residential structure on a foundation as required for conventional residences and constructed in conformity with the City's adopted Building Code.

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

*Moving and Storage:* Establishments that provide moving and storage services and over the road transportation of cargo using motor vehicles, such as trucks and tractor trailers, including the storage and holding of cargo and storage containers.

*Municipality.* The City of Sturgis.

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

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

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

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

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

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

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

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

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

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

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

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

*Outdoor sales area, accessory.* An area where the primary purpose of the area is for the retail sale of merchandise. Such sales and or display area must be accessory and subordinate to a permitted principal use.

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

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

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

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

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

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

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

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

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

*Personal service.* Establishments providing services such as barber shops, beauty salons and spas, clothing rental, massage services, shoe repair, tattoo parlors and travel agencies. This use also includes dog grooming establishments but does not include any boarding or animal hospitals.

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

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

*Planned development district or PDD.* A development approach that allows for flexible zoning regulations and unified site design across a comprehensive project. PDDs typically feature a mix of

building types, land uses, and housing units, with buildings often clustered to create common open spaces. Instead of applying zoning regulations on a lot-by-lot basis, densities are calculated for the entire development, allowing for more innovative and efficient land use. The process involves significant city oversight, particularly during site-plan reviews, ensuring that the development aligns with community goals and standards.

*Planning commission.* The planning commission of the City of Sturgis.

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

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

*Principal building.* The primary structure on a lot in which the principal use permitted by the zoning district is conducted. This building is distinguished from any accessory buildings or structures, which serve secondary or supportive functions.

*Principal use.* The primary activity or purpose for which a lot, building, or structure is intended, designed, and legally permitted within the zoning district in which it is located. The principal use governs the primary function of the property and determines compliance with zoning regulations, distinguishing it from any accessory or incidental uses that may occur on the same property.

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

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

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

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

*Public utility.* Any person, firm, corporation, municipal department, or board, duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public, electricity, gas steam, communication, telegraph, transportation, water, sanitary sewer and storm sewer. Wireless communication devices and facilities are not defined as a public utility.

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

*Qualified Residential treatment Program.* Subject to section 1 of 1973 PA 116, MCL 722.111, a qualified residential treatment program means a program within a child caring institution to which all of the following apply:

- i. The program has a trauma-informed treatment model, evidenced by the inclusion of trauma awareness, knowledge, and skills into the program's culture, practices, and policies.
- ii. The program has registered or licensed nursing and other licensed clinical staff on-site or available 24 hours a day, 7 days a week, who provide care in the scope of their practice as provided in parts 170, 172, 181, 182, 182A, and 185 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, 333.17201 to 333.17242, 333.18101 to 333.18117, 333.18201 to 333.18237, 333.18251 to 333.18267, and 333.18501 to 333.18518.
- iii. The program integrates families into treatment, including maintaining sibling connections.
- iv. (iv) The program provides aftercare services for at least 6 months post discharge.
- v. The program is accredited by an independent not-for-profit organization as described in 42 USC 672(k)(4)(G).
- vi. The program does not include a detention facility, forestry camp, training school, or other facility operated primarily for detaining minor children who are determined to be delinquent.

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

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

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

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

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

*Research and Development:* An establishment for general research, scientific research, development and/or training. Activities include the invention, discovery, study, experimentation, evaluation, identification, verification, design preparation, or production of products, new technologies, techniques, or processes. Research and development functions include the repair, storage, sale, and resale of materials, goods, and products relating to the research and development use. This may include the assembly, integration, and testing of products in a completely enclosed building incidental to the principal use of scientific research, development, and training. Does not include data centers.

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

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

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

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

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

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

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

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

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

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

*Roof.* The top outside covering of a building.

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

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

*Sale, garage or yard sale.* Means the sale or exchange or offer of sale or exchange of five or more items of household goods, wares, appliances, clothing, jewelry, tools or other personal property of whatever kind or nature, or any combination thereof whether by garage sale, yard sale, auction or otherwise.

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

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

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

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

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

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

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

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

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

*Setback.* The distance required to obtain minimum front, side or rear yard open space provisions of this zoning ordinance. Setbacks from a public street shall be measured from the existing or proposed right-of-way lines, whichever is greater unless otherwise provided in this zoning ordinance. The setback does not apply to projections as per section 1.0708 in this zoning ordinance.

*Short term parking.* Customer parking which has regular turnover and up to a 30 minute maximum duration.

*Short term rental.* A dwelling or dwelling unit or portion thereof in which overnight accommodations are provided or offered to persons other than the owner for compensation, for a period not to exceed 30 consecutive days.

*Sign definitions.* The following definitions are related to signs:

A. The term "sign" means any announcement, declaration, display, billboard, illustration and insignia when designed and placed so as to attract general public attention. Such shall be deemed to be a single sign whenever the proximity, design, content or continuity reasonably suggest a single unit,

notwithstanding any physical separation between parts. The term "sign" includes any banner, bulbs or other lighting devices, streamer, pennant, balloon, propeller, flag and any similar device of any type or kind, whether bearing lettering or not.

1. *Accessory sign.* A sign which pertains to the principal use of the premises.
2. *Air-blown device.* Any device not otherwise specifically defined in this article that is designed to inform or attract, whether or not such device carries a message, and which all or part of the device is set in motion by mechanically forced air. This definition specifically includes but is not limited to those devices referred to commercially as "air puppets" and "air dancers".
3. *Awning or canopy.* A sign mounted on or painted onto, an awning, marquee, or canopy.
4. *Banner.* A temporary sign of fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework that must be hung or temporarily affixed to the tenant space.
5. *Billboard.* A sign other than an off-premises directional sign, which does not pertain to the principal use of the premises.
6. *Decorative display.* A decorative, temporary display designed for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising content.
7. *Feather sign.* A temporary freestanding sign, typically consisting of a single pole or shaft of plastic, metal or other rigid material, imbedded or otherwise fastened in the ground at the base, with a vertically elongated pennant made of fabric, vinyl or other flexible material in the shape of a feather, tear drop or similar configuration attached along the pole. This type of sign may attract attention by waving and/or fluttering from natural wind currents.
8. *Flag sign.* A device generally made of flexible material, usually cloth, paper or plastic, which is normally attached to a flagpole or to a building. The term flag does not include feather signs.
9. *Freestanding sign.* A sign other than a portable sign which is not attached to a building.
10. *Ground sign.* A display sign supported by one or more columns, uprights or braces or mounted directly upon the ground surface and having a height not in excess of six feet.
11. *Development sign.* An entrance sign identifying a development and/or the occupants of a development in which more than one tenant or use occupies a site or sites in the development.
12. *Inflatable sign.* A temporary sign consisting of flexible material or fabric that takes on a three dimensional shape when filled with a sufficient volume of air or other gas.
13. *Marquee sign.* A display sign attached to or hung from a marquee, canopy or other covered structure projecting from and supported by the building and extending beyond the building wall, building line or street lot line.
14. *Non-accessory sign.* A sign which does not pertain to the principal use of the premises.
15. *Non-accessory temporary development sign.* A sign advertising a real estate development consisting of five or more lots or parcels in one ownership.



16. *Off-premises directional sign.* A sign which provides direction to a location in the city.
17. *Pylon sign.* A display sign supported by one or more columns, uprights or braces in the ground surface, and having a height of eight feet or more.
18. *Portable sign.* A sign and sign structure which is designed to facilitate the movement of the sign from one zoning lot to another. The sign may or may not have wheels, changeable lettering and/or hitches for towing. A sign shall be considered portable only if such sign is manifestly designed to be portable to facilitate its movement from one zoning lot to another. Signs utilized to be moveable, other than from one zoning lot to another, shall be considered freestanding signs under this [zoning] ordinance.
19. *Projecting sign.* A sign, other than a marquee, awning, or canopy sign which is attached directly and perpendicularly to the building wall, not on the same plane as the wall, where any part of which extends beyond the building wall more than 12 inches.
20. *Roof sign.* A display sign which is erected, constructed and maintained in or above the roof of the building.
21. *Sandwich board sign.* A temporary freestanding sign, consisting of two sign faces of equal size hinged at the top and placed on the ground.
22. *Temporary promotional materials.* Any posters, banners, flags, etc. displayed inside business windows, so as to be visible and attract attention of the general public to advertise products, goods or services provided on premises for a specified period of time.
23. *Temporary sign.* A display sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without a structural frame, or any other sign intended for a limited period of display, but not including decorative displays for holidays or public demonstration.
24. *Wall sign.* A display sign which is painted on or attached directly to the building wall.
25. *Window sign.* A sign affixed to a window so as to be observable from the opposite side of the window to which such sign is affixed.
26. *Vehicle sign.* A sign attached to a vehicle or placed within or upon such vehicle which advertises products for sale other than the identification of the vehicle owner or operator.
27. *Yard sign.* A temporary freestanding sign placed on private property facing a street or parking area.
- a. *Rigid frame:* A temporary yard sign, consisting of a frame or skeleton made of steel, wood or similar sturdy material placed into the ground, that resists bending or movement and is capable of withstanding wind turbulence while supporting a sign of permitted size.
- b. *Wire frame:* A temporary yard sign, typically consisting of a fairly pliable "H" shaped metal frame, one end of which is typically inserted into a plastic sign and the other end is inserted into the ground.

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

C. Erect means to build, construct, attach, hang, place, suspend, affix or paint.

D. Noncombustible material means any material which will not ignite at or below a temperature of 1,200 degrees Fahrenheit and will not continue to burn or glow at that temperature.

E. Sign face means the area of display surface used for the sign message.

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

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

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

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

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

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

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

*Small Distiller.* A manufacturer of spirit products that contain more than 10% alcohol by volume which manufactures 60,000 or fewer gallons of spirits a year. Can sell spirits it manufactures to the Commission to sell through Authorized Distribution Agents to retailers. May self-distribute spirits it manufactures to retailers if it sells less than 3,000 gallons of spirits a calendar year to retailers. May sell spirits it manufactures to customers under an On-Premises Tasting Room Permit at the location where it manufactures it and also through an Off-Premises Tasting Room license or Joint Off-Premises Tasting Room license. No local legislative approval required for licensure, if manufacturing only; On-premises Tasting Room Permit requires local legislative approval.

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

*Small Wine Maker.* A manufacturer of wine which manufactures 50,000 or fewer gallons of wine a year. Can sell wine to Wholesaler licensees to sell to retailers. May also sell wine to consumers under an On-Premises Tasting Room Permit at the location where it manufactures it and also through an Off-Premises Tasting Room license or Joint Off Premises Tasting Room license May self-distribute wine it manufactures to retailers. May hold a Farmer's Market Permit that allows the sale and sampling of its wine at a farmer's market. No local legislative approval required for licensure, if manufacturing only; On Premises Tasting Room Permit requires local legislative approval.

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

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

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

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

*Specified anatomical areas.*

A. Less than completely and opaquely covered:

1. Human genitals, pubic region and buttock:
2. Female breast below a point immediately above the top of the areola.

B. Human male genitals in a discernible [discernibly] turgid state, even if completely and opaquely covered.

*Specified sexual activities.*

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

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

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

*Stacking areas.* Areas designated for the temporary queuing of motor vehicles, such as for a drive-thru restaurant or a bank.

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

*Storage area, accessory.* An outdoor space accessory to the permitted use of the property and used for the purpose of storing equipment, vehicles, construction materials, and similar items necessary to the permitted use.

*Storage area, non-accessory.* An outdoor space that is non-accessory to the permitted use of the property.

*Storm Water System* means a surface water management system designed, constructed, managed, and maintained to control surface water discharges caused by precipitation events on a developed property. It consists of structures, piping, earth surface modifications to collect, convey, treat, store, infiltrate, or reuse the storm water on a developed property and prevent off site storm water runoff. All new Storm Water Systems shall be built and maintained in compliance with the City of Sturgis Storm Water Design Criteria Manual.

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

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

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

*Street classifications.* The classification of streets based upon their location and their present and expected future traffic volume and relative importance and function as follows and as designated on the current Michigan Department of Transportation National Functional Classification (NFC) map:

A. *Local street.* A road intended to provide access to collector roads from individual properties.

B. *Collector street, minor or major.* A road intended to collect traffic from local streets to distribute to secondary and primary arterial streets.

C. *Minor arterial.* A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic generating areas such as community commercial areas, primary and secondary educational buildings, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.

D. *Principal arterial*. A road intended to move traffic to and from major attractions such as shopping centers, central business districts, regional shopping malls, colleges and universities, military installations and similar traffic generators within the local unit of government, and/or as a route for traffic between neighboring communities.

*Street frontage*. See *road frontage*.

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

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

*Structure, temporary*. A structure that has been permitted by the zoning administrator to exist during periods of construction of the principal building, special events, or approved uses.

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

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

*Subdivide or subdivision*. The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or for building development, that results in one or more parcels of land, of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of Public Act No. 288 of 1967 (MCL 560.101 et seq.). [The term] "subdivide" or "subdivision" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of Public Act No. 288 of 1967 (MCL 560.101 et seq.).

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

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

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

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

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

A. A zoning district which may serve as a district of transition, i.e., a buffer zone between various land use districts or land use types;

B. A residential rear or side yard lot or land parcel arrangement abutting a land use of more intense development character; or

C. A device such as an earth berm, wall, screening fence, heavy shrub and tree planting or a combination of such devices providing a buffer between land use types.

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

*Truck.* Automotive vehicle for hauling.

*Truck and railroad terminals.*

A. A place where transfer between modes of transportation takes place.

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

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

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

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

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

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

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

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

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

*Warehouse or warehousing.* A building primarily used for the storage of goods and materials that is less than 200,000 square feet in gross floor area. A parcel containing a building or buildings or portions thereof that contain warehousing in excess of 200,000 square feet in area shall be defined as *distribution warehousing*.

*Warehousing, Distribution.* A parcel containing a building, buildings, or portions thereof, with warehousing in excess of 200,000 square feet in gross floor area. Distribution warehousing may include large-scale customer fulfillment centers.

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

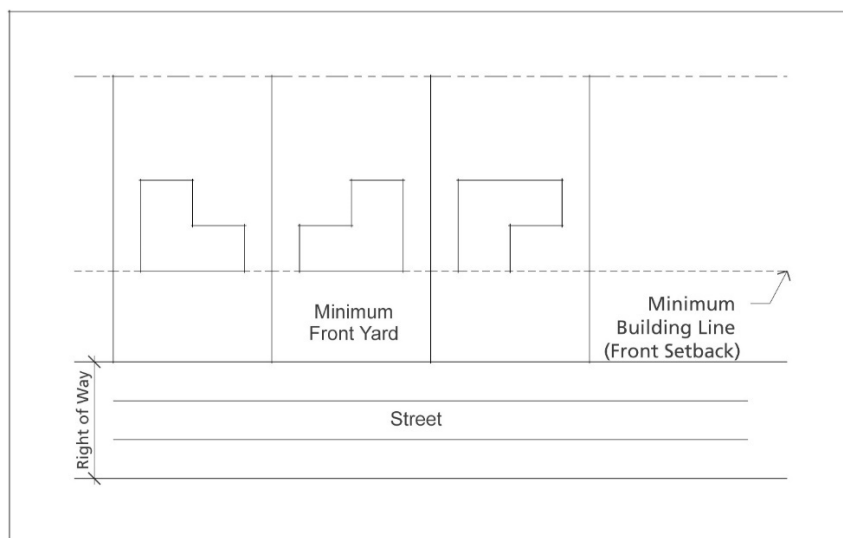
*Wholesale activities.* Activities primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general commercial use.

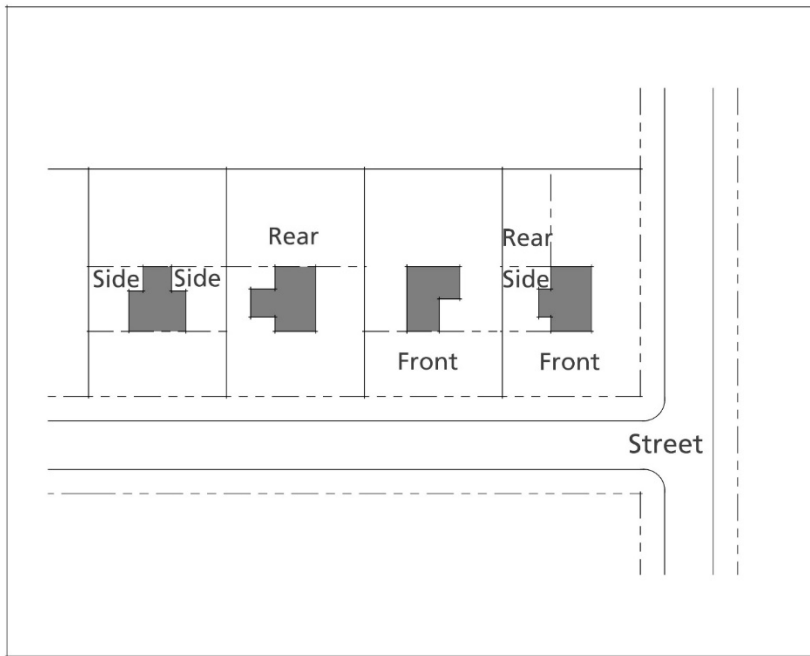
*Wholesale trade.* Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such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

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

A. Front yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building.

B. Rear yard an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building. In the case of a corner lot, the rear yard may be opposite either road frontage.





C. Side yard an open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the principal building. The side yard abutting a street is considered a front yard.

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

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



### ***ARTICLE III.***

#### ***DESIGNATION AND PURPOSE OF ZONING DISTRICTS***

##### **1.0301. Zoning districts.**

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

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

##### **1.0302. Zoning map.**

(A) Zoning map incorporated. The zoning map delineating the zoning districts set out in section 1.0301 is hereby declared to be a part of this section. Except where reference is shown on the map to a street line or other line designated by dimensions, the district boundary lines follow lot lines or the centerlines of streets, alleys and railroads as they existed at the time of the adoption of this section.

(B) Lot divided by zone line. Where a district boundary line, as established in this section, or as shown on the zoning map, divides a lot shown or recorded as being in single ownership at the time of enactment of this section, the district regulations and uses shall be observed on the respective side of the district line to which they apply.

### **1.0303. Zoning text interpreted.**

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

(A) No use of land shall be permitted in any use district except those uses specifically permitted in a zoning district.

(B) Uses or structures not specifically permitted in a zoning district shall be prohibited in such district.

(C) Unless otherwise provided for in this zoning ordinance, where uses of yard areas are indicated as being permitted, the use of any yard area for any use other than that permitted shall be prohibited.

### **1.0304. Zoning of annexed areas.**

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

### **1.0305. Zoning of vacated lands.**

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

### **1.0306. District requirements.**

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

## ***ARTICLE IV. DESCRIPTION OF DISTRICTS***

### **1.0401. R-1 rural residential.**

- (A) Intent. The R-1 rural residential district is composed of certain land in outlying areas presently of rural character. The land within this district is used primarily for agricultural purposes. The regulations of this district are designed to stabilize and protect the essential characteristics of the district without unduly restricting its use solely to that of an agricultural nature. To these ends, development is limited to low density uses which are not detrimental to future development.
- (B) Permitted uses. The following uses are permitted in the R-1 district:
- (1) Adult foster care homes, family.
  - (2) Country clubs, golf courses, and similar uses.
  - (3) Essential services.
  - (4) Family child care homes.
  - (5) Farm employee accessory dwellings.
  - (6) Farming or horticulture.
  - (7) Foster family group homes.
  - (8) Foster family homes.
  - (9) Greenhouses, industrial.
  - (10) Home occupations as provided for and controlled in section 1.1123 for existing housing.
  - (11) Institutional or public uses.
  - (12) One-family detached dwellings.
  - (13) Private residences with the capacity to receive at least 1 but not more than 4 adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting, excluding adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
  - (14) Qualified residential treatment programs that provides services for 10 or fewer individuals.
  - (15) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the R-1 district, under the conditions of article VI of this zoning ordinance.
- (1) Adult foster care camp.
  - (2) Adult foster care home, small group.
  - (3) Animal hospitals.
  - (4) Child care centers or day care centers in accordance with section 1.0602 and 1.0603(M).
  - (5) Cottage Court Developments
  - (6) Farm animal or fowl husbandry.
  - (7) Functional equivalent family.
  - (8) Group child care homes.
  - (9) Mineral extraction operations.

- (10) Reasonable accommodation use.
- (11) Riding stables.
- (D) Required conditions. The following conditions shall be required in all R-1 districts:
  - (1) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance
  - (2) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
  - (3) Area and bulk requirements. See article V, schedule of regulations, of this zoning ordinance limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setbacks requirements.

#### **1.0402. R-2 subdivision residential.**

(A) Intent. The R-2 Subdivision residential district is established to create and preserve single-family home neighborhoods free from other uses except those which are both compatible with and convenient to the residents of this district. These districts will be developed as lower-density single-family neighborhoods.

- (B) Permitted uses. The following uses are permitted in the R-2 district.
  - (1) Adult foster care homes, family.
  - (2) Country clubs, golf courses, and similar uses.
  - (3) Essential services.
  - (4) Family child care homes.
  - (5) Foster family group homes.
  - (6) Foster family homes.
  - (7) Home occupations as provided for and controlled in section 1.1123 for existing housing.
  - (8) Institutional or public uses.
  - (9) One-family detached dwellings.
  - (10) Private residences with the capacity to receive at least 1 but not more than 4 adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting, excluding adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
  - (11) Qualified residential treatment programs that provides services for 10 or fewer individuals.
  - (12) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the R-2 district, under the conditions of article VI of this zoning ordinance.
  - (1) Adult foster care home, small group.
  - (2) Child care centers or day care centers.
  - (3) Cottage Court Developments
  - (4) Farming or horticulture.
  - (5) Functional equivalent family.
  - (6) Group child care homes.

- (7) Nonresidential parking.
- (8) Reasonable accommodation use.
- (D) Required conditions. The following conditions are required in all R-2 districts.
  - (1) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
  - (2) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
  - (3) Area and bulk requirements. See article V, schedule of regulations, of this zoning ordinance limiting the height and bulk of building, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

#### **1.0403. R-3 residential.**

- (A) Intent. The R-3 residential district is composed of low- and medium-density single-family residential areas where medium-density development has occurred and where additional development at these densities is proposed. The regulations for this district are designed to protect and stabilize the essential characteristics of these areas and to promote and encourage a suitable and safe environment for family life.
- (B) Permitted uses. The following uses are permitted in the R-3 district:
  - (1) Adult foster care homes, family.
  - (2) Country clubs, golf courses, and similar uses.
  - (3) Essential services.
  - (4) Family child care homes.
  - (5) Foster family group homes.
  - (6) Foster family homes.
  - (7) Home occupations as provided for and controlled in section 1.1123 for existing housing.
  - (8) Institutional or public uses.
  - (9) One-family detached dwellings.
  - (10) Private residences with the capacity to receive at least 1 but not more than 4 adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting, excluding adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
  - (11) Qualified residential treatment programs that provides services for 10 or fewer individuals.
  - (12) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the R-3 districts, under the conditions of article VI of the zoning ordinance:
  - (1) Adult foster care home, small group.
  - (2) Cottage court developments.
  - (3) Functional equivalent family.
  - (4) Group child care homes.
  - (5) Nonresidential parking.

- (6) Reasonable accommodations use.
- (7) Two-family dwelling.
- (8) Vacant commercial type buildings conditional use permit.
- (D) Required conditions. The following conditions are required in the R-3 district.
  - (1) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
  - (2) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
  - (3) Area and bulk requirements. See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

#### **1.0404. R-4 apartment.**

- (A) Intent. The R-4 Apartment district is composed of certain areas within the municipality where multifamily residential development at high densities has occurred and where additional development at these densities is proposed. To these ends development is restricted to residential use and uses which are compatible with this type of development.
- (B) Permitted uses. The following uses are permitted in the R-4 district:
  - (1) Adult foster care homes, family.
  - (2) Apartment building of two to 12 dwelling units including two-family dwellings.
  - (3) Country clubs, golf courses, and similar uses.
  - (4) Essential services.
  - (5) Family child care homes.
  - (6) Foster family group homes.
  - (7) Foster family homes.
  - (8) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (9) Institutional or public uses.
  - (10) One-family detached dwellings in compliance with article V, schedule of regulations, [of this zoning ordinance] for R-3 districts.
  - (11) Private residences with the capacity to receive at least 1 but not more than 4 adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting, excluding adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
  - (12) Qualified residential treatment programs that provides services for 10 or fewer individuals.
  - (13) Two attached apartment buildings divided by a fire wall.
  - (14) Two-family dwelling.
  - (15) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the R-4 district, under the conditions of article VI [of this zoning ordinance].
  - (1) Adult foster care home, large group.

- (2) Adult foster care home, small group.
  - (3) Bed and Breakfast operations.
  - (4) Child care centers or day care centers.
  - (5) Conversion of a dwelling for up to four dwelling units.
  - (6) Cottage court developments.
  - (7) Functional equivalent family.
  - (8) Group child care homes.
  - (9) Group dwellings.
  - (10) Nonresidential parking.
  - (11) Office buildings.
  - (12) Professional service offices.
  - (13) Reasonable accommodation use.
  - (14) Rooming, boarding, and motel accommodations.
  - (15) Vacant commercial type buildings conditional use permit.
- (D) Required conditions. The following conditions are required in the R-4 district:
- (1) Area and bulk requirements. See article V, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
  - (2) Floor area. For purposes of this section, the floor area of all dwellings or dwelling units in a building shall average not less than 600 square feet per dwelling unit, exclusive of the floor area for hallways, stairs, laundries, utilities, or other commercial uses.
  - (3) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
  - (4) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.

#### **1.0405. R-5 residential.**

- (A) Intent. The R-5 residential district is established to provide for medium density residential use including mobile home developments as mobile home parks and mobile home subdivisions designed for that purpose and including recreation facilities, churches, schools and necessary public utilities,
- (B) Permitted uses. The following uses are permitted in R-5 districts:
- (1) Adult foster care homes, family.
  - (2) Country clubs, golf courses, and similar uses.
  - (3) Essential services.
  - (4) Family child care homes.
  - (5) Foster family group homes.
  - (6) Foster family homes.
  - (7) Home occupations as provided for and controlled in section 1.1123 for existing housing.
  - (8) Institutional or public uses.
  - (9) One-family detached dwellings.

- (10) Private residences with the capacity to receive at least 1 but not more than 4 adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting, excluding adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
- (11) Qualified residential treatment programs that provides services for 10 or fewer individuals.
- (12) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the R-5 district, under the conditions of article VI.
  - (1) Adult foster care home, large group.
  - (2) Adult foster care home, small group.
  - (3) Child care centers or day care centers.
  - (4) Functional equivalent family.
  - (5) Group child care homes.
  - (6) Low-density apartments.
  - (7) Mobile home parks
  - (8) Mobile home subdivisions.
  - (9) Nonresidential parking.
  - (10) Reasonable accommodation use.
  - (11) Two-family dwellings.
- (D) Required conditions. The following conditions are required in the R-5 districts:
  - (1) Site plan review. Site plan review and approval must be obtained for all new construction other than single family dwellings, in accordance with the provisions of article XII of this zoning ordinance.
  - (2) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
  - (3) Area and bulk requirements. See article V, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, the maximum density permitted, and providing minimum yard setbacks requirements.

#### **1.0406. B-OS business office service.**

- (A) Intent. The B-OS business office service district is established to create and preserve areas for those commercial facilities which are especially useful in close proximity to residential areas as a land use buffer, while minimizing the undesirable impact of the uses on the neighborhoods which they service.
- (B) Permitted uses. The following uses are permitted in the B-OS district:
  - (1) Animal hospitals.
  - (2) Banks, credit unions, or/and similar uses.
  - (3) Business schools.
  - (4) Catering facility.
  - (5) Clinic, dental or medical.



- (6) Contractors office.
  - (7) Convalescent homes.
  - (8) Essential services.
  - (9) Existing housing.
  - (10) Funeral homes and mortuary establishments.
  - (11) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (12) Institutional or public services.
  - (13) Laundry and dry cleaning.
  - (14) Office building(s).
  - (15) Off-street parking lots.
  - (16) Personal services.
  - (17) Printing or publishing.
  - (18) Private schools.
  - (19) Professional service offices.
  - (20) Recreational facilities.
  - (21) Studio.
  - (22) Trade schools.
  - (23) Transportation services.
  - (24) Uses similar to the above uses.
  - (25) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the B-OS district, under the conditions of article VI of this zoning ordinance.
- (1) Banquet hall.
  - (2) Bed and breakfast operations.
  - (3) Brewpubs.
  - (4) Child care facilities limited to child care center or day care centers.
  - (5) Functional equivalent family.
  - (6) Industrial, Light (restricted to properties between Main Street and Hatch Street, and on S. Jefferson Street).
  - (7) Micro Breweries
  - (8) Ministorage.
  - (9) Reasonable accommodation use.
  - (10) Small Distillers
  - (11) Small Wine Makers
  - (12) Warehousing.
- (D) Required conditions. The following conditions are required in the B-OS district.
- (1) Area and bulk requirements. See article V, schedule of regulations, of the zoning ordinance limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
  - (2) Drive-through operations. All permitted uses with a drive-through operation must meet the off-street parking and stacking standards for a drive-through as stated under section 1.0902.

- (3) Exterior lighting. All exterior lighting shall be directed along exterior building walls and away from residential property.
- (4) Performance standards.
- (a) Fire and explosion hazards. All activities shall be carried on only in buildings conforming to the city building code. The operation shall be carried on in a manner required by the city fire prevention code and with any precautions so as to produce no explosion hazard, as determined by the state department of labor, to a use on an adjacent property. Flammable liquids or explosive chemicals or materials, other than fuels used for heating, shall be stored in a separate building or tank, provided the building or tank is not closer than 80 feet to any building occupied by more than one human or closer than 40 feet to any property line.
  - (b) Smoke, fumes, gasses, dust, odors. There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by the use in a manner so to create a public nuisance, cause damage or inconvenience to other buildings or properties, or imperil the health of animals or humans.
  - (c) Liquid or solid waste. All methods of sewage and industrial waste treatment and disposal shall meet all city, state, and federal requirements.
  - (d) Vibration. There shall be no vibration which is discernable to the human sense of feeling beyond the immediate site on which the use is conducted.
  - (e) Noise. The emission of measurable noises from the premises shall not exceed 70 decibels as measured at the property lines, between the hours of 7:00 a.m. to 7:00 p.m. The measurable noises shall not exceed 60 decibels as measured at the property lines between 7:00 p.m. and 7:00 a.m. Where normal street traffic noises exceed the established noise levels during such periods, the measurable noise emanating from the premises may equal, but not exceed traffic noises.
  - (f) Glare. There shall be no direct or sky-reflected glare which would be damaging to the human eye at the property line of the lot occupied by the use. This regulation shall not apply to lights for site or street.
  - (g) Appearance. No storage of waste from off-site outside a building, and no loose blowing papers shall be permitted at any time. A chain-link or decorative fence of sufficient density (1¼" x 1¼") to keep discarded debris within the confines of a site shall be provided for uses which are likely to have debris.
- (5) Screening of trash receptacles. All areas of trash storage, including dumpsters, shall be screened on all sides with a durable, opaque material, at a minimum height of one foot above the trash receptacle. The maximum height of the screening shall not exceed eight feet and shall not be located in front of the building or within the side yard setback.
- (6) Screening of residential uses. A solid fence of wood, vinyl, composite or metal screening six feet in height, or a solid planting strip 15 feet in width, two rows, and six feet in height at planting shall be placed when abutting a residential use to restrict view from the residential property.
- (7) Shipping and deliveries. All shipping and deliveries to and from the above shall occur between the hours of 7:00 a.m. and 7:00 p.m.

- (8) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
- (9) Use parameters. All uses shall be conducted within the confines of a building.
- (10) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
- (11) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

**1.0407. B-C central business district.**

- (A) Intent. The B-C central business district is established to create and preserve a central business district convenient and attractive for a wide range of retail uses and business, government and professional offices, and places of amusement in a setting conducive to and safe for pedestrian traffic.
- (B) Restricted zone. Properties on Chicago Road between Jefferson Street on the West and Monroe Street on the East are considered the restricted zone for the purposes of this section. Uses may be limited or amended in this area if specified below.
- C) Permitted uses. The following uses are permitted in the B-C district.
  - (1) The following uses are permitted in the Restricted Zone provided they are located either above the first floor, or below the first floor. They are permitted without restriction outside of the Restricted Zone.
    - (a) Banks, credit unions, or similar uses.
    - (b) Business schools.
    - (c) Clinic, dental or medical.
    - (d) Private schools.
    - (e) Professional service offices.
  - (2) Catering facility in combination with a full service eating and drinking establishment.
  - (3) Essential services.
  - (4) Existing housing.
  - (5) Fast food restaurant.
  - (6) Full service eating and drinking establishment.
  - (7) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (8) Hotels and motels.
  - (9) Institutional or public uses.
  - (10) Laundry and dry cleaning.
  - (11) Mixed-use development.
  - (12) Personal services.
  - (13) Printing or publishing.
  - (14) Recreational facility.
  - (15) Social clubs.
  - (16) Stores for retail sales and retail services.

- (17) Studio.
  - (18) Theaters.
  - (19) Transportation services.
  - (20) Uses similar to the above uses.
  - (21) Accessory structures and used customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (D) Special land uses. The following special land uses are permitted in the B-C district under the conditions of article VI of this zoning ordinance.
- (1) Apartments above stores.
  - (2) Bed and breakfast operations. Allowed in the restricted zone provided it is located either above the first floor, or below the first floor. Allowed outside the restricted zone in accordance with article VI.
  - (3) Brewpubs.
  - (4) Child care facilities limited to child care centers or day care centers.
  - (5) Condominiums.
  - (6) Drive-through operations.
  - (7) Marquee signs.
    - (a) Marquee signs are permitted only for use on theaters as defined in section 1.0202 of this ordinance.
    - (b) All marquee signs must be submitted to the design review committee regardless of what zone they are to be installed.
    - (c) Proper scale and architectural compatibility will be crucial elements when marquee signs are reviewed by the planning commission.
    - (d) Marquee signs are allowed to be internally lighted.
  - (8) Micro Breweries
  - (9) Mixed-use development—Greater than three stories.
  - (10) Murals.
  - (11) Off-street parking lots.
  - (12) Outdoor sale areas.
  - (13) Professional service offices and banks, credit unions or similar uses in the restricted zone.
  - (14) Short term rentals.
  - (15) Sidewalks cafes.
  - (16) Small Distillers
  - (17) Small Wine Makers
- (E) Required conditions. The following conditions are required in the B-C district.
- (1) Area and bulk requirements. See article V, schedule of regulations, of this zoning ordinance limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
  - (2) Demolition of buildings. Before a demolition permit is issued for a building located in the B-C district, the community development department shall refer the request to the downtown development authority which will review the request, hold a public-hearing, and make recommendations to the property owner for alternate potential uses of the property or to proceed with demolition. If the property owner does not withdraw the

request for a demolition permit within 30 days after it is submitted, the community development department shall proceed to analyze the request and issue appropriate permits based upon the building and zoning ordinance requirements.

- (3) Design review. Design review as provided for in article XIII of this zoning ordinance.
- (4) Drive-through operations. All permitted uses with a drive-through operation must meet the off-street parking and stacking standards for a drive-through as stated under [section] 1.0902.
- (5) Dwellings floor area. For purposes of this section, the floor area of all dwellings or dwelling units in a building shall meet current Michigan Building Code and shall average not less than 450 square feet per dwelling unit, excluding all exterior living space and common areas including hallways, stairways, and shared areas.
- (6) Dwellings. Existing dwellings, transient rooming houses and apartments shall meet the provision of the R-4 apartment district and special land uses within the R-4 apartment district, as set out in section 1.0404.
- (7) Screening dumpsters. All areas of trash storage and disposal including dumpsters must be screened as provided under section 1.1106.
- (8) Outside display of merchandise. Outdoor display of merchandise is permitted if the following are provided:
  - (a) The merchandise must be on solid surface material such as asphalt, concrete, or an already approved parking area.
  - (b) The merchandise shall not utilize required parking spaces or maneuvering lanes.
  - (c) A minimum of one (1) 9 foot wide by 23 foot long parallel loading space with an adjacent maneuvering aisle with a minimum width of 20 feet, or a minimum of one (1) 9 foot wide by 20 foot long 90-degree loading space with an adjacent maneuvering aisle width of 20 feet must be installed adjacent to the outdoor sales and display area.
  - (d) The merchandise shall not be located in a corner clearance area as per section 1.1107.
  - (e) The merchandise that is displayed outdoors must be accessory to a principal use in an enclosed building on the same lot.
- (9) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
- (10) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.
- (11) Exterior lighting.
  - (a) Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Lighting shall not exceed 0.5 footcandles when measured from ground level at the adjoining property boundary.
  - (b) Flashing or intermittent lights shall not be permitted.
  - (c) Light poles and fixtures shall be no higher than 25 feet in parking lots, and no higher than 16 feet in height along interior sidewalks and walkways. All light poles and fixtures shall have a downcast glow.

- (d) Light poles and fixtures set in the perimeter of parking areas shall not be placed in a parking space.

#### **1.0408. B-H 1 business highway 1.**

- (A) Intent. The B-H 1 business highway 1 uses are typically automobile-oriented and cater to patrons traveling through a particular location. Example uses include drive-through restaurants and banks, car washes, strip retail centers, gas stations, sit down restaurants, and similar uses.
- (B) Permitted uses. The following are permitted in the B-H 1 district:
  - (1) Banks, credit unions, or similar uses.
  - (2) Banquet halls.
  - (3) School, business
  - (4) School, private.
  - (5) Catering facility in combination with a full service eating and drinking establishment.
  - (6) Clinic, dental or medical.
  - (7) Contractors offices.
  - (8) Essential services.
  - (9) Fast food restaurant.
  - (10) Full service eating and drinking establishment.
  - (11) Funeral homes and mortuary establishments.
  - (12) Greenhouse, retail.
  - (13) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (14) Hotels and motels.
  - (15) Institutional or public uses.
  - (16) Professional service offices.
  - (17) Laundry and dry cleaning.
  - (18) Lumber and building supply yards.
  - (19) Office buildings
  - (20) Off-street parking lot(s).
  - (21) Personal services.
  - (22) Printing or publishing
  - (23) Professional service offices
  - (24) Recreational facilities.
  - (25) Stores for retail sales and retail services.
  - (26) Strip mall areas.
  - (27) Studio.
  - (28) Theaters.
  - (29) Uses similar to the above uses.
  - (30) Accessory structures and used customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the B-H 1 district, under the conditions of article VI [of this zoning ordinance].
  - (1) Animal Hospital

- (2) Automobile carwash.
  - (3) Automobile repair shop(s), minor.
  - (4) Automobile repair shop(s), major.
  - (5) Automobile service stations.
  - (6) Billboards.
  - (7) Brewpubs.
  - (8) Child care facilities limited to child care centers or day care centers.
  - (9) Marihuana retailers as defined in article IV section 38-93(b).
  - (10) Marquee signs.
  - (11) Micro Breweries
  - (12) Outdoor sales area.
  - (13) Pet shop and sales.
  - (14) Provisioning centers.
  - (15) Small Distillers
  - (16) Small engine repair.
  - (17) Small Wine Makers
  - (18) Vehicle sales area.
- (D) Required conditions. The following conditions are required in the B-H 1 district.
- (1) Use parameters. All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor storage of materials from the view of adjoining streets or properties, unless permitted as outside display of merchandise. A chain-link or decorative fence of sufficient density (one and one-quarter inches by one and one-quarter inches) to keep discarded debris within the confines of a site for uses which are likely to have debris shall be provided.
  - (2) Outside display of merchandise. Outdoor display of merchandise is permitted if the following are provided:
    - (a) The merchandise must be on solid surface material such as asphalt, concrete, or an already approved parking area.
    - (b) The merchandise shall not utilize required parking spaces or maneuvering lanes.
    - (c) A minimum of one (1)- 9 foot wide by 23 foot long parallel loading space with an adjacent maneuvering aisle with a minimum width of 20 feet, or a minimum of one (1)- 9 foot wide by 20 foot long 90-degree loading space with an adjacent maneuvering aisle width of 20 feet must be installed adjacent to the outdoor sales and display area.
    - (d) The merchandise shall not be located in a corner clearance area as per section 1.1107.
    - (e) The merchandise that is displayed outdoors must be accessory to a principal use in an enclosed building on the same lot.
  - (3) Drive-through operations. All permitted uses with a drive-through operation must meet the following conditions:
    - (a) Required off-street parking for a drive-through as stated under [section] 1.0902.
    - (b) Each stacking space shall be measured at not less than 20 feet in length and ten feet in width. In no instance, shall stacking spaces interfere with required parking or maneuvering lanes.

- (4) Dwellings. Existing dwellings, existing transient rooming houses, and existing apartments shall meet the provisions of the R-4 apartment district and special land uses within the R-4 apartment district, as set out in section 1.0404.
- (5) Screening of trash receptacles. All areas of trash storage including dumpsters shall be screened on all sides with a durable, opaque material, at a minimum height of one foot above the trash receptacle. The maximum height of the screening shall not exceed eight feet and shall not be located in the required front or side yard setback.
- (6) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII [of this zoning ordinance].
- (7) Compatibility with adjacent properties. The following conditions shall apply to permitted uses in the B-H 1 zone when those uses are abutting or across the street from residential uses or residentially zoned property:
  - (a) Screening of residential uses to restrict view shall be provided by a privacy fence six to eight feet in height, or a solid planting strip 15 feet in width and six feet in height at planting. The planning commission may consider modifying this requirement, based upon finding that the specific design of this site and mitigation of potential off-site impacts to the neighboring residentially zoned property does not warrant this screening.
  - (b) All exterior doors on the sides of buildings abutting residential use or residentially zoned property shall be for emergency exit only.
  - (c) Exterior lighting.
    - i. Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Lighting shall not exceed 0.5 footcandles when measured from ground level at the adjoining property boundary.
    - ii. Flashing or intermittent lights shall not be permitted.
    - iii. Light poles and fixtures shall be no higher than 25 feet in parking lots, and no higher than 16 feet in height along interior sidewalks and walkways. All light poles and fixtures shall have a downcast glow.
    - iv. Light poles and fixtures set in the perimeter of parking areas shall not be placed in a parking space.
  - (d) All outside storage of vehicles shall be screened from any adjacent residential uses and residentially zoning districts and occur only within lighted areas secured by fencing.
  - (e) The use must fit into the size, scale, height, texture, material and landscaping pattern of the existing neighborhood.
- (8) Area and bulk requirements. See article V, schedule of regulations, of this zoning ordinance limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirement.
- (9) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.



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

**1.0409. B-H 2 business highway 2.**

- (A) Intent. The B-H 2 business highway 2 uses typically have fewer customers visiting the site and generate fewer trips per day.
- (B) Permitted uses. The following uses are permitted in the B-H 2 district:
  - (1) Banks, credit unions, or similar uses.
  - (2) Banquet halls.
  - (3) Business schools.
  - (4) Catering facility.
  - (5) Clinic, dental or medical.
  - (6) Convalescent homes.
  - (7) Essential services.
  - (8) Existing housing.
  - (9) Fast food restaurant.
  - (10) Full service eating and drinking establishment.
  - (11) Funeral homes and mortuary establishments.
  - (12) Greenhouse, retail.
  - (13) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (14) Hotels and motels.
  - (15) Institutional or public uses.
  - (16) Laundry and dry cleaning.
  - (17) Office building(s).
  - (18) Off-street parking lot(s).
  - (19) Personal services.
  - (20) Printing or publishing.
  - (21) Private schools.
  - (22) Professional service offices.
  - (23) Recreational facilities.
  - (24) Stores for retail sales and retail services. 20,000 square feet or less.
  - (25) Strip mall areas.
  - (26) Studio.
  - (27) Theaters.
  - (28) Uses similar to the above uses.
  - (29) Accessory structures and used customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the B-H 1 district, under the conditions of article VI of this zoning ordinance.
  - (1) Animal hospitals.
  - (2) Apartments above stores mixed-use development.

- (3) Automobile carwash.
- (4) Automobile repair shop(s), minor.
- (5) Automobile repair shop(s), major.
- (6) Automobile service stations.
- (7) Bed and breakfast operations.
- (8) Boarding houses.
- (9) Brewpubs.
- (10) Child care facilities limited to child care day center or day care center.
- (11) Lumber and building supply yards.
- (12) Marquee signs.
- (13) Micro Breweries
- (14) Ministorage units.
- (15) Outdoor sales area.
- (16) Pet shop and sales.
- (17) Reasonable accommodation use.
- (18) Short term rentals.
- (19) Small Distillers
- (20) Small engine repair.
- (21) Small Wine Makers
- (22) Social clubs.
- (23) Transportation services.
- (24) Vehicle sales area.
- (25) Warehousing.

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

- (1) Use parameters. All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor storage of materials from the view of adjoining streets or properties. A chain-link or decorative fence of sufficient density (one one-quarter inches by one and one-quarter inches) to keep discarded debris within the confines of a site for uses which are likely to have debris shall be provided.
- (2) Outside display of merchandise. Outdoor display of merchandise is permitted if the following are provided:
  - (a) The merchandise must be on solid surface material such as asphalt, concrete, or an already approved parking area.
  - (b) The merchandise shall not utilize required parking spaces or maneuvering lanes.
  - (c) A minimum of one (1) 9 foot wide by 23 foot long parallel loading space with an adjacent maneuvering aisle with a minimum width of 20 feet, or a minimum of one (1) 9 foot wide by 20 foot long 90-degree loading space with an adjacent maneuvering aisle width of 20 feet must be installed adjacent to the outdoor sales and display area.
  - (d) The merchandise shall not be located in a corner clearance area as per section 1.1107.
  - (e) The merchandise that is displayed outdoors must be accessory to a principal use in an enclosed building on the same lot.

- (3) Dwellings. Existing dwellings, existing transient rooming houses, and existing apartments shall meet the provisions of the R-4 apartment district and special land uses within the R-4 apartment district, as set out in section 1.0404.
- (4) Screening of trash receptacles. All areas of trash storage including dumpsters shall be screened on all sides with a durable, opaque material, at a minimum height of one foot above the trash receptacle. The maximum height of the screening shall not exceed eight feet and shall not be located in the required front or side yard setback.
- (5) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
- (6) Compatibility with adjacent properties. The following conditions shall apply to permitted uses in the B-H 2 zone when those uses are adjacent to residential uses or residentially zoned property:
  - (a) Screening of residential uses to restrict view from residential property shall be provided by a privacy fence six to eight feet in height, or a solid planting strip 15 feet in width and six feet in height at planting. The planning commission may consider modifying this requirement, based upon findings of fact that based on the specific design of this site and mitigation of potential off-site impacts to the neighboring residentially zoned property, such screening is not required.
  - (b) All exterior doors on the sides of buildings adjacent to residential use or residentially zoned property shall be for emergency exit only.
  - (c) Exterior lighting.
    - i. Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Lighting shall not exceed 0.5 footcandles when measured from ground level at the adjoining property boundary.
    - ii. Flashing or intermittent lights shall not be permitted.
    - iii. Light poles and fixtures shall be no higher than 25 feet in parking lots, and no higher than 16 feet in height along interior sidewalks and walkways. All light poles and fixtures shall have a downcast glow.
    - iv. Light poles and fixtures set in the perimeter of parking areas shall not be placed in a parking space.
  - (d) All outside storage of vehicles shall be screened from any adjacent residential use or residentially zoned property and occur only within lighted areas secured by fencing.
  - (e) The use must fit into the size, scale, height, texture, material and landscaping pattern of the existing neighborhood.
- (7) Area and bulk requirements. See article V, schedule of regulations, of this zoning ordinance limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
- (8) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
- (9) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as

open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

#### **1.0409.1. B-N business neighborhood.**

(A) Intent. The B-N business neighborhood district is higher-density and moderately walkable area composed of a mix of commercial and residential buildings, typically along major corridor roads in the city. While serving automobile traffic, it is less automobile-intensive than the business highway districts. This is due in part to smaller lot sizes on which to accommodate parking based on conversion over time from residential to commercial use. The district is generally adjacent to the central business district and thus represents a transition from the density and walkability of this area.

(B) Permitted uses.

- (1) Adult foster care homes, family.
- (2) Banks, credit unions, or similar uses.
- (3) Business schools.
- (4) Catering facility in combination with a full service eating and drinking establishment.
- (5) Clinic, dental or medical.
- (6) Contractor's offices.
- (7) Fast food restaurant.
- (8) Full service eating and drinking establishment.
- (9) Essential services.
- (10) Existing housing.
- (11) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
- (12) Institutional or public uses.
- (13) Laundry and dry cleaning.
- (14) Mixed-use development.
- (15) Office buildings.
- (16) Personal services.
- (17) Printing or publishing.
- (18) Private residences with the capacity to receive at least 1 but not more than 4 adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting, excluding adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
- (19) Private school.
- (20) Professional service offices.
- (21) Qualified residential treatment programs that provides services for 10 or fewer individuals.
- (22) Recreational facility.
- (23) Social clubs.
- (24) Stores for retail sales and retail services.
- (25) Studio. Transportation services.
- (26) Uses similar to the above uses.

(28) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.

(C) Special land uses. The following special land uses in the B-N district, under the conditions of article VI of this zoning district.

- (1) Adult foster care congregate facility.
- (2) Adult foster care home, large group.
- (3) Adult foster care home, small group.
- (4) Apartment building of two to 12 dwelling units including two-family dwellings (duplexes).
- (5) Automobile carwash.
- (6) Automobile repair shops, major.
- (7) Automobile repair shops, minor.
- (8) Automobile service station.
- (9) Bed and breakfast operations.
- (10) Brewpubs.
- (11) Child care facilities limited to child care centers or day care centers.
- (12) Condominiums.
- (13) Cottage Court Developments.
- (14) Drive-through operations.
- (15) Funeral homes and mortuary establishments.
- (16) Hotels and motels.
- (17) Marquee signs.
- (18) Micro Breweries
- (19) Murals.
- (20) Off-street parking lots.
- (21) One-family detached dwellings.
- (22) Outdoor sales areas.
- (23) Short term rentals.
- (24) Sidewalk cafes.
- (25) Small Distillers
- (26) Theaters.
- (27) Vehicle sales area.

(D) Required conditions. The following conditions are required in the B-N district.

- (1) Use parameters. All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor storage of materials from the view of adjoining streets or properties. A chain-link or decorative fence of sufficient density (one and one-quarter inches by one and one-quarter inches) to keep discarded debris within the confines of a site for uses which are likely to have debris shall be provided.
- (2) Outside display of merchandise. Outdoor display of merchandise is permitted if the following are provided:
  - (a) The merchandise must be on solid surface material such as asphalt, concrete, or an already approved parking area.
  - (b) The merchandise shall not utilize required parking spaces or maneuvering lanes.

- (c) A minimum of one (1) 9 foot wide by 23 foot long parallel loading space with an adjacent maneuvering aisle with a minimum width of 20 feet, or a minimum of one (1) 9 foot wide by 20 foot long 90-degree loading space with an adjacent maneuvering aisle width of 20 feet must be installed adjacent to the outdoor sales and display area.
  - (d) The merchandise shall not be located in a corner clearance area as per section 1.1107.
  - (e) The merchandise that is displayed outdoors must be accessory to a principal use in an enclosed building on the same lot.
- (3) Drive-through operations. All permitted uses with a drive-through operation must meet the off-street parking and stacking standards for a drive-through as stated under section 1.0902.
  - (4) For residential uses, accessory structures shall follow 1.1105(A) and (B).
  - (5) Apartments and mixed-use developments. Apartments and residential units of mixed-use developments shall meet the provisions 1.0502(e) and (f) for density and separation.
    - (a) Floor area. For purposes of this section, the floor area of all dwellings or dwelling units in a building shall meet current Michigan Building Code and shall average not less than 450 square feet per dwelling unit, excluding all exterior living space and common areas including hallways, stairways, and shared areas.
  - (6) Screening of trash receptacles. All areas of trash storage, including dumpsters, shall be screened on all sides with a durable, opaque material, at a minimum height of one foot above the trash receptacle. The maximum height of the screening shall not exceed eight feet and shall not be located in front of the building or within the side yard setback.
  - (7) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
  - (8) Compatibility with adjacent properties. The following conditions shall apply to approved non-residential uses in the B-N district when those uses are adjacent to residential uses or residentially zoned property:
    - (a) Rear and side setbacks from residential property lot lines shall be 45 feet. Where an existing non-residential use is located less than 45 feet from a residential property line, such structure shall be considered a Class A non-conforming structure as described in 1.0802—1.0804 of this zoning ordinance, and the principal building may be expanded or accessory buildings may be added under the following conditions:
      - i. The proposed expansion or addition receives required site plan approval pursuant to article XII of this ordinance.
      - ii. The degree of nonconformity is not increased.
      - iii. This Class A designation shall expire when the use changes. At that time, the new use would be required to request Class A non-conforming structure designation from the planning commission.
    - (b) Screening of residential uses to restrict view from residential property shall be provided by a privacy fence six feet in height, or an obscuring planting strip 15 feet in width and six feet in height at planting. Planting strip must not exceed six feet in

- height. A request may be made to the planning commission to waive the screening requirement due to site constraints.
- (c) All exterior doors on the sides of buildings adjacent to residential property shall be for emergency exit only.
  - (d) All shipping and deliveries to and from the establishment shall occur between the hours of 7:00 a.m. and 9:00 p.m.
  - (e) Exterior lighting.
    - i. Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Lighting shall not exceed 0.5 footcandles when measured from ground level at the adjoining property boundary.
    - ii. Flashing or intermittent lights shall not be permitted.
    - iii. Light poles and fixtures shall be no higher than 25 feet in parking lots, and no higher than 16 feet in height along interior sidewalks and walkways. All light poles and fixtures shall have a downcast glow.
    - iv. Light poles and fixtures set in the perimeter of parking areas shall not be placed in a parking space.
  - (f) All outside storage of vehicles shall be screened from any adjacent residential property, and such storage shall occur only within areas secured by fencing.
- (9) Area and bulk requirements. See article V, schedule of regulations, of this zoning ordinance limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirement.
- (10) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
- (11) Design standards. Requirements for approved design.
- (a) To the extent reasonably feasible, the building and site shall be consistent with the character of the area, including lot coverage, type and style of structure, traffic flow and pattern, and density/intensity of the use.
  - (b) Architectural style is not restricted. Evaluation of appearance of a project shall be based on quality of its design and relationship to surroundings.
  - (c) Materials shall:
    - i. Have good architectural character
    - ii. Be of durable quality
    - iii. Be selected for harmony of the building with adjoining buildings.
  - (d) Inappropriate materials and methods, and those which will produce inconsistency with the structure of the building, shall be avoided.
  - (e) Building components, such as windows, doors, eaves, and parapets, shall have good proportions and relationship to one another.
  - (f) Colors shall be harmonious, and not used to draw attention, e.g., serving as a sign.
  - (g) Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways.

- (h) Exterior lighting, including external and interior lighted signs, shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
- (i) Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways, using materials as stated in criteria for equipment screening.
- (j) If the building official cannot determine whether the project meets the standards, the building official shall refer the project to the design review committee for its determination and recommendation to the planning commission.
- (12) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

#### **1.0410. M manufacturing.**

- (A) Intent. The M manufacturing district establishes and preserves areas for industrial and related uses of a nature so that they do not create serious problems of compatibility with other kinds of land uses. This district is intended to make provisions for certain kinds of business uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of the people in these areas. The general goals of this district includes, among others, the following:
  - (1) To provide sufficient space, in appropriate locations, to meet the needs of the municipality's expected future economy for all types of manufacturing and related uses;
  - (2) To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development;
  - (3) To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation and other hazards, and other objectionable influences; [and]
  - (4) To protect the most desirable use of land in accordance with a well-considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the municipality's tax revenue base.
- (B) Permitted uses. The following uses are permitted in the M district:
  - (1) Accessory retail sales of no greater than 10 percent of building square footage connected with an approved use in the district.
  - (2) Airports subject to all state and federal regulations and subject to all city codes and ordinances.
  - (3) Animal hospital.
  - (4) Catering facility.
  - (5) Commercial kennels.
  - (6) Contractor's office.
  - (7) Equipment servicing.
  - (8) Essential services.



- (9) Existing housing.
  - (10) Farming.
  - (11) Greenhouses, Industrial.
  - (12) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (13) Industrial, Light.
  - (14) Institutional and public uses.
  - (15) Laboratories.
  - (16) Ministorage units.
  - (17) Moving and Storage Establishments.
  - (18) Trade or industrial schools.
  - (19) Transportation services.
  - (20) Warehousing.
  - (21) Uses similar to the above uses.
  - (22) Accessory structures and used customarily incidental to a permitted uses, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the M district, under the conditions of article VI of this zoning ordinance.
- (1) Adult entertainment facilities.
  - (2) Animal hospital.
  - (3) Automobile carwash.
  - (4) Automobile repair, minor and major.
  - (5) Banquet hall.
  - (6) Battery Energy Storage System, Large
  - (7) Billboards.
  - (8) Childcare facilities limited to child care centers or day care centers.
  - (9) Commercial medical marihuana facilities as defined in article IV section 38-92.
  - (10) Distribution warehousing.
  - (11) Indoor vehicle sales area.
  - (12) Industrial, heavy.
  - (13) Large solar energy systems.
  - (14) Marihuana establishments as defined in article IV section 38-93(b).
  - (15) Medical marihuana manufacturing and distribution facilities for primary caregivers and qualifying patients.
  - (16) Mineral extraction operations.
  - (17) Office buildings.
  - (18) Provisioning centers as defined in article IV section 38-92(b).
  - (19) Salvage yard and resource recovery facilities.
  - (20) Small Engine Repair.
  - (21) Social clubs.
  - (22) Storage of waste hauling vehicles and operations.
  - (23) Stores for retail and retail services.
  - (24) Accessory structures and uses customarily incidental to a permitted use, provided such structures and uses are located on the same zoning lot with the permitted use.

(D) Required conditions. The following conditions are required in the M district.

- (1) Enclosures. All operations shall be conducted wholly within the confines of a building, provided that necessary accessory outdoor processes or the outdoor storage of equipment, and material may utilize required side yard or rear yard space if screened by either a six-foot uniformly painted or preserved fence or wall at least 50 percent solid, kept in good condition, or by planting of evergreen trees or hedges.
- (2) Performance standards.
  - (a) Fire and explosion hazards. All activities shall be carried on only in buildings conforming to the city building code, except for outdoor processes or storage permitted under [subsection] (D)(1) [of this section] above. The operation shall be carried on in a manner required by the city fire prevention code and with any precautions so as to produce no explosion hazard, as determined by the state department of labor, to a use on an adjacent property. Flammable liquids or explosive chemicals or materials, other than fuels used for heating, shall be stored in a separate building or tank, provided the building or tank is not closer than 80 feet to any building occupied by more than one human or closer than 40 feet to any property line.
  - (b) Smoke, fumes, gases, dust, odors. There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by the use in a manner so to create a public nuisance, cause damage or inconvenience to other buildings or properties, or imperil the health of animals or humans.
  - (c) Liquid or solid waste. No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond, or lake. All methods of sewage and industrial waste treatment and disposal shall be approved by the city and state health departments or department of natural resources.
  - (d) Vibration. There shall be no vibration which is discernable to the human sense of feeling beyond the immediate site on which the use is conducted.
  - (e) Noise. The emission of measurable noises from the premises shall not exceed 70 decibels as measured at the property lines, between the hours of 7:00 a.m. to 10:00 p.m. The measurable noises shall not exceed 60 decibels as measured at the property lines between 10:00 p.m. and 7:00 a.m. Where normal street traffic noises exceed the established noise levels during such periods, the measurable noise emanating from the premises may equal, but not exceed traffic noises.
  - (f) Glare. There shall be no direct or sky-reflected glare which would be damaging to the human eye at the property line of the lot occupied by the use. This regulation shall not apply to lights for site or street.
  - (g) Appearance. No storage of waste from off-site outside a building, and no loose blowing papers shall be permitted at any time. All noxious activities shall be screened by an eight-foot solid fence, or by berm with plantings.
  - (h) Exterior lighting.
- (3) Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Lighting shall not exceed 0.5 footcandles when measured from ground level at the adjoining property boundary.

- (4) Flashing or intermittent lights shall not be permitted.
- (5) Light poles and fixtures shall be no higher than 25 feet in parking lots, and no higher than 16 feet in height along interior sidewalks and walkways. All light poles and fixtures shall have a downcast glow.
- (6) Light poles and fixtures set in the perimeter of parking areas shall not be placed in a parking space.
- (7) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
- (8) Outside display of merchandise. Outdoor display of merchandise as accessory to permitted accessory retail sales is permitted if the following are provided:
  - (a) The merchandise must be on solid surface material such as asphalt, concrete, or an already approved parking area.
  - (b) The merchandise shall not utilize required parking spaces or maneuvering lanes.
  - (c) A minimum of one (1) 9 foot wide by 23 foot long parallel loading space with an adjacent maneuvering aisle with a minimum width of 20 feet, or a minimum of one (1) 9 foot wide by 20 foot long 90-degree loading space with an adjacent maneuvering aisle width of 20 feet must be installed adjacent to the outdoor sales and display area.
  - (d) The merchandise shall not be located in a corner clearance area as per section 1.1107.
  - (e) The merchandise that is displayed outdoors must be accessory to a principal use in an enclosed building on the same lot.
- (9) Area and bulk requirements. See article V, schedule of regulations, of this zoning ordinance limiting height and bulk of buildings, minimum size of lot by permitted land use, and providing minimum yard setback requirements.
- (10) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
- (11) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

#### **1.0411. – M-2 Manufacturing District 2**

- (A) Intent. The M-2 manufacturing district 2 is established to allow for a combination of lighter-in-intensity manufacturing uses and select office and commercial uses. The external physical effects of uses in the district are restricted to the individual parcel, and in no manner affect the surrounding parcels detrimentally.
- (B) Permitted uses. The following uses are permitted in the M-2 district.
  - (1) Catering facility.
  - (2) Contractors office.
  - (3) Equipment servicing, indoor.
  - (4) Essential services.
  - (5) Existing housing.
  - (6) Greenhouses, industrial.

- (7) Greenhouse, retail.
  - (8) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (9) Indoor vehicle sales area.
  - (10) Industrial, light.
  - (11) Institutional and public uses.
  - (12) Laboratories.
  - (13) Laundry and dry cleaning.
  - (14) Office buildings.
  - (15) Printing or publishing.
  - (16) Recreational facilities.
  - (17) Research and Development.
  - (18) School, business.
  - (19) Technology centers.
  - (20) Transportation services.
  - (21) Warehousing.
  - (22) Uses similar to the above uses.
  - (23) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the M-2 district, under the conditions of article VI of this zoning ordinance.
- (1) Animal hospitals.
  - (2) Automobile carwash.
  - (3) Automobile repair, minor.
  - (4) Automobile repair, major.
  - (5) Automobile service station.
  - (6) Banquet hall.
  - (7) Battery Energy Storage System, Large.
  - (8) Breweries.
  - (9) Child care facilities limited to child care centers or day care centers.
  - (10) Commercial kennels.
  - (11) Distilleries.
  - (12) Distribution warehouses.
  - (13) Equipment servicing, outdoor.
  - (14) Indoor vehicle sales area.
  - (15) Industrial, heavy.
  - (16) Ministorage units.
  - (17) Salvage yard and resource recovery facilities.
  - (18) Social clubs.
  - (19) Solar Energy System, Large.
- (D) Required conditions. The following conditions are required in the M-2 district.
- (1) Enclosures. All operations shall be conducted wholly within the confines of a building, provided that necessary accessory outdoor processes or the outdoor storage of equipment, and material may utilize required side yard or rear yard space if screened by either a six-

foot uniformly painted or preserved fence or wall at least 50 percent solid, kept in good condition, or by planting of evergreen trees or hedges.

(2) Performance standards.

- (a) Fire and explosion hazards. All activities shall be carried on only in buildings conforming to the city building code. The operation shall be carried on in a manner required by the city fire prevention code and with any precautions to produce no explosion hazard, as determined by the state department of labor, to a use on an adjacent property. Flammable liquids or explosive chemicals or materials, other than fuels used for heating, shall be stored in a separate building or tank, provided the building or tank is not closer than 80 feet to any building occupied by more than one human or closer than 40 feet to any property line.
- (b) Smoke, fumes, gases, dust, odors. There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by the use in a manner so to create a public nuisance, cause damage or inconvenience to other buildings or properties, or imperil the health of animals or humans.
- (c) Liquid or solid waste. All methods of sewage and industrial waste treatment and disposal shall meet all city, state, and federal requirements.
- (d) Vibration. There shall be no vibration which is discernable to the human sense of feeling beyond the immediate site on which the use is conducted.
- (e) Noise. The emission of measurable noises from the premises shall not exceed 70 decibels as measured at the property lines, between the hours of 7:00 a.m. to 7:00 p.m. The measurable noises shall not exceed 60 decibels as measured at the property lines between 7:00 p.m. and 7:00 a.m. Where normal street traffic noises exceed the established noise levels during such periods, the measurable noise emanating from the premises may equal, but not exceed traffic noises.
- (f) Exterior lighting.
  - i. Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Lighting shall not exceed 0.5 footcandles when measured from ground level at the adjoining property boundary.
  - ii. Flashing or intermittent lights shall not be permitted.
  - iii. Light poles and fixtures shall be no higher than 25 feet in parking lots, and no higher than 16 feet in height along interior sidewalks and walkways. All light poles and fixtures shall have a downcast glow.
  - iv. Light poles and fixtures set in the perimeter of parking areas shall not be placed in a parking space.
- (g) Glare. There shall be no direct or sky-reflected glare which would be damaging to the human eye at the property line of the lot occupied by the use. This regulation shall not apply to lights for site or street.
- (h) Appearance. No storage of waste from off-site outside a building, and no loose blowing papers shall be permitted at any time. A chain-link or decorative fence of sufficient

density (1¼" x 1¼") to keep discarded debris within the confines of a site shall be provided for uses which are likely to have debris.

- (3) Screening of trash receptacles. All areas of trash storage, including dumpsters, shall be screened on all sides with a durable, opaque material, at a minimum height of one foot above the trash receptacle. The maximum height of the screening shall not exceed eight feet and shall not be located in front of the building or within the side yard setback.
- (4) Screening of residential uses. A solid fence of wood, vinyl, composite or metal screening six to eight feet in height, or a solid planting strip 15 feet in width and six feet in height at planting shall be placed when abutting a residential use to restrict view from the residential property.
- (5) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII.
- (6) Area and bulk requirements. See article V, schedule of regulations, limiting height and bulk of buildings, minimum size of lot by permitted land use, and providing minimum yard setback requirements.
- (7) Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
- (8) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

#### **1.0412. PDD-1 planned development district.**

- (A) Intent. The PDD-1 planned development district is established to create a district which provides for the appropriate development of units that incorporates both living and working space. Ensures the exterior design is compatible with the exterior design elements of residential buildings in the area.
- (B) Permitted uses. The following uses are permitted in the PDD-1 district:
  - (1) Child care facilities limited to foster family homes, foster family group homes, family day care homes, group day care home.
  - (2) Essential services.
  - (3) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (4) Institutional or public uses.
  - (5) Live/Work Units.
  - (6) Personal Services
  - (7) Professional Services
  - (8) Accessory structures and uses customarily incidental to a permitted use, provided such buildings and uses are located on the same zoning lot with the permitted use.
- (C) Special land uses. The following special land uses are permitted in the PDD-1 district, under the conditions of article VI of this zoning ordinance.
  - (1) Catering facility
  - (2) Child care facilities limited to child care centers or day care centers.

- (3) Functional equivalent family.
- (4) Reasonable accommodation use.
- (D) Required conditions. The following conditions are required in the PDD-1 district:
  - (1) Area and bulk requirements. See article V, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
  - (2) Floor area. For purposes of this section, the floor area of all dwellings or dwelling units in a building shall average not less than 600 square feet per dwelling unit, exclusive of the floor area for hallways, stairs, laundries, utilities, or other commercial uses.
  - (3) Dwelling unit review. Dwelling unit review. All dwelling units, accessory structures, driveway, parking areas, and landscaping shall be reviewed by the building official subject to the following conditions as found in section 1.1124.
  - (4) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
  - (5) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

#### **1.0412.1. PDD-2 planned development district.**

- (A) Intent. The PDD-2 planned development district is established to create a planned development district convenient and attractive for a wide range of retail uses, business, residential, government and professional offices, and places of amusement in a setting conducive to and safe for pedestrian traffic.
- (B) Permitted uses. The following uses are permitted in the PDD-2 district.
  - (1) Apartments above stores.
  - (2) Banks, credit unions, or similar uses.
  - (3) Bed and breakfast operations.
  - (4) Business schools.
  - (5) Clinic, dental or medical.
  - (6) Condominiums.
  - (7) Essential services.
  - (8) Fast food restaurant.
  - (9) Full service eating and drinking establishment.
  - (10) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
  - (11) Hotels and motels.
  - (12) Institutional or public uses.
  - (13) Mixed-use development—Greater than three stories.
  - (14) Laundry and dry cleaning.
  - (15) Multifamily residential uses as found in the R-4 district.
  - (16) Outdoor sale areas provided that they do not restrict pedestrian travel paths to less than 60 inches wide.

- (17) Personal services.
  - (18) Printing or publishing.
  - (19) Private schools.
  - (20) Professional service offices.
  - (21) Recreational facility.
  - (22) Sidewalk cafes provided that they do not restrict pedestrian travel paths to less than 60 inches wide.
  - (23) Social clubs.
  - (24) Stores for retail sales and retail services.
  - (25) Studio.
  - (26) Theaters.
  - (27) Transportation services.
  - (28) Uses similar to the above uses.
  - (29) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.
- (C) Special land uses. The following special land uses are permitted in the PDD-2 district under the conditions of article VI [of this zoning ordinance].
- (1) Child care facilities limited to child care centers or day care center.
  - (2) Murals.
  - (3) Outdoor video display boards greater than 100 inches measured diagonally and 400 square feet overall and mounted on an assembly that when combined with the video display board results in a structure no higher than 40 feet above grade.
- (D) Required conditions. The following conditions are required in the PDD-2 planned development district.
- (1) Area and bulk requirements. See article V, schedule of regulations, [of this zoning ordinance] limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
  - (2) Dwellings. Existing dwellings, transient rooming houses and apartments shall meet the provision of the R-4 apartment district and special land uses within the R-4 apartment district, as set out in section 1.0404.
  - (3) Screening dumpsters. All areas of trash storage and disposal including dumpsters must be screened by a six-foot screen fence, but in no case less than six inches in height over the top of the trash or dumpster.
  - (4) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
  - (5) Use parameters. All permitted uses shall be conducted within the confines of a building or within an enclosure which screens any outdoor storage of materials from the view of adjoining residential streets or residential properties. A chain-link or decorative fence of sufficient density (1½ inch by 1½ inch) to keep discarded debris within the confines of a site for uses which are likely to have debris shall be provided.
  - (6) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This



space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

### **1.0412.2. PDD-3 planned development district 3.**

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

(B) Permitted uses. The following uses are permitted in the PDD-3 district.

- (1) Banks credit unions, or similar uses.
- (2) Business schools.
- (3) Clinic, dental or medical.
- (4) Essential services.
- (5) Fast food restaurant.
- (6) Full service eating and drinking establishment.
- (7) High density apartments.
- (8) Home occupations as provided and controlled in subsection 1.1123 for existing housing.
- (9) Hotels and motels.
- (10) Institutional or public uses.
- (11) Laundry and dry cleaning.
- (12) Personal services.
- (13) Printing or publishing.
- (14) Professional service offices.
- (15) Social clubs.
- (16) Stores for retail sales and retail services.
- (17) Studio.
- (18) Uses similar to the above uses.
- (19) Accessory structures and uses customarily incident to the above permitted uses, provided such buildings and uses are located on the same zoning lot with a permitted use.

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

- (1) Child care facilities limited to child care centers or day care centers.
- (2) Murals.
- (3) Outdoor sale areas.
- (4) Sidewalk cafes.
- (5) Transportation services.

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

- (1) Design review. Design review as provided for in article XIII of this zoning ordinance.
- (2) Demolition of buildings. Before a demolition permit is issued for a building located in the PDD-3 district, the community development department shall refer the request to the downtown development authority which will review the request, hold a public hearing, and make recommendations to the property owner for alternate potential uses of the property

or to proceed with demolition. If the property owner does not withdraw the request for a demolition permit within 30 days after it is submitted, the community development department shall proceed to analyze the request and issue appropriate permits based upon the building and zoning ordinance requirements.

- (3) Screening dumpsters. All areas of trash storage and disposal including dumpsters must be screened as provided under the B-C district provisions of section 1.1106.
- (4) Site plan review. Site plan review and approval must be obtained in accordance with the provisions of article XII of this zoning ordinance.
- (5) Area and bulk requirements. See article V of this zoning ordinance, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.
- (6) Compatibility with adjacent properties. The following conditions shall apply to permitted and special land uses in the PDD-3 district when those uses are adjacent to residential uses or residentially zoned property:
  - (a) Rear and sideline setbacks to buildings from residential property lines shall be 45 feet.
  - (b) Off street parking areas shall be screened on all sides that abut a residential property or residential zoning district by a solid fence that is maintenance free, stained, sealed or painted six feet in height, or a solid planting strip 15 feet in width and six feet in height at planting.
  - (c) All exterior lighting shall be directed along exterior building walls and away from residential property.
- (7) All lots to be used for business, industry and public uses requiring parking for employees, shoppers, visitors and users, shall have 15 percent of lot area set aside as open space. This space shall only be occupied by lawn or landscape features not obstructing areas for snow piling.

## **ARTICLE V. SCHEDULE OF REGULATIONS**

### **1.0501. Table—Schedule of Regulations.**

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

Minimum Zoning Lot Size Per Unit (k)(l)			Maximum Height of Structure (k)(l)		Minimum Yard Setback (Per Lot In Feet) (k)(l)(n)(o)(p)			Maximum percentage Of Lot Area Covered (By All Buildings)
Zoning District	Area in Square Feet	Width In Feet	In Stories	In Feet	Front	Each Side	Rear	
R-1 rural residential	35,000(a)	165(a)	2	30	40(b)	20(n) (c)(b)	30(b)	40
R-2 subdivision residential	11,000(a)	85(a)	2	30	30(b)	11(n) (c)(b)	30(b)	40
R-3 residential	7,500	60	2	30	25(b)	5(n) (c)(b)	30(b)	50
R-4 apartment	1,500 (e)	(e)	3	40	25(b)	5(b)(n)	30(b)	65
R-5 residential	6,000	50	2	30	25(b)	5(n)(c)(b)	30(b)	50
B-OS business office service	—	100	2	30	25(g)	15 (h)(j)	25(i)	40
B-C central business	—	50	3(s)	40(s)	0 (g)	0	0	
B-H business highway 1 and Business Highway 2	—	100	2	30	60(g)	0 (h)(j)	25(i)	
B-N business neighborhood		60	2	30	0 (t)(u) (g)	0	0	—

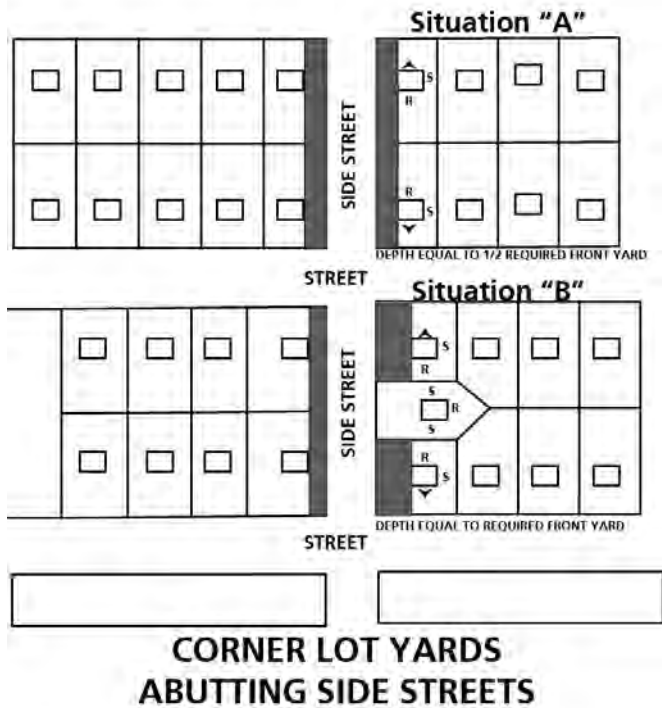
M manufacturin g	—	100		50	(g)(m)	10 (j)	10	50
M-2 manufacturin g 2		100		50	(g)(m)	10 (j)	10	50
PDD-1 planned development district 1	Refer to R-3							
PDD-2 planned development district	—	50	—	70	0	0(q)	0(q)	100
PDD-3 planned development district	—	50	4	45	0	0(r)	0(r)	80

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

### 1.0502. Schedule of regulations.

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

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



(e) In an R-4 apartment districts, the total number of rooms (not including kitchen, dining and sanitary facilities) shall not be more than the area of the parcel, in square feet, exclusive of public road right-of-way, divided by 1,500. In all instances where wetlands exist on the site, such wetlands shall not be utilized for determining the number of rooms allowed on the site. All units shall have at least one living room and one bedroom, except that not more than ten percent of the units may be of an efficiency apartment type. For the purpose of computing the permitted number of dwelling units per acre, the following room assignments shall control:

Efficiency = 1 room

One bedroom = 2 rooms

Two bedroom = 3 rooms

Three bedroom = 4 rooms

Four bedroom = 5 rooms

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

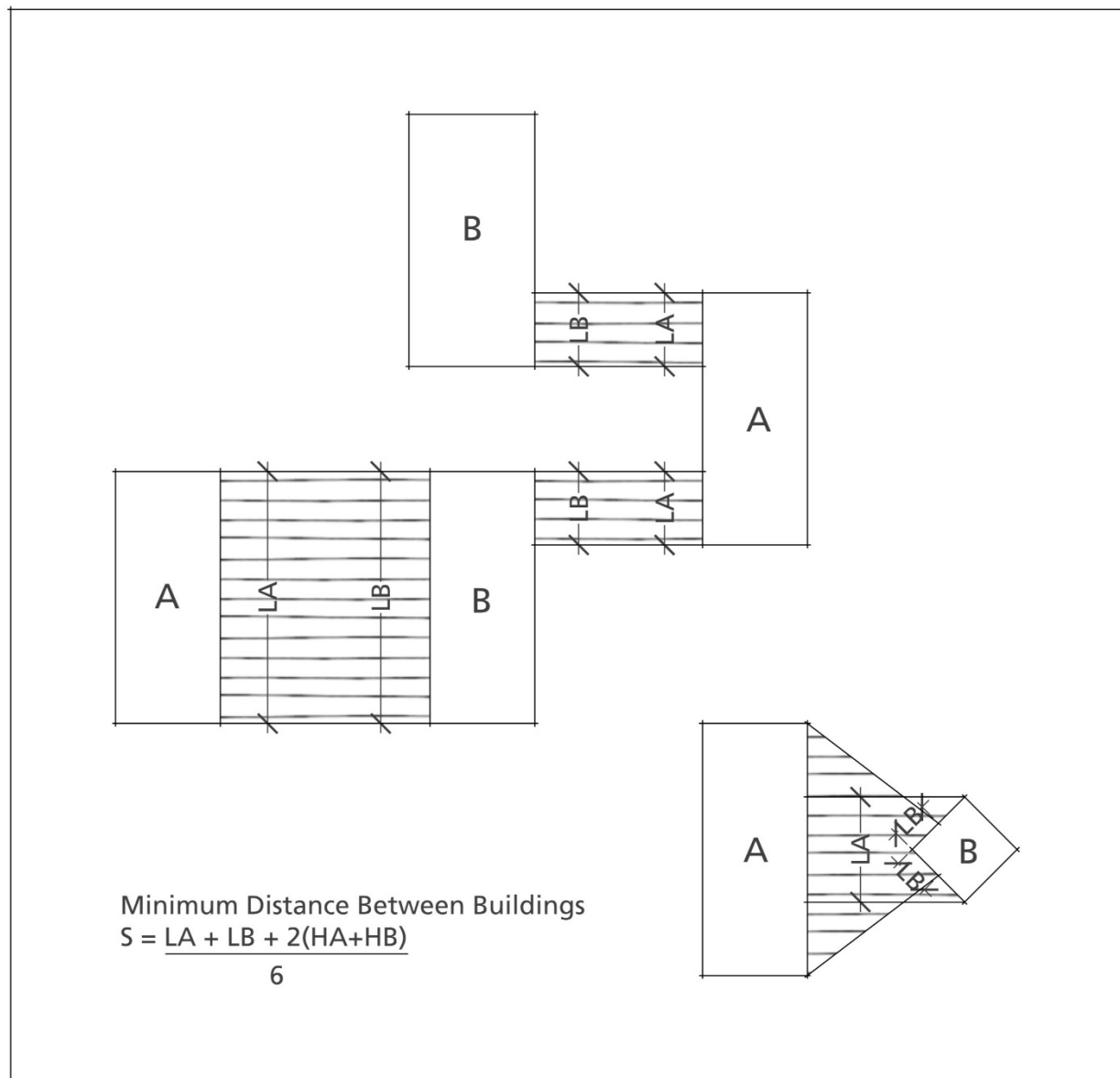
(f) In R-4 districts, the minimum distance between any two buildings shall be regulated according to the length and height of such buildings, and in no instance shall this distance be less than 30 feet.

Parking may be permitted within a required side or rear yard but shall not cover more than 30 percent of the area of any required side or rear yard or any minimum distance between buildings. Yards abutting major thoroughfares shall have a minimum depth of 50 feet. The formula regulating the required minimum distance between two buildings as follows:

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

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



- (g) Off-street parking shall be permitted to occupy a portion of the required front yard provided that there is maintained a minimum obstructed landscaped setback of 10 feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line or property line.
- (h) No side yards are required along the interior side lot lines of the district, except as otherwise specified in the building code, provided that if walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than 10 feet shall be provided.
- (i) Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements, except in the instance of B-OS districts loading may take place in undesignated places in parking lots provided such

loading is of a short-term nature. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley. All loading and unloading areas shall be screened from public view.

- (j) Off-street parking shall be permitted in a required side yard setback.
- (k) Single-family detached condominiums in condominium subdivisions shall meet all minimum requirements and standards of the district in which such dwellings are to be constructed.
- (l) Minimum yards for site condominiums shall be provided in accord with this section and shall be computed as follows:
  - (1) Minimum front yard setbacks shall be equal to the distance between the front yard area line and the condominium dwelling.
  - (2) Minimum rear yard setbacks shall be equal to the distance between the rear yard area line and the condominium dwelling.
  - (3) Minimum side yard setbacks shall be equal to the distance between the side yard area line and the condominium dwelling.
- (m) Front yard setback shall be 40 feet for local streets, 50 feet for collector (minor or major) streets and minor arterials, and 60 feet for principal arterials as determined by the current Michigan Department of Transportation NFC Map.
- (n) On lots with a width of less than 60 feet and recorded as less than 60 feet prior to the date of adoption of this section, the minimum width of each of the side yards shall be five feet, except side street yards shall be a minimum width of 15 feet.
- (o) The front yard shall be the address side of the lot or parcel for setbacks purposes.
- (p) See section 1.0710 for yard exceptions.
- (q) Where the PDD-2 district is adjacent to a residential district the setbacks at the shared property lines shall be as stated in the Schedule for the corresponding residential zoning district. Where the PDD-2 district is adjacent to a property utilized exclusively for residential purposes as of September 1, 2013, the setbacks at the shared property lines shall be as stated for zoning district R-3 residential.
- (r) Off-street parking shall be permitted to occupy a portion of the required front, side and rear yards provided that there is maintained a minimum obstructed landscaped setback of five feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line.
- (s) Unless modified by an approved special land use.
- (t) If parking is located in the front yard, curb stops are required at a minimum distance of five feet from any lot line abutting a public sidewalk or city right-of-way where a public sidewalk may be constructed.



(u) In determining the front yard setback of the building, the requirements shall be calculated by averaging the depth of existing developed front yards on lots within 100 feet of the lot and within the same block. The property owner/potential owner may request consideration from the planning commission for front yard setbacks based directly on adjoining property front yard setbacks. The request, review, and fees by the planning commission shall follow the requirements of section 1.0602 of this zoning ordinance.

#### **1.0503. Average lot size.**

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

(A) In meeting the average minimum lot size, the subdivision or site condominium shall be so designed as not to create lots having an area or width more than ten percent below that area or width required in the schedule of regulations and shall not create an attendant increase in the number of lots. In determining the maximum number of lots permitted, all calculations shall be predicated upon the single-family districts having the following gross densities (including roads):

(1) R-1: one dwelling unit per acre;

(2) R-2: 3.2 dwelling units per acre;

(3) R-3: 4.4 dwelling units per acre.

(B) All computations showing lot area and the average, resulting through this technique shall be indicated on the print of the preliminary subdivision plat or proposed site condominium plan. The computations shall include the dimensions and area of each lot proposed, the total square foot lot area in all proposed lots, and the resultant average square foot area per lot. The average square foot area per lot shall not be less than the minimum lot size area as required for the district in which the development is located nor shall the average width of lots in the aggregate be less than the minimum lot width as required in the district in which the development is located.

(C) The modifications permitted under this section 1.0503, average lot size, shall not be applied in conjunction with the modifications permitted under section 1.0504, subdivision and site condominium open space plan.

#### **1.0504. Subdivision and site condominium open space plan.**

(A) *Intent.* The intent of the subdivision open space plan is to promote the following objectives:

- (1) Provide for moderate-density development of residential areas and thereby assist an overall city effort to provide for efficiency of city services, a reduction of transportation needs, and to provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brook, hills and similar natural assets;
- (2) Encourage property owners to use a more creative approach in the development of residential areas;

- (3) Encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and allowing the property owner to bypass natural obstacles on the site;
  - (4) Encourage the provision of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreational facilities;
- (B) *Modifications.* Modifications to the standards as outlined in the schedule of regulations may be made in the R-2 one-family residential district when the following conditions are met:
- (1) The lot area in all R-2 one-family residential districts which is served by a public sanitary sewer system may be reduced in area up to 20 percent. This reduction may be accomplished in part by reducing lot widths up to 10 feet. Lot area reductions shall be permitted, provided that the dwelling unit density is not greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required under section 1.0501, Schedule of regulations. Dwelling unit densities shall not utilize, storm water detention or retention basins nor more than 25 percent of any wetlands in computing the maximum number of dwelling units allowed.
  - (2) Lot depth shall not be less than 120 feet, except when such lots border on land dedicated for park, recreation and/or open space purposes, and provided that the width of such dedicated land shall not be less than 100 feet measured at the point at which it abuts the rear yard of the adjacent lot, such lot depth may be reduced to 100 feet.
  - (3) Under the provisions of subsection (B)(1) of this section, for each square foot of land gained within a residential subdivision or site condominium through the reduction of lot size below the minimum requirements as outlined in the schedule of regulations, at least equal amounts of land shall be dedicated to the common use of the lot owners in a manner approved by the municipality, or may, if approved by the municipality, be dedicated to the municipality.
  - (4) The area to be dedicated for open space purposes shall in no instance be less than three acres and shall be in a location and shape approved by the planning commission.
  - (5) Access shall be provided to areas dedicated for open space for those lots not bordering on such open space by means of streets or pedestrian access ways.
  - (6) Lands set aside to meet minimum requirement of this section may include, but not exceed, 25 percent of any wetland. In those instances where such lands are utilized to meet minimum requirements, such lands shall be shown to be able to support uses suitable for residents of the development for recreational purposes or other lands on the site shall be developed for the common use of residents.
  - (7) This open space plan shall be permitted only if it is mutually agreeable to the legislative body and the subdivider or developer.
  - (8) This plan, for reduced lot sizes, shall be started within one year after having received approval of the final plat or final site condominium plan and must be completed in a reasonable time. Failure to start within this period shall void all previous approval.

(9) Under this open space plan, the developer or subdivider shall dedicate the total park area at the time of filing of the final plat or final site condominium plan on all or any portion of the plat or plan.

(10) Under this plan, provisions satisfactory to the city commission shall be made to provide for financing any improvements shown on the plan for the open space areas, and common use areas which are to be included within the development and that maintenance of such improvements is assured by means satisfactory to the city commission. (11) The standards as set forth in the Schedule of Regulations shall be modified at the option of the land-owner, to allow the number of dwelling units that would be permitted in R-1 one-family residential districts on a total development parcel, to be located on eighty (80) percent of the land area (including street right-of-way) being developed, provided that, the twenty (20) percent of the land area remains in an undeveloped state in perpetuity, by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land. Such modification shall be subject to the following conditions.

(a) Lands set aside to meet minimum requirement of this section may include, but not exceed, twenty-five (25) percent of any wetland. In those instances where such lands are utilized to meet minimum requirements, such lands shall be shown to be able to support uses suitable for residents of the development for recreational purposes or other land on the site shall be developed for the common use of residents.

(b) The area to be dedicated for open space purposes shall be in a location and shape approve by the Planning Commission.

(c) Access shall be provided to areas dedicated for open space for those lots not bordering on such open space by means of streets or pedestrian access ways.

(d) Under this open space plan, the developer or subdivider shall dedicate the total park area at the time of filing of the final plat or final site condominium plan on all or any portion of the plat or plan.

(e) Under this plan, provisions satisfactory to the City Commission shall be made to provide for financing any improvements shown on the plan for the open space areas, and common use areas which are to be included within the development and the maintenance of such improvements is assured by means satisfactory to the City Commission.

### **1.0505. One-family cluster option.**

(A) *Intent.*

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

(2) In R-1, R-2 and R-3 one-family residential districts, the requirements of the schedule of regulations may be waived and the attaching of one-family dwelling units may be permitted subject to the standards of this section.

(B) *Conditions and qualifications.*

(1) The planning commission may approve the clustering or attaching of buildings on parcels of land under single ownership and control which, in the option of the planning commission, have characteristics that would make sound physical development under the normal subdivision approach impractical because of parcel size, shape or dimension or because it is located in a transitional use area or the site has natural characteristics which are worth preserving or which make platting difficult. In approving an area for cluster development, the planning commission shall find at least one of the following conditions to exist:

(a) The parcel contains floodplain or wetland soil conditions that result in a substantial portion of the total area of the parcel being unbuildable. In no instance shall soil condition constitute less than 20 percent of the parcel.

(b) The parcel contains natural assets that would be preserved through the use of cluster development. Such assets may include natural stands of large trees, land that serves as a natural habitat for wildlife, unique topographic features or other natural assets that should be preserved.

(c) The parcel to be developed has frontage on a secondary or primary artery and is generally parallel to the thoroughfare and is of shallow depth as measured from the thoroughfare.

(d) The parcel has frontage on a primary artery and is narrow in width, as measured along the thoroughfare, which makes platting difficult, provided that the depth of the parcel is not greater than three times the width. The planning commission may vary this ratio if this would be in the best interests of the city.

(e) The parcel is shaped in such a way that the angles formed by its boundaries make a subdivision difficult to achieve and the parcel has frontage on a secondary or primary artery.

(f) The parcel has vehicular access to a secondary or primary artery and a substantial portion of the parcel's perimeter is border by land that is located in an R-4, R-5, B-OS or P district.

(g) A substantial portion of the parcel's perimeter is bordered by land that is located in a B-OS, B-H or M district and the parcel has vehicular access to a secondary or primary artery.

(2) In order to qualify a parcel for development under subsections (B)(1)a. or (B)(1)b. of this section, the planning commission shall determine that the parcel has these characteristics and the request shall be supported by written and /or graphic documentation, prepared by a landscape architect, engineer, professional community planner, architect or environmental design professional. Such documentation shall include the following as appropriate: soil test borings, floodplain map, topographic map of maximum two-foot contour level, inventory of natural assets', including plant material.

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

(C) *Permitted densities.*

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

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

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

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

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

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

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

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

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

(b) Water areas within the parcel may be included in the computation of density provided that land adjacent to the water is substantially developed as open space.

(c) In those instances where a parcel qualifies under subsections (B)(1)a. or (B)(1)b. as well as under one or more of the remaining subsections (B)(1) through (g), the higher densities may be permitted provided that the planning commission finds that such density is reasonable and does not result in the destruction or removal of the natural assets enumerated under subsections (B)(1)a. and b.

(D) *Development standards and requirements.*

(1) In areas meeting the criteria of subsection (B)(1) of this section, the minimum yard setback and minimum lot sizes per unit as required by section 1.0502, schedule of regulations, may be waived and the attaching of dwelling units may be accomplished subject to the following:

(a) The attaching of one-family dwelling units, one to another, may be permitted when the homes are attached by means of one of the following:

- i. Through a common party wall forming interior room space which does not have over 75 percent of its length in common with an abutting dwelling wall, excluding garage;
- ii. By means of an architectural wall detail that does not form interior room space;
- iii. Through abutting garage party walls of adjacent structures;
- iv. No other common party wall relationship is permitted and the number of units attached in this manner shall not exceed four.

(2) Yard requirements shall be provided as follows:

(a) Spacing between groups of attached buildings or between each group of four unattached buildings shall be equal to at least 35 feet in an R-1 district, 30 feet in an R-2 district, 24 feet in an R-3 district, measured between the nearest points of adjacent buildings. The minimum distance between any single detached unit and any adjacent building shall be 15 feet.

(b) Off-street parking lots (more than two spaces) shall have setbacks of not less than 50 feet from any public street or from any abutting one-family residential district.

(c) Building setbacks from streets shall be equal to the front yard setback of the district.

(d) Buildings shall not be closer than 25 feet to the pavement edge of interior private drives.

(3) The area in open space (including recreation areas and water) accomplished through the use of one-family clusters shall represent at least 20 percent of the horizontal area of a one-family cluster development that qualifies under subsections (B)(1)a. through (B)(1)f. of this section and 15 percent in

those qualifying under subsections (B)(1)g. [of this section]. The provision of walks, trails and recreation facilities is required within the open space areas.

(4) In order to provide an orderly transition of density, where the parcel proposed for use as a cluster, development abuts a one-family residential district, the planning commission shall determine that the abutting one-family district is effectively buffered by means of one of the following within the cluster development:

- (a) Single-family lots subject to the standards of section 1.0502, schedule of regulations.
- (b) Detached one-family buildings with setbacks as required by the schedule of regulations for the applicable residential district.
- (c) Open or recreation space not less than 100 feet deep.
- (d) Significant changes in topography which provide an effective buffer and a building setback of not less than 75 feet.
- (e) A secondary or primary artery.
- (f) A similar means of providing a transition.
- (g) The transition area shall be free of any building, parking spaces or drives unless the planning commission finds that very unusual circumstances require such placement.

(E) Procedures.

(1) In making application for approval under this section, the applicant shall file a sworn statement indicating the date of acquisition of the parcel by the present owner and that the provisions of subsection (B)(3) of this section are complied with.

(2) Qualification for cluster development.

(a) Application to the planning commission for qualification of a parcel for cluster development shall include documentation substantiating one or more of the characteristics outlined in subsection (B) of this section, conditions for qualification.

(b) The planning commission may make a preliminary determination as to whether or not a parcel qualifies for the cluster option under one of the provisions of subsection (13)(1) of this section based upon the documentation submitted. Such review is not a requirement but may be requested by the sponsor.

(c) A preliminary determination by the planning commission that a parcel qualifies for cluster development does not ensure approval. It does, however, give an initial indication as to whether or not a petitioner should proceed to prepare a site plan.

(3) Preliminary site plan and cluster approval.

(a) A preliminary site plan shall be submitted to the planning commission and city commission for review in two stages:

i. An initial review of the plan concept but including the information called for in subsection (E)(3)b. of this section,

ii. Review of the plan at a public hearing, including information called for in subsection (E)(3)c. of this section.

(b) In submitting a proposed layout under this section, the applicant of the development shall include, along with the site plan, typical building elevations and floorplans, topography drawn at two-foot contour intervals, all computations relative to . acreage and density, a preliminary grading plan, and any other details that will assist in reviewing the proposed plan.

(c) Site plans submitted under this option shall be accompanied by information as required in the subdivision regulations of the city provided, however, that:

i. Submission of an open space plan and project cost estimates for the initial review of the preliminary site plan shall be submitted at the option of the applicant.

ii. The open space plan and cost estimate shall be submitted for review at the public hearing.

(d) The planning commission shall give notice of the public hearing in accordance with provisions of section 1.1405(G) of this [zoning] ordinance.

(e) If the planning commission is satisfied that the proposal meets the letter and spirit of the city zoning ordinance and should be approved, it shall set forth any conditions upon which such approval is based. If the planning commission is not satisfied that the proposal meets the letter and spirit of this title, or finds that approval of the proposal would be detrimental to existing development in the general area and should not be approved, it shall record the reasons therefor in the minutes of the planning commission meeting. Notice of recommendation of approval or disapproval of the proposal together with copies of all layouts and other relevant information shall be forwarded to the city clerk.

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

(4) *Final site plan.*

(a) After approval of a preliminary plan and cluster option, final site plan shall be submitted in accordance with the requirements of article XII [of this zoning ordinance].

(b) If the final site plan is recommended for approval, such plan shall be submitted to the city attorney for the preparation of agreements setting forth the conditions upon which the approval is based. Such agreement shall be finalized and approved by the city commission prior to the issuance of any building permits.

(c) As a condition for the approval of the final site plan and open space plan, the applicant shall deposit cash, irrevocable letters of credit, or other equivalent forms of security as approved by the city commission, after review by the city attorney, in the amount of the estimated cost of the proposed improvements to the open land guaranteeing the completion of such improvements within a time to be



set by the planning commission. Actual development of the open space shall be carried out concurrently with the construction of dwelling units. The city may require landscape improvement for the entire site frontage where such site abuts public streets as an initial site improvement even through such frontage is not part of any early stage of project development.



**OPEN SPACE SUBDIVISION AND CLUSTER HOUSING EXAMPLES**



**CONVENTIONAL PLATTED SUBDIVISION EXAMPLE**

**Open Space Subdivision and Cluster Example**

## **ARTICLE VI. SPECIAL LAND USES AND STRUCTURES**

### **1.0601. Purpose.**

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

### **1.0602. General provisions.**

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

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

- (1) The zoning administrator can initiate a review of a special land use by the Planning Commission that has been approved, if the conditions of the approval are not being met.
- (2) A special land use can be revoked by the Planning Commission, under the same procedure as the section used to approve it, if it is found that it no longer meets the standards of this zoning ordinance.

### **1.0603. Special land use designated.**

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

- (A) *Home occupations.* Home occupations not specifically permitted may be permitted in all residential districts as a special land use under the following procedures and conditions and subject further to all conditions specified in section 1.0401(9).
  - (1) The exterior appearance of the structure shall not be altered or the occupations within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations.
  - (2) No more than one person other than members of the immediate family occupying the dwelling shall be employed.
  - (3) The occupations shall occupy no more than 25 percent of the floor area of the dwelling, or 50 percent of a detached garage.
  - (4) There shall be no outside storage of any kind related to any home occupation.
  - (5) The use may not increase vehicular traffic flow and parking by more than one additional vehicle at a time, unless off-street parking as set forth in the off-street parking regulations in article IX of this zoning ordinance is provided.
  - (6) Mechanical or electric equipment employed by the home occupations shall be comparable to the machinery or equipment customarily found in the home associated with a hobby or avocation.
  - (7) Only one nameplate shall be allowed, in accordance with the sign regulations at 144 square inches. It may display the name of the home occupations, for example, John Doe, Realtor, and must be attached to the principal building.
  - (8) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- (B) *Two-family dwelling.* Two-family dwelling may be permitted as a special use under the following provisions and conditions.
  - (1) A lot area of not less than 10,000 square feet for each two-family dwelling shall be provided.
  - (2) A lot width of not less than 100 feet for each two-family dwelling shall be provided.

- (3) Building setbacks and height requirements shall comply with the requirements for single-family dwellings as required for the R-3 district.
  - (4) All driveways and parking shall be solid surface with either three inches asphalt or four inches concrete. Each dwelling unit shall have two dedicated parking spaces and shall further comply with article IX of this zoning ordinance as applicable.
  - (5) Buildings shall be of substantially similar appearance as other residential buildings on adjacent properties and in the neighborhood or an adaptive reuse of a non-residential building.
- (C) *Low-density apartments.* Low-density apartments may be permitted as a special land use under the following provisions and conditions.
- (1) The density (lot area per dwelling unit) of the zone shall be complied with.
  - (2) All apartment regulations and requirements of this [zoning] ordinance shall be complied with.
  - (3) All yard requirements of the zone district shall be increased 50 percent.
  - (4) All dwelling units shall be supplied with public sewer and water.
  - (5) No building shall exceed 120 feet in length, width, or depth and all buildings shall be of substantially similar appearance as other residential uses in the neighborhood.
- (D) *High-density apartments.* High-density apartments may be permitted according to the following provisions and conditions.
- (1) The site requirements shall include 15 percent open space of the site to be landscaped.
  - (2) All yard provisions of the district shall be complied with.
  - (3) No minimum lot area per dwelling unit is required, provided that off-street parking requirements shall be complied with upon the same lot.
  - (4) All buildings shall comply with the fire prevention code of the city.
- (E) *Mobile home parks.*
- (1) All mobile home park development shall further comply with Public Act No. 96 of 1987 (MCL 125.2301 et seq.). Public Act No. 96 of 1987 (MCL 125.2301 et seq.) shall supersede any requirements of this [zoning] ordinance where this [zoning] ordinance may provide more restrictive standards.
  - (2) Access to any mobile home park shall be to other than a single-family residential street. The intent being to avoid higher-density traffic movements through existing or planned single-family developments. An emergency means of ingress and egress to a mobile home park, not used for general access, may be permitted to other than a major thoroughfare.
  - (3) Mobile home parks shall not be permitted on parcels of less than 20 acres in area.
  - (4) Mobile home parks shall provide land for open space use by residents of the park. These areas shall be so located and arranged that they functionally serve the residents to be served and meet or exceed mobile home commission rules, as adopted.

- (5) The outside storage of household effects, other than normal patio furniture, etc., is prohibited. The storage of recreational vehicles, e.g., boats, campers, trailers, motor homes, snowmobiles on mobile home sites and/or required, parking spaced for longer than 48 hours is prohibited.
  - (6) The mobile home park developer is encouraged to provide trees and other landscape improvements on the individual mobile home sites and in the open space areas which will create an aesthetically pleasing and functional environment.
  - (7) The proposed site plan for the mobile home park shall be submitted to the planning commission for their review and approval prior to any consideration. The suggestion of any changes or modifications shall be based on such reasonable requirements as are applied to the review and approval of all other uses in the city. Any items determined to be undesirable or inadequate shall be made known to the applicant and a copy of such objections shall immediately be forwarded to the state mobile home commission for their consideration in reviewing the proposed mobile home park plans.
- (F) *Mobile home subdivisions.*
- (1) The requirements for mobile home subdivisions, in addition to the requirements contained in the Land Division Act (MCL 560.101) are:
    - (a) Minimum lot size: single-wide area, 5,000 square feet; width, 50 feet; doublewide area, 7,200 square feet; width, 60 feet.
    - (b) Maximum building height: 25 feet.
    - (c) Minimum yard setback: front, 25 feet; side, ten feet; rear, 25 feet.
    - (d) Maximum lot coverage by all buildings: 30 percent.
    - (e) In a mobile home subdivision, a corner lot which abuts upon a street on the same side of which other residential lots front in the same block, any building shall have a minimum side setback equal to the front setback of the district in which it is located.
- (G) *Mixed-use development.*
- (1) No dwelling unit shall occupy any portion of the building at ground level or below ground level. Businesses may occupy any number of total floors.
  - (2) Such dwellings shall meet all applicable codes and ordinance of the city, county, or state.
  - (3) In the B-C district, if a proposed development meets the residential goals and objectives of the city's master plan, the planning commission shall have discretion in allowing an increase in the maximum height, not to exceed five stories.
  - (4) Floorplans and elevations drawn to scale of all floors to be utilized for dwelling purposes shall be submitted to the building and zoning department.
  - (5) In those instances where residential uses are proposed to occupy the same floor as a business use the planning commission shall review such mixed use and may approve such mixed use based on findings that compatibility of the business with residential occupancy will occur. Such findings may include but are not limited to:
    - (a) Compatible hours of operation.

- (b) Noise of operation or occupancy that would be detrimental to the business operation or vice-versa.
  - (c) Excessive foot traffic.
  - (d) Structural control measures implemented by the development, including but not separation distance between uses, sound proofing, odor control, etc.
- (6) Off-street parking shall be provided in accord with article IX of this zoning ordinance and shall be provided in designated off-street parking areas within 1,000 feet of the dwelling unit they are to serve.
- (H) *Conversion of a dwelling unit for up to four units.* Conversion may be permitted provided the following conditions are maintained:
  - (1) The existing floor area of the building shall not be increased by more than 10 percent.
  - (2) Outside storage shall be limited by the restrictions set forth in section 1.1115.
  - (3) Two paved parking spaces for each dwelling unit shall be provided.
  - (4) All exposed mechanical and electrical equipment which services the dwelling shall be screened from view and free from casual entry by nonresidents.
  - (5) A minimum lot area of 2,000 square feet for each dwelling unit shall be maintained.
  - (6) The minimum floor area for each dwelling unit shall be 600 square feet.
  - (7) All refuse containers shall be stored in an area located on a paved surface and shall be screened with solid fencing on all unenclosed sides all of which shall approximate the size of the containers.
- (I) *Rooming, boarding, and motel accommodations.* Rooming houses, boarding houses, and motels for transient guests may be permitted on any lot in any R-4 Apartment district facing upon a marked state or federal highway, provided that the total lot coverage shall not exceed 75 percent.
- (J) *Bed and breakfast operation.* [Bed and breakfast operation] may be permitted subject to the following provisions and conditions:
  - (1) Such dwelling shall meet all applicable codes and ordinances of the city, county, and state.
  - (2) Floorplans drawn to scale of all floors to be utilized for bed and breakfast activities shall be submitted.
  - (3) Dwellings shall be suitable in character for the use proposed and shall not cause a change in character of the neighborhood.
  - (4) The dwelling shall be the permanent residence of the bed and breakfast operator.
  - (5) Each leasable sleeping room shall have a separate operating smoke detector alarm.
  - (6) Lavatory and bathing facilities shall be available to all persons using any leasable sleeping room.
  - (7) There shall not be separate cooking facilities provided for the bed and breakfast occupants.

- (8) A guest registry indicating name, address, phone number and vehicle license number shall be available to the city for inspection upon request.
- (9) A unlighted sign not exceeding six square feet in area per sign face may be provided. Such sign may be provided as a ground sign or wall sign.
- (10) Off-street parking shall be provided based upon the following: one space for each rental room, one space for the owner/operator of the facility, and one space for each employee. It is the city's intent to not encourage yards to be destroyed, landscaping removed, or the integrity of the neighborhood altered in order to provide parking. In those instances where parking requirements cannot be met, the applicant may request special consideration from the planning commission. In such a case the applicant shall submit an analysis of parking required and parking provided within a 300-foot radius of the subject parcel. After analyzing this data, the planning commission may lower the number of required parking spaces based on the fact that sufficient off-street parking exists in the neighborhood.
- (11) Such bed and breakfast dwelling shall not be located within 300 feet as measured from the nearest property lines, of another such facility.
- (12) The operations of the dwelling unit shall not be permitted to endanger, offend, or otherwise interfere with the safety or rights of others so as to constitute a public nuisance.
- (K) *Functional equivalent family—Additional persons.* The limit upon the number of persons who may reside as functional equivalent of the domestic family may be increased or enlarged upon a demonstration by the applicant of all of the following:
  - (1) There are adequate provisions on the subject property for off-street parking for each adult proposed to reside on the premises, and adequate storage for each person proposed to reside on premises;
  - (2) The extent of increase or enlargement of the limit upon the number of persons shall not, when considered cumulatively with existing and reasonably projected population concentration in the area, place an unreasonable burden upon public services, facilities and/or schools;
  - (3) There shall be a minimum of 125 square feet of usable floor space per person on the premises;
  - (4) If the planning commission grants an application under this provision, the determination shall include the specific maximum number of persons authorized to reside on the property, and any minimum parking or storage requirements to be maintained.
- (L) *Reasonable accommodation use.* This section is intended to authorize the grant of relief from the strict terms of the zoning ordinance in order to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under law and to encourage innovation in land use and variety in design and layout. In the event state or federal law, e.g., The Federal Fair Housing Amendments Act of 1988, requires the city to make "reasonable accommodation" for a particular proposed user of property, the following shall apply:
  - (1) As a condition to approval of a special accommodation use, the applicant must comply with all of the terms of this section, and must demonstrate all of the following:



- (a) The ultimate residential user or users of the property shall be persons for whom state or federal law mandates the city to make reasonable accommodations in connection with proposed uses of land.
  - (b) Taking into consideration the needs, facts, and circumstances which exist throughout the community, and within the population to be served by the use, including financial and other conditions, making the proposed reasonable accommodation shall be necessary to afford such persons equal opportunity to the proposed use and enjoyment within the community.
  - (c) Approval of the proposed housing shall not require or will likely result in a fundamental alteration in the nature of the land use district and neighborhood in which the property is situated, considering cumulative impact of one or more other uses and activities in, or likely to be in the area, and shall not impose undue financial and administrative burden. The interests of the community shall be balanced against the need for accommodation on a case-by-case basis.
  - (d) No other specific ordinance provision exists and is available to provide the relief sought.
- (2) The application for a special accommodation use shall include the following:
- (a) A plan drawn to scale showing the proposed use and development.
  - (b) A separate document providing a summary of the basis on which the applicant asserts entitlement to approval of a special accommodation use, covering each of the requirements of paragraphs (L)(1)(a) through (L)(1)(d) above.
  - (c) The information required for site plan review, provided, upon a showing by the applicant that the inclusion of specified information generally required for site plan review would be irrelevant, the city may waive the requirement to include such material in the application.
  - (d) All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply.

**(M) *Child care or day care center.***

- (1) A child care or day care center may be permitted as the principal use of a property or may be permitted as an accessory use to an approved use, such as a church, school, office or other place of employment upon review and approval as a special use.
- (2) A valid registration or license as required by the state shall continually be on file with the city.
- (3) The facility shall be brought into compliance with all building codes.
- (4) One parking space per care giver and/or employee plus drop off space off the street right-of-way for delivery and pick-up of children shall be provided.
- (5) The site shall comply with the sign provisions of article X of this zoning ordinance.
- (6) The building shall have an appearance which is non-intrusive and consistent in color materials, roofline and architecture with the district in which it is located, as determined by the planning commission.

- (7) The lot shall be at least 800 feet from another child care center or day care center.
- (N) *Farming or horticulture.* Farming or horticulture may be permitted subject to the provisions of this zoning ordinance and the following conditions:
- (1) Field crop farming and horticulture shall be done on parcels of five acres or more.
  - (2) The raising of livestock shall be a minor part of a farming operation.
- (O) *Riding or boarding stables.* Riding or boarding stables may be permitted subject to the provisions of this zoning ordinance and the following conditions.
- (1) A land parcel of not less than ten acres shall be provided.
  - (2) Stables shall be located no nearer than 100 feet to any dwelling on an abutting property.
  - (3) Shelter shall be available for all horses boarded.
  - (4) Animal refuse shall be disposed of at regular intervals and shall be kept in such a manner as to minimize odor and insect nuisance to neighboring properties.
- (P) *Animal hospitals.* Animal hospitals may be permitted subject to the provisions of this zoning ordinance and the following conditions:
- (1) A land parcel of not less than five acres shall be provided.
  - (2) All on site animal treatment and all kennels shall be within enclosed buildings.
  - (3) No outdoor animal runs shall be permitted.
- (Q) *Mortuary and office buildings.* Mortuary establishments and their customary accessory buildings; offices for realty, professional, insurance, or similar occupations customarily carried on in an office; beauty salons; and barber shops are permitted as a special land use on any lot located upon a major street as designated on the master plan of the city if located in an R-4 apartment district within 700 feet of the B-C central business district. However, the use shall not involve the sale or repair of products or equipment upon the premises.
- (R) *Sidewalk cafes.* Sidewalk cafes occupying public sidewalks or a public space may be permitted subject to the following:
- (1) A site drawing showing the detailed plan of the outdoor cafe must be submitted to and approved by the planning commission.
  - (2) Plans for setting up the sidewalk cafe must be approved by the city engineer to provide for the free passage of pedestrians along the sidewalks and by the police department to provide for traffic and pedestrian safety.
  - (3) The sidewalk cafe must be part of a licensed restaurant and meet all the requirement of the department of health.
  - (4) Liability insurance and property damage coverage naming the City of Sturgis as an insured party, in an amount approved by the city, must be provided before an outdoor cafe may be set up on any public space.
  - (5) Approval of the city commission is required for the use of any public area or facility.
- (S) *Murals.* Murals may be permitted as a special land use provided the following conditions are met:

- (1) The mural shall not contain advertising to promote the interest of any person, business, or product.
  - (2) The mural shall provide historic or civic interest.
  - (3) No mechanical animation or intermittent lighting shall be allowed as a part of any mural such as to distract drivers on public streets.
  - (4) Provision for the maintenance of any mural shall be required.
  - (5) A time period for removal of any mural may be specified should maintenance of such mural not be carried out.
- (T) *Outdoor sales area, non-accessory.* The temporary outdoor sale and display of merchandise may be permitted, subject to the following requirements:
- (1) Any materials displayed outside of an enclosed building shall not extend into or occupy any required parking or maneuvering areas for vehicles.
  - (2) Display of materials on sidewalks shall not obstruct the free passage of pedestrians and shall provide not less than six feet of clear sidewalk passage area.
  - (3) Lighting of outdoor display areas shall be shielded so as to deflect light away from any residential use or district. Such lighting shall also be deflected away from any adjacent street so as not to interfere with traffic.
  - (4) A sketch plan indicating the area where the display will be located, any trash or portable restrooms being provided if not immediately available by the principal use of the property.
  - (5) A signed lease agreement allowing this temporary use by the principal use.
  - (6) The approval will only be permitted for the time of the request.
- (U) *Service stations and vehicle repair shops.* Service stations and vehicle repair shops may be permitted in accord with the following requirements:
- (1) All aboveground or underground structures other than permitted signs or drives are at least 20 feet from any lot line, and at least 25 feet from any residential zone line.
  - (2) The area for outdoor parking servicing or storage of vehicles is paved and conforms to sections 1.0904 and 1.0905.
  - (3) Driveways shall be at least 24 feet from any intersecting street rights-of-way or residential zone lines.
  - (4) A paved or enclosed area for the storage of inoperable or damaged vehicles awaiting repair is provided which is screened from any public street or residential zone.
  - (5) A six-foot completely obscuring wall shall be provided abutting a residential district.
  - (6) Under canopy lighting shall have fixture mounted flush with the surface of the underside of the canopy and shall not be of such intensity as to be distractive to traffic on abutting streets.

Exception. The planning commission may waive requirements for existing sites with pre-existing buildings that do not conform to current requirements of this section. However, all

new buildings or significant expansions to existing buildings must fully comply with the applicable zoning regulations and meet the stated requirements.

(V) *Vehicle sales area.* Vehicle sales areas may be permitted subject the following:

- (1) No vehicle sales area shall be accessory to a service station.
- (2) The plot plan for proposed vehicle sales area shall show the following requirements:
  - (a) The provisions of divisions [subsections] (U)(1) through (U)(5) [of this section] above must be complied with, provided that no vehicles or equipment shall be located closer than ten feet to any side or rear property line nor closer than 25 feet to any front street right-of-way.  
  
Exception: For an existing parking lot that was constructed prior to this zoning ordinance would permit vehicles or equipment to be located no closer than 5 feet to any front street right of way with the use of vehicles stops where it abuts a sidewalk.
  - (b) No major repair work or refinishing shall be done on the lot.
  - (c) Display lighting shall be screened from any public street or residential zone.
  - (d) A six-foot completely obscuring wall shall be provided abutting a residential district.

(W) *Automobile carwash.* An automobile carwash may be permitted subject to the following:

- (1) All buildings shall have a front yard setback of not less than 50 feet.
- (2) All washing facilities shall be within a completely enclosed building.
- (3) Vacuuming and drying areas may be located outside the building and shall not be closer than 25 feet from any residential district.
- (4) All cars required to wait for access to the facilities shall be provided space off the street right-of-way and parking shall be provided in accordance with article IX of this zoning ordinance.
- (5) Ingress and egress points shall be located at least 24 feet from the intersection of any two streets.
- (6) All off-street parking and waiting areas shall be paved.
- (7) All lighting shall be shielded and directed away from adjacent residential districts.
- (8) A six-foot completely obscuring wall shall be provided where abutting a residential district.

(X) *Ministorage.* Ministorage may be permitted provided the conditions below are met:

- (1) No parking shall be allowed within 15 feet of a residence, or residential district.
- (2) The site shall be screened from a residential district or residence.
- (3) No exterior lighting shall shine or illuminate beyond the property line onto adjacent property.
- (4) All refuse containers shall be screened on all sides and located on a concrete pad.

- (5) No outdoor storage of any kind shall occur in the parking or site area.
- (6) No toxic, hazardous, flammable, explosive materials shall be stored or allowed on-site.
- (7) Security entry shall be required, restricting access to operators and users of the facility.
- (8) Chainlink fences may have an additional two feet in height added for security fence.
- (Y) *Pet shop and sales.* Pet shops and sales may be permitted subject to the following:
  - (1) All pets shall be located and cared for in a totally enclosed building:
  - (2) No continuous noise level higher than 45 decibels shall be allowed that is discernable outside the building.
- (Z) *Small engine repair.* Small engine repair such as lawn mower repair and servicing may be permitted subject to the following:
  - (1) Outdoor storage of parts or materials shall be prohibited unless such storage is within a fenced and obscured area which meets all setback requirements.
  - (2) Areas for off-street parking required for customer use shall not be utilized for the storage of equipment awaiting repair.
  - (3) All vehicle servicing or repair shall be conducted within a building.
  - (4) Suitable containers shall be provided and utilized for the disposal of used parts and such containers shall be screened from public view.
  - (5) A six-foot completely obscuring wall shall be provided abutting any residential district.
- (AA) *Storage of waste disposal vehicles and operations.* Storage of waste disposal vehicles and operations may be permitted subject to the following:
  - (1) No outdoor storage of waste hauling vehicles or equipment is permitted.
  - (2) All vehicles and equipment shall be regularly washed and maintained.
- (BB) *Salvage yards.* Salvage yards may be permitted as a special land use providing that the following requirements are complied with:
  - (1) Plans and specifications shall be submitted to the planning commission and shall include the following:
    - (a) Specific locations of the facility shown on a vicinity map.
    - (b) Location of public roadways, habitable structures, and places of public use on the site and other properties influenced by the project.
    - (c) Legal description and site boundaries.
    - (d) Means of limiting access including fencing, gates, natural barriers, or other methods.
    - (e) Details of the method of treating or disposing of liquid waste resulting from operation of the facility as it relates to the city's waste water treatment facility.
    - (f) The location of all structures and equipment.

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

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

(DD) *Nonresidential parking in a residential district.* Nonresidential parking areas may be permitted providing that the following provisions and conditions are met.

- (1) Nonresidential parking in a residential district shall be limited to lots one of whose side lot lines is immediately adjacent to a B business or M manufacturing zone, with no less than 100 percent common side lot lines to the lot on which the building intended to be served is located. In no case shall the parking for a nonresidential use be located beyond the first such adjacent lot or the first 150 feet of the adjacent lot, whichever is lesser.
- (2) All entrance and exit drives shall be a distance of at least 20 feet from any adjoining property line in a residential district.
- (3) All Parking areas shall be screened on all sides abutting either a residential district, a street, or an existing residence, with an ornamental fence, compact hedge, or wooden screen fence, not less than six feet in height, of the type which will obscure vision at all seasons from adjoining premises and the street. No such parking areas shall be located in any required front yard or side yard setback areas in accordance with those provisions of the residential district in which they are located.
- (4) No commercial repair work, commercial servicing or selling of any kind shall be conducted on the parking areas in residential districts.
- (5) No sign of any kind other than those indicating entrances and exits and the condition of use of the parking area shall be erected upon the parking area parcel or adjoining residential parcels.
- (6) All parking areas shall provide parking spaces a minimum of nine feet by 18 feet with an access drive behind the parking space 24 feet in width.
- (7) No outdoor storage of any kind shall occur in the parking area, including abandoned vehicles, storage of materials or supplies. All parking areas must be free of litter, dust, papers, and other items which could blow onto adjacent properties. Operation of the parking area shall be carried on in a manner to prevent dust, odor, noise, vibration, and other nuisances to adjoining properties.
- (8) No loud noises shall be allowed in the parking area, above 45 decibels after 10:00 p.m. or before 8:00 a.m., or above 70 decibels during the hours of 8:00 a.m. to 10:00 p.m. No continual noise shall be permitted in the parking area.
- (9) Flammable or explosive materials shall not be permitted in the parking area.
- (10) In no instance shall vehicular parking be allowed within 15 feet of adjoining residential districts, residences, or residentially zoned properties.
- (11) All parking areas created under this section shall be constructed in compliance with sections 1.0904 and 1.0905.
- (12) No exterior lighting shall shine or illuminate beyond the property line of the parking areas, onto adjacent residential property.
- (13) In addition to the above requirements of this section, other requirements may be deemed necessary or desirable by the planning commission for the protection of the adjoining residences in a residential district, in which such parking areas may be located.

These requirements shall be presented by resolution of the planning commission after a duly held public hearing.

- (14) Notwithstanding the foregoing, the planning commission has the right to deny a special land use because of the adverse impact which the development would have on adjacent residential areas. [The term] "adverse impact," as used in the section, includes but is not limited to such possible or potential problems such as:

- (a) Increased traffic.
- (b) Interruption of residential continuity.
- (c) Decreased safety and welfare within the given area.

(EE) *Office buildings.* Office buildings may be permitted subject to the following:

- (1) Locations for office buildings shall be limited to sites abutting a primary or secondary artery.
- (2) Lot yard, height and area requirements of the R-4 districts shall apply.
- (3) Off-street parking for office uses as provided for in article IX of this zoning ordinance shall apply.

(FF) *Billboards.* Billboards may be permitted subject to the following:

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

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

- (1) Existing buildings and new buildings constructed to be utilized as group dwellings shall be of a design compatible with existing residential dwellings on adjacent properties and in the immediate neighborhood.



- (2) Off-street parking for all supervisory personnel shall be provided and off-street parking for dwelling occupants shall be provided at not less than 0.5 parking spaces per resident.
- (3) All regulations and standards for buildings, structures and site improvements within the district in which the property is situated shall apply.

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

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

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

- (1) *Special land use approval*. No mineral shall be removed from any land within the city without special land use approval, except for in the following circumstances:
  - (a) When the earth removal is incidental to an operation for which a building permit has been issued by the city;
  - (b) When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
  - (c) The earth removal involves less than 100 cubic yards;
  - (d) The earth removal will not be in violation of any other section of this ordinance, other city ordinances, the Soil Erosion and Sedimentation Control Act of 1972, or any other applicable state or federal law.
- (2) *Review and approval criteria*. Planning commission review and approval of a special land use request for a mineral extraction operation shall be in accordance with all applicable provisions of this ordinance; and shall also be based on consideration of the following factors:
  - (a) Review and approval criteria:
    - i. Confirmed presence of large volumes of high-quality, mineral resource deposits that will sustain an operation over a specified period of time. If deemed necessary by the planning commission, the presence of such resource deposits shall be confirmed by the appropriate governmental agency having regulatory authority over any respective mineral industry (e.g. the department of natural resources);
    - ii. The most practical use of the land, resources and property;
    - iii. The protection and preservation of the general health, safety and welfare of the city;

- iv. Adequacy of state and local transportation systems, and private access and haul road(s), to accommodate heavy equipment and truck traffic;
  - v. Compatibility with existing or planned land use patterns in the area;
  - vi. Presence of fish and habitat and/or threatened and endangered species;
  - vii. Impacts to air and water quality and the natural environment, including critical areas (i.e. sensitive environmental lands);
  - viii. Proximity to major transportation corridors and market areas;
  - ix. Existence of the operations prior to the adoption of the provisions of this ordinance and the extent and character of such previous operations; and
  - x. The mineral excavation operation will not result in very serious consequences to surrounding properties for the community in general.
- (b) Conditions of approval: In making any decision, the planning commission reserves the right to impose such additional conditions and safeguards as it deems necessary to limit the length of time the special land use is to be effective and may provide for a periodic review of the proposed operations to determine compliance with the conditions and limitations imposed upon the same. The planning commission may renew or extend a special land use approval where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists, in accordance with this ordinance. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of a mined or disturbed area.
- (3) *Site plan approval.* Site plan approval is required with the special land use approval in accordance with article XII. Mining site/operations shall be conducted in accordance with an approved site plan and conditions of permit approval. In addition to required application items listed in section 1.1204, the site plan shall indicate the location of all mining activities, including excavation, processing, stockpiling, batching, product manufacture and sales areas, equipment maintenance and storage areas, truck routes and haul roads, as well as any excluded areas resulting from setbacks and other requirements of local, state and/or federal law. The application must also specify the duration of the mineral extraction operation.
- (4) *Necessary studies.* The planning commission may require an environmental impact statement, engineering data, traffic impact study or other such documentation supporting the need for and/or identifying the consequences of such extraction operations.
- (5) *Use establishment.* All uses shall be established and maintained in accordance with all applicable state statutes. If any of the requirements of this subsection are less restrictive than applicable state statutes, the state requirements shall prevail.
- (6) *Location.* No machinery shall be erected or maintained within 150 feet of any property or street line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line or property line in order to ensure sublater support to surrounding property. The setback area shall not be used in conjunction with mineral extraction, except for access, berms, fencing, landscaping and/or signs. All excavation operations,

processing plants and accessory structures shall be set back a minimum 250 feet from the banks of any lake, stream or other watercourse. The planning commission may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located in or within 200 feet of any residential or commercial use or district.

- (7) *Safety.* Safety measures shall be implemented in accordance with state and federal requirements to protect the public from harm during utility construction, improvements, location or relocation.
- (8) *Screening.* As determined by the planning commission, all operations visible from any roadway or developed adjacent land use shall be screened by an evergreen planting established at least six feet in height, obscured decorative fencing at least six feet in height, or landscaped berm of at least six feet in height with decorative landscaping placed along the top of the berm at a level determined by the zoning administrator. If determined appropriate by the planning commission, a combination of the above screening methods may be used.
- (9) *Fencing.* All areas of the operation shall be secured with fencing adequate to prevent trespass at a minimum height of six feet. Any excavation operation which results in, or produces for a period of at least one month during the year, collections of water or severe slopes, as described below, shall be subject to the following safety requirements:
  - (a) Where an excavation leaves standing water with a depth of greater than one foot for any period of at least one month, and occupying an area of 200 square feet or more, the applicant shall erect a fence completely surrounding the portion of the site where the body of water extends, and shall be placed no closer than 50 feet to the top or bottom of any slope. The fence shall not be less than six feet in height complete with gates, which gates shall be kept locked when operations are not being conducted.
  - (b) Where slopes 3-1 horizontal to vertical or steeper exist for a period of one month or more, access to such slopes shall be barred by a fence at least six feet high and at least 50 feet outside the edge of the excavation, with suitable gates controlling access to the excavation area.
- (10) *Operational buildings.* No building shall be erected or placed on the premises except as may otherwise be permitted in the zoning ordinance or except as temporary shelter for machinery or for a field office, subject to approval by the planning commission. All such buildings must be shown on the approved site plan.
- (11) *Access routes.* The planning commission shall determine routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the planning commission to minimize dust, mud, and debris being carried onto the public street. There shall not be more than one entranceway from a public road for each 660 feet of front lot line. Each entranceway shall be located not less than 500 feet from an intersection of two or more public roads.

(12) *Welfare.* All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to property, individuals, or to the community in general.

(13) *Nuisance.* Proper measures, as determined by the zoning administrator shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site. Stockpiles of mineral resource extractions shall not exceed 100 feet in height as measured from ground level before excavation, and shall be setback from all parcel boundary lines the greater of 150 feet or twice the height of the stockpile. The setback distance shall be measured from the edge of the stockpile.

Equipment shall be installed, used and maintained so that noise and vibration emitted from the site do not exceed the level reasonably necessary for the operation of the equipment. The emission of measurable noises from the premises shall not exceed 70 decibels as measured at the property lines, between the hours of 7:00 a.m. to 10:00 p.m. The measurable noises shall not exceed 60 decibels as measured at the property lines between 10:00 p.m. and 7:00 a.m. Where normal street traffic noises exceed the established noise levels during such periods, the measurable noise emanating from the premises may equal, but not exceed traffic noises.

(14) *Environmental protection.* All fuels, chemicals and other hazardous materials to be contained on site shall be noted in the application, including material, quality, use, and method or primary and secondary containment. All containment structures or devices shall be designed and operated to prevent groundwater pollution. The applicant shall provide a written spill response plan, in the event that a hazardous materials spill occurs on site. The spill response plan shall indicate how any and all contaminated material will be collected and properly disposed. Mineral resource extraction operations shall not:

- (a) Create erosion problems or alter the groundwater table of the area;
- (b) Cause the creation of sand blows, stagnant water pools, or stagnant swampy areas; or
- (c) Cause a permanent adverse affect to the environment, natural topography, or any natural resource, other than the earth materials involved.

(15) *Operation.* All uses shall be conducted according to the following operational timelines:

- (a) Mineral resource extraction operations shall not operate prior to 7:00 a.m. or after 7:00 p.m., Monday through Friday. Saturday operations shall not operate prior to 8:00 a.m. or after 3:00 p.m. Operations shall not operate any time on Sundays or holidays as observed by the city. The planning commission may further limit the days and hours of operation pursuant to article VI, section 1.0602;
- (b) Inactivity of mineral resource extraction operations for a 12-month consecutive period shall constitute termination of such activities.

(16) *Rehabilitation plan.* A rehabilitation plan toward reclamation of a mining area is also required and shall be submitted in conjunction with the site plan review. Such plan shall include:

- (a) A statement of planned rehabilitation, including methods of accomplishment, phasing and timing. The plan must comply with the following:

- i. Ensure final contours of the reclaimed property are consistent with the natural contours of adjacent lands. All portions of the site shall be graded so that no gradients in disturbed earth shall be steeper than a slope of 6:1 (horizontal-vertical);
  - ii. Remove all debris, temporary structures and stockpiles;
  - iii. A layer of arable topsoil, of a quality approved by the zoning administrator, shall be spread over the excavated area, except exposed rock surfaces or areas lying below natural water level, to a minimum depth of four inches in accordance with an approved reclamation plan. The area shall be seeded with a suitable native ground cover sufficient to control erosion and maintained until the area is stabilized for a specific reclaimed use and approved by the planning commission;
  - iv. Water accumulating upon the site may be retained after the completion of such operation when, due to the excavation, such water cannot reasonably be drained by gravity flow; provided, that provisions shall be made to avoid stagnation (with the exception of man-made lakes), pollution and improperly controlled releases of such water that may endanger the public. Where excavation operation results in a body of water, the owner or operator shall place appropriate "Keep Out Danger" signs around said premises not more than 150 feet apart;
  - v. Perform final restoration to conform to zoning regulations in effect at the time of implementation; and
  - vi. Identify the possible or potential end use of the rehabilitated area.
- (b) A phasing plan, if the excavation of the site is to be accomplished in phases. This plan shall indicate the area and extent of each phase and the approximate timing of each phase.
- (c) Reclamation timing must comply with the following:
- i. Rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one acre or more. Substantial completion of reclamation and rehabilitation, including grading, debris removal and revegetation, shall be achieved within one year of termination of mining or excavation activity.
  - ii. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a time not to exceed 12 months, shall remove all structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located may be retained.
  - iii. Restoration shall be completed within two years from the date of completion or abandonment of the subject site or portion of the site.

- (17) *Explosives*. The use of explosives shall be done in accordance with the "Regulations for Storage and Handling of Explosives," as published by the state police, fire marshall division, and local applicable ordinance requirements.
- (18) *Performance bond*. The planning commission shall require a performance bond or other guarantee as deemed necessary to ensure that the requirements of this ordinance are fulfilled, and may revoke the special land use approval at any time if specified conditions are not met.
- (19) *Liability insurance*. All owners/operators of property involved in mineral resource extraction operations shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists, in the amount of not less than \$1,000,000 per incident. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be submitted annually with the city clerk.
- (20) *Inspections*. A mining permit will be issued upon approval of a special land use and renewed by the owner/operator on an annual basis. To insure compliance with the permit, the zoning administrator shall conduct periodic inspections and shall file a written annual report to the planning commission.
- (21) *Allowance for associated uses*. Approval of mineral extraction activities as a special land use may include allowance for related types of uses, including but not limited to, concrete mixing and asphalt plants, situated and operated in conjunction with such activities, subject to compliance with all the preceding provisions. Such associated activities and uses are subject to separate special land use review and approval.
- (JJ) *Medical marihuana manufacturing and distribution facilities for primary caregivers and qualifying patients*. Medical marihuana manufacturing and distribution facilities for primary caregivers and qualifying patients as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in subsection 38-91(d)(4) and (e)(7) are met.
- (KK) *Professional offices*. Professional offices may be permitted in the restricted zone subject to the following provisions and conditions:
- (1) The location at which the professional office is to be located has been unoccupied for a minimum of six months; and
  - (2) The existence of at least one of the following conditions:
    - (a) At the time of application a minimum of five percent of the front footage of all properties within the restricted zone are unoccupied properties; or
    - (b) At the time of application the total front footage of all professional offices within the restricted zone is less than or equal to 35 percent of all front footage properties, including unoccupied properties.
- (LL) *Marquee signs*. Marquee signs may be permitted subject to the following requirements:
- (1) Marquee signs are permitted only for use on theaters as defined in section 1.0202 of this ordinance.

- (2) All marquee signs must be submitted to the design review committee regardless of what zone they are to be installed.
  - (3) Proper scale and architectural compatibility will be crucial elements when marquee signs are reviewed by the planning commission.
  - (4) Marquee signs are allowed to be internally lighted.
- (MM) *Commercial medical marihuana facilities.* Commercial marihuana facilities as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in section 38-92 are met.
- (NN) *Provisioning centers.* Provisioning centers as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in section 38-92 are met.
- (OO) *Large solar energy systems.* The following requirements shall apply to all large solar energy systems.
- (1) *Purpose and intent.* The purpose and intent of this section is to establish standards for the siting, installation, operation, repair, decommissioning and removal of large solar energy systems as a special land use.
  - (2) *Preliminary site plan.* The following items must be shown on a preliminary site plan drawing for special land use approval:
    - (a) All lot lines and dimensions, including a legal description of each lot or parcel comprising the large solar energy system.
    - (b) Names of owners of each lot or parcel within the City of Sturgis that is proposed to be within the large solar energy system.
    - (c) Vicinity map showing the location of all surrounding land uses.
    - (d) Location and height of all proposed solar array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with a large solar energy system.
    - (e) Horizontal and vertical (elevation) to scale drawings with dimensions that show the location of the proposed solar array(s), buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.
    - (f) Proposed setbacks from the solar array(s) to all existing and proposed structures within the large solar energy system.
    - (g) A written description of the maintenance program to be used for the solar array and other components of the large solar energy system, including decommissioning and removal. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the large solar energy system is decommissioned.
    - (h) Additional detail(s) and information as required by the special land use requirements of the zoning ordinance, or as required by the planning commission.
  - (3) *Final site plan requirements.* All site plans submitted must be drawn to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan. In

addition to all items required in article XII, Site Plan and article XV section 1.1505 Groundwater Protection Section, the following must be provided for final site plan approval:

- (a) Access driveways within and to the large solar energy system, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway.
  - (b) Planned lightning protection measures.
  - (c) Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the large solar energy system and within 100 feet of all exterior property lines of the large solar energy system.
  - (d) Land elevations for the solar array(s) location and the relationship to the land elevations of all existing and proposed structures within the large solar energy system at a minimum of five foot contours.
  - (e) Screening and/or landscaping details.
  - (f) Planned security measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance or repair of the large solar energy system.
  - (g) All items submitted for preliminary special land use approval must be submitted in final detail. Any major change may result in a review of the special land use by the planning commission.
- (4) *Compliance with the State Construction Code and the National Electric Safety Code.* Construction of a large solar energy system shall comply with the National Electric Safety Code and the State Construction Code (as shown by approval by the city) as a condition of any special land use permit under this section. In the event of a conflict between the State Construction Code and National Electric Safety Code (NESC), the NESC shall prevail.
- (5) *Certified solar array components.* Components of a solar array shall be approved by the Institute of Electrical and Electronics Engineers ("IEEE"), Solar Rating and Certification Corporation ("SRCC"), Electronic Testing Laboratories ("ETL"), or other similar certification organization if the similar certification organization is approved by the city, which approval shall not be unreasonably withheld.
- (6) *Height.* Maximum height of a solar array, other collection device, components or buildings of the large solar energy system, excluding substation and electrical transmission equipment, shall not exceed 15 feet (as measured from the natural grade at the base of improvements) in height at any time or location on the property. Substation and electrical transmission equipment shall not exceed 100 feet in height or height restrictions if within the airport glide path area.
- (7) *Lot size.* A large solar energy system shall be located on one or more parcels with an aggregate area of ten acres or greater.
- (8) *Setbacks.* A setback of 100 feet shall be required where the large solar energy system is abutting to any residence or district zoned for residential use. Refer to section 1.0501 for all other front, side and rear yard setback requirements.



- (9) *Lot coverage.* A large solar energy system is exempt from maximum lot coverage limitations.
- (10) *Driveways and parking areas.* All driveways and parking areas within the front yard setback area shall be provided with a minimum four inch asphaltic or concrete surfacing. All other access drives shall be minimum gravel or stone materials.
- (11) *Fencing.* A large solar energy system shall be completely enclosed by perimeter fencing to restrict unauthorized access. The applicant will submit a fencing style type included in the site plan for approval by the city.
- (a) Fencing shall be no greater than six feet tall. An additional two feet of height can be added for security wire.
  - (b) Electric fencing is not permitted.
- (12) *Screening.* The perimeter of large solar energy systems shall be screened and buffered when it is located within 100 feet of a residence or district zoned for residential use. Screening shall occur by installed evergreen or native vegetative plantings whenever existing natural vegetation does not otherwise reasonably obscure the large solar energy system, subject to the following requirements:
- (a) The large solar energy systems shall be exempt from the other landscape requirements of the zoning ordinance.
  - (b) The evergreen or native vegetative buffer shall be composed of native or evergreen trees that at planting shall be a minimum of four feet in height and shrubs two feet in height. The evergreen trees shall be spaced no more than 15 feet apart on center (from the central trunk of one plant to the central trunk of the next plant), native trees shall be placed no more than 30 feet apart on center and shrubs shall be spaced no more than seven feet apart on center. All unhealthy 60 percent dead or greater) and dead material shall be replaced by the applicant within one year, or the next appropriate planting period, whichever occurs first.
  - (c) To the extent practicable, all plant materials shall be installed between March 15 and November 15. If the applicant requests a final certificate of occupancy from the city and the applicant is unable to install required landscaping because of the weather, the city may issue a temporary certificate of occupancy for no longer than six months duration. A temporary certificate of occupancy may only be issued if the applicant submits a financial guarantee (an irrevocable letter of credit, surety, corporate guarantee or cash) for an amount equal to one and one-half times the cost of any approved planting and landscape work. Upon the applicant's completion of required landscaping work, the city shall return the financial guarantee, less any city costs incurred. If the applicant does not complete the required landscape work within six months of the city's issuance of the temporary certificate of occupancy, as approved by the city, the city has the right, upon 72 hours' notice to the applicant, to call the guarantee and arrange completion of the work, the cost of which shall be covered by the financial guarantee.
  - (d) Failure to install or continuously maintain the required vegetative buffer shall constitute a violation of this section. Any violation of a special land use condition may result in the planning commission determining that the special land use has

been violated and may result in the revocation of the permit, provided however that applicant shall have 90 days from notification by the planning commission to cure any violation.

- (13)*Signage.* A ground or wall sign that is accessory to the business conducted on the property is permitted. The sign shall not exceed 32 square feet in area and six feet in height. No advertising or non-project related graphics shall be on any part of the solar arrays or other components of the large solar energy system. Directional signage will be permitted as per section 1.1001(J). This exclusion does not apply to entrance gate signage or notifications containing points of contact or any and all other information that may be required by authorities having jurisdiction for electrical operations and the safety and welfare of the public.
- (14)*Noise.* The emission of measurable noises from the premises shall not exceed 70 decibels as measured at the property lines, between the hours of 7:00 a.m. to 10:00 p.m. The measurable noises shall not exceed 60 decibels as measured at the property lines between 10:00 p.m. and 7:00 a.m. Where normal street traffic noises exceed the established noise levels during such periods, the measurable noise emanating from the premises may equal, but not exceed traffic noises.
- (15)*Lighting.* All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
- (16)*Distribution, transmission and interconnection.* All collection lines and interconnections from the solar array(s) to any electrical substations shall be located and maintained underground inside the large solar energy system, except in areas where technical or physical constraints make it preferable to install equipment above ground. This requirement excludes transmission equipment meant to connect the project substation to the local transmission system.
- (17)*Abandonment and decommissioning.* Following the operational life of the project, the applicant shall perform decommissioning and removal of the large solar energy system and all its components. The applicant shall prepare a decommissioning plan and submit it to the planning commission for review and approval prior to issuance of the special land use permit. Under this plan, all structures, concrete, piping, facilities, and other project related materials above grade and any structures below-grade shall be removed offsite for disposal. Any solar array or combination of photovoltaic devices that is not operated for a continuous period of 12 months shall be considered abandoned and shall be removed under the decommissioning plan. The ground must be restored to its original topography within 365 days of abandonment or decommissioning.
- (18)*General standards.* The planning commission shall not approve any large solar energy system special land use permit unless it finds that all of the general standards for special land use of this section are met.
- (19)*Approval time limit and extension.* Special land use permits and site plan approvals or permits under this section shall be established within one year after the granting authorization for the use. The applicant may request a one year extension to establishing the special land use by applying in writing to the planning commission. The

applicant shall appear before the planning commission to explain why such extension should be granted. Once construction of a project as per an approved site plan has been completed, the special land use shall have effect until the use is abandoned or per condition of the special land use permit, whichever is shorter.

- (20) *Conditions and modifications.* Any conditions and modifications approved by the planning commission shall be recorded in the planning commission's minutes. The planning commission may, in addition to other reasonable conditions, require landscaping, walls, fences and other improvements that are reasonable in relation to and consistent with the nature of the applicable or adjacent zoning districts.
- (21) *Inspection.* The city shall have the right at any reasonable time, and upon providing reasonable notice to the applicant (a minimum of 48 hours) to inspect the premises on which any large solar energy system is located. The city may hire one or more consultants to assist with inspections. Inspections must be coordinated with, and escorted by, the applicant's operations staff at the large solar energy facility to ensure compliance with the Occupational Safety and Health Administration (OSHA), NESC and all other applicable safety guidelines.
- (22) *Maintenance and repair.* Each large solar energy system must be kept and maintained in good repair and condition at all times. If the city zoning administrator determines that a large solar energy system fails to meet the requirements of this section and the special land use permit, or that it poses a safety hazard, the zoning administrator, or his or her designee, shall provide notice to the applicant of the safety hazard. Applicant shall keep a maintenance log on the solar array(s), which shall be available for the city's review within 48 hours of such request. Applicant shall keep all sites within the large solar energy system neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.
- (23) *Roads.* Any material damages to a public road located within the city, township or county resulting from the construction, maintenance or operation of a large solar energy system shall be repaired at the applicant's expense. In addition, the applicant shall submit to the appropriate city or county agency a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries. The applicant shall abide by all city and county requirements regarding the use and/or repair of city and county roads and also specifically agrees to be bound by any city or county special assessment regarding road improvements.
- (24) *Continuing security.* If any large solar energy system is approved for construction under this section, applicant shall post decommissioning security prior to the start of construction in a mutually agreed upon form ("Option 1"). Alternatively, if applicant can demonstrate the presence of a long-term power purchase commitment from a credit-worthy entity, then the decommissioning security shall be posted prior to the date five years prior to the expiration of such power purchase commitment ("Option 2"). Prior to posting decommissioning security, the applicant shall solicit a decommissioning cost estimate from a third party engineering firm or contractor approved by the city. This cost estimate will be the basis for the amount of decommissioning security. The amount shall be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the large solar energy system. Such financial security shall

be kept in full force and effect during the required time, and such financial security shall be irrevocable and non-cancelable.

(a) In the event applicant elects Option 2, applicant agrees to provide the following as additional decommissioning security:

- i. *Mortgage.* Applicant shall provide a mortgage to the city, on terms acceptable to the city, pledging the real estate upon which the large solar energy system is to be located securing applicant's obligations to the city to properly decommission the large solar energy system.
- ii. *First right of refusal.* Applicant shall provide a right of first refusal to the city, on terms acceptable to the city, to purchase, in the event the large solar energy system has been abandoned, the property upon which the large solar energy system has been constructed.

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

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

(1) *Eligible parcels.* A new commercial use may only be permitted if all of the following conditions are met.

- (a) A commercial use must have been permitted in the building based on assessing records.
- (b) The structure has been vacant for six months or longer.

(2) *Use conditions.*

- (a) The use must not be reasonably expected to negatively affect, or create any nuisance to, the surrounding neighbors.
- (b) Hours of operation should not intrude on the neighborhood in which they are located.

(3) *Requirements.*

- (a) The applicant must meet with the zoning administrator to determine whether the parcel and the use qualify for a vacant commercial type buildings conditional use permit.
- (b) Provide a business plan.
- (c) Parking and means of egress shall be indicated on a sketch plan for review by engineering, police, fire and community development departments.

(QQ) *Indoor vehicle sales area.*

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

- (2) To calculate the number of vehicles allowed inside a building, a floor plan must be submitted showing the area inside of the building which will be used for vehicle display. For each vehicle, both of the following minimum area standards must be met:
  - (a) 25' × 30' floor area per vehicle.
  - (b) Minimum of five feet clearance on all sides of the vehicle.
- (3) Required parking.
  - (a) Two parking spaces shall be provided for staff.
  - (b) One parking space shall be provided per two vehicles spaces permitted inside the building.
- (4) Building must meet all applicable building, electrical, mechanical, plumbing, fire prevention code and fire safety requirements.
- (5) Applicant must provide the city with state issued license.
- (RR) *Marihuana establishments.* Marihuana establishments as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in section 38-93 are met.
- (SS) *Marihuana retailers.* Marihuana retailers as otherwise contemplated by the City of Sturgis Code of Ordinances may be permitted if the conditions set forth in section 38-93 are met.
- (TT) *Stores for retail and retail services.*
  - (1) The retail use must be a minimum of 5,000 square feet.
  - (2) The retail use must be co-located with another permitted or special land use on the site. This can be a portion of one building on the property or a separate building on the property.
  - (3) The retail use shall only occupy a maximum of 30 percent of the total floor area of the building in which the use will be located if the uses are grouped in the same building, or 30 percent of the total floor area of all buildings on the property, if located in a separate building.
  - (4) Off-street parking shall be provided in accord with article IX of this zoning ordinance and shall be provided in designated off-street parking areas within 300 feet of the portion of the building in which they serve.
  - (5) The retail use shall comply with signage requirements for the B-H 2 zoning district.
- (UU) Cottage court developments.



- (1) Purpose. A cottage court development is a cluster of dwelling units available as an alternative to the development of typical detached single-unit dwellings. Cottage courts are intended to address the changing composition of households, and the need for more diverse, and more affordable housing choices.
- (2) Ownership. Cottage court developments may be sited on one commonly owned parcel with individual cottages owned in a condominium, cooperative, or similar arrangement, or cottages may be on individual lots with shared amenities and facilities owned in common.
- (3) Site Plan Review Required. Cottage court developments require approval through the site plan review process in Article XII Site Plan Review. A storm water management system is required for the court.
- (4) Standards. Cottage court developments are subject to the following standards:
  - (a) Number of Cottages. A cottage court development is composed of at least one cottage cluster, with a cluster containing four (4) to twelve (12) dwelling units.
  - (b) Cottage Design. The cottages in a cottage housing development are subject to the following standards:
    - i. Maximum Height. The height of each cottage shall not exceed the maximum height permitted in the zoning district.
    - ii. Setbacks. The setbacks from adjacent property lines along the perimeter of the cottage court development shall be the same as required by the zoning district. The minimum distance between all structures, including accessory structures, shall be in accordance with building code requirements.
    - iii. Density. The number of cottages permitted on a single lot shall be calculated as per section 1.0502 (e).
    - iv. Dwellings shall be permanently attached to a perimeter foundation and shall conform to all applicable city codes and ordinances.
    - v. Orientation of Cottages. Cottages shall be clustered around common open space. Each cottage shall have a primary entrance oriented to common open space. A covered porch is recommended to be included with the design. If a covered porch is implemented as part of the cottage, it shall be a minimum of 6 feet deep and 10 feet wide.
- (5) Community Buildings. Cottage court developments may include community buildings that provide space for accessory uses such as community meeting rooms, exercise rooms, day care, or community eating areas. Their design, including the roof lines, shall be similar to and compatible with that of the cottages within the cottage court development.
- (6) Common Open Space. All cottage housing developments must provide 100 square feet of common open space per unit. Parking areas, required setback areas, required open space, and driveways do not qualify as common open space.
- (7) Off-Street Parking. Off-street parking shall comply with Article IX Off Street Parking and Loading Requirements.

- (a) Cottage court developments shall provide the required minimum parking spaces through a combination of individual garages/carports or common off-street parking areas.
- (8) Fences.
  - (a) Interior fences. Fences on the interior of the cottage court development shall be an ornamental fence and not exceed three feet in height.
  - (b) Exterior fences. Where a cottage court abuts a neighboring residential district, it shall require a minimum of a six (6) foot high privacy fence or landscaping or a solid planting strip 15 feet in width for the length of the property line meeting corner clearance requirements and six feet in height at planting.
- (9) Existing Structures. On a lot or parcel to be used for a cottage court development, an existing detached single-unit dwelling that may be nonconforming with respect to the requirements of this section may remain, but the extent of its nonconformity may not be increased. Such dwellings shall count towards the number of cottages allowed in the cottage housing development.
- (10) Trash Requirements and Enclosures. All cottage court developments shall provide a dumpster with enclosure for all cottages to utilize. Each dumpster shall be placed inside of a six (6) foot high enclosure with gate.
- (UU) Large battery energy storage systems (ESS). The following requirements shall apply to all large battery energy storage systems.
  - (1) Purpose and intent. The purpose and intent of this section is to establish standards for the siting, installation, operation, repair, decommissioning and removal of battery energy storage systems as a special land use.
  - (2) Preliminary site plan. The following items must be shown on a preliminary site plan drawing for special land use approval:
    - (a) All lot lines and dimensions, including a legal description of each lot or parcel comprising the ESS.
    - (b) Names of owners of each lot or parcel within 300 feet of the proposed ESS.
    - (c) Vicinity map showing the location of all surrounding land uses and distances from structures within 300 feet of the property lines.
    - (d) Location and height of all proposed buildings, structures, electrical tie lines and transmission lines, security fencing, and all above and below ground structures and utilities associated with the battery energy storage system.
    - (e) Horizontal and vertical (elevation) to scale drawings with dimensions that show the location of the proposed battery energy storage system, buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.

- (f) Proposed setbacks from the battery energy storage system to all existing and proposed structures within the ESS.
  - (g) A written description of the maintenance program to be used for the battery energy storage system and other components of the system, including decommissioning and removal. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the battery storage system is decommissioned.
  - (h) Additional detail(s) and information as required by the special land use requirements of the zoning ordinance, or as required by the planning commission.
- (3) Final site plan requirements. All site plans submitted must be drawn to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan. In addition to all items required in article XII, Site Plan and article XV, Groundwater Protection Section, the following must be provided for final site plan approval:
- (a) Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the ESS and within 100 feet of all exterior property lines of the ESS.
  - (b) Screening and/or landscaping details.
  - (c) Planned security measures to prevent unauthorized trespass and access during the construction, operation, removal, maintenance or repair of the ESS.
  - (d) All items submitted for preliminary special land use approval must be submitted in final detail. Any major change may result in a review of the special land use by the planning commission.
- (4) Compliance and construction shall comply with the Michigan Building Code, International Fire Code, National Electric Code and the National Electric Safety Code.
- (5) System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
- (a) UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications).
  - (b) UL 1642 (Standard for Lithium Batteries).
  - (c) UL 1741 or UL 62109 (Inverters and Power Converters).
- (6) Height. Maximum height of a battery storage container, buildings or components, excluding substation and electrical transmission equipment, shall not exceed 15 feet (as measured from the natural grade at the base of improvements) in height at any time or



location on the property. Substation and electrical transmission equipment shall not exceed 100 feet in height or height restrictions if within the airport glide path area.

- (7) Lot size. A large battery energy storage system shall be located on no more than one parcel with an aggregate area of two acres or greater.
- (8) Setbacks. A setback of 150 feet shall be required where the large battery storage energy system is abutting or across a right of way or railway to any residence or district zoned for residential use. Refer to [section 1.0501](#) for all other front, side and rear yard setback requirements.
- (9) Lot coverage. A large battery storage energy system is exempt from maximum lot coverage limitations.
- (10) Driveways and parking areas. All driveways and parking areas within the front yard setback area shall be provided with a minimum of four inch asphaltic or concrete surfacing. All other access drives shall be minimum gravel or stone materials.
- (11) Fencing. A large battery energy storage system shall be completely enclosed by perimeter fencing to restrict unauthorized access. The applicant will submit a fencing style type included in the site plan for approval by the city.
  - (a) Fencing shall be no less than seven (7) feet tall and no greater than eight (8) feet tall. An additional two feet of height can be added for security wire.
  - (b) Electric fencing is not permitted.
- (12) Screening. The perimeter of ESS's shall be screened and buffered when it is located within 100 feet of a residence or district zoned for residential use. Screening shall occur by installed evergreen or native vegetative plantings whenever existing natural vegetation does not otherwise reasonably obscure the ESS, subject to the following requirements unless an alternate method of screening is approved by the planning commission:
  - (a) The evergreen or native vegetative buffer shall be composed of native or evergreen trees that at planting shall be a minimum of four feet in height and shrubs two feet in height. The evergreen trees shall be spaced no more than 15 feet apart on center (from the central trunk of one plant to the central trunk of the next plant), native trees shall be placed no more than 30 feet apart on center and shrubs shall be spaced no more than seven feet apart on center. All unhealthy 60 percent dead or greater) and dead material shall be replaced by the applicant within one year, or the next appropriate planting period, whichever occurs first.
  - (b) To the extent practicable, all plant materials shall be installed between March 15 and November 15. If the applicant requests a final certificate of occupancy from the city and the applicant is unable to install required landscaping because of the weather, the city may issue a temporary certificate of occupancy for no longer than six months duration. A temporary certificate of occupancy may only be issued if the

applicant submits a financial guarantee (an irrevocable letter of credit, surety, corporate guarantee or cash) for an amount equal to one and one-half times the cost of any approved planting and landscape work. Upon the applicant's completion of required landscaping work, the city shall return the financial guarantee, less any city costs incurred. If the applicant does not complete the required landscape work within six months of the city's issuance of the temporary certificate of occupancy, as approved by the city, the city has the right, upon 72 hours' notice to the applicant, to call the guarantee and arrange completion of the work, the cost of which shall be covered by the financial guarantee.

- (13) Decommissioning. The applicant shall submit a decommissioning plan, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:
- (a) Comprehensive description describing how the large battery energy storage system's components will be removed from the site, identifying who will be responsible for the activities and the timeline for removal. This includes structures, equipment, and transmission lines.
  - (b) Ensure proper disposal of solid and hazardous waste in compliance with local, state, and federal regulations. This addresses the environmental and safety concerns associated with hazardous materials in batteries.
  - (c) Estimate how long the battery energy storage system is expected to remain operational.
  - (d) Provide an estimate for the cost of decommissioning, explaining the basis for the calculations.
  - (e) Specify how funds will be set aside and guaranteed to cover the decommissioning expenses, ensuring that the removal and restoration will be financially supported when necessary.
  - (f) Describe how the decommissioning cost estimates will be updated over time, accounting for inflation, changes in technology, or other cost-related factors.
  - (g) Detail how the site will be restored post-decommissioning, including protecting adjacent structures, fire detection and suppression systems, and ensuring the site's safety and structural integrity once the system is removed.
  - (h) Provide scenarios for decommissioning in both regular operational shutdowns and in cases where the system has been damaged, such as by fire or other events.
  - (i) Decommissioning Fund.
    - i. The owner or operator of the ESS must establish and maintain a decommissioning fund or bond that is payable to the City of Sturgis. This fund guarantees that the city has the necessary resources to remove the ESS if the owner fails to do so.

- ii. The type of financial security (e.g., a bond, letter of credit) must be in a form that is approved by the City of Sturgis, ensuring it meets the city's requirements for financial viability and accessibility.
- iii. The city will determine the amount of the decommissioning fund, likely based on the estimated costs of removal, site restoration, and compliance with safety and environmental regulations.
- iv. The financial assurance must be maintained throughout the entire lifespan of the BESS, ensuring continuous protection for the city and the site.
- v. The fund may take the form of a letter of credit from a financial institution licensed in Michigan. This letter of credit provides a guarantee that funds are available for decommissioning.
- vi. All expenses associated with setting up and maintaining the decommissioning fund or bond, including any fees related to the financial security, will be the responsibility of the applicant (the BESS owner or operator).

(14) Emergency Operations Plan. An emergency operations plan must be provided to the City of Sturgis with the special land use request. A copy of the approved plan must be provided to the system owner, the local fire department, and the local fire code official. Additionally, a permanent copy must be kept in a location accessible to facility personnel, emergency responders, and fire code officials. Any changes to the emergency operations plan must be submitted to the City for review and approval. The emergency operations plan shall include the following information:

- (a) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
- (b) Procedures for inspection and testing of associated alarms, interlocks, and controls.
- (c) Procedures to be followed in response to notifications from the ESS, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
- (d) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- (e) Response considerations that will address response safety concerns and extinguishment.

- (f) Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
  - (g) Other procedures as determined necessary by the City of Sturgis to provide for the safety of occupants, neighboring properties, and emergency responders.
  - (h) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.
- (15) Enforcement. Any violation of the special land use may result in the planning commission determining that the special land use has been violated and may result in the revocation of the permit, provided however that applicant shall have 90 days from notification by the planning commission to cure any violation.

## **ARTICLE VII. GENERAL EXCEPTIONS**

### **AREA, HEIGHT AND USE EXCEPTIONS**

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

#### **1.0701. Essential services.**

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

#### **1.0702. Voting place.**

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

#### **1.0703. Height limit.**

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

#### **1.0704. Lot area.**

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

#### **1.0705. Lots adjoining alleys.**

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

#### **1.0706. Yard regulations.**

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

#### **1.0707. Porches and decks.**

An open, unenclosed and uncovered porch or paved terrace not exceeding 24 inches in height or the height of the finished floor elevation (FFE), whichever is higher, may project into a required front yard for a distance not exceeding ten feet. Decks not exceeding 24 inches in height above the grade upon which placed or installed at the finished floor elevation (FFE) of the home, whichever is higher, may project into a required side or rear yard not to exceed a depth of 30 percent of the depth of the required side or rear yard.

### **1.0708 Projections into yards.**

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

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

### **1.0709. Yard exceptions.**

#### **(A) *Front yards.***

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

#### **(B) *Side yards.***

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

#### **(C) *Rear yards.***

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

#### **(D) *All yards.***

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

## ***ARTICLE VIII. NONCONFORMING USES AND STRUCTURES***

### **1.0801. Nonconforming uses, structures, and lots established.**

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

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

### **1.0802. Nonconforming lots.**

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

### **1.0803. Nonconforming uses of land.**

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

- (A) No nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this zoning ordinance, except bringing the land parcel into compliance with federal ADA requirements shall be permitted.
- (B) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective date of adoption or amendment of this zoning ordinance.
- (C) If any nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent uses of the land shall conform with the regulations specified by the zoning ordinance for the district in which the land is located.

- (D) No additional structure not conforming to the requirements of this zoning ordinance shall be erected in connection with the nonconforming use of land.

#### **1.0804. Nonconforming structures.**

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

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

#### **1.0805. Nonconforming use of structures or of structures and land in combination.**

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

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



- (F) The use of a nonconforming building may be changed to another nonconforming use if the zoning board of appeals finds that the new use would markedly decrease the degree of nonconformance and would enhance the value and desirability of adjacent conforming uses.

#### **1.0806. Class A nonconforming uses or structures.**

Class A nonconforming uses or structures may be improved, replaced, or expanded following approval by the planning commission for such work. Class A designations are reviewed and approved as either a class A or B by the planning commission following a public hearing.

- (A) *Process.* The applicant shall submit an application to the planning commission for determination on the designation of class A conforming structure or use. Following a completed application, the planning commission shall hold a hearing in accordance with provisions of section 1.0602(C) of this zoning ordinance prior to approving or denying the request.
- (B) *Findings.* No class A designation shall be approved by the planning commission unless it shall find the following:
  - (1) The use or structure was lawful at its inception.
  - (2) Continuance of the use or structure does not significantly depress property values of nearby properties.
  - (3) Continuance of the use or structure would not be contrary to the public health, safety, or welfare or the spirit of the [zoning] ordinance.
  - (4) No useful purpose would be served by strict application of the provisions of this [zoning] ordinance with which the use or structure does not conform.
  - (5) An improvement to an existing nonconforming use will result.
- (3) *Conditions.* The decision to grant a class A designation shall be made in writing setting forth the findings and reasons on which it is based. Conditions may be attached, including time limits where deemed necessary to assure the use or structure does not become contrary to the public health, safety or welfare or the spirit and purpose of this zoning ordinance and further to assure that at least the following standards are met:
  - (1) Screening and landscaping may be required in keeping with community standards to provide compatibility with adjacent uses.
  - (2) Effects which may have a negative impact such as lighting, noise or visual impact should be minimized.
  - (3) Where such use is in close proximity to homes, parking should not be permitted to utilize curbside parking to an extent greater than the immediate property frontage of the nonconforming use.
  - (4) New signage should meet zoning district requirements. Existing nonconforming signs shall be required to be eliminated or reduced in size and number as the planning commission may, in its judgment, determine.
  - (5) The exterior building materials utilized in any alteration to the building shall be harmonious with materials on abutting properties whenever practical.

- (6) Enlargement of a building may be allowed provided such enlargement does not create a more nonconforming yard setback condition which would impact on conforming properties in the immediate vicinity.
- (7) The planning commission may require such other safeguards and improvements as it may deem necessary to protect conforming uses in the surrounding area.
- (D) *Permit.* No building permit shall be issued until all required conditions, as applicable, are met and confirmed by the building official. No class A nonconforming use or structure shall be used, altered or enlarged in violation of any condition imposed in its designation.
- (E) *Revocation.* Any class A designation shall be revoked, following the same procedure required for designation, upon a finding that as a result of any change of conditions or circumstances the use or structure no longer qualifies for class A designation.

**1.0807. City designated Class A structures and uses.**

- (A) Class A nonconforming use status, only, is hereby granted without further action to any two family dwelling located in the R-3 residential district which is properly registered as required pursuant to the City Property Maintenance Code as of the effective date of this ordinance amendment. For the purpose of this section, only the use, and not the structure, is granted Class A status. If a structure does not meet conforming status, it may be granted Class A status on a case by case basis by the planning commission as provided in section 1.0806 of the zoning ordinance.
- (B) Existing pylon signs. Class A nonconforming structure status, only, as provided in section 1.0806 of this zoning ordinance is hereby granted without further action to any pylon signs located in the B-N business neighborhood district effective March 9, 2022.
- (C) Class A nonconforming structure status, only, of this zoning ordinance is hereby granted without further action to any non-residential use as stated in section 1.0409.1(D)(8). This Class A designation shall expire when the use changes. After this time, the new use would be required to request a Class A designation from the planning commission.

**1.0808. Class B nonconforming uses or structures.**

All nonconforming uses or structures, not approved for a class A designation, shall be class B nonconforming uses or structures. A Class B designation for the nonconforming use and structure shall comply with all the provisions of this zoning ordinance relative to nonconforming uses and structures above.

#### **1.0809. Repair or replacement.**

- (A) Class B nonconforming uses or structures repair or replacement shall not exceed 25 percent of the true cash value as determined by the city assessor of the nonconforming structure during any consecutive 12-month period the extent of repair or replacement. Class A designated structures may be repaired or replaced more than 25 percent of the true cash value.
- (B) The cubic contents of the structure shall not be increased for class A or class b designated nonconformities.
- (C) Approved class A uses and structures may be strengthened or restored to a safe condition if any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of the official.
- (D) There may be a change of tenancy, ownership or management of any existing nonconforming uses of land or structures or of structures and land in combination. A change of ownership between private parties does not remove the nonconformity nor extend time limits.

#### **1.0810. Removal of nonconforming status.**

- (A) Any nonconforming structure or land may be made conforming by appropriate action or modifications which cause the structure or land to fulfil the requirements of the district in which it is located.
- (B) In case of a nonconforming use which is a use designated as a special land use by this [zoning] ordinance, the nonconforming status may be removed upon issuance of a special land use permit after the appropriate action has been taken in accordance with the provisions of this section. It shall be the responsibility of the owner or person requesting the special land use permit to initiate the request in accordance with sections 1.0601 through 1.0602.
- (C) Any nonconformity is lost by changing to conform to the ordinance or through vacancy, lack of operation, removal, or otherwise for twelve (12) or more successive calendar months. Class A structures, that contain a conforming use, may be vacant for longer than twelve (12) calendar months and not lose their status.

If lost, any future use of such premises shall be in conformity, in its entirety, with the provisions of this zoning ordinance. Loss of a nonconformity shall terminate the right to continue the nonconformity. The building official shall consider the following factors to determine the intent of the property owner to abandon the nonconformity:

- (1) Whether utilities, such as water, gas, and electricity to the property have been disconnected.
- (2) Whether signs or other indications of the existence of the nonconformity have been removed.
- (3) Whether equipment or fixtures necessary for the operation of the nonconformity have been removed.
- (4) Other information or actions that evidence an intention on the part of the property owner to abandon the nonconformity.

#### **1.0811. Elimination of nonconforming structures or land.**

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

#### **1.0812. Nonconforming signs.**

Nonconforming signs shall be permitted to continue, provided should a business move or vacate a premises all non-conforming signs shall be removed or made to comply with zoning ordinance requirements building (sic). Walls shall be left in good repair and properly maintained within 60 days. Upon failure of any person to comply with the provisions of this section the city may effectuate compliance through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the owner of the real estate upon which the building is located and any such cost shall be a lien upon such real estate.

*Existing pylon signs.* Class A nonconforming structure status as provided in section 1.0806 of this zoning ordinance is hereby granted without further action to any pylon signs located in the B-N business neighborhood district effective March 9, 2022 and as referenced in section 1.0711.

## **ARTICLE IX. OFF-STREET PARKING AND LOADING REQUIREMENTS**

### **1.0901 General parking requirements.**

- (A) *Use.* Off-street parking, loading, or stacking areas shall only be used for their intended purpose. All other uses, unless specifically permitted, are prohibited.
- (B) *Placement.*
  - (1) *Defined areas.* Off-street parking areas and loading zones in nonresidential areas shall include painted lines, and may also include vehicle stops, to clearly define parking and loading spaces.
  - (2) *Proximity.* All off-street parking areas that are not within the community parking district or in the business neighborhood zoning district shall be on the same lot as the use they serve, or on an abutting lot under the same ownership.
- (C) *Review and approval.*
  - (1) *Permit required.* A permit must be obtained prior to any construction or rehabilitation of an off-street parking area.
  - (2) *Application for parking lot construction.* Any person desiring to establish or change a parking area shall submit site plans showing the locations, design, size, shape, landscaping, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, and any other features of the parking lot. Any curb cuts, entrances, exits, drainage, and design shall have city staff approval and shall be presented for site plan approval by the planning commission.
  - (3) *Parking lot rehabilitation.* Rehabilitation of an existing parking area, including parking striping, shall require an application and sketch plan submittal. The proposed rehabilitation shall be reviewed administratively for compliance with standards in this ordinance.
  - (4) *Completion.* The number of off-street parking spaces, in conjunction with all land or building use, shall be provided prior to the issuance of a certificate of occupancy as prescribed in this article, except as provided in section 1.0904(G)(1)(b) which allows six months after the issuance of a certificate of occupancy, with a possible three-month extension granted by the building official, to complete the surfacing of parking and loading areas.
  - (5) *Performance agreement.* In the event that a certificate of occupancy is issued and the applicant has six months to complete the parking lot, as identified in section 1.0904(G)(1)(b), the building official may require execution of a performance agreement, in the amount of the cost to develop that parking lot, in order to compel compliance with and performance of all off-street parking requirements of this article.
- (D) *Maintenance.* All parking areas shall be maintained and kept free of weeds and debris.

### **1.0902 Required parking.**

- (A) *Standards.*
  - (1) *Usable floor area.* Parking measurements based on building square footage shall be calculated by "usable floor area" as defined in section 1.0202 of this zoning ordinance.
  - (2) *Fractional spaces.* When units or measurements determining the number of required parking spaces result in requirement of a fractional space, the fractional number shall be rounded down to the nearest whole number if ten or more spaces are required and rounded up if fewer than ten are required.
  - (3) *Use determinations.*

- (a) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with the use which the zoning administrator considers to be most similar in type.
  - (b) For multiple uses within the same development, the minimum parking requirements for each use shall be determined separately, and the cumulative total number of required parking spaces shall be calculated using Table B3A: Shared Parking Factors.
- (4) *Unit of measure.*
- (a) *Number of employees.* The number of employees shall be based on the maximum number needed or the largest shift.
  - (b) *Occupant load.* The occupant load as determined by the Michigan Building Code or the International Fire Code.
  - (c) *Floor area.* That area of a nonresidential building used for or intended to be used for the sale of merchandise or services (also called usable floor area). Such floor area which is used for or intended to be used primarily for the storage or processing of merchandise which may include hallways, breezeways, stairways, and elevator shafts, or for utilities and sanitary facilities, shall be excluded from the computation of usable floor area.
- (5) *Barrier-free parking.* Off-street parking areas shall provide barrier-free spaces in compliance with the Michigan Building Code and the Americans with Disabilities Act (ADA), as applicable.
- (6) *Garage parking.* Garage parking will be counted towards parking requirements where an approved surface and driveway connects the garage to the right-of-way.
- (7) *Number of spaces required.* The minimum number of off-street parking spaces shall be determined in accordance with the following table:

Residential Uses			
(1)		Use	Number of Minimum Parking Spaces Per Unit of Measure
	(a)	Dwelling, one-family or two-family	2 per dwelling unit.
	(b)	Dwelling, multifamily	2 per dwelling unit with 2 or fewer bedrooms, and 2½ for each dwelling unit having 3 or more bedrooms.
	(c)	Dwelling, unit in mixed-use building	2 per dwelling unit with 2 or fewer bedrooms, and 2½ for each dwelling unit having 3 or more bedrooms.
	(d)	Elderly housing—Dependent	0.75 per dwelling unit.
	(e)	Elderly housing—Independent	1.25 per dwelling unit.

	(f)	Mobile home park	2 per dwelling unit, 1 for each employee of the mobile home park and 1 for each 3 mobile homes visitor parking.
	(g)	Cottage Courts	1 per dwelling unit up to one bedroom, 1.5 per dwelling unit with 2 bedrooms, and 2 per dwelling unit with three bedrooms or more

Institutional Uses			
(1)		Use	Number of Minimum Parking Spaces Per Unit of Measure
	(a)	Assembly areas, including private clubs, lodges, religious institutions, theaters, and auditoriums	1 per 5 total occupancy load.
	(b)	Convalescent and/or nursing Homes	1 per 4 beds plus 1 per employee.
	(c)	Education, elementary/junior high	1 per classroom, plus 2 per 5 seats in largest assembly area.
	(d)	Education, secondary, parochial school, business school, college, etc.	1 for each 0.75 total occupancy load.

	(e)	Hospitals	1 per bed.
	(f)	Nursery schools and childcare centers	1 per employee, plus 1 short term parking space per classroom. Drop off area to be included on site plan.
	(g)	Recreation facilities	1 per the number of participants of the active recreation space or 1 per 3 of the designed occupant load of the space plus 1 per 5 total occupancy of assembly areas.

Commercial Uses			
(1)		Use	Number of Minimum Parking Spaces Per Unit of Measure
	(a)	Automobile major and minor repair	1 for each 100 square feet of usable floor area of sales room or 3 for each auto



			service stall in the service areas, whichever is greater.
	(b)	Automobile sale or rental establishment	1 per 500 sq. ft. usable floor area, 1 per employee plus one for each automobile for sale or rent
	(c)	Automobile service station	1 parking space for each 50 square feet of floor area in the cashier and office areas in addition to space provided at each fuel pump dispenser. In no instance shall such facility provide fewer than 3 spaces for cashiers and office use.
	(d)	Bowling alleys	5 per lane., plus 1 per employee
	(e)	Full service eating and drinking establishment	1 for each 2 persons allowed within the maximum occupant load of the interior space, plus 1 for every 4 seats of

			outdoor dining if present.
	(f)	Drive-through establishment, eating and drinking	With multiple lanes, stacking for 4 vehicle spaces at each ordering station or machine, in addition to use requirement. With only one lane, stacking for 8 vehicle spaces, in addition to use requirement. A 12-foot-wide escape lane is required for all drive-through establishments.
	(g)	Drive-through establishment, other	Stacking for 4 vehicle spaces at each bay or machine, in addition to use requirement. A 12-foot-wide escape lane is required for all drive-through establishments.
	(h)	Funeral homes and mortuary establishments	1 per 250 sq. ft. usable floor area for office uses, plus 1 per 5 total occupant load of assembly space, plus stacking for 10 vehicle spaces.

	(i)	Golf courses	4 for each golf hole and 1 for each employee.
	(j)	Miniature golf or par 3 golf course	2 for each hole and 1 for each employee.
	(k)	Greenhouse or nursery	1 per 400 sq. ft. usable floor area.
	(l)	Hotels, motels, bed and breakfast operations or boarding houses.	1.25 for each rooming unit plus 1 for each employee.
	(m)	Kennels	1 per 300 sq. ft. usable floor area.
	(n)	Laundromats and dry cleaners, self-service	1 per 3 washing and drying machines.
	(o)	Open air business	1 per 200 sq. ft. indoor usable floor area, plus 1 per 1,000 sq. ft. of outdoor display area.
	(p)	Personal service establishment	1 per 400 sq. ft. usable floor area and 1 per personal service booth, chair or room.
	(q)	Professional office of doctors, dentists, veterinarians and similar professions	1 for each 50 sq. ft. of floor area in waiting rooms, and 1 for each examining room, dental chair, office, laboratory, X-ray therapy

			room or similar use area.
	(r)	Retail: furniture and appliances	1 per 800 sq. ft. usable floor area.
	(s)	Retail: All other stores	1 per 250 sq. ft. usable floor area.
	(t)	Mini-storage facilities	1 per 75 storage units, parallel parking with a maneuvering lane shall be provided around all buildings.

Office Uses			
(1)		Use	Number of Minimum Parking Spaces Per Unit of Measure
	(a)	Banks, credit unions, or similar uses	1 per 250 sq. ft. usable floor area.
	(b)	Business and Professional services	1 per 400 sq. ft. usable floor area.

Industrial Uses			
(1)		Use	Number of Minimum

			Parking Spaces Per Unit of Measure
	(a)	Manufacturing, assembling, processing	5 plus 1 for every 1½ employees in the largest working shift or 1 per 450 sq. ft. of usable floor area whichever is greater. Space on site shall also be provided for all construction workers during periods of plant construction.
	(b)	Research and development	5 plus 1 for every 1½ employees in the largest working shift or 1 per 750 sq. ft. of usable floor area whichever is greater. Space on site shall also be provided for all construction workers during

			periods of plant construction.
	(c)	Warehousing and distribution	5 plus 1 for every 1½ employees in the largest working shift or 1 per 2,000 sq. ft. of usable floor area whichever is greater. Space on site shall also be provided for all construction workers during periods of plant construction.
	(d)	Wholesale activities	5 plus 1 for every 1½ employees in the largest working shift or 1 per 1,000 sq. ft. of usable floor area whichever is greater. Space on site shall also be provided for all construction workers during periods of

			plant construction.
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(B) *Shared parking.*

- (1) Two or more buildings or uses may collectively provide the required off-street parking.
- (2) Where there is a mix of land uses that create staggered peak periods of parking demand, the minimum requirements may be reduced according to the provisions in this section.
- (3) To calculate the number of parking spaces required in a shared parking scenario, the sum of the minimum required spaces for all uses must be divided by the shared parking factor specified in Table B3A. The required number of shared parking spaces may be further reduced at the planning commission's discretion.

<i>Example:</i>	<i>Use 1 is residential and requires 12 parking spaces.</i> <i>Use 2 is retail and requires 32 parking spaces.</i> <i>The sum of both requirements is 44 parking spaces.</i> <i>The shared parking factor for residential and retail uses is 1.2.</i> <i>Dividing 44 by 1.2 yields 36.7 required spaces.</i> <i>Fraction is rounded down because it there are 10 or greater spaces required to produce the shared parking requirement: 36</i>
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Table B3A: Shared Parking Factors				
	Residential	Lodging	Office	Retail
Residential	1	1.1	1.4	1.2
Lodging	1.1	1	1.7	1.3
Office	1.4	1.7	1	1.2
Retail	1.2	1.3	1.2	1

*Source: Smartcode*

- (4) Shared parking facilities shall be among abutting parcels, or if within the B-N district, located within 500 feet of the use. Additionally, shared parking provisions apply for multiple uses within the same development.
  - (5) A copy of a shared parking agreement, recorded with the county register of deeds, between all parties concerned shall be provided to the city. The agreement shall include the owners and occupants of the premises which are served by the parking facility. If an owner or occupant that is part of a shared parking agreement ceases operation, the remaining parties of the shared parking agreement may continue using the shared parking facility. When there is a new occupancy, a change of use shall be the trigger to establish a new shared parking agreement, which shall be provided to the city and approved prior to a building permit be issued.
- (C) *Deferred parking.* For development in any zoning district, the planning commission may defer construction of the required number of parking spaces if, at the outset of development, a parking demand less than that required for the use by this article can be demonstrated. The full parking area shall be reserved, but the unused area may be constructed as additional open space, which shall not be used to satisfy open space area requirements, until such time as it may be needed for parking. A site that contains any deferred parking spaces shall be graded for the full parking area and the deferred parking spaces shall be covered with appropriate groundcover. Adequate stormwater facilities shall also be provided as if the whole parking area were to be developed. If approved, the planning commission shall determine the circumstances under which the deferred parking area will be installed.

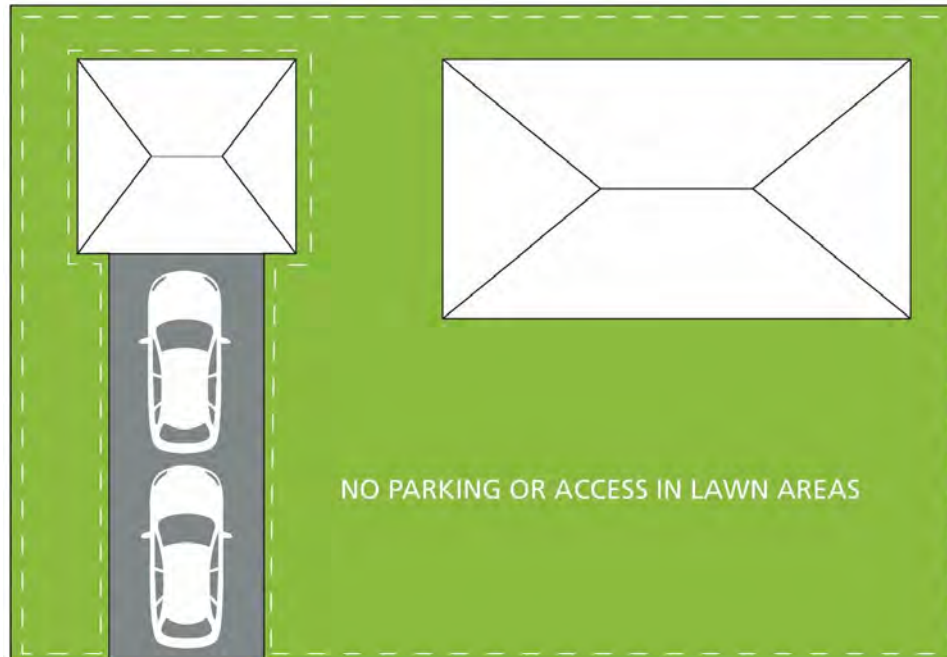
- (D) *Stacking spaces.* The following standards shall apply to all required stacking spaces:
- (1) Each stacking space shall be measured at not less than 20 feet in length and ten feet in width.
  - (2) In no instance shall stacking spaces interfere with required parking or maneuvering lanes.
- (E) *Community parking district.* The community parking district encompasses an area in the B-C and B-N districts as indicated in figure community parking district area. Properties within the community parking district, except for single and two family dwellings and multi-family apartment buildings less than 12 units, shall be subject to the following standards:
- (1) Parking calculations. All developments in the community parking district shall calculate their required parking as outlined in this section via the following standards or via the tables in section 1.0902(A)(7), whichever is less:
    - (a) *Residential use:* One space per dwelling unit
    - (b) *Commercial use:* One space per 400 square feet
  - (2) Changes of use or redevelopments. A lot with an existing building(s) that has a change of use or is otherwise redeveloped shall not require additional off-street motor vehicle parking or loading unless the change of use or redevelopment requires ten or more additional spaces than the previous use.
    - (a) A redevelopment includes existing buildings that are renovated or expanded as well as a building that is completely demolished and replaced with new construction if construction on the replacement building commences within 12 months of demolition.
  - (3) New developments. New developments of vacant lots shall not require off-street motor vehicle parking or loading unless the development requires ten or more parking spaces.
  - (4) Alternative parking plan. If a developer is required to provide new parking spaces under this section, they may provide an alternative parking plan to the planning commission for their consideration. This may include a reduction or elimination of the parking requirement or some alternative for providing parking (i.e. a shared parking agreement). If the plan includes a reduction or elimination of required parking, the planning commission may require a parking study by an approved third-party be completed at the developer's cost to determine current public parking conditions and the impact of the proposal.
  - (5) All properties within the community parking district shall consider adequate passenger loading and curb management, as outlined in section 1.0903(B).



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- i. The maximum width of the driveway or defined parking area shall not exceed the lesser of 35 percent of the lot width or 26 feet.
  - ii. If the lot width exceeds 100 feet, the property owner may request consideration from the planning commission for driveway widths greater than 26 feet and/or for two driveways. For the purpose of this Section, lot width is calculated based on the road frontage of where the driveway is or will be located on the property. The request, review and fees by the planning commission shall follow the requirements of section 1.0602 of this zoning ordinance.
  - iii. The driveway opening where the parking area meets the right-of-way shall be a minimum of ten feet in width and a maximum of 24 feet in width. The driveway opening shall not be greater than two feet more than the right of way opening.
    - 1) Exception: Improvement of existing driveways, city engineer can approve if minimum width can not be met based on site constraints.
- (b) The driveway or defined parking area shall be constructed of a hard surface pavement with a minimum two-and-a-half (2.5) inches of asphalt or four inches of concrete. Bricks or pavers may be approved if they are constructed according to the manufacturer's specifications for driveways but may not be used in the right-of-way or sidewalk area. The right of way or sidewalk area must be of a material approved by the city of Sturgis engineering department.
- Exception: Existing non-hard surface driveways or parking areas permitted prior to 2011 may be expanded by up to two (2) feet in width without requiring this additional area to be constructed of a hard surface material. This exception may only be utilized once and is subject to compliance with all other applicable requirements of this zoning ordinance.
- (c) Driveways and parking areas shall be constructed in a way that prevents stormwater from flowing onto adjacent private properties. Draining into the public right-of-way is permitted.
  - (d) Paved wheel tracks for driveways shall not be permitted.
- (3) *Screening.* Within residential areas, all nonresidential parking areas shall be screened according to 1.1106.
- (4) *Type of parking.* Required off-street parking for single-family dwellings may be provided in a stacking configuration in a driveway, garage, or combination thereof.
- (5) *Lawn parking.* Lawn areas shall not be used for off-street parking or regular access to a driveway, building, or accessory structure. Regular access is indicated by tire marks and/or excessive wear on the grass.



- (6) *Repair work.* No commercial repair work, commercial servicing, or selling of any kind shall be conducted on parking areas in residential districts. A resident may repair vehicles which are registered to the address of the resident's dwelling unit on-site; however, in no instance shall a resident repair other vehicles on said property. Such personal repair shall not exceed seven consecutive days in any 30-day period.
- (7) *Sales.* A resident of a dwelling unit may have not more than one motorized vehicle for sale on the site of such dwelling unit at any time. The vehicle for sale must be titled to the resident of the dwelling. In no instance shall vacant residential lots or parcels be utilized for the sale of vehicles, and in no instance shall a vehicle for sale be displayed in a front yard other than on the driveway portion of the yard.
- (8) *Commercial vehicles.* Commercial vehicles shall be prohibited in any residential district or on any residential property. However, this section shall not prevent the temporary location of such vehicle while engaged in a delivery, pick-up or service call to the property.
- (9) *Recreational equipment and vehicles.* Within all residential districts and residential use areas, recreational equipment and no more than one recreational vehicle ("RV") per dwelling unit may be parked on a parcel. Parking of RVs and recreational equipment are subject to the conditions below.
  - (a) *Parking in a developed driveway or parking area.* An RV and/or recreational equipment on a trailer may be parked in a developed driveway or defined parking area as long as the required off-street parking requirements are maintained and remain available in addition to the space(s) occupied. The RV and/or recreational equipment shall not encroach on the required front yard setback (see table 1.0501) by more than 15 feet, and can in no case be closer than ten feet to the front lot line or right-of-way.
  - (b) *Parking in areas other than a developed driveway or parking area.* An RV and/or recreational equipment may be parked on an occupied property in an area other than a developed driveway or defined parking area if the following provisions are met:
    - i. The RV and/or recreational equipment must be owned by the occupant.
    - ii. The RV and/or recreational equipment must be licensed and operable (if applicable).
    - iii. The RV and/or recreational equipment must be maintained and in good repair.

- iv. The RV and/or recreational equipment must be constructed on a wheel-base or stored on a trailer.
  - v. The area around and under the RV and/or recreational equipment must be kept free of any tall grass or weeds.
  - vi. The RV and/or recreational equipment shall not encroach on the required front yard setback (see table 1.0501) by more than 15 feet, and can in no case be closer than ten feet to the front lot line or right-of-way.
  - vii. The RV and/or recreational equipment shall not encroach on a required side yard that is the street side of a corner lot.
- (c) *Temporary parking for RVs and/or recreational equipment.* The occupant is allowed to temporarily park RVs or recreational equipment with the following restrictions:
- i. *Guest RV.* An occupant is allowed to have one guest RV in addition to the requirements of this section. The guest RV must either be parked in a developed driveway or defined parking area or parked according to the provisions of subsections (9)(b)(ii) through (vii). The guest RV may only be parked for a period not to exceed two weeks in any 30-day period and not to exceed six weeks in any calendar year.
  - ii. *Loading and unloading of RVs and recreational equipment.* One RV, trailer, or piece of recreational equipment on a trailer may be parked in a developed driveway or defined parking area irrespective of maintaining off-street parking requirements for a period of two days for purpose of loading and or unloading.

### 1.0903 Required loading.

(A) *Freight loading.*

- (1) *Application.* Loading and unloading spaces shall be provided for all commercial and industrial uses, except in cases where adequate space, as determined by the community development department, is or can be provided on adjacent public property.
- (2) *Location.*
  - (a) The off-street loading zone space shall be located in rear and side yards only. Front yard loading zone spaces are prohibited.
  - (b) Shared loading arrangements amongst establishments are permitted, provided the shared loading information is provided on the site plan.
  - (c) Each loading space shall be at least 12 feet in width, 88 feet in length, and have a height clearance of 14 feet above grade. The dimensions of the loading space(s) may be reduced at the planning commission's discretion.
  - (d) No off-street loading zone space shall be located closer than 50 feet to any residentially zoned property, unless wholly within a completely enclosed building or properly screened on all sides facing residential zones as per section 1.1106.
- (3) *Pavement types.* All dedicated loading spaces shall be constructed of a hard surface pavement with a minimum two-and-a-half inches of asphalt or four inches of concrete. The use of gravel, crushed concrete, crushed asphalt, or similar materials shall be prohibited.
- (4) *Loading space requirements.* The minimum number of loading zone spaces shall be provided as described below. Loading space requirements shall not apply to properties within the community parking district.

Size	Loading Space(s)
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Less than 10,000 sq. ft. gross floor area	None
10,000—20,000 sq. ft. gross floor area	1
20,001—50,000 sq. ft. gross floor area	2
50,001—100,000 sq. ft. gross floor area	3
100,001 sq. ft. gross floor area or more	5

(B) *Passenger loading and curb management.*

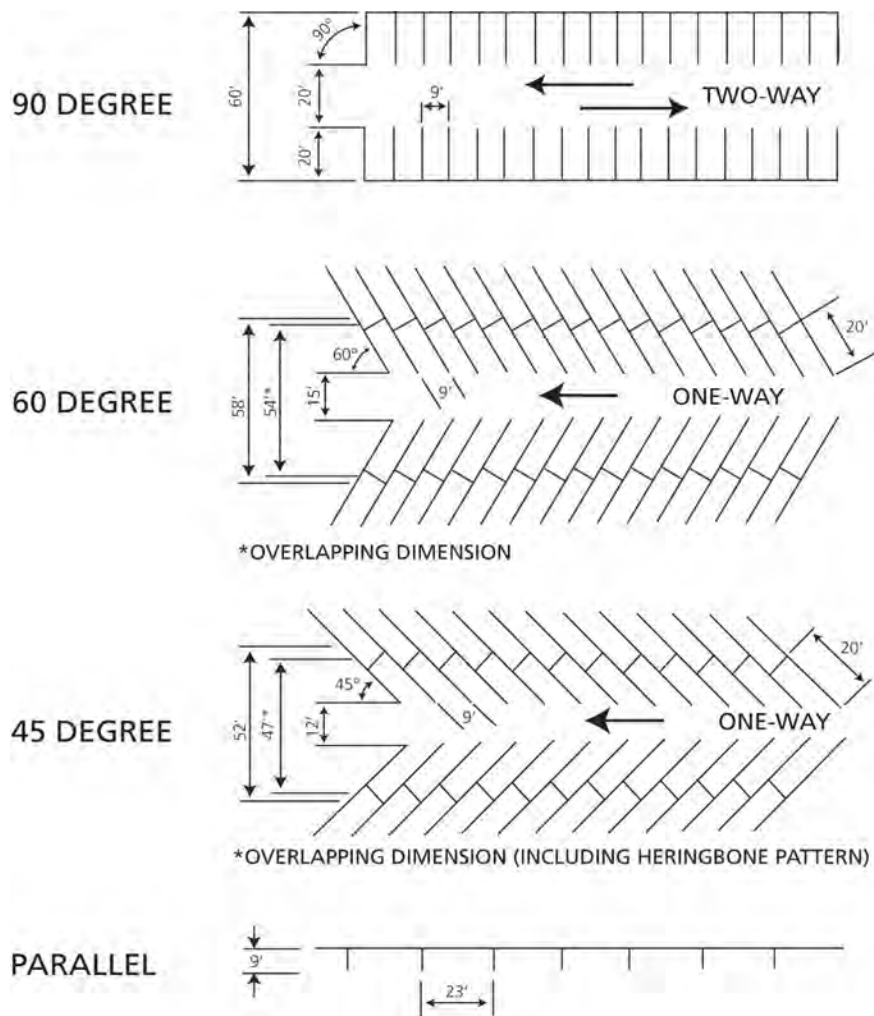
- (1) Properties within the B-C and B-N districts that do not provide immediately adjacent parking shall consider an onsite passenger drop-off and pick-up location for ease of patron access. If it is determined that a passenger loading and curb management space is needed, the zoning administrator may require that the space be permanently provided.

### 1.0904 Parking lot design.

(A) *Parking design.* Off-street parking areas shall be designed to the following minimum standards:

**Table 1.900B**

Parking Pattern (degrees)	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)	Total Width of One Tier of Spaces (feet)	Total Width of Two Tiers of Spaces (feet)
Parallel parking	12	9	23	NA	NA
30° to 53°	12	9	20	32	52
54° to 74°	15	9	20	36.5	58
75° to 90°	20	9	20	40	60



### PARKING DEGREES

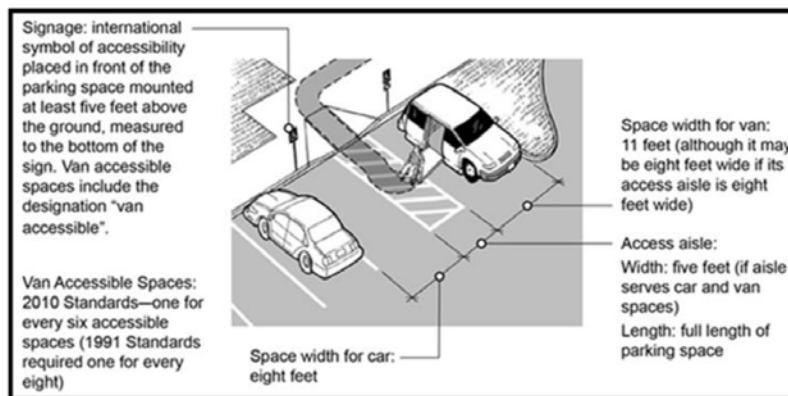
(1) *Barrier-free parking.*

(a) Off-street parking facilities shall provide barrier-free spaces in accordance with the table below:

Total Number of Parking Spaces Provided in Lot	Minimum Number of Barrier-Free Spaces Required	Minimum Number of Van-Accessible Barrier-Free Spaces Required
Up to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
501 to 1000	2% of total	

1001 and over	20, plus 1 for each 100, or fraction thereof, over 1,000	
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- (b) Barrier-free parking spaces shall comply with the following ADA design standards.
- A minimum width of eight feet for automobiles and 11 feet for vans.
  - A minimum five-foot wide access aisle for all types of barrier-free parking spaces. Access aisles shall be marked with painted hatch marks.
  - A van-accessible aisle may be a minimum of eight feet wide if the adjoining access aisle is also eight feet wide.
  - Van-accessible spaces, their associated access aisles, and the vehicular routes serving them shall provide a vertical clearance of a minimum of 98 inches.



Source: <https://adata.org/factsheet/parking>

- (B) *Curb and vehicle stops.* All off-street parking areas shall include six inch curbs or vehicle stops to prevent vehicles from overhanging into or over public rights-of-way or on-site sidewalks. If curbs are integrated into the parking area, a seven foot wide sidewalk is required where they abut the curb. If vehicle stops are placed in the parking area, they shall be placed a minimum of three feet from the edge of sidewalks.

(C) *Circulation.*

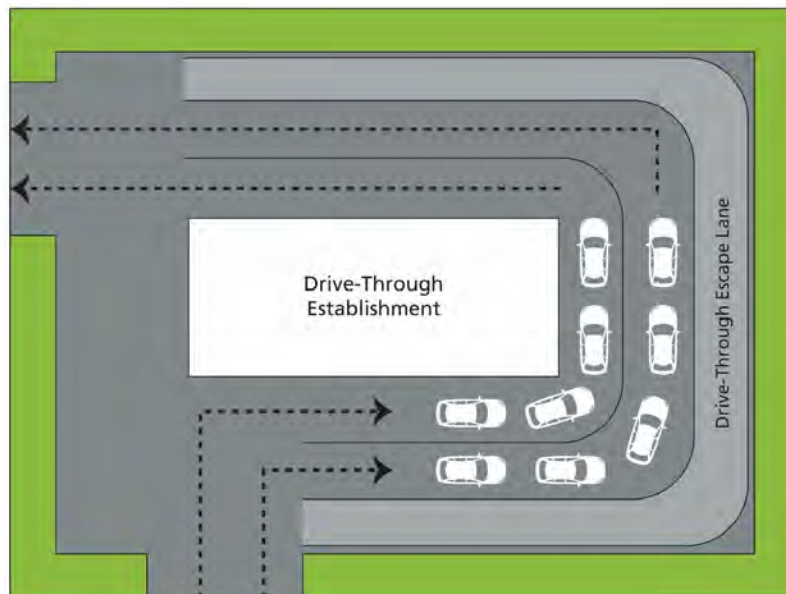
- (1) *Interconnectivity and access management.* Any new or rehabilitated off-street parking area in the B-C, B-N, B-H1, or B-H2 district shall include a design for cross-parcel connection to any existing parking area on all adjacent and neighboring properties, and such connection shall be constructed up to the property line. When designing the connection, it is recommended to seek input from the owner of such adjacent property in order to accommodate site limitations or advantages that may not be immediately visible. If no adjacent property and parking facility exists at the time of development, the new off-street parking facility shall be designed so that future cross-access circulation and access is possible.

*Exception:* The planning commission may waive this requirement due to specific site and use conditions..

- (2) *Drives and aisles.*

- All parking areas shall be provided with circulation aisles meeting the standards of this article for parking design.
- All maneuvering lane widths shall permit one-way traffic movement, except that the 90° pattern may permit two-way movement.

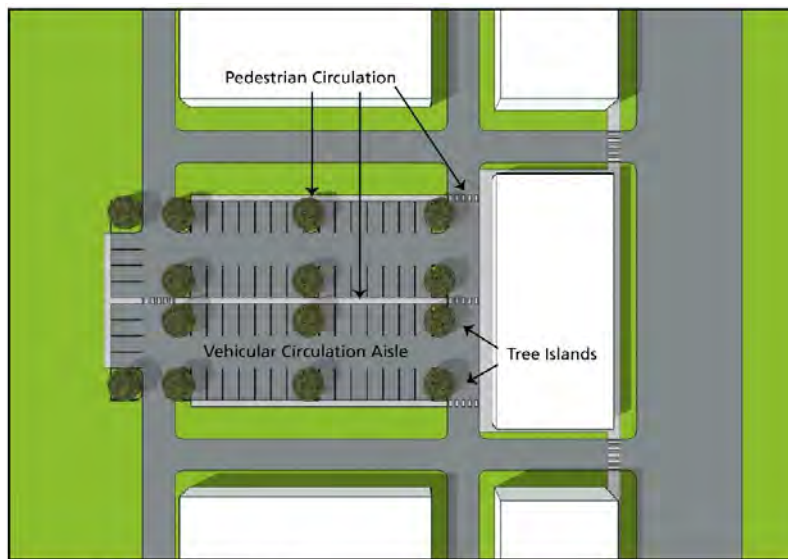
- (c) In no case shall a parking space be permitted which would necessitate the backing of a motor vehicle into a street or over a public walk.
- (d) Parking lots with 300 or more spaces shall include perimeter drives and a central access drive leading to the principal building.
- (e) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Driveways shall be a minimum of 24 feet wide and permit two-way traffic. For one way traffic, the minimum width shall be 15 feet wide and must be approved by city staff. Upon city staff recommendation, the planning commission may approve a smaller driveway width or require a larger one based on evidence such as trip generation data or physical roadway conditions.
- (f) Each entrance to and exit from any off-street parking lot for commercial and manufacturing use shall be at least 25 feet from any residential property line that is abutting or directly across the street, unless approved by the city engineer.
- (g) Any construction or rearrangement of existing drives which involve the ingress or egress of vehicular traffic to or from a public street shall be approved by city staff in accordance with traffic safety standards and best practices.
- (h) An escape lane is required for all new developments with a drive through. Redevelopments of existing sites with existing buildings will not be required to provide escape lanes if the site does not permit due to site constraints.



- (D) *Pedestrian circulation.* All off-street parking areas, except for those in industrial districts and single-family residential districts, shall consider safe and efficient pedestrian circulation. This may include paved walkways, marked pavement patterns, and other facilities to define pedestrian movement and alert drivers to possible conflicts.
- (E) *Screening, landscaping, and lighting.*
  - (1) *Screening and landscaping.*
    - (a) Off-street parking areas shall be effectively screened and landscaped on any side which adjoins or faces a residential district or any residential or institutional use as per section 1.1106.



- (b) All dumpsters and mechanical equipment located in any off-street parking lot shall be screened on all sides with a durable, opaque material, at a minimum height of one foot above the trash receptacle or mechanical equipment. The maximum height shall not exceed eight feet.
- (2) *Tree islands.* All new off-street parking areas with 20 or more parking spaces per row shall provide tree islands in the parking lot design satisfying the following standards. Referencing the City's Forestry Ordinance (Chapter 66 of the Sturgis Code of Ordinances) for recommendations on tree species is highly encouraged.
  - (a) Single-loaded aisles shall have one tree island containing one canopy tree at both ends of each row. The minimum dimensions for each island shall be nine feet by 18 feet.
  - (b) Double-loaded aisles shall have one tree island containing two canopy trees at both ends of each row. The minimum dimensions for each island shall be 12 feet by 36 feet.
  - (c) Tree islands shall be surrounded by a concrete curb at a height of six inches and shall be vegetated with turf in addition to the required canopy tree(s). The islands may be used for stormwater management if appropriate curb cuts are placed to allow the flow of stormwater into the island from parking areas. Snow storage on tree islands is prohibited.



Conceptual image of tree islands.

- (F) *Exterior lighting.*
  - (1) Exterior lighting shall be arranged so it is deflected away from adjacent properties and so it does not impede the vision of traffic along adjacent streets. Lighting shall not exceed 0.5 footcandles when measured from ground level at the adjoining property boundary.
  - (2) Flashing or intermittent lights shall not be permitted.
  - (3) Light poles and fixtures shall be no higher than 25 feet in parking lots, and no higher than 16 feet in height along interior sidewalks and walkways. All light poles and fixtures shall have a downcast glow.
  - (4) Light poles and fixtures set in the perimeter of parking areas shall not be placed in a parking space.
- (G) *Surfacing and stormwater management.*
  - (1) *Materials and surfacing.* The entire parking and loading area for all commercial and industrial districts, including parking spaces and maneuvering lanes, shall be provided with 2 ½" asphalt, 4" concrete, brick, pervious pavers, or other similar hard surfacing in accordance with specifications approved by the zoning administrator and city engineer except as provided for residential areas. In instances where

a parking area is non-conforming, the expansion or significant improvement of the use of the land or structure shall require the paving of such parking area to conform with this Section.

- (a) Screened storage areas shall not be required to be paved with a hard surface but in no instance shall green space be used for parking. Surface to be approved by zoning administrator and city engineer.
  - (b) Parking and loading areas shall be surfaced within six months of the issuance of a permit. One three-month extension may be granted by the building official upon written request, with ample cause for an extension.
  - (c) Paved wheel tracks for driveways shall not be permitted.
- (2) *Stormwater and drainage.* Off-street parking areas shall be drained to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings. All surface stormwater drainage areas abutting a driveway, parking area, or sidewalk that are greater than three feet in depth and have a side slope steeper than one foot in vertical rise for every three feet in horizontal run shall be enclosed with four foot high fencing. Fencing installed around storm water drainage areas shall be chainlink and must be maintained free of debris, weeds and noxious growth. All stormwater and drainage must adhere to the city's stormwater management guide.

#### **1.0905 Variances and exceptions.**

- (A) *Planning commission waiver or consideration.* The planning commission may reduce or waive the number of off-street parking and/or loading spaces required for a specific use, provided it determines that no good purpose would be served by providing the required number of such spaces. Any such reduction or waiver request shall require a public hearing, and the planning commission shall process the request and give notice of said public hearing in accordance with the provisions of section 1.0602 of this [zoning] ordinance. In making such a determination to reduce or waive the requirements for off-street parking and/or loading spaces of this chapter, the planning commission may consider the following:
- (1) Extent that existing on-street parking and/or loading spaces can effectively accommodate the parking and loading needs of a given use without negatively impacting traffic safety or adjacent uses.
  - (2) Existing and proposed building placement.
  - (3) Location and proximity of municipal parking lots and/or public alleys.
  - (4) Agreement for parking and/or loading spaces with adjacent or nearby property owners.
- (B) *Zoning board of appeals.* The zoning board of appeals shall have authority to interpret this section and may grant variance from these requirements in specific cases, according to the standards of 1.1405 of this zoning ordinance.

## **ARTICLE X. SIGNS**

### **1.1001. General requirements.**

Following are the general requirements for all signs:

- (A) *Wind pressure and dead load requirements.* Ground, projecting, wall and marquee signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of surface area and shall be constructed to receive dead loads as required elsewhere in the city code.
- (B) *Permit number to be on sign.* Signs shall have placed in a conspicuous place thereon, in letters not less than one-half inch in height the permit number.
- (C) *Illumination.* Internally and externally lighted, reflectorized, glowing, and other forms of illumination shall be permitted on all signs except as regulated elsewhere in this zoning ordinance. All illuminated signs shall meet the following provisions:
  - (1) All illumination shall be concentrated on the area of the sign or landscape feature so as to prevent glare upon the street or adjacent property.
  - (2) No sign shall be illuminated by other than electric means or devices, and wiring shall be installed in accordance with the National Electrical Code.
  - (3) All electrical transformer boxes, raceways, and conduits shall be concealed from view. Any concealment or other visible part of these elements should be painted to match the building area to which they are attached, or otherwise painted to be harmonious with the building.
- (D) *Obstruction to doors, windows and fire escapes.* No sign shall be erected or maintained so as to prevent free ingress and egress from any door, window or fire escape.
- (E) *Signs not to construct a traffic hazard.* No sign shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision or any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or which makes use of the word, "Stop," "Look," "Danger," or any word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic. At street intersections, no signs other than municipal traffic control signs shall be located within eight feet of the ground surface in the triangle formed by the property lines paralleling the streets and extending for a distance of 25 feet each way from the intersection of the right-of-way lines at the corner lot.
- (F) *Removal of certain signs.* Any sign now or hereafter existing which no longer advertises a business conducted, or a product, or entertainment, service, or commodity offered or sold on the lot, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which said signs shall be found 60 days after written notice from the city.
- (G) *Sign area.* The area of all signs shall be computed as follows:
  - (1) The total area of the lettering and display background where the sign background is separated from the principal building.
  - (2) The total area of the lettering and display background where the background is illuminated from within, whether attached to or separate from the principal building.
  - (3) The total area encompassed by an imaginary line which can be drawn around all the lettering or designs where the lettering or signs are affixed to the wall of a building and the wall constitutes the background.
- (H) *Permits.* No sign shall be erected, constructed, repaired, or relocated without a building permit or a temporary permit. This is meant to include those commercial signs of a temporary nature advertising special events. The re-lettering, repainting, or changing of lighting elements of a permitted sign for the same business shall not require a building permit.
- (I) *Directional signs.* Directional signs such as entrance and exit signs not exceeding six square feet in area per sign are permitted in R-4, B-OS, B-C, BH-1, BH-2, M-1, and M-2 districts exclusive of the maximum sign area requirement for the district in which they are located.
- (J) *Prohibited sign types.* Sign types not specifically permitted in any zoning district shall be interpreted to be prohibited from such district.

- (K) *Tourist oriented directional signs.* Tourist oriented directional signs, as defined in Michigan Public Act 299 of 1996 are permitted if approved by the Michigan Department of Transportation pursuant to the PA 299 of 1996 and by a vote of the Sturgis City Commission.
- (L) *Electronic message display signs.* Electronic message display signs shall be subject to the following requirements:
- (1) Only allowed on permitted, non-residential uses in all zoning districts.
  - (2) Electronic message display signs are subject to the following additional restrictions based on their zoning district:
    - (a) Only one sign incorporating an electronic message display is permitted in residential zones for non-residential uses.
    - (b) Electronic message display signs in the BC district must be recommended by the design review committee, as per article XIII of the zoning ordinance, prior to an application for approval being considered by the planning commission.
    - (c) Areas located in the central business district as defined in section 1.1006 but not located in the B-C—central business zoning district shall follow the requirements for electronic message display signs of the zoning district in which they are located.
  - (3) Must be part of a ground or pylon sign. The electronic message display shall be a part of the primary ground or pylon sign and shall not exist as a standalone sign.
  - (4) Flashing, rotating, strobing, audio or noise, pyrotechnic simulation or creating a distraction shall be prohibited.
  - (5) Length of time a message must be displayed before changing and message display mode is determined by district as outlined in Table 1.1001A.

TABLE 1.1001A

Zoning District(s)	Minimum Length of Time Between Static Message Changes	Type of Message Display Modes Allowed
R-1, R-2, R-3, R-4, R-5, BC	Once every 30 seconds	Static message
BH-2, B-N, BOS, M	Once every three seconds	Static message and traveling text
BH-1	Once every three seconds for static messages and maximum display time for animation shall be ten seconds.	Static message, traveling text, and animation

- (6) *Modes:* The following modes of operation are described for electronic message signs:
- (a) *Static.* Messages which include no animation or effects simulating animation.
  - (b) *Traveling text.* For electronic message display signs displaying a single line of text, the text message may continuously travel. Message cannot include images, animation, or effects simulating animation.
  - (c) *Animation.* Messages which include motion graphics and video are displayed.
- (7) *Transitions:* Electronic message display signs shall be operated in one of the permitted modes except for transitions between messages.
- (a) Permitted transition types for static messages include:
- i. *Instantaneous.* Change between messages without noticeable transition.
  - ii. *Fade.* Messages are changed by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases in intensity to the point of legibility.
  - iii. *Traveling.* Signs where the message is changed by the apparent horizontal movement of the letters or graphic elements of the message.
  - iv. *Scrolling.* Signs where the message is changed by the apparent vertical movement of the letters or graphic elements of the message.

- (b) The transition time between messages and/or message frames is limited to three seconds and these transitions may employ fade, dissolve, and/or other transition effects.
- (8) Electronic message displays must have an automatic sensor that adjusts their brightness and intensity during operational hours. The overall brightness and intensity shall only be enough to make the sign legible and shall not create a nuisance or a traffic hazard. Luminance shall not exceed 0.3 foot-candles above the ambient (i.e., naturally illuminated environment) light measurement when measured at the recommended distance, based on the electronic message display size.
- (9) If a property has an electronic message display sign that is within 150 feet of a residential dwelling unit, it must be automatically turned off from dusk until dawn if equipped with a photosensor or other similar device. If the sign is not equipped with this option, the sign must be turned off between 7:00 p.m. and 7:00 a.m. a. The distance provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest edge of electronic message display sign to the nearest point of the primary structure of residential dwelling unit.
- (10) All electronic message display signs permitted before the effective date of this section that can be altered to comply with it must be so altered.
- (11) In the event of a malfunction, an electronic message display message sign shall turn to a dark screen. The dark screen shall remain until the malfunction is corrected.
- (M) Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, military, and any of their flags adopted or sanctioned by an elected legislative body of competent jurisdiction are not considered signs.
- (N) Signs are not permitted to extend above the roofline of the structure.

### **1.1002. Signs in the R districts.**

- (A) In the R residential districts the following accessory signs only shall be permitted:
  - (1) One nonilluminated wall sign not more than 144 square inches in area attached to the principal building.
  - (2) Signs which are deemed necessary to the public welfare by the governing body.
  - (3) Refer to section 1.1003 for permitted non-residential uses in residential districts.
- (B) *Permitted non-residential uses and apartment buildings.* In addition to the signage above, sign(s) may be erected in residential districts for permitted non-residential uses and apartment buildings. Such signs shall meet all the requirements as stated under this zoning ordinance including the following:
  - (1) No establishment is permitted to have more than two signs in total, which may face either a street, a parking area, or one of each. This does not allow for two signs facing the street and two signs facing the parking area.
  - (2) All signs attached to a building shall comply with the following requirements:
    - (a) No sign shall exceed 32 square feet.
    - (b) Where a sign extends more than three inches from the face of the building, the sign shall be no closer than eight feet to the ground.
    - (c) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the width of the wall.
  - (3) There shall be no more than one ground sign per public road frontage.
    - (a) No part of the sign shall be closer than five feet to any property line or sidewalk.
    - (b) No sign shall exceed 32 square feet in area for a single face and 64 square feet in area if a two-sided sign. If a parcel has multiple road frontage access, then an additional ground sign is allowed up to a maximum of 50 square feet of total signage, counting a single face of each sign. Sign(s) shall not exceed six feet in height.

### **1.1003. Signs in B-OS business, office, service districts.**

- (A) In B-OS business, office, service districts, no sign shall be permitted which is not accessory to the business conducted on the property and shall meet all requirements of this zoning ordinance including the following:

- (1) The total sign area for all signs permitted shall not exceed 30 percent of the area of the front face of the building.
- (2) No establishment is permitted to have more than two signs in total, which may face either a street, a parking area, or one of each. This does not allow for two signs facing the street and two signs facing the parking area.
- (3) All signs attached to a building shall comply with the following requirements:
  - (a) No sign shall extend further than 24 inches over a street or public property. Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
  - (b) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the total width of the wall. However, if the wall contains a bump-up or bump-out/in feature, a sign may cover the entire width of that individual section, provided that the total sign width does not exceed 60 percent of the overall wall width.
  - (c) No part of the sign shall be closer than five feet to any property line or sidewalk.
- (4) A ground sign is permitted in addition to the total number permitted in subsection (A) (2) above, computed as part of the maximum total area permitted in subsection (A)(1) of this section above. The ground sign shall not exceed 30 square feet in area per sign face and shall not exceed six feet in height.

#### **1.1004. Signs in the B-C central business district.**

In the central business district, no sign shall be permitted which is not accessory to the business conducted on the property. Accessory signs may only be erected, painted or placed in accordance with the following requirements.

(A) Signage size, location and number.

- (1) The total area for all permitted signs shall not exceed ten percent of the first floor front face area of a tenant.
- (2) Additional signage allowed. The following signs are allowed and are not counted as part of the total sign area calculation in subsection (A) (1) of this section.
  - (a) An additional sign for each first floor tenant space may be placed on the rear of a building, if that tenant space has an entrance at the rear of the building used by the public. This sign cannot exceed 50 percent of the allowable signage.
  - (b) Window signage.
    - i. Window signage shall not exceed 30 percent of each individual window and up to a total of 25 square feet per tenant is allowed.
  - (c) An additional sign relating to business open and hours may be provided for each first floor tenant space of a building. These signs must be window signs subject to the regulations of above subsection (A) (2) (b).
  - (d) An additional sign may be placed on the first floor of the building listing all businesses operating on a floor other than the first floor. The total area of this sign may be 25 percent of the primary exterior entry way leading to the non-first floor tenant space(s) as determined by the zoning administrator. The sign may not exceed five square feet.
- (3) If a first floor tenant space has no access from the front of the building and its principal store front is on the side or rear of the building, the total area for all permitted signs of that tenant space shall not exceed ten percent of the first floor tenant space of the principal store front.
  - (a) The location of the principal store front will be determined by the zoning administrator.
- (4) No establishment is permitted to have more than two signs in total, which may face either a street, a parking area, or one of each. This does not allow for two signs facing the street and two signs facing the parking area, not including signs under subsection (A) (2) (b) of this section.
- (5) No sign shall be placed above the first floor or above the bottom window ledge of the second floor window.

*Exception 1.* If the entire wall area where the sign is to be placed has no openings, a sign may be placed anywhere on the wall face.

*Exception 2.* A sign may be placed up to the top of the second-floor windows if the wall area where the sign is to be placed is at least six (6) feet from any opening on the second floor or abutting buildings. All proposed signs under this subsection must be reviewed by the design review committee and receive a recommendation before being considered by the planning commission.

- (6) Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
  - (7) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the total width of the wall. However, if the wall contains a bump-up or bump-out/in feature, a sign may cover the entire width of that individual section, provided that the total sign width does not exceed 60 percent of the overall wall width.
- (B) Signage types.
- (1) Wall and projecting signs are permitted, computed as part of the maximum total area in subsection (A) of this section.
  - (2) Ground sign. A freestanding ground sign is permitted, computed as part of the maximum total area permitted in subsection (A) of this section. The sign shall not exceed 32 square feet in display area. The freestanding ground sign shall not exceed six feet in height and must be set back five feet from all property lines and sidewalks. Corner clearances must be maintained as per section 1.1107.
  - (3) A building with at least three or more distinct business or office uses shall be permitted to have a sign identifying each business or office as a combined ground sign. The area of a ground sign shall not exceed 60 square feet per sign face. The sign area allowed for each business or office shall be prorated by the shopping center, business or office complex; however, no one business shall exceed 50 percent of maximum area allowed.
  - (4) Canopy sign. Where a building has a canopy constructed as an integral part of the building, signs may be placed upon the canopy if parallel to the building face.
    - (a) The permitted area of awning and canopy signs shall be determined as part of the total area for signs as provided in subsection (A) of this section.
    - (b) Awning and canopy signs can be internally lighted provided that only the letters and/or logo of the sign are illuminated and are designed with a translucent and not transparent material. Any other part of the awning must be made of an opaque material.
  - (5) Window sign. Window signage should be applied to the window or mounted on the interior of the building using high quality materials and application methods such as paint or vinyl film, wood or metal panels with applied lettering, or neon signs conforming to the other provisions of this zoning code. Illuminated tube band signs, or neon surrounding an entire window is prohibited.
- (C) Sign materials and lighting shall be harmonious with the historic character of the buildings in the district and shall utilize materials as may be appropriate such as wood, brass, vintage painting, etc. in conformity with design guidelines established by the downtown development authority, a copy of which is incorporated herein by reference and which is available in the office of the city clerk. The community development department shall be responsible for determining if the sign design is in conformity with those design guidelines, subject to review by the planning commission or its designated design review committee.
- (D) Internal and external illumination on signage in the central business district (B-C) is allowed as regulated in this zoning ordinance.
- (1) Provided lighting must be steady and stationary in source and intensity. Acceptable sources include incandescent, halogen, neon, LED, and metal halide lighting.
  - (2) For internally lighted signs and awnings, only letters, numerals, and logos may be illuminated.
  - (3) Acceptable forms of internally lighted signs include:
    - (a) Backlit (halo) signs.
    - (b) Individual internally-illuminated letters (channel or dimensional lettering).
    - (c) Box-type signs with three-dimensional push-through or inset graphics.
    - (d) Awning or canopy signs where letters and logos are translucent.

- (4) All proposed internally illuminated signage will be sent to the design review committee for recommendation before an application is considered by the planning commission.
  - (F) Internally illuminated box signs shall only be permitted with metal or completely opaque material backgrounds. Letters and logos must be stencil cut through the surface and filled with three-dimensional push-through or inset graphics that are of a translucent and not transparent material.
  - (G) Internally lit, channel letter/logo signs may be lit using either exposed neon tubing within the letter/logo channel or another light source behind a translucent, not transparent material. For non-neon signs, letter forms must contain soft, diffused light sources inside each letter or logo. Regulations for distance of the letters from the building will be as follows:
    - (1) Channel letters with transformers mounted inside the letters shall not extend more than 16 inches from the building wall.
    - (2) Channel letters with remote transformers shall not extend more than 12 inches from the building wall.
    - (3) Channel letters mounted on a raceway shall not extend more than 16 inches from the building wall.
  - (H) No flashing sign, rotating or moving sign, animated sign or sign with moving lights or creating the illusion of movement shall be permitted. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature and are not more frequent than every 15 seconds.
  - (I) The community development department may request a review by the planning commission design review committee where a question may exist as to the application of this section.
- A design review committee shall be appointed by the planning commission for the purpose of assisting the planning commission to preserve, protect and enhance the aesthetic appeal of the central business district as it relates to signage and to protect property values through the application of good design principles; and promote the general health, safety and welfare of the central business district and the community. The design review committee shall consist of not less than three regular members and shall include one member of the planning commission, one member of the downtown development authority and one member at large. The review committee, as it determines necessary or appropriate, shall utilize the assistance of planning, architectural and other consultants. The review committee shall seek the assistance of relevant experts in an effort to achieve accord in those instances in which the applicant objects to the decision of the review committee.

#### **1.1005. Signs in B-H 1 business highway 1 district.**

- (A) In the B-H 1 business highway district no sign[s] shall be permitted which is [that are] not accessory to the business conducted on the property, except a billboard as a special use subject to the following requirements are met.
    - (1) No establishment shall have a total of more than three sign types facing upon any one street or parking area.
    - (2) All signs attached to a building shall comply with the following requirements:
      - (a) Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
      - (b) Wall signs are permitted and the combined area per road frontage shall not exceed 15 percent of the total area of the wall to which the signs are attached. In addition, the total area shall not exceed 100 square feet per road frontage.
- Exception. Where an establishment does not face a road and only faces a parking lot, the allowable sign area shall be determined based on the area of the principal storefront wall area of the tenant space.
- (c) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the total width of the wall. However, if the wall contains a bump-up or bump-out/in feature, a sign may cover the entire width of that individual section, provided that the total sign width does not exceed 60 percent of the overall wall width.
  - (d) For wall frontage on a public or private street that exceeds 200 lineal feet of frontage and with a setback greater than 300 feet from a public or private street and having a usable floor area of



50,000 square feet or more, the following maximum allowable sign areas may be used in place of subsection 1.1005(A)(2)(b):

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

- (3) All pylon or ground signs must meet the following requirements:
- (a) A pylon sign is permitted and shall not exceed 60 square feet in area per sign face. A pylon sign shall be no higher than 30 feet or closer to the ground than eight feet. No part of the sign shall be closer than five feet to a property line or sidewalk. In no case shall there be more than one pylon sign with the same business name or logo facing upon any one street.
  - (b) A ground sign is permitted and shall not exceed 30 square feet in area per sign face and shall not exceed six feet in height. No part of the sign shall be closer than five feet to the property line or sidewalk.
  - (c) There shall only be one ground sign or pylon sign facing upon any one street; however, a second sign shall be allowed for a development having more than one entranceway onto a road right-of-way, and where those entrance ways are at least 250 lineal feet apart. In these cases, signs must be placed no closer than 150 lineal feet apart and the second sign shall be a ground sign.
  - (d) A shopping center, business or office complex with at least three or more distinct business or office uses shall be permitted to have a sign identifying each business or office as a combined pylon or ground sign. The area of a pylon sign shall not exceed 120 square feet per sign face and the area of a ground sign shall not exceed 60 square feet per sign face. The sign area allowed for each business or office shall be prorated by the shopping center, business or office complex; however, no one business shall exceed 50 percent of maximum area allowed.
- (4) Lots with dual frontages may not combine permissible signs for one frontage with another frontage for the purpose of placing a combined area of sign area on one frontage.
- (5) No sign shall be lighted by means of flashing or intermittent illumination. All light sources used for the illumination of signs or buildings or areas surrounding them, or for the illumination of display merchandise or products shall be completely shielded from the view of vehicular traffic.

#### **1.1006. Signs in B-H 2 business highway 2 and M manufacturing districts.**

- (A) In the B-H 2 business highway 2 and M manufacturing districts, no sign[s] shall be permitted which is [that are] not accessory to the business conducted on the property, except a billboard as permitted below:
- (1) No establishment is permitted to have more than three signs in total, which may face either a street or a parking area.
  - (2) The total sign area for all signs at each tenant space permitted shall not exceed 30 percent of the area of the front face of the building up to a maximum of 150 square feet.
  - (3) All signs attached to a building shall comply with the following requirements:
    - (a) No sign shall extend further than 15 inches over a street or public property or required side yard. Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
    - (b) The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the total width of the wall. However, if the wall contains a bump-up or bump-out/in feature, a sign may cover the entire width of that individual section, provided that the total sign width does not exceed 60 percent of the overall wall width.
  - (4) A pylon sign is permitted, computed as part of the maximum total area permitted in subsection (A)(2) of this section above. The sign shall not exceed 60 square feet in area. A pylon sign shall be no higher

than 30 feet or closer to the ground than eight feet. No part of the sign shall be closer than five feet to a property line.

- (5) A ground sign is permitted, computed as part of the maximum total area permitted in subsection (A)(2) of this section above. The sign shall not exceed 30 square feet in area per sign face and shall not exceed six feet in height. No part of the sign shall be closer than five feet to the property line.
- (6) A shopping center, business or office complex with a group of business or office use shall be permitted to have a sign identifying each business or office as a pylon or ground sign. The area of such sign shall be governed by the sign area allowed for all signs as required in section (A)(2) above. The sign area allowed for each business or office shall be prorated based on the sign area allowed for each business or office unless otherwise agreed to by the shopping center, business or office complex but in no instance shall the total area of all signs exceed the requirements of section (A)(2).
- (7) No sign shall be lighted by means of flashing or intermittent illumination. All light sources used for the illumination of signs or buildings or areas surrounding them, or for the illumination of display merchandise or products shall be completely shielded from the view of vehicular traffic.
- (8) Billboards may be permitted in M manufacturing districts in accord with provisions of article VI, special land uses and structures.
- (9) Temporary signs subject to section 1.1012.

### **1.1007. Signs in the PDD-2 planned development district.**

Sign Type	Max. Quantity	Max. Letter Height	Max. Signage Area
Primary Sign Types			120 sq. ft.
Type A—Trellis/Marquee	One per Tenant frontage	24 Inches	120 sq. ft.
Type B—Fascia Wall Sign	One per Tenant frontage	24 Inches	120 sq. ft.
Type C—Feature Sign	One per Tenant frontage	24 Inches	120 sq. ft.
Secondary Sign Types			60 sq. ft.
Type D—Window and Door	One per window	8 inches	10 sq. ft. (only 1 side counted)
Type E—Changeable Signs	One easel per major entry	N/A	12 sf (umbrellas) sq. ft. (easels)
Type F—Projecting Blade Sign	One per Tenant frontage	N/A	10 sq. ft. (only 1 side counted)
Type G—Awning Sign	One per awning	8 inches	10 sq. ft. per awning
Type H—Plaque Sign	One per major entry	N/A	4 sq. ft.
Type I—Video Display Board	N/A	N/A	.75 sq. ft. per linear foot of frontage

- (A) Signs shall be designed as an integral part of the storefront design concept and shall complement the existing context of other buildings and signs in the PDD-2 district.
- (B) Primary sign area is limited to 1.5 square feet per linear foot of frontage, up to the maximum size indicated in the chart below. (Frontage is measured parallel to street right-of-way.)
- (C) Secondary sign area is limited to .75 square feet per linear foot of frontage, up to the maximum size indicated below.
- (D) Graphic symbols and corporate logos, when used with primary signs (sign types A, B, and C) shall not exceed eight feet in any one direction or 64 sq. ft. in aggregate area. Such square footage shall be computed as part of the maximum sign area permitted.
- (E) All primary signs must be three-dimensional, with maximum letter return of six inches and a minimum panel thickness of one inch.

- (F) Tenants in corner locations or with frontage on two principal streets may be permitted to use two or more primary signs for identification. If in a corner location, one of the signs must be a feature/marquee type sign.

### **1.1008. Signs in the PDD-3 planned development district 3.**

- (A) *Signage size, location and number.* Buildings in PDD-3 are allowed signage for the primary occupant, secondary tenant spaces, and one building ground sign.
- (1) *Primary occupant signage.* The total area for all permitted signs for the primary occupant shall not exceed ten percent of the first floor principal face area of the building.
- (a) The primary occupant is defined as the business or entity that occupies more than 50 percent of the floor area of building.
- (b) The principal face of the building will be determined by the zoning administrator.
- (c) The primary occupant shall have a total of no more than two signs attached to the building, not including signs under subsection (A)(4) of this section.
- (2) *Secondary tenant space signage.* The total area for all permitted signs for a secondary tenant shall not exceed ten percent of the first floor front face area of the tenant space.
- (a) A secondary tenant is defined as any business that occupies less than 50 percent of the floor area of the building and has a tenant space with a public, exterior access.
- (b) A secondary tenant space shall have a total of no more than two signs facing upon any one street or parking area, not including signs under subsection (A)(4) of this section.
- (c) No sign for a secondary tenant space shall be placed above the first floor.
- (3) *Building ground sign.* Each parcel is permitted one freestanding ground sign. The freestanding ground sign shall not exceed six feet in height and must be set back five feet from all property lines and sidewalks. Corner clearances must be maintained as per section 1.1107.
- (a) If promoting only the primary occupant, the sign shall not exceed 32 square feet in display area per sign face.
- (b) If promoting the primary occupant and at least one secondary tenant, the total area of the sign shall not exceed 60 square feet per sign face. The sign area allowed for the primary occupant shall not exceed 32 square feet per sign face and the sign area for any secondary tenant cannot exceed one half the sign area per sign face of the primary occupant.
- (c) Sign area within the ground sign is not counted as part of the total sign area calculation for the primary occupant or secondary tenant spaces.
- (4) *Additional signage allowed.* The following signs are allowed and are not counted as part of the total sign area calculation in subsection (A)(1) of this section.
- (a) An additional sign for each first floor tenant space may be placed on the rear of a building, if that tenant space has an entrance at the rear of the building used by the public. This sign cannot exceed 50 percent of the allowable signage.
- (b) Window signage equal to not more than ten percent of each individual window and up to a total of 25 square feet per tenant is allowed.
- (c) An additional sign relating to business open and hours may be provided for each first floor tenant space of a building. These signs must be window signs.
- (5) *Location.* Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
- (6) *Maximum width.* The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the total width of the wall. However, if the wall contains a bump-up or bump-out/in feature, a sign may cover the entire width of that individual section, provided that the total sign width does not exceed 60 percent of the overall wall width.
- (B) *Signage types.*
- (1) *Awning or canopy sign.* Where a building or tenant space has a canopy constructed as an integral part of the building, signs may be placed upon the canopy if parallel to the building face.

- (a) Awning and canopy signs can be internally lighted provided that only the letters and/or logo of the sign are illuminated and are designed with a translucent and not transparent material. Any other part of the awning must be made of an opaque material.
- (2) *Grand projecting sign.* Tall, large, vertically oriented signs which project from the building perpendicular to the façade and which are structurally integrated into the building.
  - (a) Only allowed as a sign for the primary occupant.
  - (b) Grand projecting signs shall be no taller than 30 feet from the bottom-most part of the sign to the tallest part of the sign. Shall project no more than six feet from the façade of the building. Shall be no less than 12 feet from the bottom-most part of the sign to the ground. No portion of the sign shall extend above the roofline.
  - (c) No portion of the sign shall be located within four feet of any window of a residential unit or hotel room.
  - (d) Grand projecting signs shall be illuminated only by steady, shielded light sources directed solely at the sign or at the sign or internal to it. Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shielded so as not to project onto adjoining properties or thoroughfares.
  - (e) No portion of a grand projecting sign shall be placed above the third floor of a building.
- (3) *Projecting sign.* Signs which are affixed to the building and oriented perpendicularly to the building façade.
  - (a) No projecting sign shall exceed 16 square feet in size.
  - (b) Projecting signs shall project no more than four feet from the façade of the building.
  - (c) No portion of the sign shall be located within four feet of any window of a residential unit or hotel room.
  - (d) No projecting sign shall be placed above the first floor.
- (4) *Wall sign.* Signs located on and parallel to a building wall.
- (5) *Window sign.* Window signage should be applied to the window or mounted on the interior of the building using high quality materials and application methods such as paint or vinyl film, wood or metal panels with applied lettering, or neon signs conforming to the other provisions of this zoning code. Illuminated tube band signs, or neon surrounding an entire window is prohibited.
- (D) If the building or any tenant space of the building has been vacant for more than one year the vacant space shall immediately have all signs removed and building walls and/or grounds left in good repair. Upon failure of any person to comply with the provisions of this section, the city may effectuate compliance through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the owner of the real estate upon which the building is located and any such cost shall be a lien upon such real estate.
- (E) Sign materials and lighting shall be harmonious with the buildings in the district and in conformity with design guidelines established by the downtown development authority, a copy of which is incorporated herein by reference and which is available in the office of the city clerk. The community development department shall be responsible for determining if the sign design is in conformity with those design guidelines, subject to review by the planning commission or its designated design review committee.
- (F) No flashing sign, rotating or moving sign, animated sign or sign with moving lights or creating the illusion of movement shall be permitted. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature and are not more frequent than every 15 seconds.
- (G) Internal and external illumination on signage in PDD-3 is allowed as regulated for this type of sign in the B-C central business district.
- (H) Temporary signs in PDD-3 are allowed as regulated in the B-C central business district subject to section 1.1012 of this zoning ordinance.

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

### **1.1009. Signs in the B-N business neighborhood district.**

- (A) In the B-N business neighborhood district no sign shall be permitted which is [that are] not accessory to the business conducted on the property. Residential uses that are not part of an apartment building or mixed-use development shall follow section 1.1002 of this zoning ordinance.
- (B) Signage size, location, and number.
- (1) The combined permitted signage area shall not exceed 30 percent of the principal storefront wall area of the tenant space. In addition, the total area shall not exceed 100 square feet. In the case of corner lots, the zoning administrator shall determine the street that constitutes the site's frontage.
  - (2) No commercial establishment is permitted to have more than three signs in total, which may face a street or parking area.
  - (3) Where a sign extends more than three inches from the face of the building, the sign shall not be closer than eight feet to the ground.
  - (4) There shall be no more than one ground sign per public road frontage.
- (C) Signage types.
- (1) *Wall signs.* The maximum width of any sign attached parallel to a wall shall not exceed 60 percent of the total width of the wall. However, if the wall contains a bump-up or bump-out/in feature, a sign may cover the entire width of that individual section, provided that the total sign width does not exceed 60 percent of the overall wall width.
  - (2) *Awning or canopy signs.* The maximum area of an awning or canopy sign is ten square feet.
  - (3) *Projecting signs.* The maximum area of a projecting sign is ten square feet.
  - (4) *Ground sign.* A freestanding ground sign is permitted, computed as part of the maximum total area permitted in subsection (C) of this section. The sign shall not exceed 32 square feet in area. The freestanding ground sign shall not exceed six feet in height and must be set back five feet from all property lines and sidewalks. Corner clearances must be maintained as per section 1.1107.
  - (5) *Multi-tenant ground sign.* A building with three or more distinct business or office uses shall be permitted to have a combined ground sign identifying each business or office. The area of such combined ground sign shall not exceed 64 square feet per sign face. The sign area allowed for each business or office shall be prorated by the shopping center, business or office complex; however, no one business shall exceed 50 percent of maximum area allowed.
  - (6) *Window signage.* Window signage equal to not more than ten percent of each individual window, and up to a total of 25 square feet per tenant, is allowed. This area shall not be counted as part of the total sign area calculation in subsection (C). Window signage shall be applied to the window or mounted on the interior of the building using materials such as paint or vinyl film, wood or metal panels with applied lettering, or neon signs conforming to the other provisions of this zoning code. Illuminated tube band signs and neon surrounding an entire window are prohibited.
- (E) Nonconforming signs.
- (1) *Existing pylon signs.* Class A nonconforming structure status as provided in sections 1.0802 and 1.0803 of this zoning ordinance is hereby granted without further action to any pylon signs located in the B-N business neighborhood district effective March 9, 2022 and as referenced in section 1.0711.
- (F) Internal and external illumination. Internal and external illumination on signage is allowed as regulated in this section.
- (1) Lighting must be steady and stationary in source and intensity. Acceptable sources include incandescent, halogen, LED, and metal halide lighting.
  - (2) For internally lighted signs and awnings, only numbers, numerals, and logos may be illuminated.
  - (3) Acceptable forms of internally lighted signs included:
    - (a) Backlit (halo) signs.
    - (b) Individually internally-illuminated letters (channel or dimensional lettering).
    - (c) Box-type signs with three-dimensional push-through or inset graphics.
    - (d) Awning or canopy signs where letters and logos are translucent.
  - (4) Internally illuminated box signs shall only be permitted with metal or completely opaque material backgrounds. Letters and logos must be stencil-cut through the surface and filled with three-dimensional push-through or inset graphics that are of a translucent and not transparent material.

- (5) Internally lit, channel letter/logo signs may be lit using either exposed neon tubing within the letter/logo channel or another light source behind a translucent, not transparent material. For non-neon signs, letter forms must contain soft, diffused light sources inside each letter or logo. Regulations for distance of the letters from the building will be as follows:
  - (a) Channel letters with transformers mounted inside the letters shall not extend more than 16 inches from the building wall.
  - (b) Channel letters with remote transformers shall not extend more than 12 inches from the building wall.
  - (c) Channel letters mounted on a raceway shall not extend more than 16 inches from the building wall.
- (6) No flashing sign, rotating or moving sign, animated sign, sign with moving lights, or sign creating the illusion of movement shall be permitted.
- (7) If the building official cannot determine whether the project meets the standards, the building official shall refer the project to the design review committee for its determination and recommendation to the planning commission for approval.

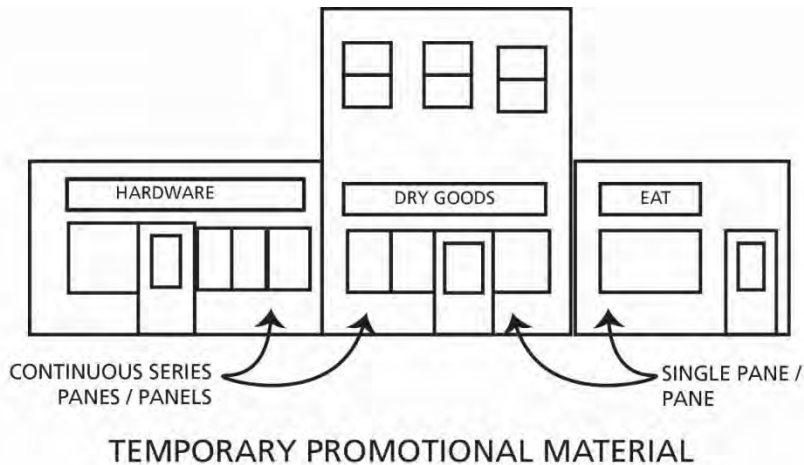
#### **1.1010. Signs accessory to public parks and public facilities in any district.**

- (A) Sign(s) may be erected in any district for public parks and public facilities. Such signs shall meet all requirements as stated under this zoning ordinance including the following:
  - (1) Such signs may be placed on the property line if all corner clearances are maintained at all driveways, buildings and parking areas.
  - (2) All signs are subject to final approval from the planning commission and the following standards should be used for establishing size, setback and placement of signs:
    - (a) Visibility of vehicular and pedestrian traffic off site and at the site, visibility and legibility of signs for drivers and/or pedestrians and the impact upon the visibility of traffic signals or regulatory devices in the public street right-of-way.
    - (b) Negative impact of proposed signs upon adjacent properties and their signage and the impact of lighting and appearance of signs upon residential zoned property.
    - (c) Particular site characteristics such as yard areas, landscaping, topography, location of buildings, site use and number of road frontages.
  - (3) Emergency, directional, parking, address, temporary event or activity and promotional signs shall not require a permit if it does not exceed 32 square feet.

#### **1.1011. Temporary promotional materials.**

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

- (A) The following types of signs are permitted as temporary promotional materials:
  - (1) Banners may be displayed on first-floor tenant spaces. If placed in an area where pedestrians may pass underneath, banners must be installed at least eight feet above ground level. Each banner shall not exceed 32 square feet, and only one banner is permitted to be displayed at a time.
  - (2) Window Signs may cover up to 30 percent of total square feet of all display windows, not to exceed 50 percent coverage of any single pane/panel or contiguous series of panes/panels.
  - (3) Sandwich Board may display temporary promotional materials if it is placed where a minimum of 60 inches of unobstructed pedestrian walkway is maintained. Sandwich boards signs shall not exceed eight (8) square feet and four (4) feet in height.
- (B) Time limitations: All temporary promotional materials must be removed within 60 days of installation. Temporary promotional materials may be displayed year round however each special promotion i.e., Christmas holidays, new product line, sale, etc. may only be advertised in this fashion for a maximum of 60 days.
- (C) Installation and removal: Any adhesive applied to glass must be transparent. All materials used for installation tape etc. must be completely removed when promotion posters are removed.



### 1.1012. Temporary signs.

- (A) Temporary signs in all districts are permitted subject to the following, including additional district requirements of this section.
  - (1) No temporary sign shall be close than five feet to any property line or sidewalk.
  - (2) Corner clearance requirements must be maintained as per section 1.1107.
  - (3) All temporary signs must be maintained in good condition.
  - (4) Temporary signs shall not be placed in parking area.
  - (5) No temporary sign shall create a vision hazard.
- (B) In addition to (A) above, temporary signs in commercial districts. B-H 1, B-H 2, and B-OS are permitted subject to the following conditions:
  - (1) A temporary sign shall only be displayed upon receipt of an issued permit. When issued, the applicant will receive an approval sticker to be placed on each sign. Each sign requires a separate permit.
  - (2) Temporary signs must be accessory to a business on the parcel.
    - (a) Permission must be granted by all tenants and the owner of the parcel to display non accessory sign for up to five business days.
  - (3) Upon expiration of the permit, the sign shall be removed by the permit holder.
  - (4) Temporary sign types allowed as a periodic permit: banner, portable, rigid frame yard sign, feather, wire frame yard sign and flag signs.
    - (a) No temporary banner, portable, wire frame or rigid frame yard sign shall be displayed for more than 30 calendar days for any one permit and no more than two permits shall be issued for any tenant space during any calendar year. Each sign requires a permit.
    - (b) Temporary signs in this section (B) (4) may be displayed for 24 hours per day.
    - (c) No temporary feather or flag sign shall be permitted for more than two consecutive weeks and no more than four permits shall be issued for any tenant space during any calendar year. Each sign requires a permit.
    - (d) Signs under this subsection must be placed at least 50 feet from another temporary sign on the same parcel.
    - (e) No more than two signs under this subsection may be displayed at any one time by the same tenant.
  - (5) Temporary sign types allowed as a permanent permit: Feather, flag, wire frame yard sign and sandwich board signs.
    - (a) Must allow for a minimum 60 inches of unobstructed pedestrian walkway and shall not obstruct access to parking.
    - (b) No more than two signs under this section may be displayed at any one time.
    - (c) Signs under this subsection must be placed at least 50 feet from another temporary sign on the same parcel.

(d) Temporary signs in section (B) (5) may only be displayed during business hours or a maximum of twelve 12 hours per day. They must be removed at the close of business hours or when the 12-hour time limit is reached.

(6) Maximum height and square feet for these signs are listed in table 1.1012 A1.

TABLE 1.1012 A1

Type of Sign	Maximum Area per sign	Maximum Height of Sign
Banner Sign	32 sq. ft.	6 ft.
Portable Sign	32 sq. ft.	6 ft.
Flag Sign	6 sq. ft.	See Section 1.1012(B) 7
Rigid Frame Yard Sign	32 sq. ft.	6 ft.
Wire Frame Yard Sign	6 sq. ft.	3 ft.
Feather Sign	25 sq. ft.	12 ft. to top of sign (including pole)
Sandwich Board Sign	8 sq. ft. per side	4 ft.

(7) Flag signs may not be placed where the lowest edge of the flag is less than seven feet to the ground level when attached to a building. If placed in a pedestal or into the ground it may not exceed eight feet in height.

(8) Air-blown devices and inflatable signs are allowed two times per year. A permit is required each time an air blown device will be displayed.

(a) These types of signs shall be secured directly to, and not suspended from, the ground. They may not be placed on a roof or suspended from a building.

(b) Inflatable signs shall not exceed 30 percent of the total area of the wall of the tenant space or 60 sq. ft., whichever is larger. Inflatable signs shall not exceed 30 ft. in height when fully inflated.

(c) Air blown devices and inflatable signs must be set back the maximum height of the sign from the property line but in no instance shall this be less than five feet.

(d) They shall not be located in required parking spaces, driveways that provide access to parking spaces, or fire lanes, nor shall the sign or its securing device encroach into the right-of-way.

(e) Each permit allows for display up to ten consecutive days.

(C) In addition to (A) above, temporary signs in M - Manufacturing districts are permitted subject to the following conditions:

(1) Temporary signs shall be allowed in manufacturing districts and no permit is required as long as the requirements of this section are met.

(2) Temporary signs shall not exceed six feet in height.

(3) Temporary signs shall not exceed 32 square feet in area.

(4) No temporary sign shall be displayed for more than 30 consecutive days.

(D) In addition to (A) above, temporary signs in the B-C - Central business, B-N - Business neighborhood, B-OS - Business office service, PDD-2, and PDD-3 zoning districts are permitted subject to the following conditions:

(1) A temporary sign shall only be displayed upon receipt of an issued permit for each sign.

(2) Temporary sign types allowed as a permanent permit: Feather, flag and sandwich board signs.

(a) Two temporary signs may be placed at the same time, but they each must be a different, permitted sign type.

(b) Feather and sandwich board signs may be placed on sidewalks or walking areas that are directly in front of tenant space for which it is advertising.

(c) They must allow for a minimum of 60 inches of unobstructed pedestrian walkway and shall not obstruct access to parking or create a vision hazard.

(d) Feather flags may be displayed using any of the following methods:

i. Attached to a pedestal style base not affixed to the ground.



- ii. Placed in the existing flag holes constructed by the city. These holes may only be utilized when not otherwise used for display of the American flag by the city or other group authorized by the city. If a feather flag is displayed at the time an authorized group wishes to display the American flag, the feather flag must be immediately removed.
  - (e) Flags may be displayed using one of the following methods:
    - i. Attached to the building wall of the tenant space for which it is advertising where the lowest edge of the flag must be seven feet or more and not extend above the first floor tenant space.
    - ii. Placed in the existing flag holes constructed by the city. These holes may only be utilized when not otherwise used for display of the American flag by the city or other group authorized by the city. If a flag sign is displayed at the time an authorized group wishes to display the American flag, the flag sign must be immediately removed.
  - (f) They may only be displayed during business hours and must be removed at the close of business hours.
- (3) Maximum height and square feet for these signs are listed in table 1.1012 D1.

Table 1.1012 D1

Type of Sign	Maximum Area per Sign	Maximum Height of Sign
Flag Sign	6 sq. ft.	No higher than first floor tenant space
Feather Sign	25 sq. ft.	12 ft. to top of sign
Sandwich Board Sign	8 ft. per side	4 ft.

- (4) Banner signs shall only be allowed for up to 30 days within 90 days of a new business opening. The sign shall not exceed 32 square feet in area and four feet in height. The banner sign must be placed on the building where the new tenant is located.
- (5) Tenant spaces other than on the first floor may be permitted a sandwich board sign in front of first floor tenant space.
- (E) Temporary signs in residential districts are permitted subject to the following conditions:
  - (1) Temporary signs shall be allowed in residential districts and no permit is required.
  - (2) Temporary signs shall not exceed four feet in height or 16 square feet in area.
  - (3) No temporary sign shall be displayed for more than 30 consecutive days.
  - (4) No temporary sign shall be closer than five feet to any property line.
  - (5) No temporary sign shall be placed in the right-of-way.
- (F) *Enforcement.* Upon failure of any person to comply with the provisions of the sign ordinance, the city may effectuate compliance by first notifying the owner of the sign in violation by mail, phone, or in person that they have 24 hours to come into compliance. If the sign is not removed or brought into compliance, a citation may be issued as per appendix B Fine Schedule in the City Code of Ordinances. A citation may be issued for each day the violation remains. Non accessory signs may be removed by the City.

## **ARTICLE XI. GENERAL PROVISIONS**

### **1.1101. Scope.**

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

### **1.1102. Conflicting regulations.**

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

### **1.1103. Uses not otherwise included within a specific district.**

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

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

(A) *Wireless telecommunication towers and antennas.*

- (1) *Purpose.* The purpose of this [zoning] ordinance is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this [zoning] ordinance are to:
  - (a) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
  - (b) Encourage the location of towers in nonresidential areas;
  - (c) Minimize the total number of towers throughout the community;
  - (d) Strongly encourage the joint use of new and existing tower sites as a primary option rather than constructions of additional single-use towers;
  - (e) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
  - (f) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
  - (g) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
  - (h) Consider the public health and safety of communication towers; and
  - (i) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the City of Sturgis shall give due consideration to its master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

- (2) *Definitions.* As used in this [zoning] ordinance, the following terms shall have the meanings set forth below:
- (a) [The term] "alternative tower structure" means manmade trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
  - (b) [The term] "antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
  - (c) [The term] "backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
  - (d) [The term] "FAA" means the Federal Aviation Administration.
  - (e) [The term] "FCC" means the Federal Communications Commission.
  - (f) [The term] "height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
  - (g) [The term] "preexisting towers and preexisting antennas" means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this [zoning] ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
  - (h) [The term] "tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
- (3) *Applicability.*
- (a) *New towers and antennas.* All new towers or antennas in the City of Sturgis shall be subject to these regulations, except as provided in [sub]sections (3)(b) through (d) [of this section], inclusive.
  - (b) *Amateur radio station operators/receive only antennas.* This [zoning] ordinance shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
  - (c) *Preexisting towers or antennas.* Preexisting towers and preexisting antennas shall not be required to meet the requirements of this [zoning] ordinance, other than the requirements of [sub]sections (4)(f) and (4)(g) [of this section].
  - (d) *AM array.* For purposes of implementing this [zoning] ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
- (4) *General requirements.*

- (a) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- (b) *Lot size.* For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (c) *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the community development department an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City of Sturgis or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The community development department may share such information with other applicants applying for administrative approvals or special use permits under this [zoning] ordinance or other organizations seeking to locate antennas within the jurisdiction of the City of Sturgis, provided, however that the community development department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- (d) *Aesthetics.* Towers and antennas shall meet the following requirements:
  - (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (e) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (f) *State or federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this [zoning] ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (g) *Building codes: safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City of Sturgis concludes that a tower fails to comply with such codes and

standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (h) *Measurement.* For purposes of measurements, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Sturgis irrespective of municipal and county jurisdictional boundaries.
  - (i) *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this [zoning] ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.
  - (j) *Franchises.* Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City of Sturgis have been obtained and shall file a copy of all required franchises with the community development department.
  - (k) *Public notice.* For purposes of this [zoning] ordinance, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in [sub]section (7)(b)(5)(ii) [of this section], Table 2, in addition to any notice otherwise required by the zoning ordinance.
  - (l) *Signs.* No signs shall be allowed on an antenna or tower.
  - (m) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements of [sub]section (A)(8) [of this section].
  - (n) *Multiple antenna/tower plan.* The City of Sturgis encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- (5) *Permitted uses.*
- (a) *General.* The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a special use permit.
  - (b) *Permitted uses.* The following uses are specifically permitted:
    - (1) Antennas or towers located on property owned, leased, or otherwise controlled by the City of Sturgis provided a license or lease authorizing such antenna or tower has been approved by the City of Sturgis.
- (6) *Administratively approved uses.*
- (a) *General.* The following provisions shall govern the issuance of administrative approvals for towers and antennas.
    - (1) The community development department may administratively approve the uses listed in this section.
    - (2) Each applicant for administrative approval shall apply to the community development department providing the information set forth in [sub]sections (A)(7)(b)(1) and (A)(7)(b)(3) [of this section] of this [zoning] ordinance and a nonrefundable fee as established by resolution of the Sturgis City Commission to reimburse the City of Sturgis for the costs of reviewing the application.

- (3) The community development department shall review the application for administrative approval and determine if the proposed use complies with [sub]sections (A)(4)(7)(b)(4) and (A)(7)(b)(5) [of this section] of this [zoning] ordinance.
  - (4) The community development department shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the community development department fails to respond to the applicant within said 60 days, then the application shall be deemed to be approved.
  - (5) In connection with any such administrative approval, the community development department may, in order to encourage shared use, administratively waive any zoning district setback requirements in [sub]section (A)(7)(b)(4) [of this section] or separation distances between towers in [sub]section (A)(7)(b)(5) [of this section] by up to 50 percent.
  - (6) In connection with any such administrative approval, the community development department may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
  - (7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to [sub]section (A)(7) [of this section] prior to filing any appeal that may be available under the zoning ordinance.
- (b) *List of administratively approved uses.* The following uses may be approved by the community development department after conducting an administrative review:
- (1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial zoning district.
  - (2) Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) [(A)(6)(b)(2)(a) and (A)(6)(b)(2)(b) of this section] below.
    - (a) *Antennas on existing structures.* Any antenna which is not attached to a tower may be approved by the community development department as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight or more dwelling units, provided:
      - (i) The antenna does not extend more than 30 feet above the highest point of the structure;
      - (ii) The antenna complies with all applicable FCC and FAA regulations; and
      - (iii) The antenna complies with all applicable building codes.
    - (b) *Antennas on existing towers.* An antenna which is attached to an existing tower may be approved by the community development department and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

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

- (iii) For three or more users, up to 150 feet in height.
  - (4) Locating any alternative tower structure in a zoning district other than industrial that in the judgment of the community development department is in conformity with the goals set forth in section (A)(1) of this zoning ordinance.
  - (5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
- (7) *Special use permits.*
  - (a) *General.* The following provisions shall govern the issuance of special use permits for towers or antennas by the planning commission:
    - (1) If the tower or antenna is not a permitted use under section 1.1405 of this [zoning] ordinance or permitted to be approved administratively pursuant to section 1.1406 of this [zoning] ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
    - (2) Applications for special use permits under this Section shall be subject to the procedures and requirements of article VI, section[s] 1.0601 and 1.0602 of the zoning ordinance, except as modified in this section.
    - (3) In granting a special use permit, the planning commission may impose conditions to the extent the planning commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
    - (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
    - (5) An applicant for a special use permit shall submit the information described in this section and a nonrefundable fee as established by resolution of the Sturgis City Commission to reimburse the City of Sturgis for the costs of reviewing the application.
  - (b) *Towers.*
    - (1) *Information required.* In addition to any information required for application for special use permits pursuant to article VI of the zoning ordinance, applicants for a special use permit for a tower shall submit the following information:
      - (i) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), master plan classification of the site and all properties within the applicable separation distances set forth in [sub)section (A)(7)(b)(5) [of this section], adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the community development department to be necessary to assess compliance with this zoning ordinance.
      - (ii) Legal description of the parent tract and leased parcel (if applicable).



- (iii) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned property.
  - (iv) The separation distance from other towers described in the inventory of existing sites submitted pursuant to [sub)section (A)(4)(c) [of this section] shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - (v) A landscape plan showing specific landscape materials.
  - (vi) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - (vii) A description of compliance with [sub]sections (A)(4)(c), (d), (e), (f), (g), (j), (l), and (m), (A)(7)(b)(4), (A)(7)(b)(5) [of this section] and all applicable federal, state or local laws.
  - (viii) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  - (ix) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
  - (x) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - (xi) A description of the feasible location(s) of future towers or antennas within the City of Sturgis based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- (2) Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications pursuant to article VI of the zoning ordinance, the planning commission shall consider the following factors in determining whether to issue a special use permit, although the planning commission may waive or reduce the burden on the applicant of one or more of these criteria if the planning commission concludes that the goals of this [zoning] ordinance are better served thereby:
- (i) Height of the proposed tower;
  - (ii) Proximity of the tower to residential structures and residential district boundaries;
  - (iii) Nature of uses on adjacent and nearby properties;
  - (iv) Surrounding topography;
  - (v) Surrounding tree coverage and foliage;
  - (vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

- (vii) Proposed ingress and egress; and
  - (viii) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in [sub)section (A)(7)(b)(3) [of this section] of this [zoning] ordinance.
- (3) Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the planning commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the planning commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (i) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- (4) *Setbacks.* The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the planning commission may reduce the standard setback requirements if the goals of this [zoning] ordinance would be better served thereby:
- (i) Towers must be setback a distance equal to at least 75 percent of the height of the tower from any adjoining lot line.
  - (ii) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) *Separation.* The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the planning commission may reduce the standard separation requirements if the goals of this [zoning] ordinance would be better served thereby.
- (i) Separation from off-site uses/designated areas.

- (a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
- (b) Separation requirements for towers shall comply with the minimum standards established in Table 1.

TABLE 1

Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units <sup>1</sup>	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300 height of tower <sup>2</sup> whichever is greater
Vacant unplatted residentially zoned lands <sup>3</sup>	100 feet or 100% height of tower whichever is greater
Existing multifamily residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

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

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

TABLE 2

Existing Towers—Types

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

- (6) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticlimbing

device; provided however, that the planning commission may waive such requirements, as it deems appropriate.

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

hedge with an ultimate height of eight feet and a planted height of at least 36 inches.

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

and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in [sub)section (A)(7)(b)(9) [of this section].

#### **1.1104. Airport glide path.**

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

#### **1.1105. Accessory buildings, structures and uses.**

- (A) *Accessory building or accessory structures in any district.*
- (1) No accessory building or accessory structure may be permitted on a lot which does not contain a principal use or principal building.
  - (2) No accessory building or accessory structure shall be placed in any required front or side yard.
  - (3) Accessory buildings shall be no closer than ten feet to any other building on the same lot unless:
    - (a) A one hour fire separation is provided as per the Michigan Building Code between the accessory building and other buildings.
    - (b) It is one of the following:
      - i. Dog houses.
      - ii. Pergolas.
      - iii. Play houses.
      - iv. Pump houses.
      - v. Accessory buildings similar to the above.
    - (c) It is an accessory building 200 square feet or less; in this case it shall be a minimum of three feet from any other building on the same lot.
    - (d) As specified elsewhere in the zoning ordinance or City Code of Ordinances.
  - (4) Swimming pools shall be no closer than ten feet to any building on the same lot unless:
    - (a) It is one of the following:

- i. Dog houses.
  - ii. Pergolas.
  - iii. Play houses.
  - iv. Pump houses.
  - v. Accessory buildings similar to the above.
- (5) An accessory building or accessory structure 200 square feet or less located in a rear yard shall not be closer than three feet to any lot line unless specified elsewhere in the zoning ordinance or City Code of Ordinances; accessory buildings or accessory structures greater than 200 square feet located in a rear yard shall be no closer than ten feet to any lot line unless specified elsewhere in the zoning ordinance or City Code of Ordinances.
- (6) Residential kennels shall be no closer than six feet to the principal building on the same lot and no closer than six feet to the lot line.
- (7) Donation Bins. Bins designed to solicit donations shall be allowed in any non-residential use as an accessory structure, subject to the following standards:
  - (a) Donations bins shall be limited to one (1) per tenant space.
  - (b) No illumination shall be used to draw attention to any donation bin.
  - (c) Donation bins shall not encroach into any required setbacks, public right of ways, or required landscape areas.
  - (d) All donation bins shall be securely attached to the ground to prevent tipping hazard.
  - (e) No items shall be stored outside of the donation bin.
- (8) Sale, Garage or Yard. This type of sale shall include garage sale, yard sale, auctions or similar activities. They shall be permitted as an accessory use to residentially zoned properties and residential uses subject to the following standards:
  - (a) Residents are permitted to conduct a maximum of four (4) sales per calendar year.
  - (b) Sales are not permitted to be more than four (4) consecutive days.
  - (c) Sales are permitted between the hours of 8:00am and 6:00pm on the designated sale day.
  - (d) Temporary signs advertising the sale are allowed but must be removed within 24 hours after the sale ends.
  - (e) Signs shall not obstruct public pathways or roadways and shall comply with sign ordinances in the district where the sale is located.
  - (f) Sales must be conducted on the resident's property and not extend onto public sidewalks or streets.
  - (g) The property owner is responsible for maintaining the cleanliness and orderliness of the sale area.
  - (h) No loudspeakers or amplified music are allowed.
- 9) Prohibited Accessory Buildings, Structures and Uses: In residential zoning districts, transient (shipping) containers are not permitted as an accessory structure or building. In residential zoning districts, no mobile home, tank, junk object, salvage materials, trailer, vehicle, or similar item shall be utilized as an accessory building or storage structure; provided, however, the above requirements shall not be applicable to:

- (a) Temporary offices, tool sheds or similar temporary storage structures, used pursuant to permitted construction or approved as part of a special land use.
  - (b) Underground storage tanks accessory to permitted use. Said tanks, including the operation of same, shall meet all State and Federal permitting and monitoring requirements.
  - (c) Underground tanks or piping required as part of a State or Federal remediation project.
  - (d) Storage/shipping containers, subject to the following restrictions:
    - i. Storage / shipping containers shall be allowed as temporary use for a period not to exceed fourteen (14) days, unless approved by the zoning administrator for additional time.
    - ii. Such containers shall only be for the use of the person utilizing the storage/shipping container for moving goods and materials.
  - (e) Portable toilets, subject to the following restrictions:
    - i. Portable toilets may be utilized during construction projects or temporary events at the property.
    - ii. Portable toilets shall be removed within seven (7) days of the construction project's completion or abandonment or after the event.
    - iii. Portable toilets are permitted for municipal parks, events and, activities.
- (10) Temporary structures. Temporary structure(s) 400 square feet or greater for construction, assembly, outdoor gathering area, or retail sales area shall meet the following requirements:
- (a) Shall not be placed in a corner clearance area as determined by section 1.1107.(B)
  - (b) Shall be securely anchored to the ground.
  - (c) Shall not be permitted for greater than thirty (30) days after installation, except construction trailers shall be removed within thirty (30) days after the completion or abandonment of the construction.
  - (d) Shall not be placed in a required fire lane, fire apparatus access road or limit fire department access to a structure on the same property or adjacent property.
  - (e) Shall not be used as a dwelling unit.
  - (f) Shall not be permitted if it has an unreasonable detrimental effect or will be a nuisance upon adjacent property, based upon findings of the Zoning Administrator regarding the noise, light, odor, vibration, or other off-site nuisance impacts that are generated by the proposed structure. At the discretion of the Zoning Administrator, structures may be referred to the Planning Commission for an interpretation regarding the nuisance impact of such structures.
  - (g) Shall not be permitted if the access to the area constitutes a traffic hazard due to ingress or egress.
  - (h) Shall provide off-street parking based on the use in table in section 1.0902.
  - (i) Structure must meet applicable building, electrical, mechanical, plumbing, fire prevention codes and fire safety requirements.
  - (j) Membrane structures shall be properly labeled with the following:
    - i. Size of the structure.
    - ii. Type of fabric or material indicating flame retardant information.



- (k) Provide an affidavit from the owner to attest to the following:
    - i. Name and address of the owners of the tent.
    - ii. Date the fabric was last treated with flame retardant solution.
    - iii. Trade name or kind of chemical used in the treatment.
    - iv. Name of testing agency and test standard by which the fabric was tested.
    - v. Name of the person or firm that treated the material.
- (11) Temporary structures less than 400 square feet are exempted from the requirements above and no permit is required, if they meet all conditions listed below:
- (a) Shall be removed within seven (7) days of being installed.
  - (b) Shall not be located in a corner clearance area as determined by section 1.1107.
  - (c) Shall not have unreasonable detrimental effect or be a nuisance upon adjacent property, based upon findings of the Zoning Administrator that the structure does not generate excessive noise, light, odor, vibration, or other off-site nuisance impacts. At the discretion of the Zoning Administrator, structures may be referred to the Zoning Board of Appeals for an interpretation regarding the nuisance impact of such structures.
- (B) *Accessory building or accessory structures in a residential district.* In addition to the requirements of subsection (A) of this section, the following restrictions shall apply to accessory buildings or accessory structures in residential districts.
- (1) Accessory buildings or accessory structures shall not exceed 14 feet in height with the exception of satellite systems, antenna systems, solar panels, wind generators or similar structures. If these structures are installed as a stand-alone structure, they shall not exceed 20 feet in height. If these structures are installed atop a building or structure, they shall not exceed the maximum height as per table 1.0501.—Table - Schedule of Regulations.
  - (2) A private garage or a portion thereof may be rented or leased for not more than two motor vehicles of the noncommercial type, to persons not residing in the dwelling on the lot.
  - (3) The total square footage of all accessory buildings shall not exceed the square footage of the ground or first floor area of the principal building including an attached garage with a foundation and roof.
  - (4) When an accessory building in any residential district is intended for other uses than the storage of private motor vehicles, the uses proposed for the accessory building must be compatible with the uses permitted within the subject district.
  - (5) Accessory buildings exceeding 200 square feet must be provided with exterior finish materials similar to the principal building on the lot. Examples include roofing and siding materials. These items shall be of the same or similar, compatible colors to the principal building. An alternate roofing or siding material may be substituted if the color(s) is compatible with the principal building. They shall be built with architecture and materials that reasonably compliment the architecture and materials of the dwelling.
  - (6) Canopy and tarp like structures are not permitted unless used as outdoor furniture, unless such structures are permitted as temporary structures under Section 1.1105(A)(10). These items may be used from the months of April through October if maintained in good condition and used in the manner they were designed.
  - (7) Dog houses shall not exceed six feet in height and 20 square feet in area.
  - (8) There shall be no more than two accessory buildings on any one parcel excluding playhouses, dog houses, chicken coops not exceeding 30 square feet, pergolas or gazebos not exceeding 150 square feet, or buildings of similar uses.

- (9) If a lot area exceeds 125 percent of the minimum lot size required in the district, a property owner may request consideration from the planning commission for additional accessory building square footage greater than what this zoning ordinance allows, subject to the following conditions:
  - (a) The request and review by the planning commission shall follow the requirements of section 1.0602 of this zoning ordinance.
  - (b) The maximum lot coverage for accessory structures shall not exceed ten percent of the total lot area.
  - (c) All other standards pertaining to accessory structures, as outlined in this section, shall apply unless approved by the planning commission.
- (10) Chicken coops shall not exceed eight (8) feet in height and sixty (60) square feet in area. Chicken coops shall be removed if a valid urban chicken permit as per section 10.65 of the City of Sturgis code of ordinances is maintained.
- (11) Storage/shipping containers shall be allowed as temporary use for a period not to exceed fourteen (14) days, unless approved by the zoning administrator for additional time. Such containers shall only be for the use of the person utilizing the storage/shipping container for moving goods and materials. At no time shall any container be placed as a permanent structure within a residential zoning district or residential use. Only one (1) container may be placed at any residentially zoned property or use at any time. The container shall not encroach on the City right of way, be placed in any required off street parking, or encroach on any corner clearance requirement.
- (11) Solar Energy Systems (Photovoltaic)
  - (a) Visibility and Glare: A solar energy system whether installed on the roof or ground shall be mounted or oriented so that concentrated solar glare will not be directed toward or onto nearby properties or right of ways at any time of the day.
  - (b) Support Structures for ground mount. Support structures shall be of as single, non-reflective matte finish.
  - (c) Ground mounted solar installations shall only be installed in the rear or side yard.
  - (d) The area of a ground mounted solar installation shall count towards the maximum area allowed for accessory buildings/structures with a principal use. To calculate the area, you will square off the area the solar energy system uses.

(C) *Permitted Accessory Uses*

(1) *Repair of vehicles in residential districts.*

- (a) A resident may repair vehicles of the resident on the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicles of other than a resident of the dwelling unit on said property and such repair shall be conducted in not to exceed seven consecutive days in any 30-day period.
- (2) Accommodations for servants and/or caretakers;
- (3) Outdoor swimming pools, hot tubs and saunas for the use of occupants of a residence, or their guests;
- (4) Domestic or agricultural storage in a barn, shed, toolroom, or similar accessory building or other structure;
- (5) A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays;
- (6) Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations;

- (7) Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations;
- (8) Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located;
- (9) Offices of an industrial or commercial complex located on the site of the commercial or industrial complex;
- (10) Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located;
- (11) Accessory signs, subject to the sign regulations for the district in which the zoning lot is located;
- (12) Common household gardening in a residential district when located only in the rear yard and/or non-required side yard areas. For purposes of this title, common household gardening shall include the growing of fruits and vegetables for consumption, solely by members of the family residing in the dwelling unit located on the same zoning lot; [and]
- (13) Solar panels, wind generators, television reception antenna and air conditioning units.
- (14) Any structure or area designed and used specifically for the boarding or exercise of pet or pets (dogs, cats, rabbits, etc.), including but not limited to houses, pens, kennels, and dog/pet runs shall be considered as accessory structures.
- (15) Other uses clearly incidental to a main use,

#### **1.1106. Walls and fences.**

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

the obscuring character required, and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the building official.

- (5) The city may require that suitable maintenance guarantee be provided for the continued maintenance of walls required under this title.

TABLE 1.1106A

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

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

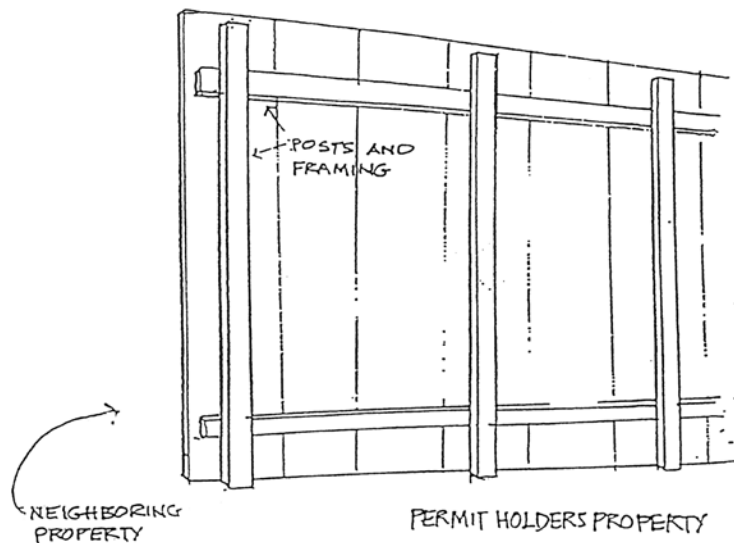
(B) *Permanent Fences or walls in all nonresidential districts.*

- (1) In B-OS districts (business office service), fences up to six feet in height are permitted in rear and side yards. Fences not more than 50 percent solid and not more than four feet in height are permitted in required front yards. Fences in the front yard shall not be chainlink or of wire construction.
- (2) Fences not more than six feet in height may be placed in any yard in M (manufacturing) or B-H (business highway) districts. All parking areas for commercial or industrial district uses shall be screened on all sides abutting or across a street or alley from a residential district.
- (3) Chainlink fences in the M (manufacturing) districts may have an additional two feet in height added for security fence.
- (4) Fences or walls in the B-C central business district are permitted for the following uses, with regulations as specified in Table 1.1106A.
  - (a) Screening of trash dumpsters.
  - (b) Screening of parking areas.
  - (c) Outdoor gathering areas.
  - (d) Public facilities and public use locations.

- (5) Clear vision must be maintained on all drives, streets and sidewalks. All fences or walls must be located on the property line except as required for loading areas as specified in section 1.0903.
- (6) Fence support structures or devices must be on the permit holder's side of the fence, with the finished side of the fence facing the adjacent property (see Figure 1.1105B).
- (7) Fences shall not contain electric current or charge of electricity.
- (8) Fence post supports shall be placed a minimum of 18" below grade for fences greater than four feet in height.
- (9) No temporary fencing shall be permitted unless being utilized for construction sites, temporary gathering area, or similar uses approved by the zoning administrator.
- (10) Post supports may extend above the maximum height permitted by 6 inches.

(C) *Permanent Fences or walls in all residential districts.*

- (1) Fences or retaining walls may be located along the property line.
- (2) Fences on lots in all residential districts which enclose property and/or are within a side or rear yard shall not exceed six feet in height, measured from the surface of the ground and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater.
- (3) Fences shall not contain barbed wire, electric current or charge of electricity.
  - (a) Underground pet fences shall be permitted.
- (4) Ornamental fences within the front yard shall not exceed 36 inches in height, and clear vision must be maintained on corner lots in accord with section 1.1106. Privacy fences are not permitted in the front yard area.
- (5) Fences which enclose public or institutional parks, playgrounds or public landscaped areas, situated within an area developed with recorded lots, shall not exceed eight feet in height, measured from the ground, and shall not obstruct vision to an extent greater than 25 percent of their total area.
- (6) Fence supports or devices must be on the permit holders side of the fence, with the finished side of the fence facing the adjacent property. (See Figure 1.1105B.)
- (7) Clear vision must be maintained on all drives, streets and sidewalks.
- (8) Fence post supports shall be placed a minimum of 18" below grade for fences greater than four feet in height.
- (9) No temporary fencing shall be permitted unless being utilized for construction sites, temporary gathering area, or similar uses approved by the zoning administrator.
- (10) Post supports may extend above the maximum height permitted by 6 inches.

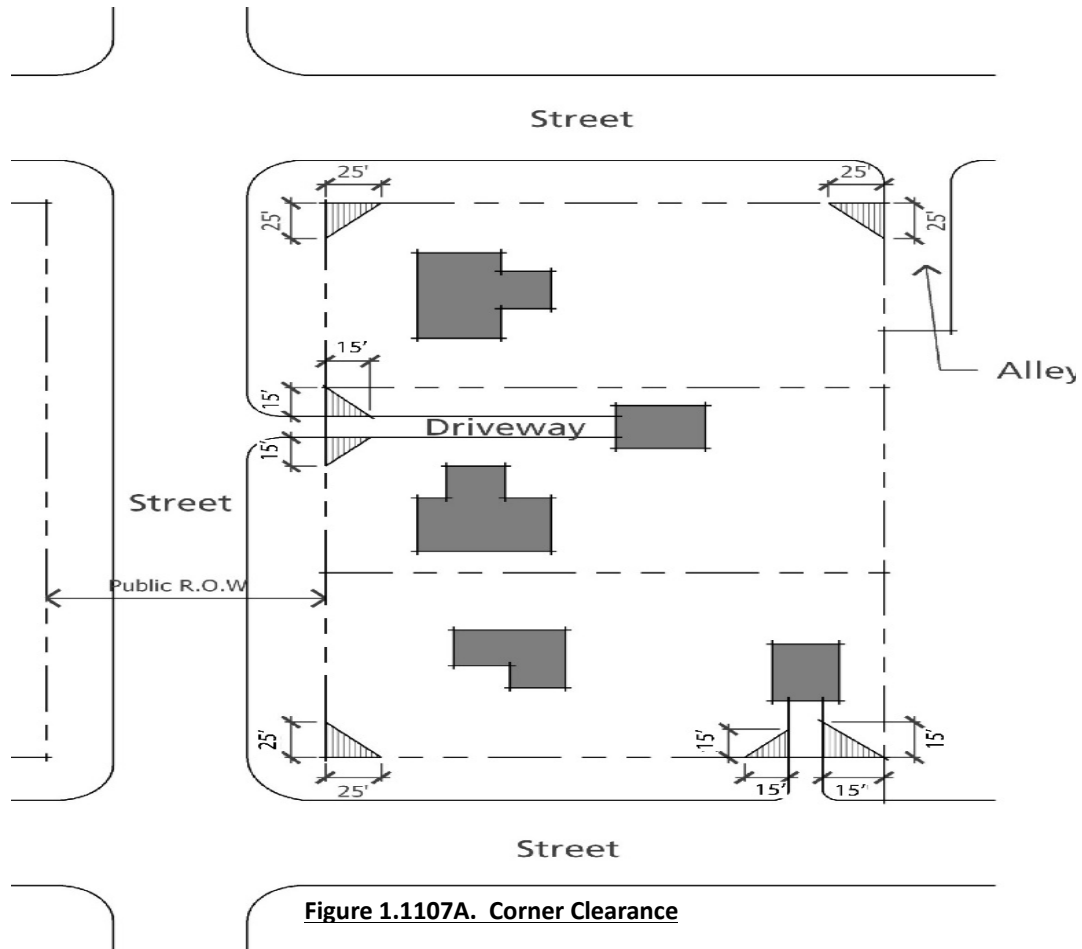


**Figure 1.1105B**

### **1.1107. Corner clearance.**

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

**Figure  
1.1107A.  
Corner  
Clearance**



**Figure 1.1107A. Corner Clearance**

#### **1.1108. Area or space required.**

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

#### **1.1109. Yard requirements along zoning boundary line.**

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

#### **1.1110. Front yards on lots running through the block.**

In any district where a lot runs through a block front street to street and where a front yard is required, the front yard shall be provided along each street lot line.

#### **1.1111. Restrictions for lot widths adjacent to platted lots.**

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

#### **1.1112. Institutional and public uses.**

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

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

#### **1.1113. Sewage and water requirements.**

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

#### **1.1114. Surface runoff.**

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



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

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

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

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

#### **1.1116. Swimming pools.**

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

#### **1.1117. Basement dwellings.**

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

#### **1.1118. Abandoned buildings and structures.**

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

#### **1.1119. Open space minimum area.**

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

### **1.1120. Storage of household furniture and appliances.**

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

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

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

### **1.1121. Reserved.**

### **1.1122. Demolition of buildings.**

The purpose of this section is to provide a clean, level, top soiled, seeded, buildable site at the conclusion of the demolition process. Whenever a structure is demolished or removed, the person, firm, or corporation commencing such demolition or removal must do the following:

#### **(A) Prior to commencing demolition:**

- (1) Submit a completed demolition permit application and pay the appropriate fees for all activities related to the demolition process, including but not limited to hazardous material assessment, hazardous material abatement, and demolition. This can also be submitted by the owner or owner's agent.
- (2) Arrange for proper abandonment of all utility services. Sign-offs shall be provided with the application for demolition. This may include gas, electric, water, sewer, storm, phone, and cable.
- (3) Conduct a hazardous material assessment and abate hazardous materials in accordance with local, state, and federal regulations and the hazardous material assessment report.
- (4) Contact Miss Dig to locate any underground public utilities.
- (5) Coordinate the closure of any public street or sidewalk with the City of Sturgis Engineering Department by submitting a Right of Way Permit application. Some locations may require approval from the Michigan Department of Transportation.
- (6) Verify the existing condition of streets, sidewalks, curbs, fences, and other infrastructure and site improvements with the Community Development Department and Engineering Department. Applicant shall provide photographs of all damages that exist prior to mobilizing equipment on-site.
- (7) Install safety measures to limit access to the demolition site.
- (8) Install soil erosion control measures as required by your soil erosion permit, if applicable.

#### **(B) During demolition:**

- (1) Water down all structures and any ensuing debris during demolition and loading of trucks to mitigate any dust and particle nuisance for adjoining properties.
- (2) Demolish the entire structure(s) unless the permit was issued for a portion of a building or structure.
- (3) Remove all footings, foundations, basement walls, basement floors, septic systems and properly abandon any wells.
- (4) Demolish or remove all garages, sheds, and accessory or temporary structures including, but not limited to, poles, decks, fences, retaining walls, carports, pools, and play structures as nothing can be buried or remain.

- (5) Remove all landscaping and shrubs unless approved by the zoning administrator.
- (6) Remove all hard surfaces including, but not limited to, concrete, masonry, asphalt, and hard packed stone or gravel, but excluding public sidewalks.
- (7) Remove all driveway curbs, gutter openings and approaches as directed by the Engineering Department.

(C) After demolition:

- (1) Request inspection by the Community Development Department for an open hole inspection when all debris has been removed from the site and prior to any backfilling of open hole.
- (2) Excavations shall be backfilled with clean fill and compacted to 95% to prevent settling. The Community Development Department reserves the right to require compaction testing by a third party paid by the contractor, if deemed necessary.
- (3) Install new curb and gutter as directed by the Engineering Department to replace the driveway curb and gutter openings if ordered to be removed as part of the permitting process.
- (4) Grade the site to blend smoothly with surrounding properties, public sidewalks, driveways, and curbs. Final grade shall be executed in a manner that provides a continuous smooth grade free of voids, pockets, and debris including, but not limited to, rocks, roots, plastic, wood, cement, block, brick, and steel or other construction material. Grade shall be completed to eliminate standing water or draining of water onto neighboring properties.
- (5) Install a minimum of two (2) inches of topsoil and the appropriate grass seed. All grass seed must be suitable for mowing and comply with City of Sturgis regulations.
- (6) Properly repair and reseed landscape areas on adjoining properties and the area between the curb and sidewalk damaged during demolition or removal activities with topsoil and appropriate grass seed.
- (7) Replace all public sidewalks, curbs, driveway approaches, and driveways on the demolition site and adjoining properties damaged during demolition or removal activities in accordance with the right of way permit requirements.
- (8) Remove all paper, wood, rubbish, and debris from the site before final inspection.
- (9) Request final inspection by the Community Development Department when all work has been completed.

Exception. -The zoning administrator may authorize a deviation from the above standards in the best interest of the City, provided that the deviation complies with the spirit and intent of the ordinance.

### **1.1123. Home Occupations.**

A home occupation is an accessory use by the occupant of the dwelling unit. Home occupation as used in this chapter shall be incidental to the principal use of the dwelling unit as a residential use and subject to the following:

(A) Home occupations that create the following conditions shall not be permitted:

- (1) Changes the outside appearance of the dwelling or is visible from the street.
- (2) Generates traffic, parking, sewerage, or water use in excess of what is normal in the residential neighborhood.
- (3) Creates noise, vibration, glare, fumes, odors or results in electrical interference, or becomes a nuisance.
- (4) Results in outside storage or display of anything other than a sign in accordance with Section 1.1002.
- (5) Requires the employment of more than one person in the home other than the dwelling occupants.
- (6) Requires exterior building alterations to accommodate the occupation.
- (7) Occupies more than 25 percent of the floor area of the dwelling, or 50 percent of a detached garage.

- (8) Requires parking for customers that cannot be accommodated on the site. Required parking may include not exceeding one parking space at curbside on the street.
- (9) Requires the delivery of goods or the visit of customers before 6:00 a.m. and after 8:00 p.m.
- (B) The following are permitted home occupations provided they do not violate any of the provisions of the previous paragraph subsections (A)(1-9) of this section:
  - (1) Dressmaking, sewing and tailoring.
  - (2) Painting, sculpturing or writing.
  - (3) Telephone answering.
  - (4) Home crafts, such as model making, rug weaving and lapidary work.
  - (5) Tutoring limited to four students at a time.
  - (6) Computer application including software and not including sale of computers.
  - (7) Salespersons office or home office of a professional person.
  - (8) Laundering and ironing.
  - (9) Repair of clocks, instruments or other small appliances which do not create a nuisance due to noise, vibration, glare, fumes, odors or results in electrical interference.
  - (10) Barbershops and beauty parlors, limited to one operator.
  - (11) Dance studios, limited to four students.
  - (12) Day care for six or fewer children
- (C) The following are prohibited as home occupations:
  - (1) Private clubs.
  - (2) Repair shops which may create a nuisance due to noise, vibration, glare, fumes, odors or electrical interference.
  - (3) Restaurants.
  - (4) Boarding, stables, kennels.
  - (5) Short term rental.
  - (6) Motor vehicle repair or paint shops.
  - (7) Retail sales that require visits of customers to the home.
  - (a) Any proposed home occupation that is neither specifically permitted of this section nor specifically prohibited by this section shall be considered a special use and be granted or denied upon consideration of those standards contained in section[s] 1.0602 and 1.0603 of this zoning ordinance.

#### **1.1124. Dwelling Unit Review.**

All properties are subject to the following conditions for all new single or two family dwelling units, additions, changing of exterior finish materials, and adding or changing parking areas:

- (A) Dwelling units shall conform to all applicable building, electrical, plumbing, fire, energy, city codes and ordinances, and with applicable state or federal requirements with respect to the construction of the dwelling.
- (B) Dwelling units shall be permanently attached to a perimeter foundation. In instances where the applicant elects to set the dwelling on piers or other acceptable foundations which are not at the perimeter of the

dwelling, then a perimeter wall minimum 24 inches below finish grade shall also be constructed. Any such perimeter wall shall be constructed of durable materials and shall also meet all local requirements with respect to materials, construction, and necessary foundations below the frost line. Any such wall shall also provide an appearance which is compatible with the dwelling and other homes in the area. This section applies to garages attached to the dwelling unit.

- (C) Dwelling units shall be provided with home designs similar to the dwelling units on adjacent properties or in the surrounding residential neighborhood.
- (D) Dwelling units shall be provided with exterior finish materials that is harmonious in color and design.
- (E) Dwelling units shall be provided with an exterior building wall configuration which represents an average width to depth or depth to width ratio which does not exceed 3:1, or is in reasonable conformity with the configuration of dwelling units on adjacent properties or in the surrounding residential neighborhood.
- (F) The dwelling shall contain storage capability in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (G) All areas not covered by the dwelling unit, accessory structures or buildings, landscaping, or parking areas shall have be top dressed with a minimum two (2) inches of topsoil and the appropriate grass seed. All grass seed must be suitable for mowing and comply with City regulations.
- (H) The building official may request a review by the planning commission of any dwelling unit with respect to this section. The building official or planning board shall not seek to discourage architectural variation but seek to promote the reasonable compatibility of the character of dwelling units, thereby protecting the economic welfare and property value of surrounding residential uses and the city at large. In reviewing any such proposed dwelling unit, the building official may require the applicant to furnish such plans, elevations and similar documentation as he deems necessary to permit a complete review and evaluation of the proposal. When comparing the proposed dwelling unit to similar types of dwelling unit, consideration shall be given to comparable types of homes within 300 feet. If the area within 300 feet does not contain any such homes, then the nearest 25 dwellings shall be considered.

## ***ARTICLE XII. SITE PLAN REVIEW***

### **1.1201. - Purpose.**

Before a building permit is issued for any use identified as requiring a building permit, a site plan shall be submitted to the Community Development Department for review and approval. Before granting approval, the planning commission shall ascertain that all provisions of this article are complied with and that the proposed location and arrangement of buildings, accesses, parking area, walkways, yards, open areas, and other improvements limit potential health, safety, or protection hazards, and that the arrangement of buildings and structures will provide convenience for the intended occupants or utilization by the public and will be harmonious with development on adjoining properties.

### **1.1202. - Scope.**

- (A) Except as set forth below, the Community Development Department shall not issue a building permit for construction of any buildings, structures, or uses until a site plan, submitted in accordance with this zoning ordinance, shall have been reviewed and approved by the planning commission.
- (B) The following buildings, structures, or uses shall be exempt from the site plan review and approval by the planning commission procedure but must receive approval from the zoning administrator:
  - (1) Single or two-family dwellings on an individual and separate lot and including accessory structures and uses.
  - (2) Accessory buildings which meet all the following criteria:
    - (a) Require no new or additional means of access from adjoining public roads or highways.
    - (b) Do not require additional parking exceeding 10% of existing parking area.
    - (c) Comply with all zoning ordinance requirements.
  - (3) Projects involving the expansion, remodeling, or enlargement of existing buildings which meet all the following criteria:
    - (a) Require no new or additional means of access from adjoining public roads or highways.
    - (b) Do not require additional parking exceeding 10% of existing parking area.
    - (c) Comply with all zoning ordinance requirements.
  - (4) Additional buildings or structures similar to those previously existing upon an individual site that meet all the following criteria:
    - (a) Require no new or additional means of access from adjoining public roads or highways.
    - (b) Do not require additional parking exceeding 10% of existing parking area.
    - (c) Comply with all zoning ordinance requirements.
  - (5) Uses such as on-premises advertising signs except as provided for in article XIII of this zoning ordinance.
  - (6) Parking area projects which meet all the following criteria:
    - (a) Require no new or additional means of access from adjoining public roads or highways.
    - (b) Do not require additional parking exceeding 10% of existing parking area.
    - (c) Comply with all zoning ordinance requirements.
  - (7) Parking lot mill and repave projects where an approved site plan is on file, unless there are grading changes or changes to the configuration of the parking lot.

(8) Minor site plan amendments.

**1.1203. - Optional Pre-Application Meeting and Sketch Plan Review.**

(A) Preliminary sketches of proposed site and development plans may be submitted for review to the Community Development Department prior to final approval. The purpose of this procedure is to allow discussion between an owner, the zoning administrator and other City staff to better inform the owner of the acceptability of his proposed plans prior to incurring extensive engineering and other costs necessary for final site plan approval. The sketch plan shall include, as a minimum, the following information.

- (1) The name and address of the applicant or developer.
- (2) Sketch plans drawn to scale of site and any existing and proposed improvements.
- (3) Use of property, building information, outside changes, surrounding land uses.

(B) City staff or the planning commission shall not be bound by a tentative approval if given at this time.

**1.1204. - Application procedure.**

Requests for site plan review shall be made by filing the following items with the Community Development Department:

(A) A review fee as determined by resolution of the City Commission. No application shall be accepted until the fee has been paid.

(B) A completed application form for site plan review which shall contain, as a minimum, the following information:

- (1) The name, address and contact information of the applicant.
- (2) The name, address and contact information of the property owner.
- (3) A correct legal description of the property.
- (4) The area of the property stated in acres, or if less than one acre, in square feet.
- (5) The present zoning classification of the property and abutting parcels.
- (6) A description of the proposed development.

(C) Three full paper sets and one digital format set of site development plans with the architect's and/or engineer's seal affixed shall be submitted. Plans shall include the following information:

- (1) The title of the proposed project.
- (2) The name of the property owner or proprietor.
- (3) The location of the project, the street name, and the address.
- (4) Professional seal of the architect or engineer which are licensed in the State of Michigan, and their name, address, phone number, and email address.
- (5) The date drawn and subsequent revision dates.
- (6) The plan shall be drawn to an appropriate scale of not smaller in size than one inch equals 20 feet for a development of not more than three acres, and a scale of not smaller in size than one inch equals to 100 feet for a development in excess of three acres.
- (7) The plan shall show an appropriate descriptive legend, north arrow, and scale.
- (8) The property shall be identified by lot lines and general location together with dimensions, angles, and size correlated with the legal description of the property.

- (9) All utilities including water, sewer, electric, gas, phone, fiber, cable, wells and cisterns, hydrants, fire department connections, right of ways and points of access. For water service, include size of service line and meter. For sanitary service include the building sewer size.
- (10) The topography of the site with at least one-foot contour intervals and all natural features such as wood lots, streams, rivers, lakes, wetlands, unstable soils, and similar features shall be shown.
- (11) Existing manmade and natural features upon the site and adjoining sites within 100 feet of the site boundary shall be identified and located. Indicate which features will be retained or removed. This shall include signs, parking areas, dumpster location and enclosure, fences, drainage, above/underground storage tanks, fire department connections, wooded areas, drains, 100-year flood plains, floodway, soil contamination, groundwater contamination, etc.
- (12) The location of all buildings with setbacks as required by the zoning ordinance, distance from lot lines and other buildings, proposed finished floor and grade line elevations, the size of proposed principal and accessory buildings, the relationship of buildings to one another and to any existing structures on the site, number of floors, width, length and the height of all buildings and square footage of floor space therein shall be indicated. Site plans for multiple-family residential development shall also include a density schedule showing the number of dwelling units per net acres, including a dwelling schedule showing the unit type (one bedroom, two bedrooms, etc.) and number of each unit.
- (13) All proposed and existing streets, driveways, sidewalks, and other pedestrian, non-motorized or vehicular circulation features upon and adjoining to the site shall be shown, together with the location, size, and number of parking areas, service lanes thereto, and service parking and delivery or loading areas. Sidewalks are required which meet ADA access, for inter-site access, as well as public access across the property along all road frontages. Interconnection of parking lots between business properties shall follow the requirements in Article IX of the zoning ordinance.
- (14) The location, use, and size of open spaces together with landscaping, screening, fences, walls, and proposed alterations of topography or other natural features shall be indicated.
- (15) The proposed operations on the site shall be described in sufficient detail to indicate the effect, if any, upon adjoining lands and occupants, together with any special features which are proposed to relieve any adverse effects to adjoining land and occupants. The colors, materials, textures of all buildings, walls, roofs, fences, and signage and other items of installation on the site shall be explained in sufficient detail to allow review.
- (16) Elevations of all building, accessory buildings, and accessory structures. This includes mechanical equipment. If in the Central Business District, all items to verify compliance with the Design Review Guidelines shall be shown.
- (17) Any earth-change plans required by state law shall also be submitted with the application.
- (18) Electric service, meter location, and transformer proposed locations shown on the site plan. Pre-application for electric service must be completed prior to submittal.
- (19) On-site lighting with photometrics.
- (20) Surface water drainage for the site. All new storm water system shall be built and maintained in compliance with the City of Sturgis Storm Water Design Criteria Manual. Calculation worksheet must be included with the submittal and be signed and sealed by architect or engineer.
- (21) The locations of signs, either existing or proposed, and an indication of their size, height, and design to verify compliance with the zoning ordinance.
- (22) The location of any outdoor storage including a description of the items to be located outdoors, as well as the location and description of required screening.
- (23) Location of any hazardous materials. If any will be located on the site, provide type of material, quantity, and all required hazards.



(24) The site plan shall include any other information as may be determined to be necessary by the zoning administrator because of any peculiar features of the proposed development.

(25) If the proposed development is located in the City's wellhead protection area, it shall also follow Article XV Groundwater Protection of this zoning ordinance.

#### **1.1205. - Action on application and plans.**

- (A) The Community Development Department shall record the date the application and plans are received and shall transmit copies to affected City departments.
- (B) City administrative approval is required prior to review by the planning commission. Upon receiving administrative approval by City staff, the site plan will be placed on an upcoming Planning Commission meeting. The zoning administrator or their designee will notify the applicant of the date, time, and place of the planning commission meeting for the review to be heard.
- (C) Members of the planning commission shall be provided with copies of the application and plans prior to the meeting.
- (D) Following the planning commission review, the planning commission shall have the authority to approve, disapprove, modify, or alter the proposed plans in accordance with the purpose of the site plan review provisions of this section and the criteria contained herein. In those instances where modification is required, the planning commission may either approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the modifications have been included in the proposed plans for the applicant.
- (E) The planning commission may stipulate special conditions and restrictions upon the approval of the site plan as deemed necessary for the protection of the public interest.
- (F) A copy of the approved final site plan, including any required modifications or alterations, shall be maintained as part of the City records for future review and enforcement. If any variances from the zoning ordinance have been obtained from the zoning board of appeals, the minutes concerning the variances shall also be filed with the City records as a part of the site plan and delivered to the applicant for his information and direction. The site plan shall become part of the record of approval and subsequent actions relating to the activity authorized shall be consistent with the approved site plan.

#### **1.1206. - Criteria for review.**

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

- (A) There is a proper relationship between the existing streets and highways within the vicinity and proposed acceleration and/or deceleration lanes, service drives, entrance and exit driveways, and parking areas to ensure the safety and convenience of pedestrian, non-motorized, and vehicular traffic.
- (B) The buildings and structures proposed to be located upon the premises are so situated as to minimize adverse effects upon owners and occupants of adjoining properties.
- (C) As many natural features of the landscape shall be retained as possible where they furnish a barrier screen, or buffer between the project and adjoining properties used for dissimilar uses and where they assist in preserving the general appearance of the neighborhood.
- (D) Any adverse effects of the proposed development and activities emanating therefrom which affect adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setback, and location of buildings, structures, and entryways.
- (E) The layout of buildings and improvements will minimize any harmful or adverse effect which the development might otherwise have upon the surrounding neighborhood.

- (F) The site plan must comply with all provisions of the City code of ordinances and the zoning code. The planning commission may stipulate special conditions and restrictions of the site plan as deemed necessary for the protection of the public interest. However, this would not preclude the applicant from applying for an appropriate variance with the zoning board of appeals.

#### **1.1207. - Conformity to approved site plan.**

- (A) Revocation of site plan approval. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which has received approval. If construction and development does not conform with the approved plan, the approval of the site plan shall be revoked by the Community Development Department by written notice of the revocation posted upon the premises involved and mailed to the owner at his last known address. Upon revocation of this approval, all construction activities shall cease upon the site until the time the violation has been corrected or the planning commission has, upon proper application of the owner and after review, approved a modification of the site plan.
- (B) Criteria for commencing construction. Approval of the site plan shall be valid for a period of one year. If a building permit has not been obtained and on-site development commenced within one year, the site plan approval shall become void and a new application for site plan approval shall be required and new approval obtained before any construction or earth change is commenced upon the site. An applicant may make application for a six-month extension of the site plan to the Community Development Department. The extension shall be granted if the zoning administrator finds good cause for the extension and that zoning regulations and site conditions of the subject property and adjoining properties have not changed since the site plan approval.

#### **1.1208. - Amendment to site plan.**

- (A) A proposed amendment, modification, or alteration to a previously approved site plan may be submitted to the zoning administrator. The zoning administrator shall determine whether the change is major, warranting review by the planning commission, or minor, allowing administrative approval, as noted below:
- (1) Minor changes. Minor changes may be approved by the zoning administrator after review by affected City departments determining that the proposed revision(s) will not alter the basic design and character of the plan as approved by the planning commission, nor any specified conditions imposed as part of the original approval. The zoning administrator has the discretion to request review by the planning commission for minor changes. Minor changes shall include the following:
- (a) Reduction of the size or height of any building.
  - (b) Movement of buildings and/or signs by no more than ten feet if consistent with required setbacks, open space, and other standards.
  - (c) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
  - (d) Changes in floor plans, of up to five percent of the total floor area, which do not alter the character of the use or increase the amount of parking by more than 10%.
  - (e) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  - (f) Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate.
  - (g) Changes of building materials to another of similar or higher quality, or a slight change in the color of the exterior material.
  - (h) Grade change of up to one foot, reviewed and approved by the City engineer.

- (i) Modification of entry design, sign placement or reduction in size of signs.
  - (j) Changes to the location of accessory buildings and structures.
  - (k) Changes required or requested by the city, county, or other state or federal regulatory agency to conform to other laws or regulations which do not substantially modify the plan.
- (2) Major changes. A proposed change not determined by the zoning administrator to be minor shall be submitted as an amendment to the site plan and shall be reviewed in the same manner as the original site plan application.

#### **1.1209. - Performance guarantee.**

- (A) In compliance with the Michigan Zoning Enabling Act (MCL 125.3505, as amended), the City shall have the right and authority to ensure compliance with the zoning ordinance and any condition imposed thereunder to require a performance guarantee approved by the Community Development Department to ensure the development of the site in accordance with the approved site plan. The performance guarantee shall continue for the duration of the construction and development of the site.
- (B) The performance guarantee may be in the form of a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the City, in an amount to cover the cost of the improvements associated with the project. It shall be deposited with the City clerk to insure faithful completion of the improvements as set out in the site plan approval. If the City has required a performance guarantee, then it shall be subject to the following terms and conditions:
- (1) The performance guarantee shall be deposited prior to the issuance of the building permit authorizing the activity or project.
  - (2) Rebates of cash deposits. Where the performance guarantee has been made in the form of a cash deposit, the performance guarantor shall be entitled to a rebate of the cash deposit in reasonable proportion to the ratio of work completed on the required improvements as satisfactory work progresses.  
  
The performance guarantor may request the rebates in three equal installments each time one-third of the entire required work has been satisfactorily completed in accordance with the final approved site plan, including any approved amendments.
  - (3) Failure to complete improvements. If the performance guarantor fails to complete the improvements as approved in the final approved site plan within such time period as is required by the conditions or guarantees as outlined above, then the City may proceed to have such work completed and shall reimburse itself for the cost thereof by appropriating the cash deposit, certified check, or surety bond or by drawing upon the irrevocable letter of credit, or shall take the necessary steps to require performance by the bonding company.

#### **1.1210. – Appeals**

Any person or party aggrieved by an administrative determination or decision of the planning commission under this chapter may appeal such decision to the zoning board of appeals in accordance with the provisions of this zoning ordinance. Such appeal shall be filed within ten (10) days of the date of a final decision made by the planning commission or City staff.

## **ARTICLE XIII DESIGN REVIEW - CENTRAL BUSINESS AREA**

### **1.1301. Design review.**

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

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

- (1) *Creation.* A design review committee shall be appointed by the planning commission for the purpose of assisting the planning commission to preserve, protect and enhance the aesthetic appeal of the central business district; protect property values through the application of good design principles; and promote the general health, safety and welfare of the central business district and the community. The design review committee will also be charged with reviewing all applications and making a recommendation to the planning commission for all internally-illuminated signs in the B-C district per section 1.1006(D)(4) and all special land use marquee signs per section 1.0603(LL). For the purpose of this review (marquee signs) will be judged on their individual design with building scale and architectural compatibility being key elements.
  - (2) *Membership.* The design review committee shall consist of not less than three regular members and shall include one member of the planning commission, one member of the downtown development authority and one member at large. The review committee, as it determines necessary or appropriate, shall utilize the assistance of planning, architectural and other consultants. The review committee shall seek the assistance of relevant experts in an effort to achieve accord in those instances in which the applicant objects to the decision of the review committee.
  - (3) *Requirement for approved design; nature of review.* In the central business district, no permit required under the ordinances of the city for a sign or for the erection, construction, alteration, or repair of any building or structure which involves an exterior design feature, or any painting of a commercial building other than "touch-up" painting of the same color, shall be issued by the city unless the project meets all requirements of the design guidelines listed in article XIII. If the building official cannot determine if the project meets the proposed standards, or it is mandated by other sections of this zoning code, the building official shall refer the project to the design review committee for its determination and recommendation to the planning commission.
  - (4) The design guidelines established by the downtown development authority for the central business district shall serve as a guide to the design review committee in the review of plans.
- (C) *Administration.*
- (1) *Application.* As a separate and distinct part of site plan review, drawings and plans shall be submitted to the city at a scale in sufficient detail to illustrate clearly the design for which approval is sought. Such plans shall show the following:
    - (a) Existing conditions (both public and private) and natural features, all structures and uses, improvements, public street rights-of-way, sidewalks, public and private easements and restrictions for the subject site and immediately abutting property.
    - (b) Site plan in accordance with the requirements of the zoning ordinance containing the information as prescribed by the rules of the planning commission.
    - (c) Architectural drawings of all exterior building elevations, colors of exterior walls, trims and roofs, lighting materials, ornamental, pictorial or decorative material to be used in or about the exterior of the structure. Samples of building materials and colors may be required to be submitted.
    - (d) Such other information as may be required by the design review committee to permit reasonable consideration of the application.
- (D) *Design review committee action.* The design review committee shall recommend to the planning commission approval, conditional approval or disapproval of the application. Such action shall not be in lieu of site plan review by the planning commission.
- (1) *Enforcement.* Upon the granting of an approved design or amendments thereto, and following site plan review by the planning commission, the exterior drawings, sketches, landscape and site plans, renderings and materials upon which an approved design or amendment was granted shall

be turned over to the community development department, whose responsibility it shall be to determine, from time-to-time as the project is in progress and finally upon its completion, that there have been no deviations therefrom.

- (a) It shall be the duty of the person, firm or corporation to whom an approved design has been granted to comply therewith, and to obtain such inspections as may be necessary in order to assure compliance. The community development department may notify such person of any deficiencies found to exist. Failure to comply with an approved design will constitute a violation of this ordinance.
- (b) Before any use may be made of improvements constructed under these provisions of design review, a final inspection of the premises must be obtained from the community development department. An occupancy permit will not be issued unless such an inspection has been made and the completed work found to be in compliance with plans approved.

(E) *Design criteria.*

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

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

- (2) *Relationship of building site.*

- (a) Parking areas where provided shall be treated with decorative elements, building wall extensions, plantings, berms or other innovative means so as to largely screen parking areas from view from public ways.
  - (b) The height and scale of each building shall be compatible with its site and adjoining buildings.

- (3) *Relationship of building and site to adjoining area.*

- (a) Adjacent buildings of different architectural styles that are in harmony with the overall downtown development authority design guidelines shall be respected in the design or alterations of a building site.
  - (b) Harmony in texture, lines, and masses is required.
  - (c) To the extent reasonably feasible, the building and site shall not be inconsistent with the character (as defined in this ordinance) of the area.

- (4) *Building design.*

- (a) Architectural style is not restricted. Evaluation of appearance of a project shall be based on quality of its design and relationship to surroundings.
  - (b) Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
  - (c) Materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.

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

- (1) Miscellaneous structures include any structures, other than buildings, visible to view from any public way or ways. Street hardware includes all objects not commonly referred to as structures and located in streets and public ways and outside of buildings.
  - (2) Miscellaneous structures and street hardware located on private property shall be designed to be part of the architectural concept of design and landscape. Materials shall be compatible with buildings, scale shall be good, colors shall be in harmony with buildings and surroundings, and proportions shall be attractive.
  - (3) Miscellaneous structures and street hardware located in public ways and other public property shall be harmonious with design of adjacent buildings and other structures and landscape.
  - (4) Lighting in connection with miscellaneous structures and street hardware shall meet the criteria applicable to site, landscape, buildings and signs.
  - (5) The provisions of the zoning ordinance in regard to area and bulk regulations and standards, and of those portions of the building code which directly affect appearance, shall be part of the criteria of this subsection.
- (H) Building lighting.
- (1) Building lighting shall be harmonious with adjacent building.
  - (2) Building lighting shall not shine onto adjacent buildings or into residential tenant spaces.
  - (3) Light sources shall be steady and not blink, flash or move and don't produce a glare.
  - (4) Electrical fixtures, conduit or wire should not be exposed. If this is not possible, it shall be painted to match background.
  - (5) Exceptions. For downtown lighting projects that are overseen as part of a Downtown Development Authority (DDA) or City of Sturgis project, the above requirements may be amended with approval from the Planning Commission through the Design Review Process.
- (I) *Maintenance—planning and design factors.*
- (1) Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, together with the types of finishes and other protective measures, must be conducive to easy maintenance and upkeep.
  - (2) Materials and finishes shall be selected for their durability and wear as well as for their beauty. Proper measures and devices shall be incorporated for protection against the elements, neglect, damage and abuse.
  - (3) Provision for washing and cleaning of buildings and structures, and control of dirt and refuse, shall be included in the design. Such configurations that lend to catch and accumulate debris, leaves, trash, dirt and rubbish shall be avoided.



## **ARTICLE XIV. ADMINISTRATION AND ENFORCEMENT**

### **1.1401. Building permits.**

No sign, parking area, fence, building, or other structure regulated by this zoning ordinance shall be erected, razed, moved, extended, enlarged, altered, or changed in use, and no exterior of any commercial building in the central business district shall be painted until a building permit has been issued by the community development department, except the following:

- (1) Touch-up painting of the same color of any commercial building in the central business district.
  - (2) Accessory structures and fences that are included as part of an urban chicken permit, Chapter 10, section 10.65 of the City of Sturgis code of ordinances.
- (A) *Issuance.* No building permit shall be issued unless the application and plans conform in all respects to this [zoning] ordinance and to other applicable city regulations and have been approved by any required review board or person. The building permit shall state any special conditions imposed by this section or by any review board or person and shall be signed by the community development department and the owner. A copy of the signed building permit shall be sent to the city assessor.
- (B) *Approval of Sturgis City Commission for movement of buildings.* It shall be unlawful to move an existing building having a floor area of more than 100 square feet or over 14 feet in height onto property within the city without the written approval of the Sturgis City Commission. In determining whether to grant approval, the city commission shall enforce:
- (1) The terms and conditions of this section;
  - (2) All state statutes;
  - (3) All other city ordinances and regulations; and
  - (4) Such additional conditions as the city commission shall impose by written agreement with the owner of the site upon which the building is to be moved.
  - (5) The applicant must obtain all applicable state and local permits within 60 days after such approval by the city commission.

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

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

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

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

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

### **1.1402. Occupancy permits.**

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

### **1.1403. Enforcement; violations procedure.**

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

### **1.1404. City planning commission.**

- (A) *Powers and duties.* The city planning commission is hereby designated as the commission as specified in Article II of Public Act No. 33 of 2008 (MCL 125.3811) and shall perform the duties of the planning commission as provided in this act, together with any other powers and duties that are given to the planning commission by the provisions of this section, including authority to act on all matters requiring the approval or recommendation of the planning commission.
- (B) *Authority to approve uses.* Whenever in this section the lawful exercise or existence of a use requires the approval of the planning commission, the planning commission is hereby authorized and directed to investigate the matter requiring the approval, to conduct a public hearing thereon where required, to make a determination, to either grant or refuse the approval, and to do all things reasonably necessary to the making of the investigation and determination, subject to the provisions of this [zoning] ordinance.
- (C) *Hearing notice.* Prior to conducting a public hearing, as authorized in division subsection (B) of this section above, a public notice stating the time and place of the hearing, shall be posted and served in accordance with the provisions established in section 1.1405(G).
- (D) *Rules of procedure.* The planning commission is hereby authorized to adopt rules of procedure consistent with the state statutes and the provisions of this section.
- (E) *Surveys and plans.* Where the planning commission is empowered to approve certain uses of premises under the provisions of this zoning ordinance, or in cases where the planning commission is required to make an investigation, the applicant shall furnish the surveys, plans, or other information as may be

reasonably required by the planning commission for the proper consideration of the matter in accordance with the provisions of this [zoning] ordinance.

- (F) *Hearings.* In making any recommendations or approval authorized by the provisions of this [zoning] ordinance, the planning commission shall consider the following:
- (1) Whether there has been a compliance with the provisions of this [zoning] ordinance.
  - (2) Whether there is proper yard space, parking facilities, loading space, percentage of lot coverage, green belts, size of building, lot area, and other conditions required by this [zoning] ordinance.
  - (3) Whether the use involved is in accord with the spirit and purposes of this [zoning] ordinance.
  - (4) Whether the use involved would constitute a public or private nuisance.
  - (5) Whether the use involved would disturb or interfere with the natural or planned development of the surrounding neighborhood.
  - (6) Whether the use involved would affect the natural system or planned drainage so as to deleteriously affect the surrounding neighborhood.

#### **1.1405. Zoning board of appeals.**

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

(2) *Membership and appointment.*

- (a) Pursuant to state law, there is hereby created a zoning board of appeals consisting of at least five members, each to be appointed by the city commission for a term of three years running from the date of appointment, and extending for a further period until a successor shall be appointed. Vacancies shall be filled by appointment for the unexpired term. The zoning board of appeals shall elect its own chairman, vice-chairman, and secretary from among its own membership. Members of the board must be residents of the city; members moving outside the city boundaries may finish their terms but will not be reappointed.
  - (b) The city commission may also if it so desires appoint not more than two alternate members for the same term as regular members of the board of appeals. The alternate members may be called on a rotating basis to sit as regular members of the board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the board of appeals.
- (3) *Voting.* The concurring vote of a majority of the members of the board shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body; to decide in favor of the applicant a matter upon which the zoning board of appeals is required to pass under the terms of an ordinance; or to affect a variation in an ordinance, except that a concurring vote of two-thirds of the members of the board shall be necessary to grant a variance from uses of land permitted in an ordinance.

(C) *Appeal procedure.*

- (1) *Appeal permitted.* An appeal may be taken by a person aggrieved, or by an officer, department, board, or bureau of the city. An appeal shall be taken within 30 days of the date of the decision appealed from, as prescribed by the rules of the board of appeals, by the filing with the officer or body from whom the appeal is taken and with the board of appeals a notice of appeal specifying the grounds for the appeal. The party from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed was taken.
- (2) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeals is taken certifies to the zoning board of appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the zoning board of appeals or circuit court, on application of, or notice to the officer or body from whom the appeal is taken and undue cause shown.
- (3) *Decisions on appeals and applications.* The zoning board of appeals shall render its decision upon any appeal or application submitted to it within 60 days after the hearing thereon, and in any event, within 90 days after the date of filing of the appeal or application. Upon failure to do so, the appeal or application shall thereupon be deemed to be decided adversely to the appellant or applicant in the same manner as though the board had rendered its decision to that effect. All decisions of the zoning board of appeals shall become final five days after the date of entry of an order, unless the board shall find, and so certify on the record, that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.

Any matter appealed to the zoning board of appeals under site plan review provisions of this zoning ordinance (article XII) for which the board of appeals provides for a variance from the zoning ordinance, the subject site plan shall be referred back to the planning commission for review as an amended site plan.

(4) *Appeals to circuit court.*

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

(D) *Variance procedures.*

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

- i. There are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property that do not apply generally to other properties in the same zoning district.
- ii. The condition or situation of a specific piece of property or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for the conditions or situation.
- iii. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

(3) *Land use variance procedures.*

- (a) *Information required.* In addition to the information required for other variance requests, an application for a use variance under this section shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:
  - i. Applicant's property cannot be used for the purposes permitted in the zoning districts;
  - ii. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions;
  - iii. Applicant's suggested use would not alter the essential character of the area;
  - iv. Applicant's problem has not been self-created;
  - v. Unavailability of administrative relief which may afford reasonable use of applicant's property.
- (b) *Prehearing conference.* Prior to the scheduling of a hearing, the applicant shall contact the building official for the purpose of scheduling a prehearing conference. The purpose of the prehearing conference shall be to:
  - i. Review, the procedure for the hearing and identify all persons who will testify (directly or through affidavit) and the evidence to be offered on behalf of the applicant;
  - ii. Attempt to secure a statement of agreed-upon facts to be used to narrow the matters of dispute and shorten the hearing;
  - iii. Explore a means of providing relief to the applicant by way of nonuse variance from the zoning board of appeals, or other relief which may require action by persons or bodies other than the zoning board of appeals which will afford an adequate remedy for the applicant;
  - iv. The prehearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the prehearing conference stated above.
- (c) *Use variance decision by the board of appeals.*
  - i. The zoning board of appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
  - ii. At the conclusion of the hearing, the zoning board of appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing

the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.

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

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

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

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

(G) *Public hearing; notice.* Upon the filing of any appeal or application as hereinafter provided, or upon any application in any other manner or proceeding over which the zoning board of appeals shall have jurisdiction by law or ordinance, the board shall hold a public hearing on the appeal or application. The hearing shall be held at the next meeting of the board to be held not less than 15 days after the date of filing. The zoning board of appeals shall cause notice of the time and place of the hearing to be given to the appellant or applicant, and shall also cause notice of the time, place, and purpose of the hearing to be given to all owners



of property within 300 feet of the property to be affected by the appeal or applications, and to the occupants of all single- and two-family dwellings within 300 feet of the property. This notice shall be given by regular mail, sent to the respective address of the owners and occupants, as listed in the city tax rolls, or the notice may be delivered by handing a copy thereof to the property owners and occupants personally and obtaining their certifying signatures evidencing the delivery. If the name of any occupant is not known, the term "occupant" may be used in addressing any notices sent by regular mail. Where ownership is in more than one person, a partnership, a corporation, an infant, or a trust, service upon any one of the owners or partners, an officer or registered agent of the corporation, the guardian or parent of the infant or trustee of the trust, as the case may be, shall be sufficient. At the hearing, any party may appear in person, or be represented by an attorney, or agent. This hearing procedure shall apply to all public hearings required under this [zoning] ordinance.

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

#### **1.1406. District changes and section amendments.**

- (A) In accordance with the provisions of Public Act No. 207 of 1921 (MCL 125.581 et seq.) and Public Act No. 285 of 1931 (MCL 125.31 et seq.), the city commission may from time to time amend, or change by ordinance, the number, shape, or area of districts established on the zoning map or the regulations set forth in this

[zoning] ordinance. However, no amendment or change shall become effective unless the ordinance proposing the amendment or change shall first be submitted to the planning commission for approval, disapproval, or suggestions, and the planning commission shall have been allowed a reasonable time, not less than 30 days, for consideration and report.

- (B) Any person or persons desiring a change in the zoning ordinance text or map shall make application to the city commission. In case of a zoning ordinance text amendment, a letter shall be submitted which shall contain the requested change and the reason for the change. In case of a desired zoning map change a petition shall be submitted which shall describe the property involved, the zone change desired, and the reason for the change. With either type of request there shall be an accompanying remittance of a fee to cover costs encountered in conducting a public hearing, as set by the city commission.
- (C) The city commission shall refer all applications, for either a change in the zoning ordinance text or zoning map, to the planning commission. Before submitting its recommendations and report to the city commission, the planning commission shall conduct a public hearing on the proposed amendment or change after publishing a notice of the hearing at least 15 days prior to the date of the hearing, by publication in an official paper or a paper of general circulation in the municipality, and by sending a copy of the notice by United States Mail to each public utility company and railroad company owning or operating any public utility or railroad within the districts or zones affected that registers its name and mailing address with the city clerk for the purposes of receiving the notice. An affidavit of mailing shall be maintained. A hearing shall be granted a person interested at the time and place specified on the notice. In case of a proposed zoning map change, all property owners within 300 feet of the boundaries of the property proposed to be changed shall be likewise notified by mail. All public notices, including publication in the newspaper and letter, shall state the time and place of hearing, the proposed amendment, and the property to be affected in case of a proposed amendment, and/or map change. The omission of the name of any owner or occupant of property who may, in the opinion of the planning commission, be affected by the amendment or change shall not invalidate any ordinance passed hereunder. It is the intention of this section to provide reasonable notice to the persons substantially interested in the proposed change that an ordinance is pending before the city commission proposing to make a change in the zoning map or the regulations set forth in this section.
- (D) After receiving the recommendations and report from the planning commission, the city commission may deny the request or enact an amendment to the zoning code, or zoning map. However, upon presentation of a protest petition meeting the requirements of this section, an amendment to the zoning code which is the object of the petition shall be passed only by a two-thirds vote of the city commission. The protest petition shall be presented to the city commission before final legislative action on the amendment, and shall be signed by one of the following groups of people:
  - (1) The owners of at least 20 percent of the area of land included in the proposed change.
  - (2) The owners of at least 20 percent of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.
  - (3) Publicly owned land shall be excluded in calculating the 20 percent land area requirement.
- (E) Following adoption of a zoning ordinance and subsequent amendments by the city commission, one notice of adoption shall be published in a newspaper of general circulation in the city within 15 days after adoption. The notice shall include the following information:
  - (1) In the case of a newly adopted zoning ordinance the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the city commission of the City of Sturgis, Michigan."
  - (2) In the case of amendment to an existing ordinance, either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
  - (3) The effective date of the [zoning] ordinance.

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

### **1.1406.5 Creation of Planned Development District (PDD)**

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

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

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

- (6) The PDD shall provide for enhanced landscaping within the development. Examples include efforts to preserve the natural landscape, tree lined streets, decorative landscaping around structures and focal landscape areas.
- (7) The proposed development shall not have an adverse impact on future development as proposed in the city's master plan for future land use.
- (8) Open space requirements:
  - (a) The PDD development shall contain usable open space in an amount equal to at least 20 percent of the total PDD site. The planning commission may consider a PDD with a lesser amount of open space if it is clear that the proposed PDD substantially promotes the intent of this article. It is noted that open space is a very important element of a PDD and reductions to the open space provision should be granted only as a result of specific reasons.
  - (b) Useable open space shall not include required yards or buffers, parking areas, drives, rights-of-way, utility or road easements, stormwater detention ponds, and structures.
  - (c) Such open space shall be permanently set aside for the benefit, use, and enjoyment of present and future occupants of the PDD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the city; or, if agreed to by the city commission, the open space may be conveyed to the city for the use of the general public.
- (C) *Permitted uses.* Any permitted or special land uses otherwise allowed in the underlying district(s) in which the PDD is to be located may be approved within a PDD. A mixed use PDD may be allowed in a residential district allowing for a minimal amount of commercial uses as determined by the planning commission that relate to the project (e.g. 15 percent). At least 30 percent of the residential uses in the PDD would need to be provided prior to developing the commercial portion of a mixed use PDD. In a mixed use PDD, the applicant must demonstrate that the proposed use(s) would enhance the development and be compatible with surrounding and nearby uses.
- (D) *PDD design standards.*
  - (1) *General standards.*
    - (a) Signs, lighting, landscaping, building architecture and materials, and other features of the project, shall be designed to achieve an integrated and controlled development.
  - (2) *Dimensional requirements.* To encourage flexibility and creativity consistent with the intent of the PDD, specific departures may be permitted from the requirements of the zoning ordinance as a part of the approval process. Any regulatory modification shall be approved through a finding that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards.
  - (3) *Parking.*
    - (a) To encourage a true integration of mixed uses and improved efficiency in land use, the overlap in parking requirements may be permitted between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips. The planning commission should use caution when considering parking requirements for certain commercial uses due to potential tenant changes that may require more parking than a previous tenant. The district regulations should be used as a guide. All parking requirements shall be written into the final site plan.
    - (b) Parking lot landscaping. Site design and landscaping should diminish the prominence of parking lots as viewed from public streets.
  - (4) *Signs.* Residential and commercial entrance signs may deviate from the district requirements and shall be approved as part of the final site plan.

- (5) *Driveway access and circulation.*
  - (a) Large PDD developments shall have limited access to major arterial routes. Access drives shall have limited access onto major and arterial roads. Additional access drives onto a major or arterial road should only be considered if spaced at least 500 feet apart. The planning commission may require the PDD applicant to provide a traffic impact study prior to any approvals, if deemed necessary.
  - (b) Site design considerations should take into account vehicle stacking and queuing depths, traffic flows focused on main access points, peak hour volumes, internal site circulation, delivery routes, refuse pick-up/dumpster locations, etc.
- (E) *Planned development district; approval process.*
  - (1) *PDD zoning district.*
    - (a) A property meeting the eligibility criteria may be rezoned to a PDD district, based on the requirements of this section and appropriate requirements contained elsewhere in this ordinance. Unless initiated by the city, the rezoning shall be concurrent with the approval of a preliminary PDD site plan.
    - (b) A rezoning request to amend the recorded development agreement must be submitted. Rezoning initiated by the city are not required to include an approved sketch plan or development agreement. No development shall occur within the Planned Development District (PDD) until a final site plan and development agreement have been submitted and approved in accordance with the provisions of this article.
    - (c) Once rezoned, the PDD designation shall be noted on the official zoning map.
  - (2) *Pre-application process.* To help facilitate a more streamlined process, PDD candidates are encouraged to take full advantage of pre-application meetings and workshops.
    - (a) *Pre-application staff meetings.* An applicant is encouraged to schedule PDD concept meetings through the zoning administrator. In order to establish a more productive PDD concept meeting, the applicant may want to consider submitting concept plans in advance of the meeting. Regardless, city staff will diligently work to help facilitate an open collaborative process allowing the applicant to best understand city staff desires for the PDD, along with any utility and infrastructure opportunities or concerns. City planning commission or commission members may be requested to assist in the process. These meetings do not infer approvals and no formal action is taken.
    - (b) *Pre-application planning commission workshop.* An optional pre-application workshop with the planning board may be requested by the applicant to discuss a PDD concept, solicit feedback and receive requests for additional materials supporting the proposal. No formal action is taken at a workshop.
  - (3) *PDD preliminary plan application.* The applicant shall prepare and submit to the city a written request for PDD rezoning that shall include a PDD preliminary plan meeting the requirements of section 1.1203. The zoning administrator can determine the necessity of all the requirements in section 1.1203. A suitable number, as determined by the zoning administrator, of the preliminary plan shall be provided. The PDD application and preliminary plan shall be submitted in advance of any planning commission meeting within the time established by the zoning administrator. The extensiveness of the project will determine the amount of time necessary, realizing that the preliminary plan will need to be reviewed by city staff. An applicant that utilized the pre-application process should have a clear indication of city staff thoughts, concerns, etc. by the time the application is submitted. Additional items to be included on the PDD preliminary plan include:
    - (a) Phases of development, anticipated start and completion dates of construction and approximate time frame for each phase (if a phased project);

- (b) Proposed deed restrictions, covenants, or similar legal instruments to be used within the PDD;
  - (c) Location, type, and size of areas to be dedicated for common open space.
- (4) *Planning commission public hearing and recommendation.* The planning board shall review the PDD rezoning request, the PDD preliminary plan, and conduct a public hearing. Following the public hearing, the planning commission shall make a recommendation to the city commission based on the following standards:
- (a) The PDD complies with the intent of this article;
  - (b) The PDD satisfies the eligibility criteria of this article;
  - (c) The PDD complies with the requirements of this article, other applicable requirements of the zoning ordinance and applicable requirements of the subdivision or condominium requirements of the city.
  - (d) The PDD conforms to the criteria for review of site plans, section 1.1206 of this ordinance or section 1.1301(E)(1-4), except as noted above in 1.1406.5(E)(3).
  - (e) The PDD is designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area.
  - (f) The PDD is adequately served by essential public facilities and services, such as roads, pedestrian or bicycle facilities, police and fire protection, drainage systems, water supply and sewage facilities.
  - (g) The proposed PDD does not have a significant adverse effect on the quality of the natural environment.
- (5) *City commission; preliminary PDD decision.* Following receipt of the planning commission's recommendation and comments from the public hearing, the proposed PDD preliminary plan shall be considered by the city commission. The city commission, following the second reading, shall take one of the following actions on the request:
- (a) *Table.* If the application is determined to be insufficient, does not fully respond to planning commission issues or more information is required, then the request may be tabled. The city commission shall direct the applicant to prepare additional information, revise the PDD plan or direct the city staff to conduct additional analysis.
  - (b) *Reconsideration.* If the city commission believes there is new information which might modify the recommendation of the planning commission, the city commission may return the application with the new information to the planning board for reconsideration. The planning commission shall provide a recommendation within 30 days.
  - (c) *Approval.* Upon determination that a PDD preliminary plan is in compliance with the standards and requirements of this ordinance and other applicable ordinances and laws, the city commission shall approve the PDD preliminary PDD plan. The city commission may impose reasonable conditions with the approval of a preliminary PDD. Conditions of any approval are attached to the land and will remain through subsequent owners. Approval conditions will be established into a development agreement drafted by the city and to be signed by the applicant.
  - (d) *Denial.* Upon determination that a PDD preliminary plan does not comply with standards and regulations set forth in this ordinance, or requires extensive revision in order to comply with said standards and regulations, the city commission shall deny the application. Re-submittal of an application which was denied shall be considered a new application.
- (F) *PDD preliminary plan; approval validity.* Approval of the preliminary plan by the city commission shall be effective for a period of two years and the accepted plan may be extended for one year upon expiration of the two-year period provided conditions have not changed that would be cause for denial of the extension.

The two-year period for preliminary PDD approval may be extended for one year, if applied for by the petitioner and granted by the city commission.

(G) *PDD final plan application.*

- (1) Prior to any development of the PDD, final site plans shall be submitted for review and approval in accordance with article XII, site plan review. If final site plans meeting the requirements of section 1.1204 for at least the first phase of the project are not submitted and approved during the approval period, the right to develop under the approved PDD preliminary plan shall terminate and a new application must then be filed and processed. In reviewing final site plans, the following shall apply:
  - (a) Site plans shall be in substantial conformance with the PDD preliminary plan.
  - (b) Each site plan shall either individually or in combination with previously approved contiguous project areas, meet the standards of this article and the approved PDD preliminary plan regarding layout, open space and land use.
  - (c) If the plan consists of phases, then the site plan review process is only required for the specific phase(s) being presented for final approval to the planning commission. Each subsequent phase shall be reviewed in the same manner.

(H) *PDD final plan approval.*

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

(I) *PDD development agreement.*

- (1) Prior to issuance of any building permits or commencement of construction on any portion of the PDD, the applicant shall enter into an agreement with the city in recordable form, setting forth the applicant's obligations with respect to the PDD. The agreement shall describe all improvements to be constructed as part of the PDD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PDD, and all attached conditions. Approval shall be effective upon recording. At a minimum, the agreement shall provide:
  - (a) A survey of the acreage comprising the proposed development;
  - (b) The manner of ownership of the developed land;
  - (c) The manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space;

- (d) Open space provisions assuring open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose. The city may require conveyances or other documents to accomplish this purpose;
  - (e) Satisfactory provisions to provide for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the city. The city may require a performance guarantee to accomplish this purpose;
  - (f) Provisions to ensure adequate protection of natural features;
  - (g) A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase;
  - (h) The agreement shall also establish the remedies of the city in the event of default by the applicant in carrying out the PDD, and such remedies shall be binding on all successors in interest to the applicant.
- (2) Any amendment requested to the recorded development agreement shall be submitted for review by the city attorney and approved by the zoning administrator.
  - (3) All documents shall be executed and recorded in the county register of deeds.
- (J) *Revisions to an approved PDD plan.* Approval of the final site plan confers upon the zoning administrator the authority to approve certain minor deviations in accordance with the requirements of this article. The zoning administrator shall determine whether the change is major, warranting review by the planning commission, or minor, allowing administrative approval, as noted below:
- (1) The holder of an approved PDD final development plan shall notify the zoning administrator of any desired change to the approved PDD.
  - (2) Minor changes. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PDD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
    - (a) Reduction of the size or height of any building;
    - (b) Movement of buildings and/or signs by no more than ten feet if consistent with required setbacks, open space and other standards;
    - (c) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
    - (d) Changes in floor plans, of up to five percent of the total floor area, which do not alter the character of the use or increase the amount of required parking;
    - (e) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design;
    - (f) Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate;
    - (g) Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the building official and zoning administrator;
    - (h) Grade change of up to one foot, reviewed by the city engineer;
    - (i) Modification of entry design, sign placement or reduction in size of signs, which is consistent with the approved sketch or final PDD plan;
    - (j) Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design;



- (k) Changes to the location of accessory buildings and structures only when the new location will be consistent with the building envelope identified on the approved plan; and
  - (l) Changes required or requested by the city, county, or other state or federal regulatory agency in order to conform to other laws or regulations which do not substantially modify the plan.
- (3) *Major changes.* A proposed change not determined by the zoning administrator to be minor shall be submitted as an amendment to the PDD and shall be processed in the same manner as the original PDD application for the final development plan.
- (K) *Limitations on variances from zoning board of appeals.* Regulatory modifications are not subject to variance approval of the zoning board of appeals. No part of a PDD plan may be appealed to the zoning board of appeals. This provision shall not hamper an individual lot owner from seeking a variance (e.g. a residential detached garage variance related to setbacks) following final approval of the PDD, provided such variance does not involve alterations to open space areas as shown on the approved PDD site plan.
- (L) *PDD preliminary final plan approval validity.* Each approved final PDD or PDD phase must be under construction within 12 months after the date of approval of the PDD final development plan(s), except as noted in this section.
  - (1) The planning commission may grant one extension of up to one additional 12-month period from the expiration date of the PDD or a PDD phase if the applicant applies for such extension prior to the date of the expiration of the PDD or PDD phase and provided that:
    - (a) The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and
    - (b) The PDD requirements and standards, including those of the zoning ordinance, that are reasonably related to the development have not changed.
  - (2) Should neither of the above two provisions be fulfilled, or an extension has expired without construction underway, the PDD preliminary plan approval(s) shall be null and void. This does not include any phases that may have received final PDD approval.
  - (3) Should the PDD district become null and void, the subject property remains zoned as a PDD, but the preliminary or final PDD plans previously approved become null and void. In order to utilize the property as a PDD, an applicant would have to resubmit plans for preliminary and final PDD site plan approvals as stated in this chapter, but would not require PDD rezoning action from the commission, unless the proposed PDD project includes different land uses other than previously approved (i.e. commercial verses residential).

#### **1.1407. Public nuisance, per se.**

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

#### **1.1408. Rights and remedies are cumulative.**

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

#### **1.1409. Penalty.**

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

## **ARTICLE XV. GROUNDWATER PROTECTION**

### **1.1501. Purpose.**

The City of Sturgis has determined that:

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

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

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

(Ord. of 11-25-2013)

### **1.1502. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

(Ord. of 11-25-2013)

### **1.1503. Applicability.**

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

(Ord. of 11-25-2013)

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

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

- i. Drilling, direct-push and other earth penetration beyond 20 feet depth shall be sealed to within two feet of surface grade with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.

(Ord. of 11-25-2013)

#### **1.1505. Site plan review.**

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

(Ord. of 11-25-2013)

#### **1.1506. Criteria for review.**

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

- d. Unplugged abandoned wells and cisterns shall be plugged in accordance with regulations and procedures of the Michigan Department of Environmental Quality and the county health department.
- e. Completion of the City of Sturgis Environmental Permits Checklist.

(Ord. of 11-25-2013)

#### **1.1507. Exemptions and waivers.**

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

(Ord. of 11-25-2013)

#### **1.1508. Inactive operations.**

1. This section applies to any inactive business or other operation ("operation") at which there are hazardous substances. For purposes of this section, "inactive" is defined to include those business/operations that are unoccupied and have no activity for at least 30 days. Those who own or control such an inactive operation shall do the following:
  - a. Within seven days of becoming inactive, take such steps as necessary to secure the site such that natural elements such as water, wind and ice or vandals and all other persons cannot gain access to the hazardous substances.
  - b. Within 30 days of becoming inactive, provide to the code official and the Fire Department a document that identifies the site, the date of inactivity, the hazardous substances that exist on site, and the name, address, and telephone number of both the owner and the person in control of the site.
  - c. Within 60 days of becoming inactive, remove all hazardous substances from the site. This does not include those substances used for heating, cooling, and/or electrical lighting.

(Ord. of 11-25-2013)

#### **1.1509. Enforcement.**

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

(Ord. of 11-25-2013)

#### **1.1510. Abatement/remedial activities by the city.**

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

(Ord. of 11-25-2013)

#### **1.1511. Injunctive relief.**

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

(Ord. of 11-25-2013)

#### **1.1512. Violations deemed a public nuisance.**

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

(Ord. of 11-25-2013)

#### **1.1513. Penalties and costs.**

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

(Ord. of 11-25-2013)

#### **1.1514. Groundwater protection board of appeals.**

1. In order that the provisions of this article may be reasonably applied and substantial justice done in instances where unnecessary hardship would result from carrying out the strict letter of these sections, the city commission shall appoint a groundwater protection board of appeals. The duty of the groundwater protection board of appeals shall be to consider appeals from the decision of the city manager and to

determine, in particular cases, whether any deviation from strict enforcement will violate the intent of this article or jeopardize the public health or safety or environment.

2. The groundwater protection board of appeals shall meet at times as the board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public in accordance with applicable laws. The groundwater protection board of appeals shall adopt its own rules of procedure and keep a record of its proceedings, showing findings of fact, the action of the board, and the vote of each member upon each question considered. The presence of five members of the groundwater protection board of appeals shall be necessary to constitute a quorum.
3. The groundwater protection board of appeals may prescribe the sending of notice to persons as it deems to be interested in any hearing by the board.
4. The groundwater protection board of appeals will be appointed by city commission, may be revised from time to time, and shall include:
  - a. Mayor.
  - b. Chair of the planning commission.
  - c. At large planning commission member.
  - d. City engineer.
  - e. Director of public services.
  - f. At large Citizen of the City of Sturgis.
  - g. At large representative of industry in the City of Sturgis.

(Ord. of 11-25-2013)

### **1.1515. Appeals.**

1. *Right of appeal.* Any person has the right to appeal the basis for any charges, permits, orders, or other action developed in accordance with this article. Appeals shall be directed to the city manager along with any supporting documentation for amendment of the charges in question. Any additional information that may be required to resolve the appeal, as directed by the city manager, shall be obtained by the user at his expense. Resolution of appeals shall be made within 30 days in accordance with the best available data and the formulations presented in this article. In no event shall appeals be accepted which would require a variance in the methods of charge calculations established and in force by this article.
2. *Informal hearing.*
  - a. An informal hearing before the city manager may be requested in writing by any person deeming itself aggrieved by any citation, order, charge, fee, surcharge, penalty, or action within ten days after the date thereof, stating the reasons therefor with supporting documents and data.
  - b. The informal hearing shall be scheduled at the earliest practicable date, but not later than five days after receipt of the request, unless extended by mutual written agreement.
  - c. The hearing shall be conducted on an informal basis at the city hall or such place as designated by the city manager.
3. *Formal hearing.*
  - a. Appeals from orders of the city manager may be made at the groundwater protection board of appeals, within 30 days from the date of any citation, order, charge, fee, surcharge, from the date of any citation, order, charge, fee, surcharge, penalty or other action. The appeal may be taken by any person aggrieved. The appellant shall file a notice of appeal with the city manager and with the groundwater protection board of appeals, specifying the grounds therefor. Prior to a hearing, the City

Manager shall transmit to the groundwater protection board of appeals a summary report of all previous action taken. The board of appeals may, at its discretion, call upon the city manager to explain the action. The final disposition of the appeal shall be in the form of a resolution, either reversing, modifying, or affirming, in whole or in part, the appealed decision or determination. In order to find for the appellant, a majority of the groundwater protection board of appeals must concur.

- b. The groundwater protection board of appeals shall fix a reasonable time for the hearing of the appeal, give due notice thereof the interested parties, and decide the appeal within a reasonable time. Within the limits of its jurisdiction, the groundwater protection board of appeals may reverse or affirm, in whole or in part, or may make such order, requirements, decisions, or determination as, in its opinion, ought to be made in the case under consideration, and to that end shall have all the powers of the official from whom the appeal is taken.
  - c. The decision of the groundwater protection board of appeals shall be final, except that the board or the members thereof may be required, under proper mandamus proceedings, to show cause why certain actions were taken or decisions rendered.
- 4. *Charges outstanding during appeal process.* All charges for service, penalties, fees, or surcharges outstanding during any appeal process shall be due and payable to the city. Upon resolution of any appeal, the city shall adjust such amounts accordingly.
  - 5. *Administrative action.* If an informal or formal hearing is not demanded within the periods specified in this section, the administrative action shall be deemed final. In the event either or both hearings are demanded, the action shall be suspended until a final determination has been made, except for immediate cease and desist orders or any emergency or judicial action.
  - 6. *Appeals from determinations of groundwater protection board of appeals.* Appeals from the determinations of the groundwater protection board of appeals may be made to the circuit court for the county as provided by law. The appeals shall be governed procedurally by the Administrative Procedures Act of 1969 (MCL 24.201 et seq.). All findings of fact, if supported by the evidence, made by the board shall be conclusive upon the court.

(Ord. of 11-25-2013)

#### **1.1516. Remedies not exclusive.**

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

(Ord. of 11-25-2013)

#### **1.1517. Conflicting regulations.**

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

(Ord. of 11-25-2013)



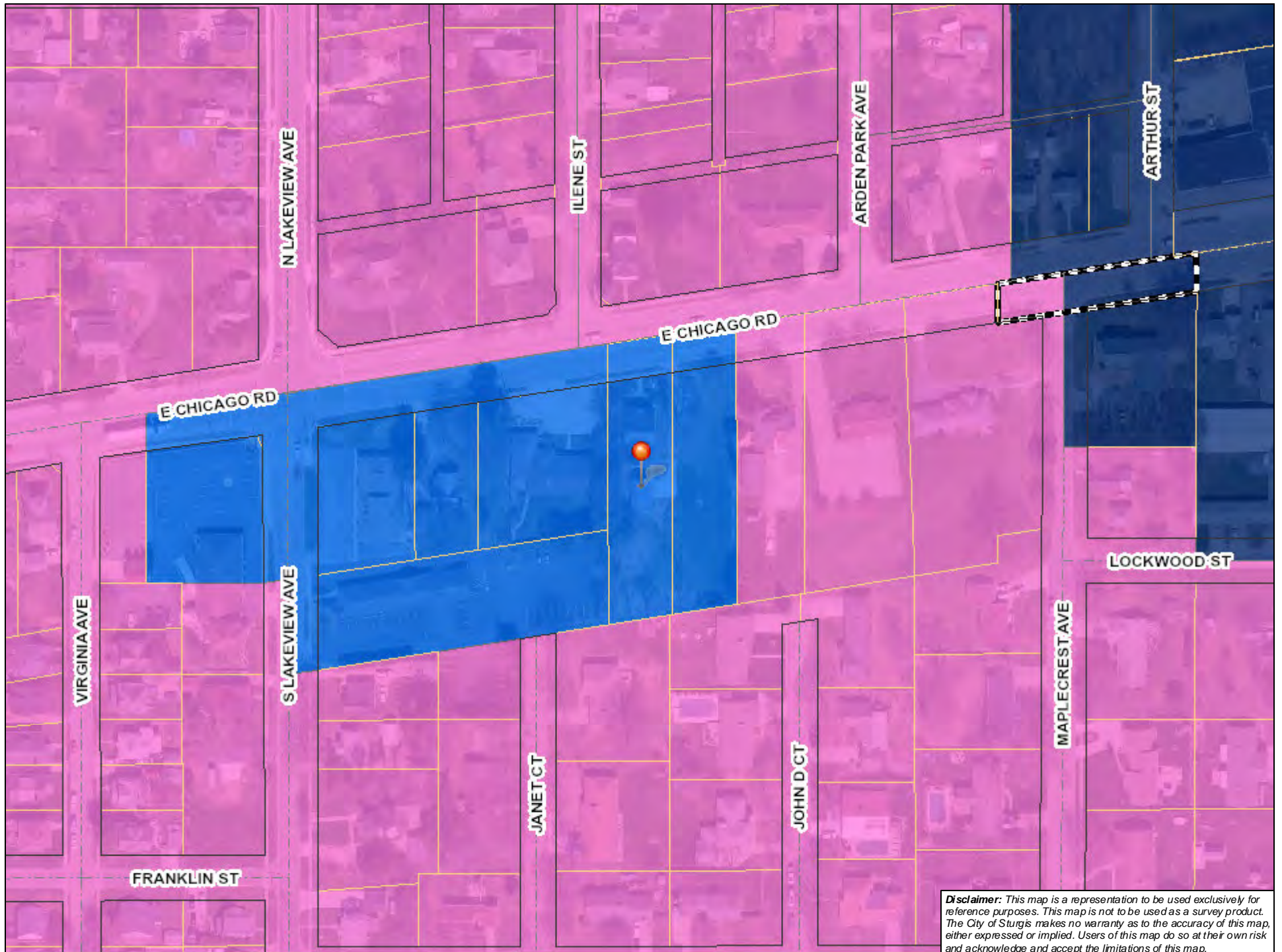
**1.1518. Severability.**

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

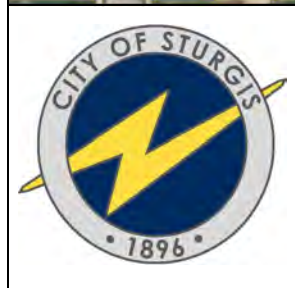
**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 9B**





**Disclaimer:** This map is a representation to be used exclusively for reference purposes. This map is not to be used as a survey product. The City of Sturgis makes no warranty as to the accuracy of this map, either expressed or implied. Users of this map do so at their own risk and acknowledge and accept the limitations of this map.



*City of Sturgis*

130 N. Nottawa Street  
Sturgis, MI 49091  
Tel (269) 651-2321



12/6/2024



## ArcGIS Web Map

909 & 911 E Chicago Road

AMENDMENT TO ZONING ORDINANCE  
PERTAINING TO ZONING MAP

An Ordinance to amend Article III of the Zoning Ordinance of the City of Sturgis pertaining to the zoning map and to provide for an effective date of this Ordinance.

WHEREAS, the City Commission, upon recommendation from the Planning Commission, has determined that it is in the best interest of the residents of the City to modify the Zoning Ordinance with respect to the zoning map to change the zoning designation of certain property from the Business Office Service (B-OS) zoning district to the Residential 3 (R-3) zoning district.

NOW, THEREFORE, the City of Sturgis, St. Joseph County, Michigan ordains:

Article III of the Zoning Ordinance is hereby modified as follows, effective as of January 9, 2025.

Section 1.0302(A), and the zoning map incorporated by reference therein, is hereby modified to provide that the following described property shall be in the Residential 3 (R-3) zoning district:

Land situate in the City of Sturgis, St. Joseph County, Michigan:

Legal Description:

909 E. Chicago Road

COM 20.67 CHS N & 5.438 CHS N 81 DEG. E FROM SW COR SEC 6 T8S R9W TH N 81 DEG. E 1.0972 CHS TH N TO CEN CHI ROAD TH S 81 DEG. 19' W 1.0972 CHS TH S 4.632 CHS TO BEG.

911 E. Chicago Road

COM 20.67 CH N & 6.5352 CHS & 81 DEG. E FROM SW COR SEC 6 TH N 81 DEG. E 1.0972 CH TH N 4.616 CH TO CEN CHI ROAD S 81 DEG. 19' W 1.0972 CHS TH S TO POB.

**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 10A**







# Employee Handbook

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DRAFT

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## **080 DEFINITIONS**

The term "employee" as used herein shall not include:

- A. Elected officials
- B. Members of boards, commissions, or committees; election officials or temporary employees

"Administrative employees" shall include exempt positions whose duties are administrative and directional in nature and may not be effectively performed by the mere working of so many hours per day for so many days per week. Rather, each of the above shall be held accountable for the proper and efficient functioning of the operations, with which that administrative employee is charged, without regard to the number of hours, time of day or day of week that must be worked in order to obtain the desired result.

"Appointing Authority" is the officer, board, or commission which according to the City Charter or by City Ordinance has powers of appointment over a particular position. The City Commission is the appointing authority for the City Manager, City Clerk/Treasurer, Assessor, and City Attorney. The City Manager is the appointing authority in all other cases.

"Personnel Rules" refer to those rules which are intended to apply to all employees. All employees, regardless of classification, shall be covered by these rules. However, any provision of this Handbook that is in conflict with a provision of a Collective Bargaining Agreement entered into between the City and a recognized bargaining unit will not apply to a member of that unit. To those issues where union contracts are silent and no precedent has been set, the City's personnel rules shall control.

See Policy 201 (Employment Categories) for additional definitions pertaining to employment status.

## **101 NATURE OF EMPLOYMENT**

This handbook is intended to provide employees with a general understanding of our personnel policies. Employees must familiarize themselves with the contents of this handbook, for it will answer many common questions concerning employment with the City of Sturgis (City).

However, this handbook cannot anticipate every situation or answer every question about employment. It is not an employment contract and is not intended to create contractual obligations of any kind. Neither the employee nor the City is bound to continue the employment relationship if either chooses, at its will, to end the relationship at any time.

In order to retain necessary flexibility in the administration of policies and procedures, the City reserves the right to change, revise, or eliminate any of the policies and/or benefits described in

this handbook, except for its policy of employment-at-will. The only recognized deviations from the stated policies are those authorized and signed by the City Manager.

## **102 EMPLOYEE RELATIONS**

The City believes that the work conditions, wages, and benefits it offers to its employees are competitive with those offered by other employers in this area and in this industry. If employees have concerns about work conditions or compensation, they are strongly encouraged to voice these concerns openly and directly to their supervisors.

Our experience has shown that when employees deal openly and directly with supervisors, the work environment can be excellent, communications can be clear, and attitudes can be positive. We believe that the City amply demonstrates its commitment to employees by responding effectively to employee concerns.

## **103 EQUAL EMPLOYMENT OPPORTUNITY**

In order to provide equal employment and advancement opportunities to all individuals, employment decisions at the City will be based on merit, qualifications, and abilities. The City does not discriminate in employment opportunities or practices on the basis of race (including traits historically associated with race such as hair texture and protective hairstyles), color, religion, sex, sexual orientation, gender identity, gender expression, pregnancy, national origin, age, disability, marital or veteran status, height, weight, citizenship, genetic information, or any other characteristic protected by applicable law. This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination, and access to benefits and training.

Any employees with questions about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or to Human Resources. Any employee who has been subjected to or witnessed discrimination should immediately report the discrimination by following the Complaint Procedure set forth in the City's Sexual and Other Unlawful Harassment and Discrimination Policy contained in this Handbook. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

## **104 POLICY REGARDING USE OF SOCIAL SECURITY NUMBERS**

The City obtains and uses a variety of confidential information in the conduct of its business. This includes documents and other records containing Social Security Numbers. Any and all documents and records containing Social Security Numbers must be obtained, used and disclosed only for legitimate business reasons. Such documents and records must also be treated as

confidential, which means they must be retained in secure areas or files, password protected when stored on computers, disclosed only to authorized persons, and destroyed at an appropriate time and in an appropriate manner consistent with the City's policies and procedures and other legal requirements. When documents containing Social Security Numbers are no longer needed and are to be discarded, such documents must be disposed of in a manner that ensures the confidentiality of the Social Security Numbers. The City has developed a practice for shredding, electronically deleting, or otherwise disposing of confidential records, including documents containing Social Security Numbers.

Employees who obtain, use, or disclose Social Security Numbers for improper, unauthorized, or illegal reasons are subject to discipline or discharge, as well as potential criminal or civil prosecution. For additional information, please see your supervisor or the City Manager, or refer to the City Policy and Procedure Regarding the Use and Disclosure of Social Security Numbers.

### **105 HIRING OF RELATIVES**

Employees' immediate family will not be employed by the City under any of the following circumstances:

- A. Where one of the parties would have authority (or practical power) to supervise, appoint, remove, or discipline the other.
- B. Where one party would be responsible for auditing the work of the other.
- C. Where circumstances would exist which would place the relatives in a situation of actual, perceived or reasonably foreseeable conflict between the City's interest and their own.

Where business necessity requires the limitation of employment opportunity of spouses, the spouses shall have the responsibility of choosing how to remedy the situation within 60 days. Failure to remedy the situation shall result in the less senior employee (based on date of hire) being required to vacate their position unless the City Manager determines differently.

### **106 EMPLOYEE MEDICAL EXAMINATIONS**

To help ensure that employees are able to perform their duties safely, medical examinations may be required.

After an offer has been made to an applicant for those positions in which there is a bona fide job related physical requirement, a medical examination will be performed at the City's expense by a health professional of the City's choice. The offer of employment and assignment to duties is contingent upon satisfactory completion of the exam.

Information on an employee's medical condition or history will be kept separate from other employee information and maintained confidentially. Access to this information will be limited to those who have a legitimate need to know.

## **107 IMMIGRATION LAW COMPLIANCE**

The City is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility as required by federal law. Former employees who are rehired must also complete the form if they have not completed an I-9 with the City within the past three years, or if their previous I-9 is no longer retained or valid.

Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

## **108 CONFLICTS OF INTEREST**

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the framework within which City wishes the business to operate. The purpose of these guidelines is to provide general direction so that employees can seek further clarification on issues related to the subject of acceptable standards of operation.

An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of the City's business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to the City's Controller as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which the City does business, but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any



transaction or business dealings involving the City.

### **109 COMPENSATORY TIME FOR ADMINISTRATIVE EMPLOYEES**

The duties of Administrative Employees are administrative and directional in nature and may not be effectively performed by the mere working of so many hours per day for so many days per week. Rather, Administrative Employees shall be held accountable for the proper and efficient functioning of the operations with which that Administrative Employees are charged, without regard to the number of hours, time of day or day of week that must be worked in order to obtain the desired result.

To that end, Administrative Employees are required to work the appropriate number of hours to complete the job. Administrative Employees may accrue "compensatory time". Administrative Employees are strongly encouraged to use compensatory time within that same pay period. Compensatory time is not intended to be used in large blocks such as vacation days, but to allow flexibility for administrative positions based on workload. Keep in mind that typically compensatory time is not accrued in significant continuous amounts. Therefore, compensatory time should not be "banked" for use in increments greater than eight (8) hours, which over the course of time would be unique. All compensatory time expires at the end of each fiscal year.

### **110 OUTSIDE EMPLOYMENT**

Employees may hold outside jobs as long as they meet the performance standards of their job with the City. All employees will be judged by the same performance standards and will be subject to the City's scheduling demands, regardless of any existing outside work requirements.

If the City determines that an employee's outside work interferes with performance or the ability to meet the requirements of their job, as modified from time to time, the employee may be asked to terminate the outside employment if he or she wishes to remain with the City.

Outside employment that constitutes a conflict of interest is prohibited. Employees may not receive any income or material gain from individuals outside the City for materials produced or services rendered while performing their jobs.

### **112 NON-DISCLOSURE**

The protection of confidential information is vital to the interests of the City. Employees who improperly use or disclose confidential information will be subject to disciplinary action, up to and including termination of employment, even if they do not actually benefit from the disclosed information.

### **114 DISABILITY ACCOMMODATION**

The City is committed to complying fully with state and federal law, including the Americans with Disabilities Act (ADA), and ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position. No inquiries are made that might disclose the existence or extent of a disability.

Post-offer medical inquiries and post-offer medical examinations are required only for those positions in which there is a bona fide job-related physical requirement. They are given to all persons entering these positions only after conditional job offers. Medical records will be kept separate and confidential.

The City will provide reasonable accommodations for a qualified individual's disability, where the accommodation is necessary for the employee to perform the essential functions of their job and where the accommodation does not impose an undue hardship on the City. If you believe that you require an accommodation to perform the essential functions of your job, please notify Human Resources promptly. Michigan law requires an employee to notify the City of this in writing within one hundred eighty-two (182) days after the employee knows or reasonably should have known of the need for accommodation. Human Resources will be responsible for obtaining and evaluating the relevant medical and job information, will work closely with you to identify and evaluate possible accommodations, and ensure appropriate confidentiality in the process. Each request will be evaluated based on the circumstances of the situation. Because of this, your participation and cooperation in the accommodation process will be important.

## **115 PREGNANCY ACCOMMODATION**

The City will also make reasonable accommodations for employees with temporary physical or mental limitations due to pregnancy, childbirth or related conditions when such a need for accommodation is identified and the accommodation does not cause the City an undue hardship. The employee will not be required to take a leave of absence if another reasonable accommodation can be provided. If any employee believes such an accommodation is necessary, please submit a written request for a reasonable accommodation to Human Resources.

## **116 JOB POSTING**

The City provides employees an opportunity to indicate their interest in open positions and advance within the organization according to their skills and experience.

In general, notices of all regular, full-time job openings are posted, although the City reserves its discretionary right to not post a particular opening. Job openings may be posted at City Hall, on

relevant bulletin boards or sent via City electronic communication and normally remain open for at least five days. Job posting is a way to inform employees of openings and to identify qualified and interested applicants who might not otherwise be known to the hiring manager. Other recruiting sources may also be used to fill open positions in the best interest of the organization.

Each job posting notice will include the dates of the posting period, job title, department, location, job summary, essential duties, and qualifications (required skills and abilities), and any other information the City deems relevant.

To be eligible to apply for a posted job, employees must have performed competently for at least 365 calendar days in their current position. Employees who have a written warning on file or are on probation or suspension are not eligible to apply for posted jobs. Eligible employees can only apply for those posted jobs for which they possess the required skills, competencies, and qualifications.

To apply for an open position, employees should submit an employment application to Human Resources listing job-related skills and accomplishments. It should also describe how their current experience with the City and prior work experience and/or education qualifies them for the position. Employees that have applied for an open position may be subject to an interview process, screen of work history, pre-employment physical, and a background check.

The City recognizes the benefit of developmental experiences and encourages employees to talk with their supervisors about their career plans. Supervisors are encouraged to support employees' efforts to gain experience and advance within the organization.

An applicant's supervisor may be contacted to verify performance, skills, and attendance. Any staffing limitations or other circumstances that might affect a prospective transfer may also be discussed.

## **201 EMPLOYMENT CATEGORIES**

It is the intent of the City to clarify the definitions of employment classifications so that employees understand their employment status and benefit eligibility. These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time, with or without notice and with or without cause, is retained by both the employee and the City.

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. NONEXEMPT employees are entitled to overtime pay under the specific provisions of federal and state laws. EXEMPT employees are excluded from specific provisions of federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed

only upon written notification by the City management.

In addition to the above categories, each employee will belong to one other employment category:

**REGULAR FULL-TIME** employees are those who are not in a temporary or seasonal status, who are regularly scheduled to work the City's full-time schedule, and are classified as full-time employees by the City. Generally, they are eligible for the City's benefits, subject to the terms, conditions, and limitations of each benefit program.

**PART-TIME** employees are those who are not assigned to a temporary or seasonal status and who are regularly scheduled to work less than 29 hours per week, or are a variable schedule not to exceed 1,560 hours per year and are classified as part-time employees by the City. While they do receive all legally mandated benefits (such as Social Security and workers' compensation insurance) they are ineligible for all other benefits.

**TEMPORARY** employees are those who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project and are classified as temporary employees by the City. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees retain that status unless and until notified of a change. While temporary employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all other benefits.

**OCCASIONAL AND SPORADIC** employees are those who have established an employment relationship with the City but who are assigned to work on an intermittent and/or unpredictable basis. While they receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all other benefits.

From time to time there may be a unique situation where an employee has an interest in working in another general occupational category other than their primary position of employment with the City. Employees, solely at their option, may upon approval work occasionally or sporadically on a part-time basis for the City in a different capacity from their regular employment. Refer to section 506.

**SEASONAL** employees who are hired into a position for which the customary annual employment is six months or less, those for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter, and are classified as seasonal employees by the City. While seasonal employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all other benefits.

## **202 ACCESS TO PERSONNEL FILES**

The City maintains a personnel file on each employee. The personnel file includes such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records.

Personnel files are the property of the City, and access to the information they contain is restricted. Generally, only supervisors and management personnel of the City who have a legitimate reason to review information in a file are allowed to do so.

Employees who wish to review their own file should submit a written request to Human Resources. With reasonable advance notice, and generally not more than 2 times per year, employees may review their own personnel files in the City offices and in the presence of an individual appointed by the City to maintain the files.

### **203 EMPLOYMENT REFERENCE CHECKS**

Other than responding as to whether an individual is currently employed, Human Resources will respond in writing only to those reference check inquiries that are submitted in writing. After a written inquiry, no employment data will be released without a written authorization and release signed by the individual who is the subject of the inquiry. Responses to such inquiries will confirm only dates of employment, wage rates, and position(s) held.

### **204 PERSONNEL DATA CHANGES**

It is the responsibility of each employee to promptly notify the City of any changes in personnel data. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of an emergency, educational accomplishments, and other such status reports should be accurate and current at all times.

### **205 INTRODUCTORY PERIOD**

The introductory period is intended to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The City uses this period to evaluate employee capabilities, work habits, and overall performance. Either the employee or the City may end the employment relationship at will at any time during or after the introductory period, with or without cause or advance notice.

All new and rehired employees work on an introductory basis for the first twelve months after their date of hire. Any significant absence may extend an introductory period by the length of the absence. If the City determines that the designated introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the introductory period may be extended for a specified period.

## **208 EMPLOYMENT APPLICATIONS**

The City relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

## **209 PERFORMANCE EVALUATION**

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Additional formal performance evaluations may be conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage, and recognize strengths, and discuss positive, purposeful approaches for meeting goals.

Merit-based pay adjustments may be awarded by the City in an effort to recognize truly superior employee performance. The decision to award such an adjustment is dependent upon numerous factors. Merit based adjustments must be approved by the City Manager.

## **301 EMPLOYEE BENEFITS**

Eligible employees at the City are provided a wide range of benefits. A number of the programs (such as Social Security, workers' compensation, and unemployment insurance) cover all employees in the manner prescribed by law.

Benefit eligibility is dependent upon a variety of factors, including employee classification. Your supervisor can identify the programs for which you are eligible. Details of many of these programs can be found elsewhere in the employee handbook.

The following benefit programs are available to eligible regular full-time employees:

IRA and 457 Savings Plan(s) "Deferred Compensation Plans"

Bereavement Leave

Medical Insurance

Prescription Drug Insurance

Health Savings Account

Dental Insurance

Vision Care Insurance

Educational Assistance

Educational Leave

Sick Leave Benefits

Family Medical Leave  
Holiday Pay  
Life Insurance  
Longevity Bonuses  
Short-Term Disability  
Long-Term Disability  
Military Leave  
Pension Plan  
Retirement Health Savings Plan (RHSP)  
Personal Leave  
Personal Leave of Absence  
Doyle Membership  
Vacation Benefits  
Flexible Spending Account

Some benefit programs may require contributions from the employee.

### **303 VACATION BENEFITS**

Vacation time off with pay is available to regular full-time employees to provide opportunities for rest, relaxation, and personal pursuits.

The amount of paid vacation time that eligible employees receive each year increases with the length of their employment as shown in the following schedule. Non-bargaining unit employees, upon hire and only in the first year of employment, receive 40 hours of their 80 hours immediately and accrue the remaining 40 hours evenly over the course of the year. In year two and forward, vacation days are accrued evenly throughout the year.

VACATION EARNING SCHEDULE	
YEARS OF ELIGIBLE SERVICE	VACATION DAYS EACH YEAR
Upon hire	10 days (80 hours)
After 7 years	15 days (120 hours)
After 14 years	20 days (160 hours)
After 19 years	25 days (200 hours)

The length of eligible service is calculated on the basis of a "benefit year." This is the 12-month period that begins when the employee starts to earn vacation time. An employee's benefit year may be extended for any significant leave of absence except military leave of absence. Military leave has no effect on this calculation. See individual leave of absence policies for more information.

Paid vacation time can be used in minimum increments of one-quarter (1/4) hour. To take

vacation, employees should request advance approval from their supervisors. Requests will be reviewed based on a number of factors, including business needs and staffing requirements.

Vacation time off is paid at the employee's regular pay rate at the time of vacation. It does not include overtime or any special forms of compensation such as incentives, commissions, or bonuses.

As stated above, employees are encouraged to use available paid vacation time for rest, relaxation, and personal pursuits. As of the employee's annual anniversary date, the vacation time accrued will be no more than 240 hours. Any unused hours in excess of the cap of 240 hours may be forfeited without pay.

Generally, employees may take up to two (2) consecutive weeks of the vacation time granted under this section; requests for additional consecutive time over two weeks can be approved by the employee's department head. An employee who has used at least **two (2)** weeks of vacation in any benefit year shall have the option of trading vacation days back to the City at the employee's current hourly rate of pay. Any days traded back to the City for payment in accordance with this provision shall be subtracted from the employee's accumulation. A vacation payout request may be made no more than twice per calendar year.

For an employee who has been employed for a period of one year, upon termination of employment, they will be paid for unused vacation time that has been earned through the last day of work.

### **304 LONGEVITY PAY**

All full-time non-bargaining unit employees in the active service of the City as of December 1 of any year shall be entitled to a longevity bonus payable the first payroll in December. The amount of the longevity bonus shall be Two Hundred Fifty and 00/100 (\$250) Dollars after Five (5) years of continuous service as calculated on December 1, with the amount increased Fifty and 00/100 (\$50) Dollars each year thereafter until retirement.

Upon eligible retirement from the City, longevity pay will be prorated from the previous December 1 until the day of retirement.

### **305 HOLIDAYS**

The City will grant holiday time off to all employees on the holidays listed below.

New Year's Day (January 1)  
Good Friday (Friday before Easter)  
Memorial Day (last Monday in May)  
Independence Day (July 4)  
Labor Day (first Monday in September)



Veterans Day (see eligibility requirements below)  
Thanksgiving Day (fourth Thursday in November)  
Day after Thanksgiving  
Christmas Eve Day (December 24)  
Christmas Day (December 25)

The City will grant paid holiday time off to regular full-time employees . Holiday pay will be calculated based on the employee's straight time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day.

An employee with an unexcused absence from work on the scheduled workday, preceding or following a day observed as a holiday, will not be paid holiday pay.

A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday. If Christmas Day is on Thursday, the following Friday (December 26) will be observed for Christmas Eve instead of December 24. When Christmas Eve falls on Sunday, the preceding Friday shall be observed. If Christmas Day falls on Saturday, the following Monday shall be observed.

Notwithstanding the foregoing, for employees whose regular work shifts include the weekends (shift employees), all holidays will be recognized on the actual day of the holiday.

If regular full-time nonexempt employees work on a recognized holiday, they will receive holiday pay plus wages at one and one half (1 ½) times their straight time rate for the hours worked on the holiday. If the holiday is on a Sunday, then they will receive holiday pay plus wages at two (2) times their straight time rate for the hours worked on the holiday.

Shift employees that do not work on the holiday will receive eight hours of holiday pay at their straight-time rate or the hours that would have been worked if scheduled. These hours will not count as hours worked for the purpose of calculating overtime in the pay period.

If a holiday occurs while an employee is on vacation, the employee shall be paid for holiday without deduction being made for vacation.

If an employee terminates employment, the employee will not receive pay for holidays occurring after the last day worked even though the holidays may fall within the period of projected terminal vacation leave.

The City provides a paid day off annually to all employees who are Veterans ("Veteran's Benefit"). For purposes of this Veteran's Benefit, "Veteran" is defined as a person who serves or has served in the United States Military. This Veteran's Benefit only applies to eligible employees who are scheduled to work their normal shift on the nationally recognized Veteran's Day and will not apply to eligible employees that are not scheduled to work their normal shift on Veteran's Day.

If Veteran's Day falls on a weekend, then the employee can choose whether to take a paid day off on either November 11th or the designated day for observation as long as the day selected is scheduled as part of their regular shift. This Veteran's Benefit does not extend beyond the nationally recognized Veteran's Day and is effective for only November 11th or the recognized day. This Veteran's Benefit does not apply in cases where the City, in its sole discretion, is facing significant operational disruption, or where granting the Veteran's Benefit creates an undue hardship. If an Eligible Employee is required to report to work as part of their normally scheduled workday, normal rates of pay will apply.

### **306 PERSONAL LEAVE BENEFITS**

The City will grant paid personal time off to regular full-time employees. Two personal leave days, sixteen (16) hours will be granted immediately upon the date of hire. Personal leave benefits expire at the end of the calendar year. Personal leave is granted on the first payroll paid in January of each year.

### **307 SICK LEAVE BENEFITS**

The City provides paid sick leave benefits to regular full-time employees for periods of temporary absence due to illnesses or injuries, or for any reason covered under Michigan's Earned Sick Time Act.

Eligible employees will accrue sick leave benefits as follows:

SICK DAY EARNING SCHEDULE	
YEARS OF ELIGIBLE SERVICE	SICK DAYS EACH YEAR
Upon Hire	10 days (80 hours)
After 14 year's continuous employment	15 days (120 hours)

Paid sick leave can be used in minimum increments of one-quarter (1/4) hour. Eligible employees may use sick leave benefits for an absence due to any reason covered under the Michigan Earned Sick Time Act, including but not limited to: their own illness or injury or that of an eligible family member. Absences of more than three (3) consecutive days may also be classified as FMLA.

Employees who are unable to report to work due to illness or injury should notify their direct supervisor before the scheduled start of their workday if possible. The direct supervisor must also be contacted on each additional day of absence.

A department head may require an employee to file a physician's certificate during or following an employee's absence. When such a lawful request for documentation is made, the City will

allow an employee a reasonable time to provide it.

Examples of an unexcused absence include no-call/no-show, no physician's certificate provided upon the lawful request of the department head and no-show after denial of sick leave request.

In injury or sickness cases eligible for worker's compensation, the employee will be charged sick leave only for the percentage of compensation paid by the City.

Sick leave benefits will be calculated based on the employee's normal pay rate at the time of absence.

Sick leave benefits will be capped at two hundred and forty (240) hours and upon retiring will be paid out at one hundred percent (100%). On an annual basis, or at retirement, sick hours in excess of the cap will be paid at the current rate of pay and contributed to the employee's Retiree Health Savings Plan (RHSP). Under the RHSP plan these contributions are not eligible for a match by the City.

Employees hired after January 1, 2009, who have filled the two hundred- and forty-hour (240) bank, will contribute one hundred percent (100%) of accrued but unused sick time hours over the cap at their current rate of pay (unmatched by the City) to the RHSP.

Hired after January 1, 2009	Hired before January 1, 2009
RHSP – City contribution of 1% and employee match of 1%	RHSP – City contribution of 1% and employee match of 1%
100% of accrued but unused sick and vacation time over the cap of 240 hours is placed into RHSP	100% of accrued but unused sick time over 240 hours is placed into RHSP
	Receives retiree health insurance coverage from age 55 to 65 (30%/40% employee premium cost)
	Eligible for stipend at age 65, \$300 per month

Sick leave benefits are intended solely to provide income protection in the event of illness or injury, or other absences for reasons covered under Michigan's Earned Sick Time Act. Sick leave benefits may not be used for any other absence. Unused sick leave benefits will not be paid to employees while they are employed or upon termination of employment except upon retirement at age 60 or over (55 or over for police officers and fire-fighters), or upon retirement with twenty-five or more years' service and separating from the service of the City, an employee shall receive pay, at their current rate, for unused sick leave which will be contributed to the employee's RHSP.

Accumulated sick leave cannot be used to prolong the time of employment at retirement.

### **308 EARNED SICK TIME Act (ESTA) LEAVE POLICY**

The City provides Earned Sick Time to non-bargaining unit employees, and employees who are not otherwise eligible for benefits under Section 307 Sick Leave Benefits (above).

It is the policy of the City to comply with the Michigan Earned Sick Time Act (ESTA). An official state of Michigan poster containing important information about the (ESTA) is displayed along with the required federal and state labor postings.

For purposes of this policy, ESTA leave means leave to which an employee is entitled under the ESTA that has not already been provided to the employee by the City through another form of paid leave (such as under Section 307 above). For purposes of this policy, these employees are referred to “ESTA Leave-eligible employees.”

New ESTA Leave-eligible employees will accrue hours at the rate of one hour for every 30 hours worked. This will be shown on the employee’s sick accrual balance.

ESTA Leave-eligible employees may carry over all accrued but unused ESTA hours from one year to the next; however, in no case will an ESTA Leave-eligible employee be permitted to use more than 72 hours of ESTA Leave in a calendar year.

The City has designated the benefit year under the ESTA to be the calendar year.

Hours worked for the purposes of the ESTA does not include hours taken off from work by an eligible employee for paid leave.

An eligible employee must, when requesting to use paid medical leave, comply with the City’s notice, procedural, and documentation requirements for requesting sick leave, except to the extent such requirements are inconsistent with the ESTA. This means that an employee must provide notice at least 7 days in advance of a foreseeable need for ESTA Leave. If it is impossible to give 7 days’ advance notice, the employee must notify their direct supervisor as soon as practicable. Employees who are unable to report to work should notify their direct supervisor before the scheduled start of their workday if possible. The direct supervisor must also be contacted on each additional day of absence. Eligible employees may use ESTA leave for the following reasons:

- (1) The ESTA-eligible employee’s personal illness, injury, health condition or preventative care;
- (2) A family member’s (as defined by ESTA) illness, injury, health condition or preventative care;

- (3) Reasons related to the ESTA-eligible employee's or the ESTA-eligible employee's eligible family member's victimization by domestic violence or sexual assault (as defined under ESTA).
- (4) Meetings at the ESTA-eligible employee's child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child;
- (5) The closure of the ESTA-eligible employee's primary workplace or the employee's child's school/place of care due to public health emergency; or
- (6) Where the appropriate health authorities or the ESTA-eligible employee's healthcare provider has determined that the ESTA-eligible employee's or their family member's presence in the community would jeopardize health of others due to the ESTA -eligible employee's or family member's exposure to communicable disease.

Paid medical leave shall be taken in one-quarter-hour (1/4) increments. Absences of more than three (3) consecutive days may also be classified as FMLA. The City reserves the right to request documentation to substantiate an ESTA-eligible employee's use of time under this policy was for the purposes covered by ESTA, or to determine whether the employee may safely return to work.

Upon termination of employment, ESTA-eligible employees will not be paid for accrued but unused ESTA leave.

The City will comply with the present and future provisions of the Michigan Earned Sick Time Act (and regulations promulgated under the Act). This may necessitate a change of rights or procedures. In this event, the provisions of this section shall be deemed modified in whatever manner necessary to comply with the Act.

### **309 BEREAVEMENT LEAVE**

Regular full-time employees who wish to take time off due to the death of an immediate family member should notify their supervisor immediately. Up to three (3) working days of paid bereavement leave will be provided to eligible employees.

Bereavement pay is calculated based on the regular pay rate at the time of absence.

Bereavement leave will normally be granted unless there are unusual business needs or staffing requirements. Employees may, with their supervisors' approval, use any available paid leave for additional time off as necessary.

The City defines "immediate family" as the employee's parents, step-parents, grandfather, grandmother, grandparent-in-law, spouse, children, grandchildren, brother, sister, brother-in-law, sister-in-law, father-in-law, mother-in-law, uncle, aunt, niece, and nephew and grants a maximum of three (3) working days off without loss of pay. Bereavement leave must be used

within ten (10) days following the funeral.

### **310 WORKERS' COMPENSATION INSURANCE**

The City provides a comprehensive workers' compensation insurance program at no cost to employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements and any amendments to Michigan's Workers Compensation Insurance Act, workers' compensation insurance provides benefits after a seven (7) day waiting period during which the employee may use sick time or, if off fourteen (14) consecutive days, pay is retroactive to the first day or, if the employee is hospitalized, immediately.

Employees who sustain work related injuries or illnesses must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. The City requires drug testing for workers compensation claims and post accidents.

Neither the City nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off duty recreational, social, or athletic activity sponsored by the City.

### **311 JURY DUTY**

A regular full-time employee who is summoned and reports for jury duty, as prescribed by applicable law, will be paid by the City an amount equal to the difference between the amount of wages (excluding shift premium) the employee otherwise would have earned by working during straight time regular hours for the City on that day and the daily jury duty fee paid by the court (excluding travel allowances) for each day on which the employee reports for or performs jury duty on which they otherwise would have been scheduled to work for the City.

In order to receive payment, an employee must give the City prior notice that the employee has been summoned for jury duty and must furnish satisfactory evidence that the employee reported for or performed jury duty on the days for which the employee claims such payment. The provisions of this policy are not applicable to an employee who, without being summoned, volunteers for jury duty.

Any employee who is excused from jury duty after reporting for that day shall promptly return to work, if otherwise scheduled.

### **312 WITNESS DUTY**

The City encourages employees to appear in court for witness duty when subpoenaed to do so.

If employees have been subpoenaed or otherwise requested to testify as witnesses by the City, they will receive paid time off for the entire period of witness duty and must remit any witness compensation to the City.

Time off to appear in court as a witness at the request of a party other than the City of Sturgis will be charged against the employee's accrued vacation time. If the employee does not have sufficient accrued vacation time, the time off not covered by vacation time will be unpaid.

The subpoena should be shown to the employee's supervisor immediately after it is received so that operating requirements can be adjusted, where necessary, to accommodate the employee's absence. The employee is expected to report for work whenever the court schedule permits.

### **313 GROUP HEALTH CONTINUATION COVERAGE UNDER COBRA**

The City of Sturgis is required under federal law (Public Law 99272, Title X, also known as COBRA) to provide certain employees and their families the opportunity for a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the plan would otherwise end. See Human Resources for any additional information.

### **314 EDUCATIONAL ASSISTANCE**

The City recognizes that the skills and knowledge of its employees are critical to the success of the organization. The educational assistance program encourages personal development through formal education so that employees can maintain and improve job related skills or enhance their ability to compete for reasonably attainable jobs within the City.

Regular full-time employees who have successfully completed the introductory period are eligible for educational assistance. To maintain eligibility employees must remain on the active payroll and be performing their job satisfactorily through completion of each course.

Eligible educational assistance includes individual courses or courses that are part of a degree, licensing, or certification program and also must be related to the employee's current job duties or a foreseeable future position in the organization. All educational assistance shall be approved in advance by the employee's department head and Human Resources.

While educational assistance is expected to enhance employee's performance and professional abilities, the City cannot guarantee that participation in formal education will entitle the employee to automatic advancement, a different job assignment, or pay increases.

In order to be reimbursed, the employee's Department Head must approve in advance the training or course work, and the employee must provide proof of a passing grade C or better at the completion of the training or course. Reimbursement shall be limited to only those direct

costs associated with the course such as tuition, books, and lab supplies.

The City invests in educational assistance to employees with the expectation that the investment be returned through enhanced job performance. However, if an employee is separated from employment within one year of the last educational assistance payment, the amount of the payment will be considered only a loan. Accordingly, the employee will be required to repay up to 100 percent of the original educational assistance payment.

### **316 HEALTH INSURANCE**

The City health insurance plan provides regular full-time employees, and their dependents, access to medical, prescription drug, dental, and vision care insurance benefits.

Eligible employees may participate in the health insurance plan subject to all terms and conditions of the agreement between the City and the insurance carrier.

A change in employment classification that would result in loss of eligibility to participate in the health insurance plan may qualify an employee for benefits continuation under the Consolidated Omnibus Budget Reconciliation Act (COBRA). See Human Resources for more information about COBRA.

Details of the health insurance plan are available in the Human Resources department. Information on cost of coverage will be provided in advance of enrollment to eligible employees.

### **317 LIFE INSURANCE**

Life insurance offers you and your family important financial protection. The City provides a basic life insurance plan for regular full-time employees.

Accidental Death and Dismemberment (AD&D) insurance provides protection in cases of serious injury or death resulting from an accident. AD&D insurance coverage is provided as part of the basic life insurance plan.

Eligible employees may participate in the life insurance plan subject to all terms and conditions of the agreement between the City and the insurance carrier.

Details of the basic life insurance plan including benefit amounts are described in the Summary Plan Description provided to eligible employees. The Benefit level is one (1) times annual base pay capped at \$50,000. Life insurance benefits terminate at retirement or termination of employment. Depending on insurance carrier, benefits may possibly be continued at the former employee's cost, based on the carrier's policy.



Additional voluntary benefits are available.

### **319 DISABILITY BENEFITS**

The City provides a short term & long-term disability benefits plan to help regular full-time employees in order to cope with an illness or injury which results in excess of a 30-day absence from employment. Disability is designed to ensure a continuing income for employees who are disabled and unable to work and who are on an otherwise approved leave of absence.

Eligible employees may participate in the Disability plan subject to all terms and conditions of the agreement between the City and the insurance carrier.

Disability benefits are offset with amounts received under Social Security or workers' compensation for the same time period.

Details of the Disability benefits plan including benefit amounts, and limitations and restrictions are described in the Summary Plan Description provided to eligible employees.

### **320 IRA & 457 SAVINGS PLANS**

The City has established IRA and 457 savings plan(s) to provide employees the potential for future financial security for retirement.

You are eligible to join the IRA or 457 savings plan, if you are 18 years of age or older. Eligible employees may participate in the IRA or 457 plans subject to all terms and conditions of the plans. For details regarding these plans, the employee should consult the Summary Plan Descriptions ("SPD").

The City may contribute a percentage as determined by the City Commission, of regular full-time, non-bargaining unit employee's Gross Pay to the 457 plan.

Complete details of the 457 & IRA savings plans are available in Human Resources.

### **380 RETIREMENT**

The City's Retirement System is established for the purpose of providing retirement income to qualifying employees and former employees, and survivor income to their qualifying beneficiaries.. For details regarding this benefit, the employee should consult the Summary Plan Description ("SPD") and/or the City Charter and Code of Ordinances related to the Employees Retirement System.

All regular, full-time employees are eligible for this benefit. Further eligibility requirements are defined in the City Code of Ordinances Sections 2-84 and 2-85.

If an employee should leave the service of the City for any reason, except to retire, all employee annuity savings contributions to the local retirement fund will be refunded, plus interest, unless the former employee is vested under current policy. If the former employee is vested, contributions and interest must remain in the system for future benefits. If a former employee should be rehired by the City within a four-year period, all contributions withdrawn plus interest from the date of withdrawal must be repaid to the Retirement System, if prior service is going to be restored to the employee's credit. In certain instances, an employee can retain retirement credits, if the employee becomes an employee of another City department.

All eligible non-bargaining unit employees shall contribute one and eight-tenths percent (1.8%) of eligible retirement gross wages each payroll via payroll deduction. All funds so contributed by an employee shall be segregated and earn a return of three percent (3%) simple interest which shall be paid to the employee if he or she terminates employment prior to becoming fully vested.

Notwithstanding the foregoing, for all new employees hired after December 31, 2012, the maximum contribution to the retirement system by the City shall be "capped" at ten percent (10%) of eligible compensation. The employee shall pay the remaining pension cost allocated for each such employee as determined by the City actuary on an annual basis.

There are also disability retirement benefits available to those who qualify. See Human Resources for further information.

### **381 RETIREE HEALTH INSURANCE**

A regular full-time non-bargaining unit employee who 1) was hired before January 1, 2009; 2) retires meeting the age and service criteria required to immediately receive a normal defined benefit under the City's retirement system ordinance; and 3) has reached the age of 55 (either at or after the time of retirement), is currently eligible for retiree health insurance coverage through the City, subject to the following:

- A. For employees retiring on or after January 1, 2017: Until the retiree reaches age 65, the City pays 70% of the required premiums for single coverage provided for the retiree (or 60% of the required premiums for double coverage provided for the retiree and the retiree's spouse) and the retiree pays the remaining required premiums. When the retiree reaches age 65, in lieu of providing health insurance coverage, the City will pay a stipend of \$300 per month into a qualified health reimbursement account. The amount of this monthly stipend may be reviewed annually and modified as deemed appropriate by the City.
- B. In the event the retiree dies before reaching the age of 65, the spouse, if any, will continue to have 70% of the required premiums paid by the City until such time as the retiree would have reached the age of 65, provided the spouse pays the remaining required premiums. The City will not make the payment called for by this

paragraph unless the retiree has designated a retirement allowance for the spouse and the spouse was covered by or eligible for coverage as a health insurance dependent of the retiree on the retiree's date of death.

- C. If an eligible dependent is enrolled at the time of retirement, the retiree pays 100% of the difference between double coverage and family coverage. Dependents acquired after retirement are not eligible for coverage.
- D. The retiree's or spouse's contribution to the cost of the required premiums will be paid on a monthly basis through automatic deduction from the retiree's or spouse's pension benefit. If the amount deducted is not sufficient, the retiree or spouse is responsible for the remainder. Retiree health insurance coverage ceases if the retiree's or spouse's share of the cost is not paid in full when due. Termination due to non-payment will be retroactive to the end of the last period for which full payment was timely received.
- E. For purposes of this policy, "spouse" does not include any person the retiree marries after the date of retirement.
- F. An otherwise eligible retiree and spouse will lose eligibility if they do not enroll within two years of becoming eligible for retiree health insurance coverage.
- G. Retiree health insurance coverage may be under a plan separate from the plan applicable to active employees.
- H. Retiree health insurance coverage ceases if the retiree or spouse voluntarily withdraws from coverage, retiree health insurance coverage is terminated by the City, or the retiree or spouse commits misrepresentation or fraud in connection with an application for coverage or a claim for benefits.
- I. The types of coverage offered, level of benefits, allocation of premium costs between the City and the retiree/spouse, and all other details of retiree health insurance coverage are determined by the City in its sole discretion, and the City reserves the right to modify or terminate retiree health insurance coverage in whole or in part for any or all retirees/spouses at any time.

Employees hired on or after January 1, 2009, are not eligible for retiree health insurance coverage. A Retirement Health Savings Plan ("RHSP") will be funded by a 1% payroll contribution by each such employee, with a dollar-for-dollar match by the City. All such employees will also contribute unused sick leave and vacation time over the two hundred and forty (240) hour cap.

Effective January 1, 2017, employees hired before January 1, 2009, and who did not elect to remain on the "Old Sick" leave benefit plan, will be eligible for a RHSP funded by a 1% payroll contribution by each such employee, with a dollar-for-dollar match by the City. All such employees will also contribute unused sick leave over the two hundred and forty (240) hour cap.

#### **401 TIMEKEEPING**

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require the City to keep an accurate record of time worked in order to calculate

employee pay and benefits. Time worked is all time actually spent on the job performing assigned duties.

Nonexempt employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Overtime work must always be approved before it is performed.

Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

Nonexempt employees should report to work no more than seven minutes prior to their scheduled starting time nor stay more than seven minutes after their scheduled stop time without expressed, prior authorization from their supervisor.

If corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

#### **403 PAYDAYS**

The City's regular work week is Monday to Sunday. All employees are paid biweekly on every other Friday. Each pay will include earnings for all work performed through the end of the previous payroll period.

In the event that a regularly scheduled payday falls on a day off such as a holiday, employees will typically receive pay on the last day of work before the regularly scheduled payday.

#### **405 EMPLOYMENT TERMINATION**

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment is terminated:

- **RESIGNATION** - voluntary employment termination initiated by an employee.
- **DISCHARGE** - involuntary employment termination initiated by the organization.
- **RETIREMENT** - voluntary employment termination initiated by the employee meeting age, length of service, and any other criteria for retirement from the organization.

Since employment with the City is based on mutual consent, both the employee and the City have the right to terminate employment at will, with or without notice, with or without cause, at

any time. Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable at termination will be paid. Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued and of the terms, conditions, and limitations of such continuance.

#### **409 ADMINISTRATIVE PAY CORRECTIONS**

The City takes reasonable steps to ensure that employees receive the correct amount of pay in each pay period and that employees are paid promptly on the scheduled payday. Employees are responsible for reviewing each and every paycheck and pay stub carefully.

In the unlikely event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to your supervisor and Human Resources. The City will promptly investigate and correct any errors that occurred. Generally, corrections will be made the pay period following completion of the investigation.

#### **410 PAY DEDUCTIONS**

The law requires that the City make certain deductions from every employee's compensation. Among these are applicable federal and state income taxes. The City also must deduct Social Security taxes, when applicable, on each employee's earnings up to a specified limit that is called the Social Security "wage base." The City also contributes as applicable by law. The City offers programs and benefits beyond those required by law. Eligible employees may voluntarily authorize deductions from their pay checks to cover the costs of participation in these programs.

Employees are responsible for understanding the deductions made from the paycheck. It is the City's policy and practice to pay employees in compliance with Federal and State law. The City prohibits improper deductions from employee salaries, including any deduction that may impact an employee's exempt status, and will correct any mistakes or improper deductions. If the employee believes that a mistake or improper deduction has been made, the employee should report this immediately to Human Resources. The City will correct any improper deduction promptly, and will take steps to ensure future compliance.

#### **501 SAFETY**

To assist in providing a safe and healthful work environment for employees, customers, and visitors, the City maintains workplace safety as a priority. The department head has responsibility for implementing, administering, monitoring, and evaluating the workplace on an ongoing basis. Safety depends on the alertness and personal commitment of all.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor.

Employees who violate safety standards who cause hazardous or dangerous situations, who fail to report, or where appropriate, remedy such situations, may be subject to disciplinary action up to and including termination of employment.

In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees must immediately notify the appropriate supervisor. Such reports are necessary to comply with laws and initiate insurance and workers' compensation benefits procedures.

## **502 WORK SCHEDULES**

The normal work schedule for all Full-time non-bargaining unit employees is 8 hours a day, five days a week. However, schedules may vary depending on different operations.

The normal work schedule for all Shift employees is 8 hours a day, five days of seven in a week. However, schedules may vary depending on different operations.

Supervisors will advise employees of the times their schedules will normally begin and end. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

Flexible scheduling (flextime) or remote work, are available in some cases to allow employees to vary their starting and ending times each day within established limits. Flextime or remote work may be possible if approved in advance by the supervisor; remote work accommodations must also be approved by the City Manager.

Factors such as staffing needs, the employee's performance, and the nature of the job will be considered before approval of flextime or remote work. Details relating to schedules and accommodations will be determined between the employee and supervisor on a case-by-case basis.

Any employee working remotely to any significant degree will be required to sign an agreement stating the terms under which the employee will be permitted to telecommute and creating reasonable protections for the use and transmittal of City information.

Employees should consult their supervisor to request participation in the flextime or remote work programs.

## **504 INFORMATION TECHNOLOGY SYSTEMS**

The City owns and operates various computer systems, which are provided for use by employees in support of City activities. All users are responsible for seeing that these systems are used in a proper, effective, ethical, and lawful manner. This policy applies regardless of the user's location when accessing the network.

Violations of this policy are subject to discipline, up to and including termination of employment. Persons who use City systems or equipment for defamatory, illegal, or fraudulent purposes, or who break into unauthorized areas of the City's systems, may also be subject to civil liability and criminal prosecution.

### **Use of Systems and Equipment**

All City property, including computers, computer systems, e-mail, voicemail, internet service, telephone systems, fax machines, wire services, and other equipment and services, are provided for business use. Very limited, occasional use of these City systems for personal, non-business purposes is permitted. Employees must demonstrate responsible judgment in this use. Personal use of City systems must be limited to non-working time, must not be disruptive to the work of any employee, and must not put the City's technology at risk to be infected with viruses or other adverse technologies. Also, use of City systems for promoting, buying, or selling goods or services, or group solicitations is prohibited. Equipment may not be modified in any way except by authorized personnel. Employees may not use City telephones to record personal conversations. Employees with access to telephone call recording are limited to using the recording feature for business purposes only. Employees may not use City telephones to record internal calls with other employees.

### **System Security**

All users of City systems are required to maintain the security and integrity of City systems and information from access by unauthorized persons. Workspaces and equipment must not be left unattended in a manner that could permit any unauthorized person to obtain unauthorized access. Authorized use must be only with the user's own username, password, or other access device. Users may not share usernames, passwords, or access devices with any other person, except when business needs require and an appropriate manager has given written authorization.

### **Access and Monitoring**

Employees should not assume that electronic communications are private. Security procedures, such as passwords, are designed to control access to City systems, not to guarantee the personal privacy or confidentiality of any message or document. Employees should keep personal records and information at home, as the City does not provide privacy or confidentiality of non-business information stored in files (electronic or hard copy) at work.

The City reserves the right to access and review everything on all information systems and equipment, including directories, discs, files, databases, e-mail messages, voicemail messages, and any data stored or used in connection with City information systems. Electronic files that have been deleted or erased may remain stored in the City's computer or telephone systems. The City retains the right to access such information for as long as it may be obtained from any source, even after it has been deleted or erased. All e-mail messages are archived and stored on a City server pursuant to the City's retention policies.

The City does not monitor employee communications on a continuous basis. But individual use patterns (for example, telephone numbers dialed, websites accessed, call lengths, etc.) may be monitored when deemed necessary in the City's sole discretion. This is done to evaluate the optimum utilization of technology resources and to detect patterns of use that could suggest improper or illegal activity. The City may employ web filtering and block websites based on categories determined by the City.

Each employee who uses City communication systems, by doing so, consents to the City monitoring his or her communications over those systems, as authorized by law, when the City finds that a business reason warrants it. Employees should have no reasonable expectation of privacy when using City communication systems or equipment.

### **E-Mail and Internet Use**

The City strictly prohibits the use of information and communication systems for any communication or activity which is obscene, pornographic, profane, abusive, defamatory, derogatory, harassing, discriminatory, a violation of any civil or criminal law or statute, or a violation of any City policy or standard. If a user has any question about whether a particular use or communication is improper, it is the user's responsibility to ask an appropriate supervisor before engaging in the activity.

Revealing City business information, community member or customer information or other proprietary information provided to the City by third parties by e-mail or the internet is prohibited. Any other messages that may adversely affect the City, its customers, the public or employees are also prohibited. Internet and e-mail may not be used for personal gain, personal business, or advancement of personal views. If you have any question about whether a particular use is improper, ask an appropriate supervisor before engaging in the activity.

Communicating anonymously or by an assumed name through the City's communication systems or equipment without prior authorization to do so is prohibited. E-mail messages should be written in a professional manner. Consider your routing list carefully and exercise the same care you would with any written document before sending an electronic message.

Delete or archive unwanted and obsolete messages. It is each employee's responsibility to keep their mailboxes manageable and up to date. All messages are archived automatically.

If you receive an e-mail message from an unknown sender, delete the message to prevent viruses and other risks to City information systems. If you receive a message that was not intended for you, inform the sender immediately and delete the message from your mailbox.

Users of City equipment may not access any external or public computer or network, except for specific business purposes with express authorization by a supervisor. Any user who is authorized to connect to any outside computer or network is obligated to take all necessary measures to



ensure the security of the City's systems and information. Employees may not install, add, or download any other computer software to City systems without prior approval by the City.

Employees may not monitor or intercept anything on the City's computer system without authorization; obtain unauthorized access to any part of the City's information system; use City systems to obtain unauthorized access to any other computer or system; use anyone else's username or password without City permission; or use City systems in a way that has the purpose or effect of concealing or disguising the user's identity.

### **Software**

The City has acquired rights to use certain software programs on the City's communication and information systems for business purposes. Software is protected by copyright law. The City's right to use software is subject to license agreements with the publisher or seller of the software. Those license agreements generally prohibit users from copying, selling, loaning, or giving away software, or using or duplicating it in any way that is not expressly authorized by the license agreement. Therefore, any software that is available through the City's information systems may not be used in any way other than in the regular course of City business.

Only IT personnel or agents contracted by them may install or remove software or hardware on any City computer system. IT personnel may, at their discretion, authorize staff to perform specific software or hardware installations. All other software or hardware installations are strictly prohibited.

### **Portable Devices**

The City may provide employees with portable technology, including laptop computers, cell phones, smartphones, and tablets, in order to support City business. Such portable technology is to be used solely by the employee and solely for the benefit of the City. Upon termination of employment, or upon request by the City, each employee must immediately return to the City all equipment which is City property or contains any confidential or proprietary information belonging to the City, its customers or the public. Employees are strictly prohibited from using any portable technology for City business unless the portable technology is owned and provided by the City or otherwise approved by administration. Use of non-City-owned portable technology for City business, including the access, sharing, or retrieval of information from City systems, is not permitted.

## **505 SMOKING**

In keeping with the City's intent to provide a safe and healthful work environment, smoking and the use of tobacco or tobacco related products (including vaping) is prohibited throughout the workplace and City vehicles.

Employees are permitted to smoke and vape only at designated locations outside of City

buildings, and at least 30 feet from any entrance. Employees are encouraged to talk to Department Heads regarding designated department smoking locations. Smoking remains and matches should be disposed of accordingly.

## 506 OCCASIONAL AND SPORADIC EMPLOYMENT

From time to time there may be a unique situation where an employee has an interest in working in another general occupational category other than their primary position of employment with the City. The Fair Labor Standards Act (FLSA) regulates employers as it relates to overtime compensation. Employees, solely at their option, may upon approval work occasionally or sporadically on a part-time basis for the City in a different capacity from their regular employment. The hours worked in the different jobs shall not be combined for the purpose of determining overtime liability under the FLSA.

The term occasional or sporadic means infrequent, irregular, or occurring in scattered instances. There may be an occasional need for additional resources in the delivery of certain types of public services which is at times best met by the part-time employment of an individual who is already a public employee. Where employees freely and solely at their own option enter into such activity, the total hours worked will not be combined for purposes of determining any overtime compensation due on the regular, primary job. However, in order to prevent overtime abuse, such hours worked are to be excluded from computing overtime compensation due, only where the occasional or sporadic assignments are not within the same general occupational category as the employee's regular work.

In order for an employee's occasional or sporadic work on a part-time basis to qualify for exemption under the FLSA, **the employee's decision to work in a different capacity must be made freely** and without coercion, implicit or explicit, by the City. The City may suggest that an employee undertake another kind of work for the same unit of government when the need for assistance arises, but the employee must be free to refuse to perform such work without sanction and without being required to explain or justify the decision.

The employee must make a request and attest in writing that the decision to perform occasional or sporadic part-time work was made freely and without coercion, implicit or explicit, by the City. This form is available in Human Resources.

Any requests for occasional or sporadic part-time employment must be approved by the City Manager.

## 507 OVERTIME

When operating requirements or other needs cannot be met during regular working hours, employees will be given the opportunity to volunteer for overtime work assignments. There may

also be times where employees are required to work overtime. All overtime work must receive the supervisor's prior authorization.

Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour restrictions. Overtime pay is based on actual hours worked.

Employees who are called back to work at a time other than their regularly scheduled shift shall be paid for a minimum of two (2) hours. Callback pay will be at time and one-half (1 ½) the regular straight time rate of pay except on Sundays which will be paid at double (2) time.

Failure to work assigned overtime may result in disciplinary action, up to and including possible termination of employment.

Due to the Department of Public Services (DPS) seasonal nature and emergency response activities, non-exempt employees who are required to work overtime may elect to receive compensatory time in lieu of pay up to a forty (40) hour accumulative bank. This accumulative bank of compensatory time may not exceed forty (40) hours at any time. This compensatory time shall be credited at the rate of one and one-half (1 ½) hours for every one (1) hour of overtime worked. An employee may receive compensatory time off for overtime worked if there is mutual agreement to do so. The City reserves the right to deny banking of compensatory time off. The employee by submission of a request to bank compensatory time voluntarily agrees to receive compensatory time in lieu of overtime pay.

The scheduling of compensatory time off shall be arranged in advance by the employee and their supervisor. A request for use of compensatory time off may be denied or cancelled if it would unduly disrupt City operations.

Upon the employee's termination, the employee will be paid for any unused accrued compensatory time with their last pay.

## **508 USE OF EQUIPMENT AND VEHICLES**

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. When using City property, employees are expected to exercise care, ensure required maintenance, and follow all operating instructions, safety standards, and guidelines. *Employees are not authorized to borrow or use City property for personal benefit. City property used for personal benefit can result in disciplinary action, up to and including termination of employment.*

Please notify the supervisor if any equipment, machines, tools, or vehicles appear to be damaged, defective, or need repair. Prompt reporting of damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job.

The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, as well as excessive or avoidable traffic and parking violations, can result in disciplinary action, up to and including termination of employment.

In the event that a non-bargaining unit employee has an accident or an incident where safety precautions may have been violated involving a City owned vehicle or equipment, the employee shall be subject to a drug and alcohol test, in addition to completing any reports required by local law enforcement.

For any accident involving a City-owned vehicle, the Motor Vehicle Fund Committee will perform an incident review. Department Heads will be required to complete an accident report within twenty-four (24) hours of the incident to the Motor Vehicle Fund Committee Chair. A copy of this report should also be filed with the Human Resource Director. The Motor Vehicle Fund Committee will convene within three (3) business days to review the incident report. All accidents will be investigated by the Motor Vehicle Fund Committee to determine the cause for the accident and any response necessary to increase the safe operation of the vehicle or equipment. The Committee may recommend to the City Manager modifications to improve safety, identify training needs of the employee, defects in the vehicle or equipment, etc.

The purpose of the incident review is to minimize injury to employees and damage to City Property. All recommendations including “no changes” will be submitted to the City Manager for review. Results of the review will then be forwarded to the Department Head and employee.

**Exceptions:** *There is a procedure for exceptions to this policy. If the Department Head or Supervisor of the employee, involved in damaging a City-owned vehicle/equipment, feels that the very nature of the incident does not qualify for review by the Motor Vehicle Committee, the Department Head has the choice of filing a Motor Vehicle Committee Traffic Crash Review Waiver form to the Motor Vehicle Committee Chairperson. The Motor Vehicle Chairperson will confer with the City Manager to determine whether or not to approve the waiver request. If the waiver request is approved, the incident in question shall not be reviewed by the Motor Vehicle Committee. If the waiver request is denied, the incident in question shall be reviewed by the Motor Vehicle Committee.*

## **510 EMERGENCY CLOSINGS**

At times, emergencies such as severe weather, fires, power failures, or earthquakes, can disrupt company operations. In extreme cases, these circumstances may require the closing of a work facility.

When operations are officially closed due to emergency conditions, the time off from scheduled work will be unpaid. However, with supervisory approval, employees may use available paid leave time, such as unused vacation or personal leave benefits. Employees in essential operations

may be asked to work on a day when operations are officially closed. In these circumstances, employees who work will receive regular pay.

City owned facilities may only be closed by consent of the City Manager or their designee.

## **512 BUSINESS TRAVEL EXPENSES**

The City will reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. All business travel must be approved in advance by the Department Head.

Employees whose travel plans have been approved should have all travel plans reviewed and verified by their supervisor to ensure reasonableness of travel and accommodation expenses.

When approved, the actual costs of travel, meals, lodging, and other expenses directly related to accomplishing business travel objectives will be reimbursed by the City. Employees are expected to limit expenses to reasonable amounts.

Expenses that generally will be reimbursed include the following:

- Airfare or train fare for travel in coach or economy class or the lowest available fare. Tolls, parking, and car rental fees. Vehicle type pre-approved by the supervisor.
- Mileage costs for use of personal cars will be paid based on the then-current mileage rate established by the Internal Revenue Service (IRS) only when a City- owned vehicle, or a less expensive transportation option is unavailable unless otherwise approved by the supervisor.
- Cost of standard accommodations in low to mid-priced hotels, motels, or similar lodgings.
- Other charges for services required for business purposes.

Employees who are involved in an accident while traveling on business must promptly report the incident to their immediate supervisor. Vehicles owned, leased, or rented by the City may not be used for personal use without prior approval.

When travel is completed, employees should submit completed travel expense reports within 14 days. Reports should be accompanied by receipts for all individual expenses.

Meals shall be limited to sixty-four dollars (\$64.00) per day with receipts based on the current IRS per-diem rate, not to be averaged over the period.

Employees should contact their supervisor for guidance and assistance on procedures related to travel arrangements, expense reports, reimbursement for specific expenses, or any other business travel issues.

Abuse of this business travel expenses policy, including falsifying expense reports to reflect costs not incurred by the employee, can be grounds for disciplinary action, up to and including termination of employment.

#### **514 VISITORS IN THE WORKPLACE**

To provide for the safety and security of employees and the facilities at the City, visits by non-employees shall be kept to a minimum. Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare, and avoids potential distractions and disturbances.

#### **516 CERTAIN EMPLOYEE EXPENDITURES AS A PUBLIC PURPOSE**

The City believes the nexus of the employment relationship, and how the City manages that employment relationship, is a valid local municipal concern. The City Manager is authorized to make incidental expenditures such as, but not limited to, occasional recognition of achievements, paying for refreshments/meals as recognition of extra effort, time and commitment by employees, and general appreciation of the efforts of employees as a way to provide a work culture that promotes positive morale, high performance and productivity which serve an important public purpose.

#### **581 SAFETY SHOES**

The City requires employees in designated positions to wear safety shoes or boots. Your department head or supervisor will inform you if you are employed in one of those positions.

The City will reimburse the cost of one (1) pair of safety shoes or boots for any regular full time non-bargaining unit employee per fiscal year with the City's maximum contribution being Two Hundred and twenty-five Dollars (\$225.00).

In order to receive reimbursement, a request must be submitted to Human Resources. It must be accompanied by proof of purchase of ASTM approved safety shoes or boots. In the event there is a question as to the validity of the safety of the shoe or the boot, Human Resources shall determine whether the footwear meets MIOSHA and ASTM safety standards and make reimbursement decisions accordingly.

#### **601 FAMILY AND MEDICAL LEAVE ACT POLICY**

##### **The leave policy**

You are eligible to take up to 12 workweeks (up to 26 workweeks for specified persons related to military personnel – see reasons for leave) of unpaid family/medical leave within the applicable 12-month period and be restored to the same or an equivalent position upon your return from leave provided you: (1) have worked for the City for at least 12 months within the last seven (7) years, and for at least 1,250 hours in the last 12 calendar months; and (2) are employed at a work site that has 50 or more employees within a 75-mile radius. Failure to comply with the FMLA policy may result in termination.

### **Reasons for leave**

You may take family/medical leave for any of the following reasons:

- (1) the birth of a son or daughter and in order to care for such son or daughter;
- (2) the placement of a son or daughter with you for adoption or foster care and in order to care for the newly placed son or daughter;
- (3) to care for a spouse, son, daughter, or parent (“covered relation”) with a serious health condition;
- (4) because of your own serious health condition that renders you unable to perform an essential function of your position;
- (5) to care for a covered service member who has or is being treated for a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the covered service member.
- (6) the employee’s spouse, son, daughter or parent is a covered service member and has been notified of an impending call or order to covered active-duty status.

Generally, the FMLA allows eligible employees to take an unpaid leave of absence for a period not to exceed twelve (12) work weeks in a “rolling” twelve (12)-month period measured backward from the date of any FMLA leave usage. Leave for the birth or adoption of a child must be taken within one (1) year of the qualifying event. The length of time allowed for leave for qualifying exigencies will depend on the type of qualifying event. Where leave is necessary for the care of a covered servicemember with a serious injury or illness, leave may be taken for up to twenty-six (26) weeks during a single twelve (12)-month period beginning with the first date of leave.. In addition, in cases where a married couple is employed by the City, the two spouses together may take a combined total of 12 workweeks' leave during any 12-month period for reasons 1 and 2. Similarly, married spouses who are both employed by the City may be limited to a combined total of twenty-six (26) weeks of leave during the applicable twelve (12)-month period to care for a covered service-member with a serious injury or illness.

### **Notice of leave**

If your need for family/medical leave is foreseeable, you must give the City at least 30 days' prior written notice. If this is not possible, you must at least give notice as soon as practicable (within one to two business days of learning of your need for leave except in extraordinary circumstances). While such notice can be provided verbally, it must include the same information

necessary for the City to understand that the request is for FMLA leave. **You will be expected to follow and comply with your department's normal call-in procedures and notice requirements.** Calling in "sick" will not be sufficient notice to trigger FMLA benefits or protections.

Failure to provide adequate notice may be grounds for delay or denial of leave. Additionally, if you are planning a medical treatment, you must consult with the City first regarding the dates of such treatment and may be required to schedule such treatment so as not to unduly disrupt the City's operations.

The City has Request for Family/Medical Leave forms available from the human resources department. You should use these forms when requesting leave whenever possible.

#### **Definition of a "Serious Health Condition"**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment. If you are not sure whether your condition qualifies for FMLA leave, you may apply for such leave and, after review of appropriate medical documentation, the City will advise you of whether you are covered under this provision.

#### **Medical certification**

If you are requesting leave because of your own or a covered relation's serious health condition, you and the relevant health care provider must supply appropriate medical certification. You may obtain Medical Certification forms from the human resources department. When you request leave, the City will notify you of the requirement for medical certification and when it is due (usually within 15 calendar days after you request leave). If you provide at least 30 days' notice of medical leave, you should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of leave.

An employee will be given written notice of any deficiency noted in the medical certification with an explanation of action needed. The employee will be provided seven (7) days to "cure" any deficiency within the certification. Failure to provide a corrected certification within the seven (7) days may result in delay or denial of leave.

The City, at its expense, may require an examination by a second health care provider designated by the City, if it reasonably doubts, or seeks confirmation of the medical certification you initially



provide. If the second health care provider's opinion conflicts with the original medical certification, The City, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion.

From time to time, the City may require subsequent medical recertification. Failure to provide requested certification within 15 days, except in extraordinary circumstances, may result in delay or denial of further leave.

The City reserves the right to contact the employee's Healthcare provider for "authentication and clarification" as provided under the FMLA.

### **Reporting while on leave**

If you take continuous leave because of your own serious health condition or to care for a covered relation, you may be required to periodically report the Human Resources department at the City regarding the status of the condition and your intention to return to work. In addition, you must give notice as soon as is practicable (within two business days if feasible) if your medical condition changes, the dates of the leave need to change or be extended, or were unknown initially.

To assure proper preparation and scheduling for your return to work, you are required to provide the City as soon as possible, preferably, at least two (2) business days' notice of your availability and intent to return to work from a continuous leave – please include in writing any requests for accommodation of restrictions or medical condition. You may fax, deliver, or mail your Health Care Provider's return to work documentation to the Human Resource Department, which must be received no less than two days prior to your actual return to work.

If your leave is approved as intermittent leave you are required to follow all leave of absence notification procedures as stipulated within the employee handbook. In addition, when you notify the City of your FMLA related absence you are required to state the reason for the absence and how it directly applies to the approved FMLA leave. Failure to properly report an FMLA leave may result in that date or period not being counted as FMLA and subject to other leave of absence policies.

### **Leave is unpaid**

Family medical leave is unpaid leave (although you may be eligible for short- or long-term disability payments and/or workers' compensation benefits under those insurance plans, which could supplement your income on the unpaid FMLA leave). If you request leave because of birth, adoption, or foster care placement of a child, any accrued paid sick leave and vacation time will be substituted for unpaid family/medical leave. If you request leave because of your own serious health condition, or to care for a covered relation with a serious health condition, any accrued sick leave and vacation will be substituted for any unpaid family/medical leave. The substitution of paid leave time for unpaid leave time does not extend the 12-workweek leave period. Further, in no case can the substitution of paid leave time for unpaid leave time result in your receipt of more than 100 percent of your pay.

**Medical and other benefits**

During an approved family/medical leave, the City will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid family/medical leave, the City will deduct your portion of the health plan premium as a regular payroll deduction. If your leave is unpaid, your portion of the premium will be paid by the City. Upon your return to work you will be required to reimburse the City for the cost of your portion of the premium. If special payment arrangements are needed, please speak with your Human Resource Department during your leave or immediately upon notification of your return to work. If you elect not to return to work for at least 30 calendar days at the end of the leave period, you will be required to reimburse the City for the entire cost of the premiums paid by the City for maintaining coverage during your unpaid leave.

Employees will be asked to sign an agreement indicating that the employer will pay the employee's portion of the premium during the FMLA leave and that the employee is responsible for the reimbursement of all payments made by the employer on their behalf.

**Exemption for highly compensated employees**

Highly compensated salaried employees (i.e., highest-paid 10 percent of employees at the City) may not be returned to their former or equivalent position following a leave, if restoration of employment will cause substantial economic injury to the City. (This fact-specific determination will be made by the City on a case-by-case basis.) The City will notify you if you qualify as a "highly compensated" employee if the City intends to deny reinstatement, and of your rights in such instances.

**Intermittent and reduced-schedule leave**

Leave because of a serious health condition may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced-leave schedule (reducing the usual number of hours you work per workweek or workday) if medically necessary. If leave is unpaid, the City will reduce your salary based on the amount of time actually worked. In addition, if you are on an intermittent or reduced schedule leave due to planned medical treatment, the City may temporarily transfer you to an available alternative position that better accommodates your recurring leave, and which has equivalent pay and benefits.

The City does not allow intermittent leave for "bonding" with a newly born or placed health child.

**Miscellaneous Provisions**

During the time an employee is off work on FMLA leave, they shall have no other employment. Thus, an employee on FMLA leave or any other medical leave is not allowed to work for another employer, including self-employment, during the leave of absence without prior written authorization by the City.

Employees who knowingly misrepresent facts in order to be granted FMLA leave will be subject

to appropriate discipline, up to and including termination.

Absent extraordinary circumstances or other reasons protected by law, an employee who fails to return to work on the first business day after the expiration of the FMLA leave period will be considered to have voluntarily resigned their employment with the City.

The City will comply with the present and future provisions of the federal Family and Medical Leave Act (and regulations promulgated under the Act). This may necessitate a change of rights or procedures. In this event, the provisions of this section shall be deemed modified in whatever manner(s) necessary to comply with the Act.

## **602 NON-FMLA MEDICAL LEAVE OF ABSENCE**

An unpaid medical leave of absence ("MLOA") may be requested if the employee has a serious medical condition (physical or mental) and is unable to work, but the employee does not qualify for FMLA leave (e.g. not yet worked twelve (12) months, not worked one-thousand two-hundred and fifty (1,250) hours, exhausted all FMLA, etc.).

### **Procedure**

A written request for MLOA must be submitted to Human Resources as early as possible (preferably at least thirty (30) calendar days prior to the desired time off, if possible). In the request you should specify dates, requested length, and other useful information.

You should also include with your written request a physician's supporting written statement explaining (in detail) your restrictions and why they believe you need a leave of absence (i.e., why you cannot perform your current job). If pertinent, your physician's written statement should specify whether you are "disabled" and, if so, are you "totally disabled" and therefore unable to perform any work or are you simply unable to perform some type of work. If you are "totally disabled" we will look to an appropriate medical leave of absence. If not "totally disabled," and depending on your restrictions (and depending on whether you instead elect to use other paid time off including sick or vacation time, if eligible), we may attempt to reasonably accommodate your condition, thereby allowing you to continue working in either your regular or an alternate vacant position.

We may also, at our expense, require a second physician's opinion. If the second opinion is contrary to your physician's opinion, the parties will pick a mutually agreeable third physician to review your condition (at our expense). In such cases the parties agree that they will abide by the third physician's opinion.

### **Length**

A MLOA will be limited to the period of actual disability and/or inability to work, but in all cases may not exceed the period in which the City can reasonably accommodate the leave of absence without incurring undue hardship. A MLOA must include a specific time frame, including a date

on which the employee will return to work. The City cannot accommodate MLOA requests of an indefinite nature as they cause the City an undue hardship. The employee will typically be required to exhaust their accrued paid time off, including vacation and sick leave as part of their MLOA. The MLOA will otherwise be unpaid unless you qualify for workers' compensation or short-term disability benefits.

### **Continuation of Health Benefits**

During a MLOA the City will maintain an employee's health benefits for a maximum of twelve (12) weeks at the same level as if they had continued working so long as the employee makes arrangements to pay, and does pay, the entire cost of the health care premiums. If the employee has taken FMLA immediately preceding an MLOA, the time during the FMLA leave in which the City continued health benefits for the employee will be counted towards this twelve (12) weeks. Employees will be required to pay the active employee portion of the insurance premiums, if applicable. If an employee's health care premium is more than fifteen (15) days late, the City will notify them in writing. The employee's healthcare insurance coverage will be cancelled if the premium payment is more than thirty (30) days late. Thereafter, employees may have the opportunity to continue health insurance at their own cost under the COBRA law, if applicable. Your responsibilities regarding payment of your portion of plan premiums will be explained to you at the time your leave is granted.

### **Compliance and Return**

An employee who fails to comply with the conditions accompanying the leave (e.g., periodically reporting in, providing additional medical information and physician's statements, etc.) or who fails to return to work at the designated time (the employee may be required to present a physician's certification releasing them to return to work and setting forth any restrictions) will be separated from employment. If an employee is unable to return to work at the time designated by the City but is subsequently released by their physician to return to work, they will have to reapply as a new hire.

## **603 PERSONAL LEAVE OF ABSENCE**

The City provides leaves of absence without pay to regular full-time employees who wish to take time off from work duties to fulfill personal obligations.

Eligible employees may request personal leave only after having completed 365 calendar days of service. As soon as eligible employees become aware of the need for a personal leave of absence, they should request a leave through their supervisor who in turn will submit the leave for approval from the City Manager.

Personal leave may be granted for a period of up to 30 calendar days every rolling 12 month period (looking backward). If this initial period of absence proves insufficient, consideration will be given to a written request for an extension of no more than 30 calendar days. With the City

Manager's approval, an employee may take any available sick leave or vacation leave as part of the approved period of leave.

Requests for personal leave will be evaluated based on a number of factors, including anticipated workload requirements and staffing considerations during the proposed period of absence.

Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the unpaid leave and will resume upon return to active employment. Health insurance will continue to be paid during approved unpaid leave, and the employee will reimburse the City for the full monthly cost (including the City's employer cost.)

When a personal leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee is qualified. However, the City cannot guarantee reinstatement in all cases.

If an employee fails to report to work promptly at the expiration of the approved leave period, the City will assume the employee has resigned.

#### **605 MILITARY LEAVE**

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Re-employment Rights Act (USERRA). Advance notice of military service is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable.

The leave will be unpaid. However, employees may use any available paid time off for the absence.

Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions, and limitations of the applicable plans for which the employee is otherwise eligible.

Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the leave and will resume upon the employee's return to active employment.

Employees on military leave for up to 30 days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws.

Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable one depending on the length of military service in accordance with USERRA. They will be treated as though they were

continuously employed for purposes of determining benefits based on length of service.

## **701 EMPLOYEE CONDUCT**

All City employees are required to conduct themselves in a manner that reflects a positive image for the City. Employees are expected to perform their duties safely with honesty and integrity. Below is a list of rules that all employees are required to adhere to. The list is not all-inclusive, and the City reserves the right to change, add, and/or revise these as it deems appropriate and necessary. Nothing stated in this policy, including the work rules, changes the at-will employment relationship. None of these rules are intended to, none should be interpreted to, and none will be enforced in such a fashion as to interfere with employee rights, as protected by any state or federal law.

Violation of any rules, or failure to perform assigned duties, may subject employees to discipline, up to and including termination, depending on the seriousness of the violation in the sole judgment of the City. Although in some situations the City may elect to use corrective action, an employee has no right to or guarantee of a specific progression or number of disciplinary steps.

Prohibited employee conduct includes, but is not limited to, the following:

### **A. Insubordination and Related Misconduct**

- a. Failure or refusal to follow instructions or orders from a supervisor, disrespect toward a supervisor, neglect of duty, failure, or refusal to carry out job duties or assignments, or other forms of insubordination.

### **B. Dishonesty and Related Misconduct**

- a. Theft or dishonesty of any kind. This includes but is not limited to lying, falsification (either written or verbal) of personnel records, official City records or reports, or withholding information in a City investigation.

### **C. Improper Treatment of Others and Related Misconduct**

- a. Discrimination or reprisal against an employee, participant in a City program or activity, citizen, or other person(s) doing business with the City because of race, religion, sex, sexual orientation, gender identify, pregnancy, national origin, height, weight, age disability or any other reason prohibited by federal or state law.
- b. Violating the City's harassment policy.
- c. Interfering with the work of another employee, including, but not limited to,

restricting production, or influencing another to do so.

- d. Discourteous treatment of fellow employees, vendors, citizens, or visitors.
- e. Engaging in abusive, intimidating, threatening or coercive treatment, either physical and/or mental, of another employee or the public on City time or premises.
- f. Engaging in offensive, immoral, indecent, or illegal conduct, or using offensive language toward the public, or in public, or toward City officers or employees, while on or off duty.
- g. Making or publishing false, vicious, or malicious statements concerning anyone.

D. Misuse of City Property and Records and Related Misconduct

- a. Carelessness or negligence relating to, or misuse or intentional destruction of, City property or monies or another employee's property.
- b. Misuse or removal of any City record of any nature, or disclosing such record or confidential information without proper authorization.
- c. Violating the City's Information Technology Systems policy.
- d. Unauthorized use of City vehicles, machines, tools and/or equipment.
- e. Accessing City facilities or being present on City property without authorization.
- f. Excessive or improper time spent for personal purposes or excessive or improper personal use of phones, computers, equipment, or other technology.
- g. Removal or defacing of any material on City bulletin boards or posting of unauthorized materials.

E. Unsafe Acts and Related Misconduct

- a. Horseplay.
- b. Provoking, instigating, or participating in a fight on City time or premises.
- c. Failure to observe safety rules and common safety practices.
- d. Smoking or tobacco use in an unauthorized area.

- e. Failure to report any job-related accidents or injuries to a supervisor as soon as possible.
- f. Failure to report damage, defects or hazardous conditions relating to City property or a City vehicle to a supervisor as soon as possible.
- g. Any deliberate or careless conduct endangering the safety of oneself or others.
- h. Unauthorized carrying, use or possession of fireworks, firearms, explosives, or weapons while on duty or on City property.

F. Absenteeism, Sick Leave Abuse and Related Misconduct

- a. Abuse of sick leave or other forms of leave, habitual absenteeism.
- b. Failure to report known or anticipated absence or late arrival in advance of the employee's work shift.
- c. Quitting work or leaving the duty area without authorization.
- d. Habitual or excessive tardiness or leaving early.
- e. Absence from work without authorized leave.

G. Illegal and Unethical Acts and Related Misconduct

- a. Using, or threatening or attempting to use personal or political influence in an effort to secure promotion, leave of absence, transfer or change of grade, pay or character of work, or other advantage.
- b. Inducing or attempting to induce, any employee in the service of the City to act in violation of the law or any departmental or City rule(s), regulation(s), or order(s).
- c. Accepting any fee, gift, or other considerations of value as a City employee for personal gain or preferential treatment.
- d. Conviction or violation of any criminal or penal statute or ordinance if the conviction impacts your ability to perform your job or otherwise renders you disqualified for the position.
- e. Engaging in action(s) which constitute a conflict of interest toward the City or adversely affects the City's regard or reputation in the community.



#### H. Misuse of City Motor Vehicles and Related Misconduct

- a. Failure to operate a motor vehicle safely, receiving a motor vehicle violation, not wearing a seat belt or being an at fault driver in an accident.
- b. Operating a vehicle in a reckless manner, driving at excessive speed (excluding emergency vehicles operating according to department policy), driving under the influence of alcohol or illegal drugs or drugs that impair driving ability, leaving the scene of an accident, carrying unauthorized passengers, or gross negligence while operating a vehicle.
- c. Violating any City policy relating to driving or vehicles.
- d. Unnecessarily allowing City vehicles or equipment to idle or leave keys in City vehicles or equipment unattended.

#### I. Improper Personal Behavior and Related Misconduct

- a. Vending, soliciting, distributing literature, circulating a petition, or collecting contributions on the City's time or premises without prior authorization from the City Manager.
- b. Failure to maintain a work appearance that is appropriate to an employee's job duties.
- c. Sleeping on the job.
- d. Violating any City policy relating to drugs or alcohol.

#### J. Other Misconduct

- a. Violation of any departmental rule or other official regulation, policy, order, or rule of the City.

### **702 PROHIBITED SUBSTANCES POLICY**

It is the policy of the City to maintain a safe, healthy, and efficient environment for all of its employees and the public. The unauthorized possession, use, or abuse of any legal or illegal drugs or alcohol in the workplace poses an unacceptable risk to that critically important goal. All employees must abide by the terms of this Prohibited Substances Policy if they are to remain employees of the City. For everyone's health and safety, please help maintain a drug-free and alcohol-free work environment.

## **Prohibited Conduct**

The following is prohibited employee conduct:

- A. Having a prohibited substance in the employee's bodily system on City time or City premises, including all work sites and in City vehicles.
- B. Unauthorized use, consumption, possession, manufacture, distribution, dispensation, solicitation, or sale of a prohibited substance while on City time or premises, including all work sites and in City vehicles.
- C. Possession, use, consumption, manufacture, distribution, dispensation, solicitation, or sale of a prohibited substance off City time or premises that adversely affects the employee's work performance, the employee's safety or the safety of others at work, or the City's regard or reputation in the community.
- D. Storing any prohibited substance or drug paraphernalia in a locker, desk, bag, purse, automobile, or other place on City premises, including all work sites and in City vehicles.
- E. Failure to keep prescribed medicine in its original container on City premises, including all work sites and in City vehicles.

## **Prohibited Substances**

For purposes of this policy, prohibited substances include:

- A. Drugs that are illegal under local, state, and/or federal law, marijuana in any form, other controlled substances (including trace amounts), and other substances which have the effect of altering the physical and/or mental abilities of the employee.
- B. Imitation controlled substances as defined by applicable law.
- C. Alcoholic beverages and any beverage, mixture or preparation, including any medication, containing alcohol.

## **Prescription and OTC Drugs**

The City recognizes that on occasion employees must use prescription or over-the-counter drugs to legitimately treat various conditions. An employee using a prescription drug or over-the-counter medication which is known to or may cause impairment on City time or City premises is responsible for being aware of any potential effect such drug may have on their judgment or ability to perform their duties and must inform the Human Resources department of their use of the drug/medication prior to performing any work. In addition, employees must maintain prescription drugs and over-the-counter medication in its original container showing it has been prescribed to the employee and use the drug only as directed.

### **Drug and Alcohol Testing**

The City is a drug and alcohol-free workplace. Because of the seriousness and potential dangers of substance abuse, applicants for employment may be required to undergo pre-employment drug and alcohol testing after receiving a conditional offer of employment. Active employees may also be required to undergo drug and alcohol testing if the City has reasonable suspicion of a violation of this policy by the employee. The City may also require post-accident testing as described in other sections of this Handbook or applicable Union Contracts. This testing will be performed by a reputable medical provider or independent laboratory using qualified and trained medical technicians or professionals. This facility will be chosen by the City. In the case of an on-the-job reasonable suspicion drug or alcohol testing, the employee will be transported to and from the testing center by the supervisor. Should the test prove negative, the employee will be returned to work without discipline or loss of pay. A positive test result or refusal to submit to testing will be grounds for discipline, up to and including termination. The City will treat all test results as confidential records, to be shared only with those individuals who have a legitimate "need to know."

### **DOT Regulations**

This policy encompasses and includes by reference all of the provisions of the United States Department of Transportation controlled substance testing regulations as contained in 49 CFR Part 391, Subpart H, and all other pertinent provisions, as they apply to certain vehicle operators and supervisory personnel. Among other things, these regulations mandate the random testing of certain vehicle operators, and the training of such employees and their supervisors in the issues of substance abuse.

### **Employee Assistance Program (EAP)**

The City has established an Employee Assistance Program (EAP) to inform employees about the dangers of drug abuse in the workplace and to help employees understand the City's policy of maintaining a drug-free workplace. Contact the Human Resources Department for more information. If you need help with a substance abuse issue, please seek help before you violate this policy as seeking help after a violation will not excuse the misconduct.

## **703 SEXUAL AND OTHER UNLAWFUL HARASSMENT AND DISCRIMINATION**

The City is committed to providing a work environment that is free of discrimination and unlawful harassment. Actions, words, jokes, or comments based on an individual's sex, race (including traits historically associated with race such as hair texture and protective hairstyles), color, national origin, age, religion, sexual orientation, gender identity, gender expression, pregnancy, disability, marital or veteran status, height, weight, citizenship, genetic information, or any other legally protected characteristic will not be tolerated. Unlawful harassment (both overt and subtle) is a form of employee misconduct that is demeaning to another person or persons, undermines the integrity of the employment relationship, and is strictly prohibited. Employees

are strictly prohibited from engaging in harassment not only of their co-workers, but also of visitors, vendors, and citizens with whom they have contact because of their job with the City.

### Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is unlawful sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment of an individual's employment, or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of prohibited actions and statements include derogatory or vulgar comments regarding a person's gender, sexual orientation or gender identity or expression, sexually suggestive language, remarks about a person's anatomy, threats of physical harm, touching another person in a sexually suggestive way or in a gender/sexual location, physical contact such as hitting and pushing or threats to take such action, and distribution of written or graphic sexual materials, including nude pictures, inappropriate memes, and sexually oriented magazines or posters.

### Other Unlawful Harassment

Other unlawful harassment can occur as a result of unwelcome verbal, physical, or other conduct that creates an intimidating, hostile, or offensive working environment based on protected characteristics. Such conduct includes, but is not limited to, derogatory comments, jokes, slurs, epithets, graffiti, gestures, displays, touching, or other physical acts.

### Complaint Procedure

Employees who believe they have been subjected to or witnessed sexual or other unlawful harassment or discrimination in the workplace should promptly report the incident(s) to their supervisor, the Department Head, the Human Resource Director, City Manager, or the City Attorney. Reports of harassment or discrimination should be made in writing, when possible, using the complaint form attached to this Handbook. Additional copies of the form can be obtained from the Human Resources Department.

Complaints received by a Department Head must be reported to Human Resources and the City Manager within 24 hours of receipt. Likewise, any supervisor or manager who becomes aware of possible sexual or other unlawful harassment or discrimination must advise Human Resources or the City Manager within 24 hours.

Reports of harassment or discrimination are taken seriously and will be promptly investigated. Investigations will be treated confidentially to the fullest extent possible, and information will be disclosed on a need-to-know basis. However, it is usually necessary to reveal the identity of the complainant and other details to the parties involved in order to complete a thorough investigation. Upon conclusion of the investigation, if it is determined that a violation of this policy has occurred, the City will determine appropriate disciplinary action up to and including termination of employment.

### Retaliation

The City also strictly prohibits retaliation against any employee who, in good faith, makes a complaint under this policy as well as any employee who participates in the investigation of such a complaint. Employees can raise concerns and make reports without fear of reprisal. Any employee who believes they have been retaliated against in violation of this policy should immediately report such conduct via the Complaint Procedure above.

## **704 ATTENDANCE AND PUNCTUALITY**

To maintain a safe and productive work environment, the City expects employees to be reliable and to be punctual in reporting for scheduled work. Absenteeism and tardiness place a burden on other employees and on the City. In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they must notify their supervisor as soon as possible in advance of the anticipated tardiness or absence, but no later than one hour before the start of their shift unless extraordinary circumstances exist.

Poor attendance and excessive tardiness are disruptive. Either may lead to disciplinary action, up to and including termination of employment.

## **705 PERSONAL APPEARANCE**

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affects the business image the City presents to customers and visitors.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions.

Consult your supervisor or department head if you have questions as to what constitutes appropriate attire.

## **706 MEALS AND BREAKS**

The City understands that periodic breaks are necessary for employees to work accurately and efficiently. Therefore, the City grants all employees one (1) fifteen (15) minute paid break for every continuous four (4) hour work period. Employees who are scheduled to work over regular lunch or supper breaks will be entitled to an unpaid break of not less than one half (1/2) hour and not more than one (1) hour.

### **Breaks for Nursing Mothers**

The City is also committed to maintaining a family-friendly workplace and supporting the health and well-being of its employees. The City will provide nursing mothers with reasonable breaks and a private space (other than a bathroom) to express breast milk for their nursing child during the first year after birth. Breaks taken for this purpose will be unpaid unless they overlap with the paid 15 minute breaks referred to above. Any employee who has questions as to where such breaks can be taken should see Human Resources.

## **708 RESIGNATION**

Any employee who desires to resign must present a resignation in writing to the department head or the appointing authority. The resignation must be submitted in sufficient time to allow for proper replacement. Any employee failing to give such proper notice may forfeit all accrued and unpaid time off and leave benefits under these rules.

The following notice shall be required:

- Salaried Personnel - three (3) weeks' notice.
- Hourly Personnel - two (2) weeks' notice.
- All notices exclude earned vacation time.

Employees are responsible for promptly returning all property, materials, or written information issued to them or in their possession or control. All City property must be returned by employees on or before their last day of work.

## **710 SECURITY INSPECTIONS**

The City wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives, or other improper materials. To this end, the City prohibits the possession, transfer, sale, or use of such materials on its premises. The City requires the cooperation of all employees in administering this policy.

Desks, lockers, and other storage devices may be provided for the convenience of employees but remain the sole property of the City. Accordingly, they, as well as any articles found within them,

can be inspected by any agent or representative of the City at any time, either with or without prior notice.

## **712 SOLICITATION**

In an effort to assure a productive and harmonious work environment, persons not employed by the City may not solicit or distribute literature in the workplace at any time for any purpose.

The City recognizes that employees may have interests in events and organizations outside the workplace. However, employees may not solicit or distribute literature concerning these activities during working time. (Working time does not include lunch periods, work breaks, or any other periods in which employees are not on duty.)

In addition, the posting of written solicitations on bulletin boards is restricted. These bulletin boards display important information, and employees should consult them frequently for:

- Internal memoranda
- Job openings
- Organization announcements
- Workers' compensation insurance information
- State disability insurance/unemployment
- Insurance information

## **713 MOTOR VEHICLE POLICY**

Only authorized employees with an unrestricted, current driver's license may operate City vehicles or use a vehicle to conduct City business. Any employee operating a City vehicle must do so in a safe and law-abiding manner. The driver and passengers must wear seat belts at all times.

Any employee operating a City vehicle, or personal vehicle while conducting City business, with illegal drugs or alcohol in their bodily system, or in an unsafe or negligent manner will be disciplined up to and including termination. The City has the right to search any City vehicle at any time. Therefore, employees have no reasonable expectation of privacy with respect to City vehicles.

If you are driving any vehicle on City time (whether it is owned personally by you or by the City) and you receive a ticket, you must notify the City immediately. If you have had more than four (4) moving violations or one (1) accident within the last three (3) years, City-driving privileges may be revoked. Further violations, accidents or driving restrictions could result in loss of employment.

In addition, you must obey all safety laws and regulations while operating the vehicle. If for any reason you should lose your drivers' license or have your license suspended or restricted, you must report that information to your supervisor immediately. Not reporting such information is a violation of City policy and you may be subject to discipline, up to and including discharge.

When using a personal automobile for City business, you are required to maintain sufficient automobile insurance at all times. Whether automobile insurance is sufficient is within the sole discretion of the City. Periodically, you may be required to present the City with proof of insurance. If for any reason you should lose your automobile insurance coverage, you must report that information to your supervisor immediately. Not reporting such information is a violation of City policy and you may be subject to discipline, up to and including discharge. The City is not responsible for any damage to your personal vehicle, including any insurance deductible you may be required to pay, which is incurred as a result of such an accident or incident. The City is not responsible for any losses, damages or costs incurred by any person as a result of your failure to maintain sufficient automobile insurance.

The City will not pay for any traffic violations or any other citations while the employee is on City business. The employee must abide by all existing traffic rules and regulations. Violations may result in disciplinary actions and or termination.

If you are involved in a motor vehicle accident or incident during working hours, you must report that accident or incident to your supervisor immediately and file a police report. Make every effort to obtain names, addresses and telephone numbers of all others involved, as well as any witness. *Do not make any statement as to responsibility* for the accident at the scene. Failure to properly report an accident or incident is a violation of City policy and you may be subject to discipline, up to and including discharge.

The City strongly discourages the use of cellular phones by employees while driving on City business. Employees should pull to a safe area and stop the vehicle to place or receive calls. If extraordinary circumstances require cellular phone use while driving, the following rules must be followed:

- Use voice-operated and/or hands-free technology so that your hands are free.
- You may not use your hands while driving to make or receive a phone call; send or receive a text or email message; view, record or transmit photos or videos; access, read or post to a social networking site; or otherwise to view or enter information into a phone or electronic hand-held device.
- Conversations in a moving vehicle should be kept to a minimum and avoided when possible by allowing the voicemail to pick up incoming calls.
- Employees are required to observe all applicable laws regarding cell phone usage while driving.

## **716 PROGRESSIVE DISCIPLINE**



The purpose of this policy is to state the City's position on administering equitable and consistent discipline for unsatisfactory conduct in the workplace. The best disciplinary measure is the one that does not have to be enforced and comes from good leadership and fair supervision at all employment levels.

The City's own best interest lies in ensuring fair treatment of all employees and in making certain that disciplinary actions are prompt, uniform, and impartial. The major purpose of any disciplinary action is to correct the problem, prevent recurrence, and prepare the employee for satisfactory service in the future.

Although employment with the City is based on mutual consent and both the employee and the City have the right to terminate employment at will, with or without cause or advance notice, the City may use progressive discipline at its discretion.

Disciplinary action may call for any of four steps -- verbal warning, written warning, suspension with or without pay, or termination of employment -- depending on the severity of the problem and the number of occurrences. There may be circumstances when one or more steps are bypassed.

The City recognizes that there are certain types of employee problems that are serious enough to justify either a suspension, or termination of employment, without going through the usual progressive discipline steps.

While it is impossible to list every type of behavior that may be deemed a serious offense, the EMPLOYEE CONDUCT policy includes examples of conduct that will result in discipline.

By using progressive discipline, we hope that most employee problems can be corrected at an early stage, benefiting both the employee and the City.

## **718 PROBLEM RESOLUTION**

The City is committed to providing the best possible working conditions for its employees. Part of this commitment is encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response from supervisors and management.

The City strives to ensure fair and honest treatment of all employees. Supervisors, managers, and employees are expected to treat each other with mutual respect. Employees are encouraged to offer positive and constructive criticism.

If employees disagree with established rules of conduct, policies, or practices, they can express

their concern through the problem resolution procedure. No employee will be penalized, formally or informally, for voicing a complaint with the City in a reasonable, business-like manner, or for using the problem resolution procedure.

If a situation occurs when employees believe that a condition of employment or a decision affecting them is unjust or inequitable, they are encouraged to make use of the following steps. The employee may discontinue the procedure at any step.

- A. Employee presents the problem to immediate supervisor within 3 business days, after incident occurs. If supervisor is unavailable or employee believes it would be inappropriate to contact that person, employee may present the problem to the Department Head.
- B. Supervisor responds to problem during discussion or within 5 business days, after consulting with appropriate management, when necessary. Supervisor documents discussion.
- C. Employee presents problem to Human Resources within 7 business days if problem is unresolved.
- D. Human Resources counsels and advises employee, assists in putting problem in writing, visits with employee's manager(s), if necessary, and directs employee to the City Manager for review of problem.
- E. Employee presents problem to the City Manager in writing.
- F. City Manager reviews and considers problem. City Manager informs employee of decision within 10 business days, and forwards copy of written response to Human Resources for employee's file. The City Manager has full authority to make any adjustment deemed appropriate to resolve the problem.
- G. Following the step outlined in section D above, if the problem or complaint relates to the City Manager, the employee should present the problem to the City Attorney in writing. The City Attorney shall review the complaint with the Mayor and inform the employee of any decision within 10 business days.

Not every problem can be resolved to everyone's total satisfaction, but only through understanding and discussion of mutual problems can employees and management develop confidence in each other. This confidence is important to the operation of an efficient and harmonious work environment and helps to ensure everyone's job security.

### **719 FREE SPEECH EMPLOYMENT POLICY**

The City honors an employee's right to exercise their constitutionally protected right to free speech with respect to matters of public concern. Matters of "public concern" are matters of political, social, or other concern to the local community or the state or federal populace at large.

The City, however, must make sure that the public services it provides to its citizens is not impaired by an employee's speech. The City, for instance, must make sure an employee's speech does not interfere with work, personnel relationships, or an employee's job performance.

### **General Policy**

In order to balance these competing interests, the City will weigh various factors when determining whether an employee's speech regarding a matter of public concern improperly impairs the City's duties to its citizenry and therefore is subject to disciplinary action. The City will consider:

- A. The need for harmony in the workplace.
- B. If certain speech could injure the harmony, whether the City's duties to its citizenry requires a close working relationship to exist between the speaking employee and his/her coworkers that could be harmed by the speech.
- C. The time, manner, and place of the speech (the City recognizes that there is a difference between an informal chat with a co-worker and publicly broadcasting one's speech).
- D. The context in which the questioned speech arose.
- E. The amount of public interest in the speech.
- F. Whether the employee's speech impedes their ability to do his or her duties.
- G. Whether the employee's speech is true and accurate.

If speech does not relate to matters of public concern, a person must be aware that they are an employee of the City. Although speech regarding private matters is not totally beyond the protection of the constitution's First Amendment, an employee should try not to make comments that reflect poorly on the City. Any such speech could give rise to adverse employment consequences, up to and including termination, though every case will be considered separately.

If an employee is unsure as to whether or not an issue relates to a matter of public concern, the matter should be reviewed with the City Manager before making any public comments.

### **Specific Types of Speech**

In addition to the general rule set forth immediately above, the following specific types of speech will not be tolerated by employees and could give rise to adverse employment consequences, up to and including termination. The list is not meant to be exhaustive.

- Words or conduct that are not of public concern and that are critical of the City, its services, or its officers and employees (for example, personal or vindictive attacks on individuals, and speech that pursues nothing more than an employee's personal grievance).

- Words or conduct that are of public concern but motivated primarily by an employee's personal interests, unless the speech is purely private (for example, made to a single co-employee with no intent to disseminate it).
- Words or conduct that amount to insubordination against the employee's supervisor or other City management.
- Words that are false and that the employee knew were false or that the employee made in reckless disregard of their falsity.
- Words that are not of public concern that disrupt or cause dissension within the City.
- Words that are not of public concern that cause disharmony in the City's workplace.
- Threatening words.
- Words or conduct that are prohibited by state or federal law, including words or conduct that could reasonably give rise to civil or criminal litigation (e.g., slander, civil rights violations, and harassment).

### **Political Activities**

This policy does not address political activities by employees. In general, employees should be aware that the State of Michigan's Political Activities by Public Employees Act (MCL § 15.401 et seq.) regulates political activities of municipal employees. Under that Act an employee may, on his or her own time, engage in political activities on behalf of a political party or become a candidate for an elective office. However, if an employee is elected to an "incompatible office" (e.g., City Commissioner), he or she may be required to resign employment with the City. The Act prohibits an employee from coercing, directly or indirectly, another public employee to contribute to a political campaign or to support or defeat a ballot issue.

## City of Sturgis Employee Handbook Acknowledgment of Receipt

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By signing this receipt, I acknowledge that I have been given a copy of the Employee Handbook (**revised December, 2024**) which contains a brief summary of benefits and employment rules and responsibilities of the City of Sturgis.

I *have* read the information contained in the Employee handbook and agree to keep the Handbook for future reference. I also agree to abide by all policies, standards and rules outlined in the Handbook.

I understand that all this Handbook is subject to change at any time. The City of Sturgis reserves the right to change, revise, or eliminate any of the policies and/or benefits described in this handbook, except for its policy of employment-at-will.

I understand that the Handbook is not an employment contract and is not intended to create contractual obligations of any kind between me and the City of Sturgis.

I understand that I can contact Human Resources for questions regarding employee benefits and employment rules and responsibilities.

I understand that any provision of this Handbook that is in conflict with a provision of a Collective Bargaining Agreement entered into between the City of Sturgis and a recognized bargaining unit will not apply to a member of that unit.

Dated: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_

Print Name: \_\_\_\_\_

**DISCRIMINATION, HARASSMENT OR RETALIATION COMPLAINT FORM**

I. PLEASE PROVIDE THE FOLLOWING: (Attach additional sheets if necessary.)

a. The facts, events or circumstances that caused you to file this complaint

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b. The names of the people who engaged in the alleged discrimination, harassment or retaliation

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c. The date(s) the incident(s) occurred

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d. The names of any witnesses to the incident(s).

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e. Describe what you did or said in response to the conduct or statements.

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II. WHAT ACTION OR CHANGE ARE YOU SEEKING TO RESOLVE THIS COMPLAINT?

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Date: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_



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# Employee Handbook

*Revised:* 2024

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## **EMPLOYEE HANDBOOK**





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## 080 DEFINITIONS

The term "~~regular full time employee~~" means ~~any employee who has been regularly appointed after serving a probationary period, and whose regular work schedule is forty hours per week or more.~~ The term "~~regular full time employee~~" or "employee" as used herein shall not include:

A. ~~\_\_\_\_\_ (A)~~ Elected officials

B. ~~(B)~~ Members of boards, commissions, or committees; ~~Election~~election officials or temporary employees

~~Part time employees shall be covered by these rules as described herein.~~

"Administrative employees" shall include ~~the following:~~

~~City Manager  
Assistant To The City Manger  
City Controller/Finance Director  
Auditorium Director  
City Clerk/Treasurer  
City Engineer  
Building/Planning/Zoning/Housing Director  
Deputy Fire Chief  
Deputy Police Chief  
Economic Development Director  
Electric Department Superintendent  
Electric Department Assistant Superintendent  
Electric Line Division Supervisor  
Human Resource Director  
IT Technician  
Meter Supervisor  
Public Safety Director  
Public Services Director  
Doyle Center and Recreation Director  
Wastewater / IT Director  
Wastewater Plant Supervisor~~

~~The exempt positions whose~~ duties ~~of the above listed employees~~ are mainly administrative and directional in nature and may not be effectively performed by the mere working of so many hours per day for so many days per week. Rather, each of the above shall be held accountable for the proper and efficient functioning of the operations, with which that administrative employee is charged, without regard to the number of hours, time of day or day of week that must be worked in order to obtain the desired result.

"Appointing Authority" is the officer, board, or commission which according to the City Charter or by City Ordinance has powers of appointment over a particular position. —The City Commission is the appointing authority for the City Manager, City Clerk/Treasurer, Assessor, and City Attorney. -The City Manager is the appointing authority in all other cases.

"Personnel Rules" refer to those rules which are intended to apply to all employees. ~~Any~~All employees, regardless of classification, shall be covered by these rules. However, any provision of this Handbook that is in conflict with a provision of a Collective Bargaining Agreement entered into between the City ~~of Sturgis~~ and a recognized bargaining unit will not apply to a member of that unit. To those issues where union contracts are silent and no precedent has been set, the City's personnel rules shall control.

~~Whenever any words are used in the masculine gender, they shall be construed as though they were also used in the feminine gender.~~

See Policy 201 (Employment Categories) for additional definitions pertaining to employment status.

## **101 NATURE OF EMPLOYMENT**

This handbook is intended to provide employees with a general understanding of our personnel policies. -Employees ~~are encouraged to~~must familiarize themselves with the contents of this handbook, for it will answer many common questions concerning employment with the City of Sturgis- (City).

However, this handbook cannot anticipate every situation or answer every question about employment. -It is not an employment contract and is not intended to create contractual obligations of any kind. -Neither the employee nor the City-~~of Sturgis~~ is bound to continue the employment relationship if either chooses, at its will, to end the relationship at any time.

In order to retain necessary flexibility in the administration of policies and procedures, the City ~~of Sturgis~~ reserves the right to change, revise, or eliminate any of the policies and/or benefits described in this handbook, except for its policy of employment—at-will. The only recognized deviations from the stated policies are those authorized and signed by the City Manager-~~of City of Sturgis~~.

## **102 EMPLOYEE RELATIONS**

The City-~~of Sturgis~~ believes that the work conditions, wages, and benefits it offers to its employees are competitive with those offered by other employers in this area and in this industry. -If employees have concerns about work conditions or compensation, they are strongly encouraged to voice these concerns openly and directly to their supervisors.

Our experience has shown that when employees deal openly and directly with supervisors, the



work environment can be excellent, communications can be clear, and attitudes can be positive. We believe that ~~the City of Sturgis~~ amply demonstrates its commitment to employees by responding effectively to employee concerns.

### 103 EQUAL EMPLOYMENT OPPORTUNITY

In order to provide equal employment and advancement opportunities to all individuals, employment decisions at the City ~~of Sturgis~~ will be based on merit, qualifications, and abilities. The City ~~of Sturgis~~ does not discriminate in employment opportunities or practices on the basis of race, (including traits historically associated with race such as hair texture and protective hairstyles), color, religion, sex, sexual orientation, gender identity, gender expression, pregnancy, national origin, age, disability, marital or veteran status, height, weight, citizenship, genetic information, or any other characteristic protected by applicable law.

~~The City of Sturgis will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship.~~ This policy governs all aspects of employment, including selection, job assignment, compensation, discipline, termination, and access to benefits and training.

Any employees with questions ~~or concerns~~ about any type of discrimination in the workplace are encouraged to bring these issues to the attention of their immediate supervisor or to ~~the~~ Human ~~Resource Director~~. Resources. Any employee who has been subjected to or witnessed discrimination should immediately report the discrimination by following the Complaint Procedure set forth in the City's Sexual and Other Unlawful Harassment and Discrimination Policy contained in this Handbook. Employees can raise concerns and make reports without fear of reprisal. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.

### 104 POLICY REGARDING USE OF SOCIAL SECURITY NUMBERS

The City ~~of Sturgis~~ obtains and uses a variety of confidential information in the conduct of its business. This includes documents and other records containing Social Security Numbers. Any and all documents and records containing Social Security Numbers must be obtained, used and disclosed only for legitimate business reasons. Such documents and records must also be treated as confidential, which means they must be retained in secure areas or files, password protected when stored on computers, disclosed only to authorized persons, and destroyed at an appropriate time and in an appropriate manner consistent with the ~~City of Sturgis' policies and procedures and other legal requirements~~ City's policies and procedures and other legal requirements. When documents containing Social Security Numbers are no longer needed and are to be discarded, such documents must be disposed of in a manner that ensures the confidentiality of the Social Security Numbers. The City has developed a practice for shredding, electronically deleting, or otherwise disposing of confidential records, including documents containing Social Security Numbers.

Employees who obtain, use, or disclose Social Security Numbers for improper, unauthorized, or illegal reasons are subject to discipline or discharge, as well as potential criminal or civil prosecution. For additional information, please see your supervisor or the City Manager, or refer to the City of Sturgis Policy and Procedure Regarding the Use and Disclosure of Social Security Numbers.

## 105 HIRING OF RELATIVES

~~(a)~~—Employees' immediate family will not be employed by the City under any of the following circumstances:

A. ~~(1)~~ Where one of the parties would have authority (or practical power) to supervise, appoint, remove, or discipline the other;

B. ~~(2)~~ Where one party would be responsible for auditing the work of the other;

C. ~~(3)~~ Where circumstances would exist which would place the relatives in a situation of actual, perceived or reasonably foreseeable conflict between the City's interest and their own.

~~(b)~~—Where business necessity requires the limitation of employment opportunity of spouses, the spouses shall have the responsibility of choosing how to remedy the situation within 60 days. Failure to remedy the situation shall result in the less senior employee (based on date of hire) being required to vacate ~~his or her~~ their position unless the City Manager determines differently.

## 106 EMPLOYEE MEDICAL EXAMINATIONS

To help ensure that employees are able to perform their duties safely, medical examinations may be required ~~for designated positions~~.

After an offer has been made to an applicant ~~entering for those positions in which there is a designated bona fide job category related physical requirement~~, a medical examination will be performed at the ~~City of Sturgis~~ City's expense by a health professional of the ~~City of Sturgis~~ City's choice. The offer of employment and assignment to duties is contingent upon satisfactory completion of the exam.

Information on an employee's medical condition or history will be kept separate from other employee information and maintained confidentially. Access to this information will be limited to those who have a legitimate need to know.

## 107 IMMIGRATION LAW COMPLIANCE

~~The City of Sturgis~~ is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and present documentation establishing identity and employment eligibility as required by federal law. Former employees who are rehired must also complete the form if they have not completed an I-9 with ~~the City of Sturgis~~ within the past three years, or if their previous I-9 is no longer retained or valid.

~~Employees with questions or seeking more information on immigration law issues are encouraged to contact the Human Resource Director.~~ Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

## 108 CONFLICTS OF INTEREST

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. ~~This policy establishes only the framework within which City of Sturgis~~ wishes the business to operate. The purpose of these guidelines is to provide general direction so that employees can seek further clarification on issues related to the subject of acceptable standards of operation. ~~Contact the Human Resource Director for more information or questions about conflicts of interest.~~

An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of ~~City of Sturgis's~~ the City's business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to the City's Controller as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which ~~the City of Sturgis~~ does business, but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving ~~the City of Sturgis~~.

## 109 COMPENSATORY TIME FOR ADMINISTRATIVE EMPLOYEES

The duties of Administrative Employees are administrative and directional in nature and may not be effectively performed by the mere working of so many hours per day for so many days per week. ~~-~~Rather, Administrative Employees shall be held accountable for the proper and efficient functioning of the operations with which that Administrative Employees are charged, without regard to the number of hours, time of day or day of week that must be worked in order to obtain the desired result.

To that end, Administrative Employees are required to work the appropriate number of hours to complete the job. Administrative Employees may accrue "compensatory time". Administrative Employees are strongly encouraged to use compensatory time within that same pay period. Compensatory time is not intended to be used in large blocks such as vacation days, but to allow flexibility for administrative positions based on workload. ~~-~~Keep in mind that typically compensatory time is not accrued in significant continuous amounts. ~~-~~ Therefore, compensatory time should not be "banked" for use in increments greater than eight (8) hours, which over the course of time would be unique ~~-in-itself-~~. All compensatory time expires at the end of each fiscal year.

## 110 OUTSIDE EMPLOYMENT

Employees may hold outside jobs as long as they meet the performance standards of their job with the ~~City-of-Sturgis~~. All employees will be judged by the same performance standards and will be subject to ~~City-of-Sturgis's~~the City's scheduling demands, regardless of any existing outside work requirements.

If the ~~City-of-Sturgis~~ determines that an employee's outside work interferes with performance or the ability to meet the requirements of ~~City-of-Sturgis-as-they-are~~their job, as modified from time to time, the employee may be asked to terminate the outside employment if he or she wishes to remain with the ~~City-of-Sturgis~~.

Outside employment that constitutes a conflict of interest is prohibited. ~~-~~Employees may not receive any income or material gain from individuals outside the ~~City-of-Sturgis~~ for materials produced or services rendered while performing their jobs.

## 112 NON-DISCLOSURE

The protection of confidential information is vital to the interests of the City ~~-of-Sturgis-~~.

- Employees who improperly use or disclose confidential information will be subject to disciplinary action, up to and including termination of employment, even if they do not actually benefit from the disclosed information.

## 114 DISABILITY ACCOMMODATION

~~The City of Sturgis~~ is committed to complying fully with state and federal law, including the Americans with Disabilities Act (ADA) and ensuring equal opportunity in employment for qualified persons with disabilities. ~~All employment practices and activities are conducted on a non-~~ discriminatory basis.

Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position. ~~No inquiries are made that might disclose the existence or extent of a disability.~~

Post-offer medical inquiries and post-offer medical examinations are required only for those positions in which there is a bona fide job-related physical requirement. ~~They are given to all persons entering the position~~ these positions only after conditional job offers. ~~Medical records will be kept separate and confidential.~~

The City will provide reasonable accommodations for a qualified individual's disability, where the accommodation is necessary for the employee to perform the essential functions of their job and where the accommodation does not impose an undue hardship on the City. If you believe that you require an accommodation to perform the essential functions of your job, please notify Human Resources promptly. Michigan law requires an employee to notify the City of this in writing within one hundred eighty-two (182) days after the employee knows or reasonably should have known of the need for accommodation. Human Resources will be responsible for obtaining and evaluating the relevant medical and job information, will work closely with you to identify and evaluate possible accommodations, and ensure appropriate confidentiality in the process. Each request will be evaluated based on the circumstances of the situation. Because of this, your participation and cooperation in the accommodation process will be important.

## 115 PREGNANCY ACCOMMODATION

~~The Reasonable accommodation is available to disabled employees, where their disability affects the performance of job functions. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.~~

~~Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression, and seniority lists. Leave of all types will be available to all employees on an equal basis.~~

~~City of Sturgis is also committed to not discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability~~ City will also make reasonable accommodations for employees with temporary

physical or mental limitations due to pregnancy, childbirth or related conditions when such a need for accommodation is identified and the accommodation does not cause the City an undue hardship. The employee will not be required to take a leave of absence if another reasonable accommodation can be provided. If any employee believes such an accommodation is necessary, please submit a written request for a reasonable accommodation to Human Resources.

~~This policy is neither exhaustive nor exclusive. City of Sturgis is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable federal, state, and local laws.~~

## 116 JOB POSTING

~~The City of Sturgis~~ provides employees an opportunity to indicate their interest in open positions and advance within the organization according to their skills and experience.

In general, notices of all regular, full-time job openings are posted, although the City ~~of Sturgis~~ reserves its discretionary right to not post a particular opening. -Job openings ~~will~~may be posted at City Hall, on the employee relevant bulletin boardboards or sent via City electronic communication and normally remain open for at least five days. Job posting is a way to inform employees of openings and to identify qualified and interested applicants who might not otherwise be known to the hiring manager. Other recruiting sources may also be used to fill open positions in the best interest of the organization.

Each job posting notice will include the dates of the posting period, job title, department, location, ~~grade level~~, job summary, essential duties, and qualifications (required skills and abilities), and any other information the City deems relevant.

To be eligible to apply for a posted job, employees must have performed competently for at least 365 calendar days in their current position. -Employees who have a written warning on file; or are on probation or suspension are not eligible to apply for posted jobs.- Eligible employees can only apply for those posted jobs for which they possess the required skills, competencies, and qualifications.

To apply for an open position, employees should submit ~~a job posting~~an employment

application to ~~the~~ Human Resources listing job-related skills and accomplishments. -It should also describe how their current experience with ~~the City-of Sturgis~~ and prior work experience and/or education qualifies them for the position. Employees that have applied for an open position may be subject to an interview process, screen of work history, pre-employment physical, and a background check.

~~The City-of Sturgis~~ recognizes the benefit of developmental experiences and encourages employees to talk with their supervisors about their career plans. -Supervisors are encouraged to support employees' efforts to gain experience and advance within the organization.

An applicant's supervisor may be contacted to verify performance, skills, and attendance. -Any staffing limitations or other circumstances that might affect a prospective transfer may also be discussed.

~~Job posting is a way to inform employees of openings and to identify qualified and interested applicants who might not otherwise be known to the hiring manager. -Other recruiting sources may also be used to fill open positions in the best interest of the organization.~~

## 201 EMPLOYMENT CATEGORIES

It is the intent of ~~the City-of Sturgis~~ to clarify the definitions of employment classifications so that employees understand their employment status and benefit eligibility. -These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time, with or without notice and with or without cause, is retained by both the employee and ~~the City-of Sturgis~~.

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. -NONEXEMPT employees are entitled to overtime pay under the specific provisions of federal and state laws. -EXEMPT employees are excluded from specific provisions of federal and state wage and hour laws. -An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by ~~the City-of Sturgis~~ management.

In addition to the above categories, each employee will belong to one other employment category:

**REGULAR FULL-TIME** employees are those who are not in a temporary or ~~introductory seasonal~~ status ~~and~~, who are regularly scheduled to work ~~City-of Sturgis's~~ the City's full-time schedule: , and are classified as full-time employees by the City. Generally, they are eligible for ~~City of Sturgis's benefit package~~ the City's benefits, subject to the terms, conditions, and limitations of each benefit program.

**PART-TIME** employees are those who are not assigned to a temporary or ~~introductory seasonal~~



status and who are regularly scheduled to work less than ~~40~~<sup>29</sup> hours per week~~-, or are a variable schedule not to exceed 1,560 hours per year and are classified as part-time employees by the City.~~ While they do receive all legally mandated benefits (such as Social Security and workers' compensation insurance) they are ineligible for all other ~~of City of Sturgis's other benefit programs~~benefits.

~~**INTRODUCTORY** employees are those whose performance is being evaluated to determine whether further employment in a specific position or with City of Sturgis is appropriate. Employees who satisfactorily complete the introductory period will be notified of their new employment classification.~~

**TEMPORARY** employees are those who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project~~-, and are classified as temporary employees by the City.~~ Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. ~~Temporary employees retain that status unless and until notified of a change.~~ While temporary employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all ~~of City of Sturgis's other benefit programs. Specifically: seasonal, student, and summer employees are considered temporary employees.~~other benefits.

~~**CASUAL/OCCASIONAL AND SPORADIC** employees are those who have established an employment relationship with the City of Sturgis but who are assigned to work on an intermittent and/or unpredictable basis.~~ While they receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all ~~of City of Sturgis's other~~ benefit programsbenefits.

From time to time there may be a unique situation where an employee has an interest in working in another general occupational category other than their primary position of employment with the City. Employees, solely at their option, may upon approval work occasionally or sporadically on a part-time basis for the City in a different capacity from their regular employment. Refer to section 506.

**SEASONAL** employees who are hired into a position for which the customary annual employment is six months or less, those for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter, and are classified as seasonal employees by the City. While seasonal employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all other benefits.

## **202 ACCESS TO PERSONNEL FILES**

The City of Sturgis ~~maintains a personnel file on each employee.~~ The personnel file includes such information as the employee's job application, resume, records of training, documentation of performance appraisals and salary increases, and other employment records.



Personnel files are the property of the City of Sturgis, and access to the information they contain is restricted. ~~Generally, only supervisors and management personnel of the City of Sturgis~~ who have a legitimate reason to review information in a file are allowed to do so.

Employees who wish to review their own file should ~~contact the~~ submit a written request to Human Resource Director, Resources. With reasonable advance notice, and generally not more than 2 times per year, employees may review their own personnel files in the City of Sturgis's offices and in the presence of an individual appointed by the City of Sturgis to maintain the files.

### 203 EMPLOYMENT REFERENCE CHECKS

Other than responding as to whether an individual is currently employed, ~~the Human Resource Director~~ Resources will respond in writing only to those reference check inquiries that are submitted in writing. ~~Responses to such inquiries will confirm only dates of employment, wage rates, and position(s) held. No~~ After a written inquiry, no employment data will be released without a written authorization and release signed by the individual who is the subject of the inquiry. Responses to such inquiries will confirm only dates of employment, wage rates, and position(s) held.

### 204 PERSONNEL DATA CHANGES

It is the responsibility of each employee to promptly notify the City of Sturgis of any changes in personnel data. ~~Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of an emergency, educational accomplishments, and other such status reports should be accurate and current at all times. If any personnel data has changed notify the Human Resource Director.~~

### 205 INTRODUCTORY PERIOD

The introductory period is intended to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The City of Sturgis uses this period to evaluate employee capabilities, work habits, and overall performance. ~~Either the employee or the City of Sturgis~~ may end the employment relationship at will at any time during or after the introductory period, with or without cause or advance notice.

All new and rehired employees work on an introductory basis for the first ~~six~~ twelve months after their date of hire. ~~Any significant absence may automatically~~ extend an introductory period by the length of the absence. ~~If the City of Sturgis~~ determines that the designated introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the

introductory period may be extended for a specified period.

~~Upon satisfactory completion of the introductory period, employees enter the "regular full-time" employment classification, unless their hours or situation dictate a different classification.~~

## 208 EMPLOYMENT APPLICATIONS

~~The City of Sturgis~~ relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in ~~City of Sturgis~~ exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

## 209 PERFORMANCE EVALUATION

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Additional formal performance evaluations may be conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage, and recognize strengths, and discuss positive, purposeful approaches for meeting goals.

Merit-based pay adjustments may be awarded by ~~the City of Sturgis~~ in an effort to recognize truly superior employee performance. The decision to award such an adjustment is dependent upon numerous factors. -Merit based adjustments must be ~~prior~~ approved by the City Manager.

## ~~301~~ 301 EMPLOYEE BENEFITS

Eligible employees at ~~the City of Sturgis~~ are provided a wide range of benefits. - A number of the programs (such as Social Security, workers' compensation, and unemployment insurance) cover all employees in the manner prescribed by law.

~~Benefits~~Benefit eligibility is dependent upon a variety of factors, including employee classification. -Your supervisor can identify the programs for which you are eligible.- Details of many of these programs can be found elsewhere in the employee handbook.

The following benefit programs are available to eligible regular full-time employees:

~~401(k) & IRA and~~ 457 Savings Plan(s), "Deferred Compensation Plans"

Bereavement Leave

~~Direct Deposit~~

Medical Insurance

Prescription Drug Insurance

Health Savings Account  
 Dental Insurance  
 Vision Care Insurance  
 Educational ~~Financial~~ Assistance ~~(Job-related)~~  
 Educational Leave  
 Sick Leave Benefits  
 Family Medical Leave  
     —Holiday Pay  
~~—Jury Duty Leave~~  
     —Life Insurance  
 Longevity Bonuses  
 Short-Term Disability  
 Long-Term Disability  
~~—Membership Dues (work related)~~  
     —Military Leave  
     —Pension Plan  
Retirement Health Savings Plan (RHSP)  
 Personal Leave ~~(including Birthday)~~  
 Personal Leave of Absence  
 Doyle Membership  
~~—Uniform and Uniform Maintenance (Some Departments)~~  
 Vacation Benefits  
~~125~~ Flexible Spending Plan Account

Some benefit programs may require contributions from the employee.

### 303 VACATION BENEFITS

Vacation time off with pay is available to ~~eligible~~regular full-time employees to provide opportunities for rest, relaxation, and personal pursuits. ~~Employees in the following employment classification(s) are eligible to earn and use vacation time as described in this policy:~~

- ~~—Regular full-time employees~~
- ~~—Introductory employees~~

The amount of paid vacation time that eligible employees receive each year increases with the length of their employment as shown in the following schedule. Non-bargaining unit employees, upon hire and only in the first year of employment, receive 40 hours of their 80 hours immediately and accrue the remaining 40 hours evenly over the course of the year. In year two and forward, vacation days are accrued evenly throughout the year.

-VACATION EARNING SCHEDULE	
YEARS OF ELIGIBLE SERVICE	VACATION DAYS

<del>MONTH</del>	EACH YEAR
Upon <del>initial eligibility</del>	<del>.833 days</del> <del>hire</del> 10 days <del>(80 hours)</del>
After <del>-7 years</del>	<del>1.250 days</del> 15 days <del>(120 hours)</del>
After <del>-14 years</del> days <del>(160 hours)</del>	<del>1.667 days</del> <del>20</del>
After <del>-19 years</del> days <del>(200 hours)</del>	<del>2.083 days</del> <del>25</del>

The length of eligible service is calculated on the basis of a "benefit year." This is the 12-month period that begins when the employee starts to earn vacation time. ~~An employee's benefit year may be extended for any significant leave of absence except military leave of absence. Military leave has no effect on this calculation. (See individual leave of absence policies for more information.)~~

~~Once employees enter an eligible employment classification, they begin to earn paid vacation time according to the schedule. However, before vacation time can be used, a waiting period of 90 calendar days must be completed. After that time, employees can request use of earned vacation time including that accrued during the waiting period.~~

Paid vacation time can be used in minimum increments of one ~~half day~~ quarter (1/4) hour. To take vacation, employees should request advance approval from their supervisors. Requests will be reviewed based on a number of factors, including business needs and staffing requirements.

Vacation time off is paid at the employee's regular pay rate at the time of vacation. It does not include overtime or any special forms of compensation such as incentives, commissions, or bonuses.

As stated above, employees are encouraged to use available paid vacation time for rest, relaxation, and personal pursuits. ~~In the event that available vacation is not used by the end of the benefit year, employees may carry unused time forward to the next benefit year. If the total amount of unused vacation time reaches a "cap" of 30 days, further vacation accrual will stop and any unused days in excess of the cap will be forfeited without pay. When the employee uses paid vacation time and brings the available amount below the cap, vacation accrual will begin again.~~ As of the employee's annual anniversary date, the vacation time accrued will be no more than 240 hours. Any unused hours in excess of the cap of 240 hours may be forfeited without pay.

~~Employees~~ Generally, employees may take up to two (2) consecutive weeks of the vacation time granted under this section; requests for additional consecutive time over two weeks can be approved by the employee's department head. An employee who has used at least **two (2)** weeks

of vacation in any benefit year shall have the option of trading vacation days back to the City at the employee's current hourly rate of pay. ~~Any days traded back to the City for payment in accordance with this provision shall be subtracted from the employee's accumulation.~~ A vacation payout request may be made no more than twice per calendar year.  
For an employee who has been employed for a period of one year, upon  
~~Upon~~ termination of employment, ~~employees~~they will be paid for unused vacation time that has been earned through the last day of work, ~~provided the terminating employee provides two weeks written notice of voluntary termination.~~

### **304 LONGEVITY PAY**

All full-time non-~~union employees and future~~bargaining unit employees in the active service of the City as of December 1 of any year shall be entitled to a longevity bonus payable the first payroll in December. The amount of the longevity bonus shall be Two Hundred Fifty and 00/100 (\$250) Dollars after Five (5) years of continuous service as calculated on December 1, with the amount increased Fifty and 00/100 (\$50) Dollars each year thereafter until retirement.

Upon eligible retirement from the City, longevity pay will be prorated from the previous December 1 until the day of retirement.

### **305- HOLIDAYS**

The ~~City of Sturgis~~ will grant holiday time off to all employees on the holidays listed below.

New Year's Day (January 1)

Good Friday (Friday before Easter)

Memorial Day (last Monday in May)

Independence Day (July 4)

Labor Day (first Monday in September)

Veterans Day (see eligibility requirements below)

Thanksgiving Day (fourth Thursday in November)

Day after Thanksgiving

Christmas Eve Day (December 24)

~~—~~Christmas Day (December 25)

~~Two Personal Leave Days~~

~~Before receiving holiday pay, a waiting period of 90 calendar days must be completed.~~ The City of Sturgis will grant paid holiday time off to all eligible regular full-time employees in an eligible employment classification. Holiday pay will be calculated based on the employee's straight time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day. ~~Eligible employee classification(s):~~

#### ~~Regular full-time employees~~

An employee with an unexcused absence from work on the scheduled ~~work day~~workday, preceding or following a day observed as a holiday, will not be paid holiday pay.

A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on a Sunday will be observed on the following Monday.

If Christmas Day is on Thursday, the following Friday (December 26) will be observed for Christmas Eve instead of December 24. When Christmas Eve falls on Sunday, the preceding Friday shall be observed. If Christmas Day falls on Saturday, the following Monday shall be observed.

Notwithstanding the foregoing, for employees whose regular work shifts include the weekends (shift employees), all holidays will be recognized on the actual day of the holiday.

If eligible regular full-time nonexempt employees work on a recognized holiday, they will receive holiday pay plus wages at one and one half (1 ½) times their straight time rate for the hours worked on the holiday. If the holiday is on a Sunday, then they will receive holiday pay plus wages at two (2) times their straight time rate for the hours worked on the holiday.

Shift employees that do not work on the holiday will receive eight hours of holiday pay at their straight-time rate or the hours that would have been worked if scheduled. These hours will not count as hours worked for the purpose of calculating overtime in the pay period.

If a holiday occurs while an employee is on vacation, the employee shall be paid for holiday without deduction being made for vacation.

If an employee terminates employment, the employee will not receive pay for holidays occurring after the last day worked even though the holidays may fall within the period of projected terminal vacation leave.

### ~~306 WORKERS' COMPENSATION INSURANCE~~

~~City of Sturgis provides a comprehensive workers' compensation insurance program at no cost to employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements and any amendments to Michigan's Workers Compensation Insurance Act,~~

~~workers' compensation insurance provides benefits after a seven (7) day waiting period during which the employee may use sick time or, if off fourteen (14) consecutive days, pay is retroactive to the first day or, if the employee is hospitalized, immediately.~~

~~Employees who sustain work related injuries or illnesses should inform their supervisor immediately. No matter how minor an on the job injury may appear, it is important that it be reported immediately.~~ The City provides a paid day off annually to all employees who are Veterans ("Veteran's Benefit"). For purposes of this Veteran's Benefit, "Veteran" is defined as a person who serves or has served in the United States Military. This Veteran's Benefit only applies to eligible employees who are scheduled to work their normal shift on the nationally recognized Veteran's Day and will not apply to eligible employees that are not scheduled to work their normal shift on Veteran's Day. If Veteran's Day falls on a weekend, then the employee can choose whether to take a paid day off on either November 11th or the designated day for observation as long as the day selected is scheduled as part of their regular shift. This Veteran's Benefit does not extend beyond the nationally recognized Veteran's Day and is effective for only November 11th or the recognized day. This Veteran's Benefit does not apply in cases where the City, in its sole discretion, is facing significant operational disruption, or where granting the Veteran's Benefit creates an undue hardship. If an Eligible Employee is required to report to work as part of their normally scheduled workday, normal rates of pay will apply.

### **306 PERSONAL LEAVE BENEFITS**

~~The~~ City will grant paid personal time off to regular full-time employees. Two personal leave days, sixteen (16) hours will be granted immediately upon the date of hire. Personal leave benefits expire at the end of the calendar year. Personal leave is granted on the first payroll paid in January of each year.

~~This will enable an eligible employee to qualify for coverage as quickly as possible. City requires drug testing for workers compensation claims and post accidents.~~

~~Neither City of Sturgis nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off duty recreational, social, or athletic activity sponsored by City of Sturgis.~~

### **307- SICK LEAVE BENEFITS**

~~The City of Sturgis~~ provides paid sick leave benefits to all eligible regular full-time employees for periods of temporary absence due to illnesses or injuries. Eligible employee classification(s); or for any reason covered under Michigan's Earned Sick Time Act.

- ~~—Regular full-time employees~~
- ~~—Introductory employees~~

;



Eligible employees will accrue sick leave benefits as follows:

—SICK DAY EARNING SCHEDULE		
YEARS OF ELIGIBLE SERVICE	_____	SICK DAYS <del>per</del>
<del>MONTH</del> _____ <del>DAYS</del>	EACH YEAR	
Upon <del>initial eligibility</del>	<del>5/12 days</del>	<del>5 days</del> Hire
	10 days (80 hours)	
After one year's continuous service	5/6 days	10 days
After 14 year's continuous employment	5/4 days	_____
	15 days (120 hours)	

Paid sick leave can be used in minimum increments of one quarter (1/4) hour. Eligible employees may use sick leave benefits for an absence due to any reason covered under the Michigan Earned Sick Time Act, including but not limited to: their own illness or injury or, ~~in the discretion of the City of Sturgis,~~ that of an eligible family member ~~who resides in the employee's household.~~ Absences of more than three (3) consecutive days ~~will~~ may also be classified as FMLA.

Employees who are unable to report to work due to illness or injury should notify their direct supervisor before the scheduled start of their workday if possible. ~~The~~ direct supervisor must also be contacted on each additional day of absence.

A department head may require an employee to file a physician's certificate during or following an employee's absence. When such a lawful request for documentation is made, the City will allow an employee a reasonable time to provide it.

Examples of an unexcused absence include no-call/no-show, no physician's certificate provided upon the lawful request of the department head and no-show after denial of sick leave request.

In injury or sickness cases eligible for worker's compensation, the employee will be charged sick leave only for the percentage of compensation paid by the City ~~of Sturgis~~.

Sick leave benefits will be calculated based on the employee's normal pay rate at the time of absence ~~and will not include any special forms of compensation.~~

~~The "New Sick"~~ leave benefits will be capped at ~~(30) thirty days~~ two hundred and forty (240) hours and upon retiring will be paid out at one hundred percent (100%). ~~Once%. On an employee has filled the (30) thirty day bank, employees will be paid annually annual basis,~~ or at retirement, 1/2 of their annual unused sick hours in excess of the cap will paid at ~~their~~ the current rate of pay ~~and contributed to the employee's Retiree Health Savings Plan (RHSP). Under the RHSP plan these contributions are not eligible for a match by the City.~~

Employees hired after January 1, 2009, who have filled the ~~(30) thirty day~~ two hundred- and forty-hour (240) bank, will contribute ~~the 1/2~~ one hundred percent (100%) of accrued but unused ~~the~~ sick time hours over the cap at their current rate of pay (unmatched by the City) to the



## Retiree Health Savings Plan (RHSP) with ICMA-RCRHSP.

~~Employees who have elected to remain on the “Old Sick” leave benefit plan, will be paid upon retiring at their current rate of pay, ½ of the unused accumulated sick hours up to a maximum of 13 weeks pay (520 hours maximum.)~~

<u>Hired after January 1, 2009</u>	<u>Hired before January 1, 2009</u>
<u>RHSP – City contribution of 1% and employee match of 1%</u>	<u>RHSP – City contribution of 1% and employee match of 1%</u>
<u>100% of accrued but unused sick and vacation time over the cap of 240 hours is placed into RHSP</u>	<u>100% of accrued but unused sick time over 240 hours is placed into RHSP</u>
	<u>Receives retiree health insurance coverage from age 55 to 65 (30%/40% employee premium cost)</u>
	<u>Eligible for stipend at age 65, \$300 per month</u>

Sick leave benefits are intended solely to provide income protection in the event of illness or injury, ~~and/or other absences for reasons covered under Michigan’s Earned Sick Time Act.~~ Sick leave benefits may not be used for any other absence.– Unused sick leave benefits will not be paid to employees while they are employed or upon termination of employment except upon retirement at age 60 or over (55 or over for police officers and fire-fighters), or upon retirement with twenty-five or more ~~year’s~~years’ service and separating from the service of the City ~~of Sturgis~~, an employee shall receive pay, at their current rate, for unused sick leave ~~not which will be contributed to exceed (30) thirty days of pay, and ½ of unused accruals (New Plan).~~the employee’s RHSP.

Accumulated sick leave cannot be used to prolong the time of employment at retirement.

### 308 EARNED SICK TIME Act (ESTA) LEAVE POLICY

The City provides Earned Sick Time to non-bargaining unit employees, and employees who are not otherwise eligible for benefits under Section 307 Sick Leave Benefits (above).

It is the policy of the City to comply with the Michigan Earned Sick Time Act(ESTA). An official state of Michigan poster containing important information about the (ESTA) is displayed along with the required federal and state labor postings.

For purposes of this policy, ESTA leave means leave to which an employee is entitled under the ESTA that has not already been provided to the employee by the City through another form of paid leave (such as under Section 307 above). For purposes of this policy, these employees are referred to “ESTA Leave-eligible employees.”

•

New ESTA Leave-eligible employees will accrue hours at the rate of one hour for every 30 hours worked. This will be shown on the employee's sick accrual balance.

ESTA Leave-eligible employees may carry over all accrued but unused ESTA hours from one year to the next; however, in no case will an ESTA Leave-eligible employee be permitted to use more than 72 hours of ESTA Leave in a calendar year.

The City has designated the benefit year under the ESTA to be the calendar year.

Hours worked for the purposes of the ESTA does not include hours taken off from work by an eligible employee for paid leave.

An eligible employee must, when requesting to use paid medical leave, comply with the City's notice, procedural, and documentation requirements for requesting sick leave, except to the extent such requirements are inconsistent with the ESTA. This means that an employee must provide notice at least 7 days in advance of a foreseeable need for ESTA Leave. If it is impossible to give 7 days' advance notice, the employee must notify their direct supervisor as soon as practicable. Employees who are unable to report to work should notify their direct supervisor before the scheduled start of their workday if possible. The direct supervisor must also be contacted on each additional day of absence. Eligible employees may use ESTA leave for the following reasons:

- (1) The ESTA-eligible employee's personal illness, injury, health condition or preventative care;
- (2) A family member's (as defined by ESTA) illness, injury, health condition or preventative care;
- (3) Reasons related to the ESTA-eligible employee's or the ESTA-eligible employee's eligible family member's victimization by domestic violence or sexual assault (as defined under ESTA).
- (4) Meetings at the ESTA-eligible employee's child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child;
- (5) The closure of the ESTA-eligible employee's primary workplace or the employee's child's school/place of care due to public health emergency; or

Where the appropriate health authorities or the ESTA-eligible employee's healthcare provider has determined that the ESTA-eligible employee's or their family member's presence in the community would jeopardize health of others due to the ESTA -eligible employee's or family member's exposure to communicable disease. Paid medical leave shall be taken in one-quarter-hour (1/4) increments. Absences of more than three (3) consecutive days may also be classified as FMLA. The City reserves the right to request documentation to substantiate an ESTA-eligible employee's use of time under this policy was for the purposes covered by ESTA, or to determine whether the employee may safely return to work.

Upon

termination of employment, ESTA-eligible employees will not be paid for accrued but unused ESTA leave.

The City will comply with the present and future provisions of the Michigan Earned Sick Time Act (and regulations promulgated under the Act). This may necessitate a change of rights or procedures. In this event, the provisions of this section shall be deemed modified in whatever manner necessary to comply with the Act.

### **309 BEREAVEMENT LEAVE**

~~Employees~~Regular full-time employees who wish to take time off due to the death of an immediate family member should notify their supervisor immediately. Up to three (3) working days of paid bereavement leave will be provided to eligible employees.

~~Up to three (3) working days of paid bereavement leave will be provided to eligible employees in the following classification(s):~~

~~Regular full-time employees~~

Bereavement pay is calculated based on the regular pay rate at the time of absence.

Bereavement leave will normally be granted unless there are unusual business needs or staffing requirements. -Employees may, with their supervisors' approval, use any available paid leave for additional time off as necessary.

~~The City of Sturgis~~ defines "immediate family" as the employee's parents, step-parents, grandfather, grandmother, grandparent-in-law, spouse, children, grandchildren, brother~~-or~~, sister, brother-in-law, sister-in-law, father-in-law, ~~or~~ mother-in-law, uncle, aunt, niece, and nephew and grants a maximum of three (3) working days off without loss of pay. -Bereavement leave must be used ~~with-in~~within ten (10) days following the funeral.

### **310 WORKERS' COMPENSATION INSURANCE**

The City provides a comprehensive workers' compensation insurance program at no cost to employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements and any amendments to Michigan's Workers Compensation Insurance Act, workers' compensation insurance provides benefits after a seven (7) day waiting period during which the employee may use sick time or, if off fourteen (14) consecutive days, pay is retroactive to the first day or, if the employee is hospitalized, immediately.

Employees who sustain work related injuries or illnesses must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible.

The City requires drug testing for workers compensation claims and post accidents.

Neither the City nor the insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's voluntary participation in any off duty recreational, social, or athletic activity sponsored by the City.

### **311 JURY DUTY**

A regular full-time employee who is summoned and reports for jury duty, as prescribed by applicable law, will be paid by the City an amount equal to the difference between the amount of wages (excluding shift premium) the employee otherwise would have earned by working during straight time regular hours for the City on that day and the daily jury duty fee paid by the court (excluding travel allowances) for each day on which the employee reports for or performs jury duty on which they otherwise would have been scheduled to work for the City.

In City of Sturgis encourages employees to fulfill their civic responsibilities by serving jury duty when required. Employees in an eligible classification may request up to two weeks of paid jury duty leave over any two year period.

Jury duty pay will be calculated on the employee's regular pay rate times the number of hours the employee would otherwise have worked on the day of absence. Actual amount earned on jury duty must be remitted to the City of Sturgis if regular rate of pay is received. Employee classifications that qualify for paid jury duty leave are:

Regular full-time employees

If employees are required to serve jury duty beyond the period of paid jury duty leave, they may use any available paid time off (for example, vacation benefits) or may request an unpaid jury duty leave of absence order to receive payment, an employee must give the City prior notice that the employee has been summoned for jury duty and must furnish satisfactory evidence that the employee reported for or performed jury duty on the days for which the employee claims such payment. The provisions of this policy are not applicable to an employee who, without being summoned, volunteers for jury duty.

Any employee who is excused from jury duty after reporting for that day shall promptly return to work, if otherwise scheduled.

¶

Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate their absence. Of course, employees are expected to report for work whenever the court schedule permits.

Either City of Sturgis or the employee may request an excuse from jury duty if, in City of Sturgis's judgment, the employee's absence would create serious operational difficulties.

City of Sturgis will continue to provide health insurance benefits until the end of the

~~first full month of unpaid jury duty leave. At that time, employees will become responsible for the full costs of these benefits if they wish coverage to continue. When the employee returns from jury duty, benefits will again be provided by City of Sturgis according to the applicable plans.~~

~~Vacation, sick leave, and holiday benefits will continue to accrue during unpaid jury duty leave.~~

### 312 WITNESS DUTY

~~The~~ City of Sturgis encourages employees to appear in court for witness duty when subpoenaed to do so.

If employees have been subpoenaed or otherwise requested to testify as witnesses by ~~the~~ City of Sturgis, they will receive paid time off for the entire period of witness duty and must remit any witness compensation to the City ~~of Sturgis~~.

Time off to appear in court as a witness at the request of a party other than the City of Sturgis will be charged against the employee's accrued vacation time. If the employee does not have sufficient accrued vacation time, the time off not covered by vacation time will be unpaid.

The subpoena should be shown to the employee's supervisor immediately after it is received so that operating requirements can be adjusted, where necessary, to accommodate the employee's absence. ~~The employee is expected to report for work whenever the court schedule permits.~~

### 313 ~~GROUP HEALTH CONTINUATION COVERAGE UNDER COBRA~~

~~On April 7, 1986, a~~The City of Sturgis is required under federal law ~~was enacted~~ (Public Law 99272, Title X) ~~requiring that most employers sponsoring group health plans offer, also known as COBRA) to provide certain~~ employees and their families the opportunity for a temporary extension of health coverage (called "continuation coverage") at group rates in certain instances where coverage under the plan would otherwise end. ~~This notice is intended to inform you, in a summary fashion, of your rights and obligations under the continuation coverage provisions of the law. (Both you and your spouse should take the time to read this notice carefully).~~ If you are an employee of the City of Sturgis covered by the City of Sturgis Group Health Plan, you have a right to choose this continuation coverage at your expense, if you lose your group health coverage because of reduction in your hours of employment or the termination of your employment (reasons other than gross misconduct on your part). See Human Resources for any additional information.

~~If you are the spouse of an employee covered by the City of Sturgis Group Health Plan, you have the right to choose continuation coverage at your expense for yourself~~

~~if you lose group health coverage under the City of Sturgis Group Health Plan for any of the following reasons:~~

- ~~1) The death of your spouse;~~
- ~~2) A termination of your spouse's employment (for reasons other than gross misconduct) or reduction in your spouse's hours of employment with the City of Sturgis;~~
- ~~3) Divorce or legal separation from your spouse; or~~
- ~~4) Your spouse becomes entitled to Medicare.~~

~~In the case of a dependent child of an employee covered by the City of Sturgis Group Health Plan, he or she has the right to continuation coverage (at his or her expense), if he or she loses coverage under the City of Sturgis Group Health Plan for any of the following reasons:~~

- ~~1) The death of the employee;~~
- ~~2) A termination of the employee's employment (for reasons other than gross misconduct) or reduction in your spouse's hours of employment with the City of Sturgis;~~
- ~~3) Divorce or legal separation from your spouse; or~~
- ~~4) The dependent child ceases to be a "dependent child" under the City of Sturgis Group Health Plan.~~

~~Under the law, the employee or a family member has the responsibility to inform the Plan Administrator of divorce, legal separation, or a child losing dependent status under the City of Sturgis Group Health Plan within 60 days of the date of event. The City of Sturgis has the responsibility to notify the Plan Administrator of the employee's death, termination, reduction of hours of employment or Medicare entitlement.~~

~~Similar rights may apply to certain retirees, spouses, and dependent children if your employer commences a bankruptcy proceeding and these individuals lose coverage.~~

~~When the Plan Administrator is notified that one of these events has happened, the City of Sturgis will in turn notify you that you have the right to choose continuation coverage. Under the law, you have at least 60 days from the date you lose coverage because of one of the events described above to inform the Plan Administrator that you want continuation coverage. If you do not choose continuation coverage on a timely basis, your group health insurance will end. Not choosing continuation coverage may cause a break in your coverage, and any such break of more than sixty days may cause loss of coverage portability.~~

~~If you choose continuation coverage, the City of Sturgis is required to give you~~

~~coverage which as of the time coverage is provided, is identical to the coverage provided under the plan to similarly situated employees or family members. The law requires that you be afforded the opportunity to maintain continuation coverage at your expense for 18 months because of a termination of employment or reduction in hours. This 18 months may be extended for affected individuals to 36 months from termination of employment if other events (such as death, divorce, legal separation, or Medicare entitlement) occur during that 18-month period. Also, if you or your spouse gives birth to or adopts a child while on continuation coverage, you will be allowed to change your coverage status to include the child.~~

~~in no event will continuation coverage last beyond 36 months from the date of the event that originally made the qualified beneficiary eligible to elect coverage. The 18 months may be extended to 29 months if an individual is determined by the Social Security Administration to be disabled (for Social Security disability purposes) as of the termination or reduction in hours of employment, or within sixty days thereafter. To benefit from this extension, a qualified beneficiary must notify the Plan Administrator of that determination within 60 days and before the end of the original 18-month period. The affected individual must also notify the Plan Administrator within 30 days of any fiscal determination that the individual is no longer disabled.~~

~~However, the law also provides that continuation coverage may be cut short for any of the five reasons:~~

- ~~1) The City of Sturgis no longer provides group health coverage to any of its employees;~~
- ~~2) The premium for continuation coverage is not paid on time;~~
- ~~3) The qualified beneficiary becomes covered under another group health plan;~~
- ~~4) The qualified beneficiary becomes entitled to Medicare;~~
- ~~5) The qualified beneficiary extends coverage for up to 29 months due to disability and there has been a final determination that the individual is no longer disabled.~~

~~You do not have to show that you are insurable to choose continuation coverage. However, continuation coverage under COBRA is provided subject to your eligibility; the Group Health Plan Administrator reserves the right to terminate your COBRA coverage retroactively if you are determined to be ineligible.~~

~~Under the law, you may have to pay all or part of the premium for your continuation coverage, there is a grace period of at least 30 days for payment of regularly scheduled premium.~~

~~If you have any questions about COBRA, please contact the City of Sturgis, Human~~



### 314 EDUCATIONAL ASSISTANCE

~~The City of Sturgis~~ recognizes that the skills and knowledge of its employees are critical to the success of the organization. —The educational assistance program encourages personal development through formal education so that employees can maintain and improve job related skills or enhance their ability to compete for reasonably attainable jobs within the City of Sturgis.

~~City of Sturgis provides~~Regular full-time employees who have successfully completed the introductory period are eligible for educational assistance ~~to all eligible employees immediately upon assignment to an eligible employment classification.~~ To maintain eligibility employees must remain on the active payroll and be performing their job satisfactorily through completion of each course. ~~Employees in the following employee classification(s) are eligible for educational assistance:~~

#### ~~Regular full-time employees~~

~~Individual~~Eligible educational assistance includes individual courses or courses that are part of a degree, licensing, or certification program and also must be related to the employee's current job duties or a foreseeable future position ~~in order to be eligible for educational assistance. City of Sturgis has the sole discretion to determine whether a course relates to an employee's current job duties or a foreseeable future position. Employees should contact the Human Resource Director for more information or questions about educational assistance.~~ All educational assistance shall be approved in advance by the employee's department head and Human Resources.

While educational assistance is expected to enhance employee's performance and professional abilities, ~~the City of Sturgis~~ cannot guarantee that participation in formal education will entitle the employee to automatic advancement, a different job assignment, or pay increases.

In order to be reimbursed, the employee's Department Head must approve in advance the training or course work, and the employee must provide proof of a passing grade C or better at the completion of the training or course. Reimbursement shall be limited to only those direct costs associated with the course such as tuition, books, and lab supplies.

The ~~City of Sturgis~~ invests in educational assistance to employees with the expectation that the investment be returned through enhanced job performance. —However, if an employee ~~voluntarily separates~~is separated from ~~City of Sturgis's~~ employment within one year of the last educational assistance payment, the amount of the payment will be considered only a loan. Accordingly, the employee will be required to repay up to 100 percent of the original educational assistance payment.



## 316 HEALTH INSURANCE

The City ~~of Sturgis~~ health insurance plan provides regular full-time employees, and their dependents, access to medical, prescription drug, dental, and vision care insurance benefits. ~~Employees in the following employment classifications are eligible to participate in the health insurance plan:~~

### ~~—Regular full-time employees~~

Eligible employees may participate in the health insurance plan subject to all terms and conditions of the agreement between the City ~~of Sturgis~~ and the insurance carrier.

A change in employment classification that would result in loss of eligibility to participate in the health insurance plan may qualify an employee for benefits continuation under the Consolidated Omnibus Budget Reconciliation Act (COBRA). ~~—Refer to the Benefits Continuation (COBRA) policy~~See Human Resources for more information: about COBRA.

Details of the health insurance plan are available in the Human Resources department. Information on cost of coverage will be provided in advance of enrollment to eligible employees. ~~Contact the Human Resources for more information about health insurance benefits.~~

## 317 LIFE INSURANCE

Life insurance offers you and your family important financial protection. The City ~~of Sturgis~~ provides a basic life insurance plan for ~~eligible~~regular full-time employees.

Accidental Death and Dismemberment (AD&D) insurance provides protection in cases of serious injury or death resulting from an accident. ~~AD&D insurance coverage is provided as part of the basic life insurance plan.~~

~~Employees in the following employment classifications are eligible to participate in the life insurance plan:~~

### ~~Regular full-time employees~~

Eligible employees may participate in the life insurance plan subject to all terms and conditions of the agreement between the City ~~of Sturgis~~ and the insurance carrier.

Details of the basic life insurance plan including benefit amounts are described in the Summary Plan Description provided to eligible employees. ~~The Benefit level is one (1) times annual base pay capped at \$50,000. —Contact the Human Resource Director for more information about life insurance benefits.~~ Life insurance benefits terminate at retirement or termination of employment. Depending on insurance carrier, benefits may possibly be continued at the former employee's cost, based on the ~~carriers~~carrier's policy.

Additional voluntary benefits are available.

### 319 ~~DISABILITY~~ BENEFITS

~~The City of Sturgis~~ provides a short term & long-term disability benefits plan to help ~~eligible~~ regular full-time employees in order to cope with an illness or injury which results in excess of a 30-day absence from employment. Disability is designed to ensure a continuing income for employees who are disabled and unable to work, and who are on an otherwise approved leave of absence.

~~Employees in the following employment classifications are eligible to participate in the Disability plan:~~

~~———— Regular full-time employees~~

Eligible employees may participate in the Disability plan subject to all terms and conditions of the agreement between ~~the City of Sturgis~~ and the insurance carrier.

Disability benefits are offset with amounts received under Social Security or workers' compensation for the same time period.

Details of the Disability benefits plan including benefit amounts, and limitations and restrictions are described in the Summary Plan Description provided to eligible employees. ~~Contact the City Human Resource Director for more information about Disability benefits.~~

### 320 ~~401(k), IRA, & 457 SAVINGS PLANS~~

~~The City of Sturgis~~ has established ~~a 401(k), IRA, and 457 savings plan(s)~~ to provide employees the potential for future financial security for retirement.

You are eligible to join the ~~401(k), IRA, or 457 savings plan~~, if you are 18 years of age or older. ~~You may join the plan upon employment.~~ Eligible employees may participate in the ~~401(k), IRA, or 457 plans~~ subject to all terms and conditions of the plans. For details regarding these plans, the employee should consult the Summary Plan Descriptions ("SPD").

The City ~~of Sturgis~~ may contribute a percentage as determined by the City Commission, of ~~non-union Employee's~~ regular full-time, non-bargaining unit employee's Gross Pay to the 457 plan.

~~Employer contributions are prohibited by the 401(k) plan rules.~~

~~Because your contributions to a 401(k) or 457 plan are automatically deducted from your pay before federal and state tax withholdings are calculated, you save tax dollars now by having your current taxable amount reduced. While the amounts deducted generally will be taxed when they are finally distributed, favorable tax rules typically apply to plan distributions.~~

Complete details of the ~~401(k), 457 & IRA, & 457~~ savings plans are available in ~~the Human Resource Office Resources.~~

### 380 RETIREMENT

The City's Retirement System is established for the purpose of providing ~~old age benefits, disability payments, retirement income to qualifying employees and benefits for survivors in the case of the employee's death. former employees, and survivor income to their qualifying beneficiaries..~~ For details regarding this ~~plan benefit,~~ the employee should consult the Summary Plan Description ("SPD"). ~~and/or the City Charter and Code of Ordinances related to the Employees Retirement System.~~

~~All employees on the regular City of Sturgis payroll are members of the retirement system, unless an employee's duties normally require less than 2,080 work hours per year (with the exception of existing union contracts). Part time, temporary employees and contractual employees are not members.~~

All regular, full-time employees are eligible for this benefit. Further eligibility requirements are defined in the City Code of Ordinances Sections 2-84 and 2-85.

If an employee should leave the service of the City ~~of Sturgis~~ for any reason, except to retire, all employee annuity savings contributions to the local retirement fund will be refunded, plus interest, unless the former employee is vested under current policy. If the former employee is vested, contributions and interest must remain in the system for future benefits. ~~If a former employee should be rehired by the City of Sturgis within a four-year period, all contributions withdrawn plus interest from the date of withdrawal must be repaid to the Retirement System, if prior service is going to be restored to the employee's credit. In certain instances, an employee can retain retirement credits, if the employee becomes an employee of another City department. See the Human Resources or the City Controller for further information.~~

All ~~regular full-time~~ eligible non-bargaining unit employees, shall contribute one and eight-tenths percent (1.8%) of eligible retirement gross wages each payroll via payroll deduction. ~~All funds so contributed by an employee shall be segregated and earn a return of three percent (3%) simple interest which shall be paid to the employee if he or she terminates employment prior to becoming fully vested.~~

Notwithstanding the foregoing, for all new employees hired after December 31, 2012, the maximum contribution to the retirement system by the City shall be "capped" at ten percent (10%) of eligible compensation. The employee shall pay the remaining pension cost allocated for each such employee as determined by the City actuary on an annual basis.

There are also disability retirement benefits available to those who qualify. ~~See Human Resources or the City Controller~~ for further information.

## 381 RETIREE HEALTH INSURANCE

~~Effective~~A regular full-time non-bargaining unit employee who 1) was hired before January 1, 2009, newly hired; 2) retires meeting the age and service criteria required to immediately receive a normal defined benefit under the City's retirement system ordinance; and 3) has reached the age of 55 (either at or after the time of retirement), is currently eligible for retiree health insurance coverage through the City, subject to the following:

- A. For employees ~~who retire~~ retiring on or after January 1, 2017: Until the retiree reaches age 65, the City pays 70% of the required premiums for single coverage provided for the retiree (or 60% of the required premiums for double coverage provided for the retiree and the retiree's spouse) and the retiree pays the remaining required premiums. When the retiree reaches age 65, in lieu of providing health insurance coverage, the City will pay a stipend of \$300 per month into a qualified health reimbursement account. The amount of this monthly stipend may be reviewed annually and modified as deemed appropriate by the City.
- B. In the event the retiree dies before reaching the age of 65, the spouse, if any, will continue to have 70% of the required premiums paid by the City until such time as the retiree would have reached the age of 65, provided the spouse pays the remaining required premiums. The City will not make the payment called for by this paragraph unless the retiree has designated a retirement allowance for the spouse and the spouse was covered by or eligible for coverage as a health insurance dependent of the retiree on the retiree's date of death.
- C. If an eligible dependent is enrolled at the time of retirement, the retiree pays 100% of the difference between double coverage and family coverage. Dependents acquired after retirement are not eligible for coverage.
- D. The retiree's or spouse's contribution to the cost of the required premiums will be paid on a monthly basis through automatic deduction from the retiree's or spouse's pension benefit. If the amount deducted is not sufficient, the retiree or spouse is responsible for ~~paying one hundred percent (100%) of the insurance premium for healthcare~~the remainder. Retiree health insurance coverage ceases if the retiree's or spouse's share of the cost is not paid in full when due. Termination due to non-payment will be retroactive to the end of the last period for which full payment was timely received.
- E. For purposes of this policy, "spouse" does not include any person the retiree marries after the date of retirement.
- F. An otherwise eligible retiree and spouse will lose eligibility if they do not enroll within two years of becoming eligible for retiree health insurance coverage.
- G. Retiree health insurance coverage may be under a plan separate from the plan applicable to active employees.
- H. Retiree health insurance coverage ceases if the retiree or spouse voluntarily withdraws from coverage, retiree health insurance coverage is terminated by the City, or the retiree or spouse commits misrepresentation or fraud in connection with an application for coverage or a claim for ~~benefits provided by the City. The City adopted a~~.
- I. The types of coverage offered, level of benefits, allocation of premium costs between the City and the retiree/spouse, and all other details of retiree health insurance

coverage are determined by the City in its sole discretion, and the City reserves the right to modify or terminate retiree health insurance coverage in whole or in part for any or all retirees/spouses at any time.

Employees hired on or after January 1, 2009, are not eligible for retiree health insurance coverage. A Retirement Health Savings Plan (RHSP) will be funded with by a one percent (1%) of payroll contribution -by each such new employee, with a dollar-for-dollar match by the City. All such employees will also contribute unused sick leave and vacation time over the thirty (30) day two hundred and forty (240) hour cap.

Effective January 1, 2017, employees hired before January 1, 2009, and who did not elect to remain on the "Old Sick" leave benefit plan, will be eligible for a RHSP funded by a 1% payroll contribution by each such employee, with a dollar-for-dollar match by the City. All such employees will also contribute unused sick leave over the two hundred and forty (240) hour cap.

#### **401 TIMEKEEPING**

Accurately recording time worked is the responsibility of every nonexempt employee. -Federal and state laws require the City of Sturgis to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all ~~the~~ time actually spent on the job performing assigned duties.

Nonexempt employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. -They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Overtime work must always be approved before it is performed.

Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

Nonexempt employees should report to work no more than tenseven minutes prior to their scheduled starting time nor stay more than tenseven minutes after their scheduled stop time without expressed, prior authorization from their supervisor.

If corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

#### **403 PAYDAYS**

The City's regular work week is Monday to Sunday. All employees are paid biweekly on every other Friday. -Each pay will include earnings for all work performed through the end of the previous payroll period.

In the event that a regularly scheduled payday falls on a day off such as a holiday, employees will

typically receive pay on the last day of work before the regularly scheduled payday. ~~If a regular payday falls during an employee's vacation, the employee's pay will be available upon his or her return from vacation.~~

#### 405 EMPLOYMENT TERMINATION

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. -Below are examples of some of the most common circumstances under which employment is terminated:

- RESIGNATION - voluntary employment termination initiated by an employee.

- DISCHARGE - involuntary employment termination initiated by the organization.

~~LAYOFF— involuntary employment termination initiated by the organization for non-disciplinary reasons.~~

- RETIREMENT - voluntary employment termination initiated by the employee meeting age, length of service, and any other criteria for retirement from the organization.

Since employment with ~~the City of Sturgis~~ is based on mutual consent, both the employee and ~~the City of Sturgis~~ have the right to terminate employment at will, with or without notice, with or without cause, at any time. -Employee benefits will be affected by employment termination in the following manner. -All accrued, vested benefits that are due and payable at termination will be paid.- Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued and of the terms, conditions, and limitations of such continuance.

#### 409 ADMINISTRATIVE PAY CORRECTIONS

~~The City of Sturgis~~ takes reasonable steps to ensure that employees receive the correct amount of pay in each paycheck pay period and that employees are paid promptly on the scheduled payday. Employees are responsible for reviewing each and every paycheck and pay stub carefully.

In the unlikely event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to your supervisor and ~~the supervisor will contact the~~ Human Resources ~~Director so.~~ The City will promptly investigate and correct any errors that occurred. Generally, corrections can will be made as quickly as possible the pay period following completion of the investigation.

#### 410 PAY DEDUCTIONS

The law requires that ~~the City of Sturgis~~ make certain deductions from every employee's compensation. -Among these are applicable federal and state income taxes. ~~The City of Sturgis~~

also must deduct Social Security taxes, when applicable, on each employee's earnings up to a specified limit that is called the Social Security "wage base." The City ~~of Sturgis~~ also contributes as applicable by law.

The City of Sturgis offers programs and benefits beyond those required by law.— Eligible employees may voluntarily authorize deductions from their pay checks to cover the costs of participation in these programs.

~~If you have questions concerning why deductions were made from your pay check or how they were calculated, Human Resources can assist in having your questions answered.~~

Employees are responsible for understanding the deductions made from the paycheck. It is the City's policy and practice to pay employees in compliance with Federal and State law. The City prohibits improper deductions from employee salaries, including any deduction that may impact an employee's exempt status, and will correct any mistakes or improper deductions. If the employee believes that a mistake or improper deduction has been made, the employee should report this immediately to Human Resources. The City will correct any improper deduction promptly, and will take steps to ensure future compliance.

## 501 SAFETY

To assist in providing a safe and healthful work environment for employees, customers, and visitors, the City ~~of Sturgis~~ maintains workplace safety as a priority.— The department head has responsibility for implementing, administering, monitoring, and evaluating the workplace on an ~~on-going~~ongoing basis.— Safety depends on the alertness and personal commitment of all.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor. Employees who violate safety standards who cause hazardous or dangerous situations, who fail to report, or where appropriate, remedy such situations, may be subject to disciplinary action up to and including termination of employment.

In the case of accidents that result in injury, regardless of how insignificant the injury may appear, employees ~~should~~must immediately notify the appropriate supervisor.— Such reports are necessary to comply with laws and initiate insurance and workers' compensation benefits procedures.

## 502 WORK SCHEDULES

The normal work schedule for all ~~Non-Union~~ Full-time non-bargaining unit employees is 8 hours a day, five days a week. However, schedules may vary depending on different operations.

The normal work schedule for all Shift employees is ~~eight~~8 hours a day, five days of seven in a week. However, schedules may vary depending on different operations.

Supervisors will advise employees of the times their schedules will normally begin and end. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.



Flexible scheduling, ~~or~~ (flextime, ~~is~~) or remote work, are available in some cases to allow employees to vary their starting and ending times each day within established limits. ~~Flextime or remote work may be possible if a mutually workable schedule can be negotiated with approved in advance by the supervisor involved; remote work accommodations must also be approved by the City Manager.~~

~~However, Factors~~ such ~~issues~~ as staffing needs, the employee's performance, and the nature of the job will be considered before approval of flextime. ~~Employees should consult their supervisor to request participation in the flextime program, or remote work. Details relating to schedules and accommodations will be determined between the employee and supervisor on a case-by-case basis.~~

Any employee working remotely to any significant degree will be required to sign an agreement stating the terms under which the employee will be permitted to telecommute and creating reasonable protections for the use and transmittal of City information.

Employees should consult their supervisor to request participation in the flextime or remote work programs.

## **504 INFORMATION TECHNOLOGY SYSTEMS**

The City owns and operates various computer systems, which are provided for use by employees in support of City activities. All users are responsible for seeing that these systems are used in a proper, effective, ethical, and lawful manner. This policy applies regardless of the user's location when accessing the network.

Violations of this policy are subject to discipline, up to and including termination of employment. Persons who use City systems or equipment for defamatory, illegal, or fraudulent purposes, or who break into unauthorized areas of the City's systems, may also be subject to civil liability and criminal prosecution.

### **Use of Systems and Equipment**

All City property, including computers, computer systems, e-mail, voicemail, internet service, telephone systems, fax machines, wire services, and other equipment and services, are provided for business use. Very limited, occasional use of these City systems for personal, non-business purposes is permitted. Employees must demonstrate responsible judgment in this use. Personal use of City systems must be limited to non-working time, must not be disruptive to the work of any employee, and must not put the City's technology at risk to be infected with viruses or other adverse technologies. Also, use of City systems for promoting, buying, or selling goods or services, or group solicitations is prohibited. Equipment may not be modified in any way except by authorized personnel. Employees may not use City telephones to record personal conversations. Employees with access to telephone call recording are limited to using the recording feature for business purposes only. Employees may not use City telephones to record internal calls with other employees.

### **System Security**



All users of City systems are required to maintain the security and integrity of City systems and information from access by unauthorized persons. Workspaces and equipment must not be left unattended in a manner that could permit any unauthorized person to obtain unauthorized access. Authorized use must be only with the user's own username, password, or other access device. Users may not share usernames, passwords, or access devices with any other person, except when business needs require and an appropriate manager has given written authorization.

### **Access and Monitoring**

Employees should not assume that electronic communications are private. Security procedures, such as passwords, are designed to control access to City systems, not to guarantee the personal privacy or confidentiality of any message or document. Employees should keep personal records and information at home, as the City does not provide privacy or confidentiality of non-business information stored in files (electronic or hard copy) at work.

The City reserves the right to access and review everything on all information systems and equipment, including directories, discs, files, databases, e-mail messages, voicemail messages, and any data stored or used in connection with City information systems. Electronic files that have been deleted or erased may remain stored in the City's computer or telephone systems. The City retains the right to access such information for as long as it may be obtained from any source, even after it has been deleted or erased. All e-mail messages are archived and stored on a City server pursuant to the City's retention policies.

The City does not monitor employee communications on a continuous basis. But individual use patterns (for example, telephone numbers dialed, websites accessed, call lengths, etc.) may be monitored when deemed necessary in the City's sole discretion. This is done to evaluate the optimum utilization of technology resources and to detect patterns of use that could suggest improper or illegal activity. The City may employ web filtering and block websites based on categories determined by the City.

Each employee who uses City communication systems, by doing so, consents to the City monitoring his or her communications over those systems, as authorized by law, when the City finds that a business reason warrants it. Employees should have no reasonable expectation of privacy when using City communication systems or equipment.

### **E-Mail and Internet Use**

The City strictly prohibits the use of information and communication systems for any communication or activity which is obscene, pornographic, profane, abusive, defamatory, derogatory, harassing, discriminatory, a violation of any civil or criminal law or statute, or a violation of any City policy or standard. If a user has any question about whether a particular use or communication is improper, it is the user's responsibility to ask an appropriate supervisor before engaging in the activity.

Revealing City business information, community member or customer information or other proprietary information provided to the City by third parties by e-mail or the internet is prohibited. Any other messages that may adversely affect the City, its customers, the public or employees are also prohibited. Internet and e-mail may not be used for personal gain, personal business, or advancement of personal views. If you have any question about whether a particular

use is improper, ask an appropriate supervisor before engaging in the activity.

Communicating anonymously or by an assumed name through the City's communication systems or equipment without prior authorization to do so is prohibited. E-mail messages should be written in a professional manner. Consider your routing list carefully and exercise the same care you would with any written document before sending an electronic message.

Delete or archive unwanted and obsolete messages. It is each employee's responsibility to keep their mailboxes manageable and up to date. All messages are archived automatically.

If you

## **504 USE OF PHONE AND VOICEMAIL SYSTEMS**

Personal use of the City of Sturgis telephones for long distance and toll calls is not permitted. Employees should practice discretion in using company telephones when making local personal calls and may be required to reimburse City of Sturgis for any charges resulting from their personal use of the telephone.

To ensure effective telephone communications, employees should always use the approved greeting and speak in a courteous and professional manner. Please confirm information received from the caller, and hang up only after the caller has done so. receive an e-mail message from an unknown sender, delete the message to prevent viruses and other risks to City information systems. If you receive a message that was not intended for you, inform the sender immediately and delete the message from your mailbox.

Users of City equipment may not access any external or public computer or network, except for specific business purposes with express authorization by a supervisor. Any user who is authorized to connect to any outside computer or network is obligated to take all necessary measures to ensure the security of the City's systems and information. Employees may not install, add, or download any other computer software to City systems without prior approval by the City.

Employees may not monitor or intercept anything on the City's computer system without authorization; obtain unauthorized access to any part of the City's information system; use City systems to obtain unauthorized access to any other computer or system; use anyone else's username or password without City permission; or use City systems in a way that has the purpose or effect of concealing or disguising the user's identity.

### **Software**

The City has acquired rights to use certain software programs on the City's communication and information systems for business purposes. Software is protected by copyright law. The City's right to use software is subject to license agreements with the publisher or seller of the software. Those license agreements generally prohibit users from copying, selling, loaning, or giving away software, or using or duplicating it in any way that is not expressly authorized by the license agreement. Therefore, any software that is available through the City's information systems may not be used in any way other than in the regular course of City business.

Only IT personnel or agents contracted by them may install or remove software or hardware on

any City computer system. IT personnel may, at their discretion, authorize staff to perform specific software or hardware installations. All other software or hardware installations are strictly prohibited.

### **Portable Devices**

The City may provide employees with portable technology, including laptop computers, cell phones, smartphones, and tablets, in order to support City business. Such portable technology is to be used solely by the employee and solely for the benefit of the City. Upon termination of employment, or upon request by the City, each employee must immediately return to the City all equipment which is City property or contains any confidential or proprietary information belonging to the City, its customers or the public. Employees are strictly prohibited from using any portable technology for City business unless the portable technology is owned and provided by the City or otherwise approved by administration. Use of non-City-owned portable technology for City business, including the access, sharing, or retrieval of information from City systems, is not permitted.

## **505 SMOKING**

In keeping with ~~City of Sturgis's~~the City's intent to provide a safe and healthful work environment, smoking and the use of tobacco or tobacco related products (including vaping) is prohibited throughout the workplace and City vehicles.

Employees are permitted to smoke and vape only at designated locations outside of City buildings, and at least 30 feet from any entrance. Employees are encouraged to talk to Department Heads regarding designated department smoking locations. Smoking remains and matches should be disposed of accordingly.

~~A smoke free environment is maintained within City Hall. City Hall personnel are permitted to smoke only during their scheduled break periods and lunch. Employees may not smoke within 30 feet of any entrance to City Hall.~~

## **506 OCCASIONAL AND SPORADIC EMPLOYMENT**

From time to time there may be a unique situation where an employee has an interest in working in another general occupational category other than their primary position of employment with the City. The Fair Labor Standards Act (FLSA) regulates employers as it relates to overtime compensation. Employees, solely at their option, may upon approval work occasionally or sporadically on a part-time basis for the City in a different capacity from their regular employment. The hours worked in the different jobs shall not be combined for the purpose of determining overtime liability under the FLSA.

The term occasional or sporadic means infrequent, irregular, or occurring in scattered instances. There may be an occasional need for additional resources in the delivery of certain types of public services which is at times best met by the part-time employment of an individual who is already a public employee. Where employees freely and solely at their own option enter into such activity, the total hours worked will not be combined for purposes of determining any overtime

compensation due on the regular, primary job. However, in order to prevent overtime abuse, such hours worked are to be excluded from computing overtime compensation due, only where the occasional or sporadic assignments are not within the same general occupational category as the employee's regular work.

In order for an employee's occasional or sporadic work on a part-time basis to qualify for exemption under the FLSA, **the employee's decision to work in a different capacity must be made freely** and without coercion, implicit or explicit, by the City. The City may suggest that an employee undertake another kind of work for the same unit of government when the need for assistance arises, but the employee must be free to refuse to perform such work without sanction and without being required to explain or justify the decision.

The employee must make a request and attest in writing that the decision to perform occasional or sporadic part-time work was made freely and without coercion, implicit or explicit, by the City. This form is available in Human Resources.

Any requests for occasional or sporadic part-time employment must be approved by the City Manager.

## 507 OVERTIME

When operating requirements or other needs cannot be met during regular working hours, employees will be given the opportunity to volunteer for overtime work assignments. There may also be times where employees are required to work overtime. All overtime work must receive the supervisor's prior authorization. ~~Overtime assignments will be distributed as equitably as practical to all employees qualified to perform the required work.~~

Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour restrictions. Overtime pay is based on actual hours worked.

Employees who are called back to work at a time other than their regularly scheduled shift shall be paid for a minimum of ~~two~~ two (2) hours. Callback pay will be at time and one-half (1 ½) the regular straight time rate of pay except on Sundays which will be paid at double (2) time.

Failure to work assigned overtime may result in disciplinary action, up to and including possible termination of employment.

~~An employee may receive compensatory time off for overtime worked, if there is mutual agreement to do so, and the time is used within the same pay period as the overtime was worked.~~

Due to the Department of Public Services (DPS) seasonal nature and emergency response activities, non-exempt employees who are required to work overtime may elect to receive compensatory time in lieu of pay up to a forty (40) hour accumulative bank. This accumulative bank of compensatory time may not exceed forty (40) hours at any time. This compensatory time shall be credited at the rate of one and one-half (1 ½) hours for every one (1) hour of overtime

worked. An employee may receive compensatory time off for overtime worked, if there is mutual agreement to do so. The City ~~of Sturgis~~ reserves the right to deny banking of compensatory time off. The employee by submission of a request to bank compensatory time voluntarily agrees to receive compensatory time in lieu of overtime pay.

The scheduling of compensatory time off shall be arranged in advance by the employee and their supervisor. A request for use of compensatory time off may be denied ~~for~~ cancelled if it would unduly disrupt City ~~operation~~operations.

Upon the employee's termination, the employee will be paid for any unused accrued compensatory time with their last pay.

## 508 USE OF EQUIPMENT AND VEHICLES

Equipment and vehicles essential in accomplishing job duties are expensive and may be difficult to replace. ~~When using City property, employees are expected to exercise care, ensure required maintenance, and follow all operating instructions, safety standards, and guidelines. Employees are not authorized to borrow or use City property for personal benefit. City property used for personal benefit can result in disciplinary action, up to and including termination of employment.~~

Please notify the supervisor if any equipment, machines, tools, or vehicles appear to be damaged, defective, or need repair. Prompt reporting of damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job.

The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, as well as excessive or avoidable traffic and parking violations, can result in disciplinary action, up to and including termination of employment.

In ~~an~~the event that ~~an~~a non-bargaining unit employee has an accident or an incident where safety precautions may have been violated involving a City owned vehicle, ~~the Motor Vehicle Fund Committee will perform an incident review. The~~or equipment, the employee shall be subject to a drug and alcohol test, in addition to completing any reports required by local law enforcement.

For any accident involving a City-owned vehicle, the Motor Vehicle Fund Committee will perform an incident review. Department Heads will be required to complete an accident report within twenty-four (24) hours of the incident to the Motor Vehicle Fund Committee Chair. A copy of this report should also be filed with the Human Resource Director. The Motor Vehicle Fund Committee will convene within three (3) business days to review the incident report. All accidents will be investigated by the Motor Vehicle Fund Committee to determine the cause for the accident and any response necessary to increase the safe ~~appreciation~~operation of the vehicle or equipment. The Committee may recommend to the City Manager modifications to improve safety, identify training needs of the employee, defects in the vehicle or equipment, etc.

The purpose of the incident review is to minimize injury to employees and damage to City Property. All recommendations including “no changes” will be submitted to the City Manager for review. Results of the review will then be forwarded to the Department Head and employee.

**Exceptions:** *There is a procedure for exceptions to this policy. If the Department Head or Supervisor of the employee, involved in damaging a City ~~of Sturgis~~-owned vehicle/equipment, feels that the very nature of the incident does not qualify for review by the Motor Vehicle Committee, ~~he/she~~the Department Head has the choice of filing a Motor Vehicle Committee Traffic Crash Review Waiver form to the Motor Vehicle Committee Chairperson. The Motor Vehicle Chairperson will confer with the City Manager to determine whether or not to approve the waiver request. If the waiver request is approved, the incident in question shall not be reviewed by the Motor Vehicle Committee. If the waiver request is denied, the incident in question shall be reviewed by the Motor Vehicle Committee.*

## 510 EMERGENCY CLOSINGS

At times, emergencies such as severe weather, fires, power failures, or earthquakes, can disrupt company operations. - In extreme cases, these circumstances may require the closing of a work facility.

When operations are officially closed due to emergency conditions, the time off from scheduled work will be unpaid. However, with supervisory approval, employees may use available paid leave time, such as unused vacation or personal leave benefits. -Employees in essential operations may be asked to work on a day when operations are officially closed. -In these circumstances, employees who work will receive regular pay.

City owned facilities may only be closed by consent of the City Manager or ~~his/her~~their designee.

## 512 BUSINESS TRAVEL EXPENSES

~~The City of Sturgis~~ will reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. -All business travel must be approved in advance by the Department Head.

Employees whose travel plans have been approved should ~~make~~have all travel ~~arrangements through City plans reviewed and verified by their supervisor to ensure reasonableness of Sturgis's designated travel agency and accommodation expenses.~~

When approved, the actual costs of travel, meals, lodging, and other expenses directly related to accomplishing business travel objectives will be reimbursed by ~~the City of Sturgis.~~ Employees are expected to limit expenses to reasonable amounts. ~~Employees may be pre-paid for estimated expenses, and then settle up at the end of the trip.~~

Expenses that generally will be reimbursed include the following:

- Airfare or train fare for travel in coach or economy class or the lowest available fare. ~~CarTolls, parking, and car~~ rental fees, ~~only for compact or mid-sized cars.~~ Vehicle type pre-approved by the supervisor.
- Mileage costs for use of personal cars will be paid based on the then-current mileage rate established by the Internal Revenue Service (IRS) only when a ~~City-of Sturgis~~ owned vehicle, or a less expensive transportation ~~is not available~~ option is unavailable unless otherwise approved by the supervisor.
- Cost of standard accommodations in low to mid-priced hotels, motels, or similar lodgings.
- ~~Charges~~ Other charges for ~~telephone calls, fax, and similar~~ services required for business purposes.

Employees who are involved in an accident while traveling on business must promptly report the incident to their immediate supervisor. ~~Vehicles owned, leased, or rented by the City-of Sturgis~~ may not be used for personal use without prior approval.

When travel is completed, employees should submit completed travel expense reports within 14 days. ~~Reports should be accompanied by receipts for all individual expenses.~~

Meals shall be limited to ~~thirtysixty-four~~ dollars (\$~~30~~64.00) per day ~~(with receipts based on the current IRS per-diem rate,~~ not to be ~~the average averaged~~ over the period) ~~with receipts.~~

Employees should contact their supervisor for guidance and assistance on procedures related to travel arrangements, expense reports, reimbursement for specific expenses, or any other business travel issues.

Abuse of this business travel expenses policy, including falsifying expense reports to reflect costs not incurred by the employee, can be grounds for disciplinary action, up to and including termination of employment.

## 514 VISITORS IN THE WORKPLACE

To provide for the safety and security of employees and the facilities at ~~the City-of Sturgis~~, visits by non-employees shall be kept to a minimum. ~~Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare, and avoids potential distractions and disturbances.~~

## 516 ~~COMPUTER AND E-MAIL USAGE~~ CERTAIN EMPLOYEE EXPENDITURES AS A PUBLIC PURPOSE

~~Computers, computer files, the E-mail system, and software furnished to employees are City of Sturgis property intended for business use. Employees should not use a~~



~~password, access other than normal files, or retrieve any stored communications not written to them without authorization. Employees should have no expectation of privacy with respect to e-mails or other computer/Internet files or data. The City of Sturgis may monitor all internet access, read all E-mails or other data stored or used on City computer equipment. City of Sturgis strives to maintain a workplace free of harassment and sensitive to the diversity of its employees. Therefore, City of Sturgis prohibits the use of computers and the E-mail system in ways that are disruptive, offensive to others, or harmful to morale.~~

~~For example, the display or transmission of sexually explicit images, messages, and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, off-color jokes, or anything that may be construed as harassment or showing disrespect for others.~~

~~City of Sturgis purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, City of Sturgis does not have the right to reproduce such software for use on more than one computer.~~

~~Employees may only use software on local area networks or on multiple machines according to the software license agreement. City of Sturgis prohibits the illegal duplication of software and its related documentation.~~

~~No software is to be added to the network or any individual P.C. without the expressed written consent of the City.~~

~~Employees should notify their immediate supervisor, the Department Manager or any member of management upon learning of violations of this policy. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.~~

The City believes the nexus of the employment relationship, and how the City manages that employment relationship, is a valid local municipal concern. The City Manager is authorized to make incidental expenditures such as, but not limited to, occasional recognition of achievements, paying for refreshments/meals as recognition of extra effort, time and commitment by employees, and general appreciation of the efforts of employees as a way to provide a work culture that promotes positive morale, high performance and productivity which serve an important public purpose.

## **581 SAFETY SHOES**

The City ~~of Sturgis~~ requires employees in designated positions to wear safety shoes or boots. Your department head or supervisor will inform you if you are employed in one of those positions.



The City will reimburse the cost of one (1) pair of safety shoes or boots for any regular full time non-~~union bargaining unit~~ employee per fiscal year with the City's maximum contribution being ~~One~~Two Hundred ~~Fifty and twenty-five~~ Dollars (\$~~150~~225.00).

In order to receive reimbursement, a request must be submitted to Human Resources. ~~They~~It must be accompanied by proof of purchase of ANSI/ASTM approved safety shoes or boots. -In the event there is a question as to the validity of the safety of the shoe or the boot, ~~the~~ Human Resources shall determine whether the footwear meets MIOSHA and ANSI/ASTM safety standards and make reimbursement decisions accordingly.

~~Should an employee cease employment by the City of Sturgis within ninety (90) days of initial employment, the City shall recover one half of the reimbursement for safety shoes or boots.~~

## 601 FAMILY AND MEDICAL LEAVE ACT POLICY

### The leave policy

You are eligible to take up to 12 ~~weeks~~workweeks (up to 26 ~~weeks~~workweeks for specified persons related to military personnel – see reasons for leave) of unpaid family/medical leave within ~~any~~the applicable 12-month period and be restored to the same or an equivalent position upon your return from leave provided you: (1) have worked for the City ~~of Sturgis~~ for at least 12 months within the last seven (7) years, and for at least 1,250 hours in the last 12 calendar months; and (2) are employed at a work site that has 50 or more employees within a 75-mile radius. Failure to ~~return to work or~~ comply with the FMLA policy may result in termination ~~of the City of Sturgis employee.~~

~~Extensions to this policy may be permissible only with the approval of the City Manager.~~

### Reasons for leave

You may take family/medical leave for any of the following reasons:

- (1) the birth of a son or daughter and in order to care for such son or daughter;
- (2) the placement of a son or daughter with you for adoption or foster care and in order to care for the newly placed son or daughter;
- (3) to care for a spouse, son, daughter, or parent (“covered relation”) with a serious health condition; ~~or~~
- (4) because of your own serious health condition that renders you unable to perform an essential function of your position. ~~Leave for either of the first two reasons must be completed within the 12-month period beginning on the date of birth or placement. In addition, in cases where a married couple is employed by the same company, the two spouses~~

~~together may take a combined total of 12 weeks' leave during any 12-month period for reasons 1 and 2, or to care for the same individual pursuant to reason 3.;~~

~~A spouse, son, daughter, parent, or next of kin may take up to twenty six (26) weeks of leave (5) to care for a covered service member ~~of the Armed Forces, including a member of the National Guard or Reserves,~~ who has or is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, being treated for a serious injury or illness ~~which may have occurred or was aggravated within five (5) years..~~~~

~~An if the employee may take FMLA leave for "any qualifying exigency arising out of is the spouse, son, daughter, parent or next of kin of the covered service member.~~

~~(6) the fact that the employee's spouse, or a son, daughter, or parent of the employee is on active duty (or is a covered service member and has been notified of an impending call or order to active duty) in the Armed Forces or Title II Federal employee in support of contingency operations". For an explanation of "qualifying exigency" please speak with your Human Resources Department. covered active-duty status.~~

~~Note: affected employees who use the twenty six (26) provision this period is inclusive.~~

Generally, the FMLA allows eligible employees to take an unpaid leave of absence for a period not to exceed twelve (12) work weeks in a "rolling" twelve (12)-month period measured backward from the date of any FMLA leave usage. Leave for the birth or adoption of a child must be taken within one (1) year of the qualifying event. The length of time allowed for leave for qualifying exigencies will depend on the type of qualifying event. Where leave is necessary for the care of a covered servicemember with a serious injury or illness, leave may be taken for up to twenty-six (26) weeks during a single twelve (12)-month period beginning with the first date of leave.. In addition, in cases where a married couple is employed by the City, the two spouses together may take a combined total of 12 workweeks' leave during any 12-month period for reasons 1 and 2. Similarly, married spouses who are both employed by the City may be limited to a combined total of twenty-six (26) weeks of leave during the applicable twelve (12)-month period to care for a covered service-member with a serious injury or illness.

### **Notice of leave**

If your need for family/medical leave is foreseeable, you must give the City of Sturgis at least 30 days' prior written notice. If this is not possible, you must at least give notice as soon as practicable (within one to two business days of learning of your need for leave except in extraordinary circumstances). While such notice can be provided verbally, it must include the same information necessary for the City to understand that the request is for FMLA leave. You

will be expected to follow and comply with your department's normal call-in procedures and notice requirements. Calling in "sick" will not be sufficient notice to trigger FMLA benefits or protections.

Failure to provide ~~such~~adequate notice may be grounds for delay or denial of leave. Additionally, if you are planning a medical treatment, you must consult with the City of Sturgis first regarding the dates of such treatment and may be required to schedule such treatment so as not to unduly disrupt the City's operations.

The City of Sturgis has Request for Family/Medical Leave forms available from the human resources department. You should use these forms when requesting leave. ~~For an employee wishing to use FMLA for the care of a Military person or due to a "qualifying exigency" the employee is to notify City of Sturgis within two days of his/her receipt of notice.~~ whenever possible.

### **Incapacity and treatment:**

~~To qualify for FMLA medical leave you must have a period of incapacity of more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves: treatment two or more times, within thirty (30) days of the first day of incapacity, unless \*\*extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. The requirement in the above paragraphs paragraph(s) of this section for treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within seven (7) days of the first day of incapacity. Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty (30) day period shall be determined by the health care provider. If an additional appointment(s) is scheduled you will provide the Human Resources with the date/schedule of the subsequent appointments.~~

~~\*\* The term "extenuating circumstances" of this section means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider.~~

### **Definition of a "Serious Health Condition"**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment. If you are not sure whether your condition qualifies for FMLA leave, you may apply for such leave and, after review of appropriate medical documentation, the City will advise you of whether you are covered under this provision.

### **Medical certification**

If you are requesting leave because of your own or a covered relation's serious health condition, you and the relevant health care provider must supply appropriate medical certification. You may obtain Medical Certification forms from the human resources department. When you request leave, ~~the City of Sturgis~~ will notify you of the requirement for medical certification and when it is due (~~no more than~~usually within 15 calendar days after you request leave). If you provide at least 30 days' notice of medical leave, you should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of leave ~~until it is provided~~.

An employee will be given written notice of any deficiency noted in the medical ~~certificate~~certification with an explanation of action needed. —The employee will be provided seven (7) days to “cure” any deficiency within the ~~certificate~~—certification. Failure to provide a corrected ~~certificate~~certification within the seven (7) days may result in delay or denial of leave.

~~The City of Sturgis~~, at its expense, may require an examination by a second health care provider designated by ~~the City of Sturgis~~, if it reasonably doubts, or seeks confirmation of the medical certification you initially provide. If the second health care provider's opinion conflicts with the original medical certification, ~~The City of Sturgis~~, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion.

From time to time, the ~~City of Sturgis~~ may require subsequent medical recertification. Failure to provide requested certification within 15 days, except in extraordinary circumstances, may result in delay or denial of further leave ~~until it is provided~~.

~~City of Sturgis requires that an employee whose approved leave (continuous or intermittent) will submit a new medical certification for the condition every six (6) months from the last medical certification, or when the medical condition, duration/schedule of leave, or terms stated on the original medical certificate change.~~

~~City of Sturgis~~The City reserves the right to contact the employee's Healthcare provider for “authentication and clarification” as provided under the FMLA.

### **Reporting while on leave**

If you take continuous leave because of your own serious health condition or to care for a covered relation, you ~~must contact your immediate supervisor, or may be required to periodically report~~ the Human Resources department at the City ~~of Sturgis by Tuesday of each week~~ regarding the status of the condition and your intention to return to work. In addition, you must give notice as soon as is practicable (within two business days if feasible) if your medical condition changes, the dates of the leave need to change or ~~are~~ be extended, or were unknown initially.

To assure proper preparation and scheduling for your return to work, you are required to provide the City of Sturgis as soon as possible, preferably, at least two (2) business ~~days~~ days' notice of your availability and intent to return to work from a continuous leave – please include in writing any requests for accommodation of restrictions or medical condition. —You may fax, deliver, or mail your Health Care Provider's return to work documentation to the Human Resource Department, which must be received no less than two days prior to your actual return to work.

If your leave is approved as intermittent leave you are required to follow all leave of absence notification procedures as stipulated within the employee handbook. —In addition, when you notify the City of Sturgis of your FMLA related absence you are required to state the reason for the absence and how it directly applies to the approved FMLA leave. —Failure to properly report an FMLA leave may result in that date or period not being counted as FMLA and subject to other leave of absence policies.

#### **Leave is unpaid**

Family medical leave is unpaid leave (although you may be eligible for short- or long-term disability payments and/or workers' compensation benefits under those insurance plans) ~~—, which could supplement your income on the unpaid FMLA leave).~~ If you request leave because of birth, adoption, or foster care placement of a child, any accrued paid sick leave and vacation time will be substituted for unpaid family/medical leave. If you request leave because of your own serious health condition, or to care for a covered relation with a serious health condition, any accrued sick leave and vacation will be substituted for any unpaid family/medical leave. The substitution of paid leave time for unpaid leave time does not extend the 12-~~week~~ workweek leave period. Further, in no case can the substitution of paid leave time for unpaid leave time result in your receipt of more than 100 percent of your ~~salary.~~ ~~Your family/medical leave runs concurrently with other types of leave, i.e., paid sick leave, vacation, Short/long term disability, Workers Compensation pay.~~

#### **Medical and other benefits**

During an approved family/medical leave, the City of Sturgis will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid family/medical leave, the City of Sturgis will deduct your portion of the health plan premium as a regular payroll deduction. If your leave is unpaid, your portion of the premium will be paid by the City of Sturgis. Upon your return to work you will be required to reimburse the City of Sturgis for the cost of your portion of the premium. — If special

payment arrangements are needed, please speak with your Human Resource Department during your leave or immediately upon notification of your return to work. —If you elect not to return to work for at least 30 calendar days at the end of the leave period, you will be required to reimburse ~~the City of Sturgis~~ for the entire cost of the premiums paid by ~~the City of Sturgis~~ for maintaining coverage during your unpaid leave.

Employees will be asked to sign ~~a notice~~ an agreement indicating that the employer will pay the employee's portion of the premium during the FMLA leave and that the employee is responsible for the reimbursement of all payments made by the employer on ~~his/her~~ their behalf.

### **Exemption for highly compensated employees**

Highly compensated salaried employees (i.e., highest-paid 10 percent of employees at ~~a work site or within a 75-mile radius of that work site~~ the City) may not be returned to their former or equivalent position following a leave, if restoration of employment will cause substantial economic injury to ~~the City of Sturgis~~. (This fact-specific determination will be made by ~~the City of Sturgis~~ on a case-by-case basis.) ~~The City of Sturgis~~ will notify you if you qualify as a “highly compensated” employee if ~~the City of Sturgis~~ intends to deny reinstatement, and of your rights in such instances.

### **Intermittent and reduced-schedule leave**

Leave because of a serious health condition may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced-leave schedule (reducing the usual number of hours you work per workweek or workday) if medically necessary. If leave is unpaid, ~~the City of Sturgis~~ will reduce your salary based on the amount of time actually worked. In addition, ~~while~~ if you are on an intermittent or reduced schedule leave, ~~due to planned medical treatment, the City of Sturgis~~ may temporarily transfer you to an available alternative position that better accommodates your recurring leave, and which has equivalent pay and benefits.

~~Company~~ The City does not allow intermittent leave for “bonding” ~~with a newly born or placed health child.~~

### **Miscellaneous Provisions**

During the time an employee is off work on FMLA leave, they shall have no other employment. Thus, an employee on FMLA leave or any other medical leave is not allowed to work for another employer, including self-employment, during the leave of absence without prior written authorization by the City.

Employees who knowingly misrepresent facts in order to be granted FMLA leave will be subject to appropriate discipline, up to and including termination.

Absent extraordinary circumstances or other reasons protected by law, an employee who fails to return to work on the first business day after the expiration of the FMLA leave period will be considered to have voluntarily resigned their employment with the City.



The City of Sturgis will comply with the present and future provisions of the federal Family and Medical Leave Act (and regulations promulgated under the Act). This may necessitate a change of rights or procedures. In this event, the provisions of this section shall be deemed modified in whatever manner(s) necessary to comply with the Act.

## **602 NON-FMLA MEDICAL LEAVE OF ABSENCE**

An unpaid medical leave of absence ("MLOA") may be requested if the employee has a serious medical condition (physical or mental) and is unable to work, but the employee does not qualify for FMLA leave (e.g. not yet worked twelve (12) months, not worked one-thousand two-hundred and fifty (1,250) hours, exhausted all FMLA, etc.).

### **Procedure**

A written request for MLOA must be submitted to Human Resources as early as possible (preferably at least thirty (30) calendar days prior to the desired time off, if possible). In the request you should specify dates, requested length, and other useful information.

You should also include with your written request a physician's supporting written statement explaining (in detail) your restrictions and why they believe you need a leave of absence (i.e., why you cannot perform your current job). If pertinent, your physician's written statement should specify whether you are "disabled" and, if so, are you "totally disabled" and therefore unable to perform any work or are you simply unable to perform some type of work. If you are "totally disabled" we will look to an appropriate medical leave of absence. If not "totally disabled," and depending on your restrictions (and depending on whether you instead elect to use other paid time off including sick or vacation time, if eligible), we may attempt to reasonably accommodate your condition, thereby allowing you to continue working in either your regular or an alternate vacant position.

We may also, at our expense, require a second physician's opinion. If the second opinion is contrary to your physician's opinion, the parties will pick a mutually agreeable third physician to review your condition (at our expense). In such cases the parties agree that they will abide by the third physician's opinion.

### **Length**

A MLOA will be limited to the period of actual disability and/or inability to work, but in all cases may not exceed the period in which the City can reasonably accommodate the leave of absence without incurring undue hardship. A MLOA must include a specific time frame, including a date on which the employee will return to work. The City cannot accommodate MLOA requests of an indefinite nature as they cause the City an undue hardship. The employee will typically be required to exhaust their accrued paid time off, including vacation and sick leave as part of their MLOA. The MLOA will otherwise be unpaid unless you qualify for workers' compensation or short-term disability benefits.

### **Continuation of Health Benefits**

During a MLOA the City will maintain an employee's health benefits for a maximum of twelve (12) weeks at the same level as if they had continued working so long as the employee makes arrangements to pay, and does pay, the entire cost of the health care premiums. If the employee

has taken FMLA immediately preceding an MLOA, the time during the FMLA leave in which the City continued health benefits for the employee will be counted towards this twelve (12) weeks. Employees will be required to pay the active employee portion of the insurance premiums, if applicable. If an employee's health care premium is more than fifteen (15) days late, the City will notify them in writing. The employee's healthcare insurance coverage will be cancelled if the premium payment is more than thirty (30) days late. Thereafter, employees may have the opportunity to continue health insurance at their own cost under the COBRA law, if applicable. Your responsibilities regarding payment of your portion of plan premiums will be explained to you at the time your leave is granted.

### **Compliance and Return**

An employee who fails to comply with the conditions accompanying the leave (e.g., periodically reporting in, providing additional medical information and physician's statements, etc.) or who fails to return to work at the designated time (the employee may be required to present a physician's certification releasing them to return to work and setting forth any restrictions) will be separated from employment. If an employee is unable to return to work at the time designated by the City but is subsequently released by their physician to return to work, they will have to reapply as a new hire.

## **603 PERSONAL LEAVE OF ABSENCE**

The City of Sturgis provides leaves of absence without pay to eligible regular full-time employees who wish to take time off from work duties to fulfill personal obligations. Employees in the following employment classification(s) are eligible to request personal leave as described in this policy:

### **—Regular full-time employees**

Eligible employees may request personal leave only after having completed 365 calendar days of service. -As soon as eligible employees become aware of the need for a personal leave of absence, they should request a leave through their supervisor who in turn will submit the leave for approval from the City Manager.

Personal leave may be granted for a period of up to 30 calendar days every one year-rolling 12 month period (looking backward). If this initial period of absence proves insufficient, consideration will be given to a written request for a single extension of no more than 30 calendar days. - With the City Manager's approval, an employee may take any available sick leave or vacation leave as part of the approved period of leave.

Requests for personal leave will be evaluated based on a number of factors, including anticipated work load workload requirements and staffing considerations during the proposed period of absence.

Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the unpaid leave and will resume upon return to active employment. -Health insurance will continue to be paid during approved unpaid leave, and the employee will reimburse the City for the full



monthly cost (including the City's employer cost.)

When a personal leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee is qualified. -However, ~~the City of Sturgis~~ cannot guarantee reinstatement in all cases.

If an employee fails to report to work promptly at the expiration of the approved leave period, ~~the City of Sturgis~~ will assume the employee has resigned.

## **605 MILITARY LEAVE**

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Re-employment Rights Act (USERRA). -Advance notice of military service is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable.

The leave will be unpaid.- However, employees may use any available paid time off for the absence.

Continuation of health insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions, and limitations of the applicable plans for which the employee is otherwise eligible.

Benefit accruals, such as vacation, sick leave, or holiday benefits, will be suspended during the leave and will resume upon the employee's return to active employment.

Employees on military leave for up to 30 days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. -Employees on longer military leave must apply for reinstatement in accordance with USERRA and all applicable state laws.

Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable one depending on the length of military service in accordance with USERRA. -They will be treated as though they were continuously employed for purposes of determining benefits based on length of service.

~~Contact the Human Resource Director for more information or questions about military leave.~~

## **701 EMPLOYEE CONDUCT ~~AND WORK RULES~~**

~~To ensure orderly operations and provide the best possible work environment, City of Sturgis expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.~~

All City employees are required to conduct themselves in a manner that reflects a positive image

for the City. Employees are expected to perform their duties safely with honesty and integrity. Below is a list of rules that all employees are required to adhere to. The list is not all-inclusive, and the City reserves the right to change, add, and/or revise these as it deems appropriate and necessary. Nothing stated in this policy, including the work rules, changes the at-will employment relationship. None of these rules are intended to, none should be interpreted to, and none will be enforced in such a fashion as to interfere with employee rights, as protected by any state or federal law.

Violation of any rules, or failure to perform assigned duties, may subject employees to discipline, up to and including termination, depending on the seriousness of the violation in the sole judgment of the City. Although in some situations the City may elect to use corrective action, an employee has no right to or guarantee of a specific progression or number of disciplinary steps.

Prohibited employee conduct includes, but is not limited to, the following:

~~It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that may result in disciplinary action, up to and including termination of employment:~~

~~➤ A. Theft or inappropriate removal or possession of property.~~

~~➤ Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating employer-owned vehicles or equipment.~~

~~➤ Fighting or threatening violence in the workplace.~~

~~➤ Negligence or improper conduct leading to damage of employer-owned or customer-owned property.~~

#### A. Insubordination and Related Misconduct

~~➤ a. Failure or refusal to follow instructions or orders from a supervisor, disrespect toward a supervisor, neglect of duty, failure, or refusal to carry out job duties or assignments, or other disrespectful conduct forms of insubordination.~~

#### B. Dishonesty and Related Misconduct

~~a. Theft or Excessive absenteeism or any absence without notice dishonesty of any kind. This includes but is not limited to lying, falsification (either written or verbal) of personnel records, official City records or reports, or withholding information in a City investigation.~~

### C. Improper Treatment of Others and Related Misconduct

- a. Discrimination or reprisal against an employee, participant in a City program or activity, citizen, or other person(s) doing business with the City because of race, religion, sex, sexual orientation, gender identify, pregnancy, national origin, height, weight, age disability or any other reason prohibited by federal or state law.
- b. Violating the City's harassment policy.
- c. Interfering with the work of another employee, including, but not limited to, restricting production, or influencing another to do so.
- d. Discourteous treatment of fellow employees, vendors, citizens, or visitors.
- e. Engaging in abusive, intimidating, threatening or coercive treatment, either physical and/or mental, of another employee or the public on City time or premises.
- f. Engaging in offensive, immoral, indecent, or illegal conduct, or using offensive language toward the public, or in public, or toward City officers or employees, while on or off duty.
- g. Making or publishing false, vicious, or malicious statements concerning anyone.

### D. Misuse of City Property and Records and Related Misconduct

- a. Carelessness or negligence relating to, or misuse or intentional destruction of, City property or monies or another employee's property.
- ~~➤ a. Misuse or removal of any City record of any nature, or disclosing such record.~~
- ~~➤ b. Unauthorized disclosure of business "secrets" or confidential information without proper authorization.~~
- c. Violating the City's Information Technology Systems policy.
- ~~➤ Unauthorized Violation use of personnel policies.~~
- ~~➤ Unsatisfactory performance or conduct.~~
- d. Employment with City of Sturgis is at the mutual consent of vehicles, machines, tools and/or equipment.
- e. Accessing City of Sturgis and the employee, and either party may terminate that relationship at any time, with facilities or being present on

City property without cause, authorization.

- f. Excessive or improper time spent for personal purposes or excessive or improper personal use of phones, computers, equipment, or other technology.
- g. Removal or defacing of any material on City bulletin boards or posting of unauthorized materials.

#### E. Unsafe Acts and Related Misconduct

- a. Horseplay.
- b. Provoking, instigating, or participating in a fight on City time or premises.
- c. Failure to observe safety rules and ~~with or~~ common safety practices.
- d. Smoking or tobacco use in an unauthorized area.
- e. Failure to report any job-related accidents or injuries to a supervisor as soon as possible.
- f. Failure to report damage, defects or hazardous conditions relating to City property or a City vehicle to a supervisor as soon as possible.
- g. Any deliberate or careless conduct endangering the safety of oneself or others.
- h. Unauthorized carrying, use or possession of fireworks, firearms, explosives, or weapons while on duty or on City property.

#### F. Absenteeism, Sick Leave Abuse and Related Misconduct

- a. Abuse of sick leave or other forms of leave, habitual absenteeism.
- b. Failure to report known or anticipated absence or late arrival in advance of the employee's work shift.
- c. Quitting work or leaving the duty area ~~without advance notice~~ authorization.
- d. Habitual or excessive tardiness or leaving early.
- e. Absence from work without authorized leave.

#### G. Illegal and Unethical Acts and Related Misconduct

- a. Using, or threatening or attempting to use personal or political influence in an

effort to secure promotion, leave of absence, transfer or change of grade, pay or character of work, or other advantage.

b. Inducing or attempting to induce, any employee in the service of the City to act in violation of the law or any departmental or City rule(s), regulation(s), or order(s).

c. Accepting any fee, gift, or other considerations of value as a City employee for personal gain or preferential treatment.

d. Conviction or violation of any criminal or penal statute or ordinance if the conviction impacts your ability to perform your job or otherwise renders you disqualified for the position.

e. Engaging in action(s) which constitute a conflict of interest toward the City or adversely affects the City's regard or reputation in the community.

#### H. Misuse of City Motor Vehicles and Related Misconduct

a. Failure to operate a motor vehicle safely, receiving a motor vehicle violation, not wearing a seat belt or being an at fault driver in an accident.

b. Operating a vehicle in a reckless manner, driving at excessive speed (excluding emergency vehicles operating according to department policy), driving under the influence of alcohol or illegal drugs or drugs that impair driving ability, leaving the scene of an accident, carrying unauthorized passengers, or gross negligence while operating a vehicle.

c. Violating any City policy relating to driving or vehicles.

d. Unnecessarily allowing City vehicles or equipment to idle or leave keys in City vehicles or equipment unattended.

#### I. Improper Personal Behavior and Related Misconduct

a. Vending, soliciting, distributing literature, circulating a petition, or collecting contributions on the City's time or premises without prior authorization from the City Manager.

b. Failure to maintain a work appearance that is appropriate to an employee's job duties.

c. Sleeping on the job.

d. Violating any City policy relating to drugs or alcohol.

#### J. Other Misconduct

a. Violation of any departmental rule or other official regulation, policy, order, or

rule of the City.

## **702 ~~DRUG AND ALCOHOL USE~~PROHIBITED SUBSTANCES POLICY**

~~It is City of Sturgis desire to provide a drug free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.~~

~~While on City of Sturgis premises and while conducting business-related activities off City of Sturgis premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job *only* if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.~~ It is the policy of the City to maintain a safe, healthy, and efficient environment for all of its employees and the public. The unauthorized possession, use, or abuse of any legal or illegal drugs or alcohol in the workplace poses an unacceptable risk to that critically important goal. All employees must abide by the terms of this Prohibited Substances Policy if they are to remain employees of the City. For everyone's health and safety, please help maintain a drug-free and alcohol-free work environment.

### **Prohibited Conduct**

The following is prohibited employee conduct:

- A. Having a prohibited substance in the employee's bodily system on City time or City premises, including all work sites and in City vehicles.

Unauthorized use, consumption, possession, manufacture, distribution, dispensation, solicitation,

~~Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.~~

- B. Employees with questions or concerns about sale of a prohibited substance dependency while on City time or premises, including all work sites and in City vehicles.

- C. Possession, abuse are encouraged to discuss these matters with their supervisor to receive assistance use, consumption, manufacture, distribution, dispensation, solicitation, or referrals to appropriate resource sale of a prohibited substance off City time or premises that adversely affects the employee's work performance, the employee's safety or the safety of others at work, or the City's regard or reputation in the community.

- D. Storing any prohibited substance or drug paraphernalia in a locker, desk, bag, purse, automobile, or other place on City premises, including all work sites and in City vehicles.

- E. Failure to keep prescribed medicine in its original container on City premises, including all work sites and in City vehicles.

### **Prohibited Substances**

For purposes of this policy, prohibited substances include:

- A. Drugs that are illegal under local, state, and/or federal law, marijuana in any form, other controlled substances (including trace amounts), and other substances which have the effect of altering the physical and/or mental abilities of the employee.
- B. Imitation controlled substances as defined by applicable law.
- C. Alcoholic beverages and any beverage, mixture or preparation, including any medication, containing alcohol.

### **Prescription and OTC Drugs**

The City recognizes that on occasion employees must use prescription or over-the-counter drugs to legitimately treat various conditions. An employee using a prescription drug or over-the-counter medication which is known to or may cause impairment on City time or City premises is responsible for being aware of any potential effect such drug may have on their judgment or ability to perform their duties **and** must inform the Human Resources department of their use of the drug/medication prior to performing any work. In addition, employees must maintain prescription drugs and over-the-counter medication in its original container showing it has been prescribed to the employee and use the drug only as directed.

### **Drug and Alcohol Testing**

The City is a drug and alcohol-free workplace. Because of the seriousness and potential dangers of substance abuse, applicants for employment may be required to undergo pre-employment drug and alcohol testing after receiving a conditional offer of employment. Active employees may also be required to undergo drug and alcohol testing if the City has reasonable suspicion of a violation of this policy by the employee. The City may also require post-accident testing as described in other sections of this Handbook or applicable Union Contracts. This testing will be performed by a reputable medical provider or independent laboratory using qualified and trained medical technicians or professionals. This facility will be chosen by the City. In the case of an on-the-job reasonable suspicion drug or alcohol testing, the employee will be transported to and from the testing center by the supervisor. Should the test prove negative, the employee will be returned to work without discipline or loss of pay. A positive test result or refusal to submit to testing will be grounds for discipline, up to and including termination. The City will treat all test results as confidential records, to be shared only with those individuals who have a legitimate "need to know."

### **DOT Regulations**

This policy encompasses and includes by reference all of the provisions of the United States Department of Transportation controlled substance testing regulations as contained in 49 CFR Part 391, Subpart H, and all other pertinent provisions, as they apply to certain vehicle operators and supervisory personnel. Among other things, these regulations mandate the random testing

of certain vehicle operators, and the training of such employees and their supervisors in the issues of substance abuse.

### **Employee Assistance Program (EAP)**

The City has established an Employee Assistance Program (EAP) to inform employees about the dangers of drug abuse in the workplace and to help employees understand the City's policy of maintaining a drug-free workplace. Contact the Human Resources Department for more information. If you need help with a substance abuse issue, please seek help before you violate this policy as seeking help after a violation will not excuse the misconduct.

## **703 SEXUAL AND OTHER UNLAWFUL HARASSMENT AND DISCRIMINATION**

The City of Sturgis is committed to providing a work environment that is free of discrimination and unlawful harassment. -Actions, words, jokes, or comments based on an individual's sex, race, ethnicity (including traits historically associated with race such as hair texture and protective hairstyles), color, national origin, age, religion, sexual orientation, gender identity, gender expression, pregnancy, disability, marital or veteran status, height, weight, citizenship, genetic information, or any other legally protected characteristic will not be tolerated. -As an example, sexualUnlawful harassment (both overt and subtle) is a form of employee misconduct that is demeaning to another person or persons, undermines the integrity of the employment relationship, and is strictly prohibited. Employees are strictly prohibited from engaging in harassment not only of their co-workers, but also of visitors, vendors, and citizens with whom they have contact because of their job with the City.

Any employee who wants to report an incident of Sexual Harassment

Sexual harassment includes unwelcome sexual or advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is unlawful sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment of an individual's employment, or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of prohibited actions and statements include derogatory or vulgar comments regarding a person's gender, sexual orientation or gender identity or expression, sexually suggestive language, remarks about a person's anatomy, threats of physical harm, touching another person in a sexually suggestive way or in a gender/sexual location, physical contact such as hitting and pushing or threats to take such action, and distribution of written or graphic sexual materials, including nude pictures, inappropriate memes, and sexually oriented magazines or posters.

### **Other Unlawful Harassment**

Other unlawful harassment can occur as a result of unwelcome verbal, physical, or other conduct



that creates an intimidating, hostile, or offensive working environment based on protected characteristics. Such conduct includes, but is not limited to, derogatory comments, jokes, slurs, epithets, graffiti, gestures, displays, touching, or other physical acts.

### Complaint Procedure

Employees who believe they have been subjected to or witnessed sexual or other unlawful harassment or discrimination in the workplace should promptly report the ~~matter~~ incident(s) to his or her~~their~~ supervisor. ~~If the supervisor is unavailable or the employee believes it would be inappropriate to contact that person, the employee should immediately contact~~ the Department Head ~~or~~ the Human Resource Director. ~~If the incident relates to the~~ City Manager, ~~the employee should report the matter to or~~ the City Attorney. ~~Employees can raise concerns and make reports without fear of reprisal. Reports of harassment or discrimination should be made in writing, when possible, using the complaint form attached to this Handbook. Additional copies of the form can be obtained from the Human Resources Department.~~

~~Any~~ Complaints received by a Department Head must be reported to Human Resources and the City Manager within 24 hours of receipt. Likewise, ~~any~~ supervisor or manager who becomes aware of possible sexual or other unlawful harassment ~~should promptly advise the Human Resource Director who will handle the matter in a timely and confidential manner or~~ discrimination must advise Human Resources or the City Manager within 24 hours.

~~Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination of employment. Reports of harassment or discrimination are taken seriously and will be promptly investigated. Investigations will be treated confidentially to the fullest extent possible, and information will be disclosed on a need-to-know basis. However, it is usually necessary to reveal the identity of the complainant and other details to the parties involved in order to complete a thorough investigation. Upon conclusion of the investigation, if it is determined that a violation of this policy has occurred, the City will determine appropriate disciplinary action up to and including termination of employment.~~

### Retaliation

The City also strictly prohibits retaliation against any employee who, in good faith, makes a complaint under this policy as well as any employee who participates in the investigation of such a complaint. Employees can raise concerns and make reports without fear of reprisal. Any employee who believes they have been retaliated against in violation of this policy should immediately report such conduct via the Complaint Procedure above.

## **704 ATTENDANCE AND PUNCTUALITY**

To maintain a safe and productive work environment, ~~the City of Sturgis~~ expects employees to be reliable and to be punctual in reporting for scheduled work. -Absenteeism and tardiness place

a burden on other employees and on ~~the City of Sturgis.~~ In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they ~~should~~must notify their supervisor as soon as possible in advance of the anticipated tardiness or absence, but no later than one hour before the start of their shift unless extraordinary circumstances exist.

Poor attendance and excessive tardiness are disruptive. -Either may lead to disciplinary action, up to and including termination of employment.

## **705 PERSONAL APPEARANCE**

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and ~~affect~~affects the business image ~~the City of Sturgis~~ presents to customers and visitors.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions.

Consult your supervisor or department head if you have questions as to what constitutes appropriate attire.

## **706 MEALS AND BREAKS**

The ~~City of Sturgis~~ understands that periodic breaks are necessary for employees to work accurately and efficiently. Therefore, the City grants all employees one (1) fifteen (15) minute paid break for every continuous four (4) hour work period. Employees who are scheduled to work over regular lunch or supper breaks will be entitled to an unpaid break of not less than one half (1/2) hour and not more than one (1) hour.

### **Breaks for Nursing Mothers**

The City is also committed to maintaining a family-friendly workplace and supporting the health and well-being of its employees. The City will provide nursing mothers with reasonable breaks and a private space (other than a bathroom) to express breast milk for their nursing child during the first year after birth. Breaks taken for this purpose will be unpaid unless they overlap with the paid 15 minute breaks referred to above. Any employee who has questions as to where such breaks can be taken should see Human Resources.

## **708 RESIGNATION**

Any employee who desires to resign must present a resignation in writing to the department head or the appointing authority. -The resignation must be submitted in sufficient time to allow for proper replacement. -Any employee failing to give such proper notice may forfeit all accrued and unpaid time off and leave benefits-~~accrued~~ under these rules.

The following notice shall be required:

- ~~\_\_\_\_\_~~ — Salaried Personnel - three (3) ~~weeksweeks'~~ notice ~~\_\_\_\_\_~~ .
- ~~\_\_\_\_\_~~ — Hourly Personnel - two (2) ~~weeksweeks'~~ notice ~~\_\_\_\_\_~~ .
- ~~\_\_\_\_\_~~ — All notices exclude earned vacation time.

~~Separation from the City of Sturgis' employment may be made by reason of shortage of funds or work, the abolishment of the position, or other material change in the duties or organization, or for other related reasons which are outside the employee's control and which do not reflect discredit upon the service of the employee.~~

~~An employee may be dismissed at anytime during their period of probation at the discretion of the appointing authority.~~

~~This section shall not apply in cases of death, retirement or reduction in work force, or by an employee unable to return to duty because of disability, evidence of which shall be supported by a medical certificate.~~

~~No definite length of employment is or will be in effect for any employee. Continued employment depends on the need for the employee's services, the employee's ability, and the attitude of the employee toward the job.~~

Employees are responsible for promptly returning all property, materials, or written information issued to them or in their possession or control. All City ~~of Sturgis~~ property must be returned by employees on or before their last day of work.

## 710 SECURITY INSPECTIONS

The City ~~of Sturgis~~ wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives, or other improper materials. ~~To this end, the~~ City ~~of Sturgis~~ prohibits the possession, transfer, sale, or use of such materials on its premises. The City ~~of Sturgis~~ requires the cooperation of all employees in administering this policy.

Desks, lockers, and other storage devices may be provided for the convenience of employees but remain the sole property of the City ~~of Sturgis~~. Accordingly, they, as well as any articles found within them, can be inspected by any agent or representative of the City ~~of Sturgis~~ at any time, either with or without prior notice.

## 712 SOLICITATION

In an effort to assure a productive and harmonious work environment, persons not employed by the City ~~of Sturgis~~ may not solicit or distribute literature in the workplace at any time for any purpose.

The City of Sturgis recognizes that employees may have interests in events and organizations outside the workplace. - However, employees may not solicit or distribute literature concerning these activities during working time. -(Working time does not include lunch periods, work breaks, or any other periods in which employees are not on duty.)

In addition, the posting of written solicitations on company bulletin boards is restricted. - These bulletin boards display important information, and employees should consult them frequently for:

- 1)•Internal memoranda
- 2)•Job openings
- 3)•Organization announcements
- 4)•Workers' compensation insurance information
- 5)•State disability insurance/unemployment
- 6)•Insurance information

### **713 MOTOR VEHICLE POLICY**

Only authorized employees with an unrestricted, current driver's license may operate City vehicles or use a vehicle to conduct City business. Any employee operating a City vehicle must do so in a safe and law-abiding manner. The driver and passengers must wear seat belts at all times.

Any employee operating a City vehicle, or personal vehicle while conducting City business, with illegal drugs or alcohol in their bodily system, or in an unsafe or negligent manner will be disciplined up to and including termination. The City has the right to search any City vehicle at any time. Therefore, employees have no reasonable expectation of privacy with respect to City vehicles.

If you are driving any vehicle on City time (whether it is owned personally by you or by the City) and you receive a ticket, you must notify the City immediately. If you have had more than four (4) moving violations or one (1) accident within the last three (3) years, City-driving privileges may be revoked. Further violations, accidents or driving restrictions could result in loss of employment.

In addition, you must obey all safety laws and regulations while operating the vehicle. If for any reason you should lose your drivers' license or have your license suspended or restricted, you must report that information to your supervisor immediately. Not reporting such information is a violation of City policy and you may be subject to discipline, up to and including discharge.

When using a personal automobile for City business, you are required to maintain sufficient automobile insurance at all times. Whether automobile insurance is sufficient is within the sole discretion of the City. Periodically, you may be required to present the City with proof of insurance. If for any reason you should lose your automobile insurance coverage, you must report that information to your supervisor immediately. Not reporting such information is a violation of City policy and you may be subject to discipline, up to and including discharge. The City is not responsible for any damage to your personal vehicle, including any insurance

deductible you may be required to pay, which is incurred as a result of such an accident or incident. The City is not responsible for any losses, damages or costs incurred by any person as a result of your failure to maintain sufficient automobile insurance.

The City will not pay for any traffic violations or any other citations while the employee is on City business. The employee must abide by all existing traffic rules and regulations. Violations may result in disciplinary actions and or termination.

If you are involved in a motor vehicle accident or incident during working hours, you must report that accident or incident to your supervisor immediately and file a police report. Make every effort to obtain names, addresses and telephone numbers of all others involved, as well as any witness. Do not make any statement as to responsibility for the accident at the scene. Failure to properly report an accident or incident is a violation of City policy and you may be subject to discipline, up to and including discharge.

The City strongly discourages the use of cellular phones by employees while driving on City business. Employees should pull to a safe area and stop the vehicle to place or receive calls. If extraordinary circumstances require cellular phone use while driving, the following rules must be followed:

- Use voice-operated and/or hands-free technology so that your hands are free.
- You may not use your hands while driving to make or receive a phone call; send or receive a text or email message; view, record or transmit photos or videos; access, read or post to a social networking site; or otherwise to view or enter information into a phone or electronic hand-held device.
- Conversations in a moving vehicle should be kept to a minimum and avoided when possible by allowing the voicemail to pick up incoming calls.
- Employees are required to observe all applicable laws regarding cell phone usage while driving.

## **716 PROGRESSIVE DISCIPLINE**

The purpose of this policy is to state the ~~City of Sturgis's~~City's position on administering equitable and consistent discipline for unsatisfactory conduct in the workplace. ~~The~~ best disciplinary measure is the one that does not have to be enforced and comes from good leadership and fair supervision at all employment levels.

~~City of Sturgis~~The City's own best interest lies in ensuring fair treatment of all employees and in making certain that disciplinary actions are prompt, uniform, and impartial. ~~The~~ major purpose of any disciplinary action is to correct the problem, prevent recurrence, and prepare the employee for satisfactory service in the future.

Although employment with ~~the~~ ~~City of Sturgis~~ is based on mutual consent and both the employee and ~~the~~ ~~City of Sturgis~~ have the right to terminate employment at will, with or without cause or advance notice, ~~the~~ ~~City of Sturgis~~ may use progressive discipline at its discretion.

Disciplinary action may call for any of four steps -- verbal warning, written warning, suspension with or without pay, or termination of employment -- depending on the severity of the problem and the number of occurrences. -There may be circumstances when one or more steps are bypassed.

~~Progressive discipline means that, with respect to most disciplinary problems, these steps will normally be followed: a first offense may call for a verbal warning; a next offense may be followed by a written warning; another offense may lead to a suspension; and, still another offense may then lead to termination of employment.~~

The ~~City-of-Sturgis~~ recognizes that there are certain types of employee problems that are serious enough to justify either a suspension, or, ~~in extreme situations,~~ termination of employment, without going through the usual progressive discipline steps.

While it is impossible to list every type of behavior that may be deemed a serious offense, the EMPLOYEE CONDUCT ~~AND WORK RULES~~ policy includes examples of ~~problems that may result in immediate suspension or termination of employment.~~ However, ~~the problems listed are not all necessarily serious offenses, but may be examples of unsatisfactory~~ conduct that will ~~trigger progressive~~ result in discipline.

By using progressive discipline, we hope that most employee problems can be corrected at an early stage, benefiting both the employee and the ~~City-of-Sturgis~~.

## 718 PROBLEM RESOLUTION

The ~~City-of-Sturgis~~ is committed to providing the best possible working conditions for its employees.- Part of this commitment is encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response from supervisors and management.

The ~~City-of-Sturgis~~ strives to ensure fair and honest treatment of all employees. -Supervisors, managers, and employees are expected to treat each other with mutual respect.- Employees are encouraged to offer positive and constructive criticism.

If employees disagree with established rules of conduct, policies, or practices, they can express their concern through the problem resolution procedure. -No employee will be penalized, formally or informally, for voicing a complaint with the ~~City-of-Sturgis~~ in a reasonable, business-like manner, or for using the problem resolution procedure.

If a situation occurs when employees believe that a condition of employment or a decision affecting them is unjust or inequitable, they are encouraged to make use of the following steps. The employee may discontinue the procedure at any step.

- 1) ~~A.~~ Employee presents the problem to immediate supervisor within 3 calendar business days, after incident occurs. - If supervisor is unavailable or employee believes it would be inappropriate to contact that person, employee may present the problem to the Department ~~Manager or any other member of management~~ Head.
- 2) ~~B.~~ Supervisor responds to problem during discussion or within 5 calendar business days, after consulting with appropriate management, when necessary. - Supervisor documents discussion.
- 3) ~~C.~~ Employee presents problem to ~~the~~ Human Resource Director Resources within 7 calendar business days; if problem is unresolved.
- 4) ~~D.~~ The Human Resources counsels and advises employee, assists in putting problem in writing, visits with employee's manager(s), if necessary, and directs employee to the City Manager for review of problem.
- 5) ~~E.~~ Employee presents problem to the City Manager in writing.
- 6) ~~F.~~ City Manager reviews and considers problem. - City Manager informs employee of decision within 10 calendar business days, and forwards copy of written response to ~~the~~ Human Resources for employee's file. - The City Manager has full authority to make any adjustment deemed appropriate to resolve the problem.
- 7) ~~G.~~ If following the step outlined in section D above, if the problem or complaint relates to the City Manager, the employee should present the problem to the City Attorney in writing. The City Attorney shall review the complaint with the Mayor and inform the employee of any decision within 10 business days.

Not every problem can be resolved to everyone's total satisfaction, but only through understanding and discussion of mutual problems can employees and management develop confidence in each other. - This confidence is important to the operation of an efficient and harmonious work environment; and helps to ensure everyone's job security.

## **719 FREE SPEECH EMPLOYMENT POLICY**

The City ~~of Sturgis~~ honors an employee's right to exercise ~~his or her~~ their constitutionally-protected right to free speech with respect to matters of public concern. Matters of "public concern" are matters of political, social, or other concern to the local community or the state or federal populace at large.

The City, however, must make sure that the public services it provides to its citizens is not impaired by an employee's speech. The City, for instance, must make sure an employee's speech does not interfere with work, personnel relationships, or an employee's job performance.

### **General Policy**

In order to balance these competing interests, the City will weigh various factors when determining whether an employee's speech regarding a matter of public concern improperly



impairs the City's duties to its citizenry and therefore is subject to disciplinary action. The City will consider:

- 1) ~~A.~~ The need for harmony in the workplace~~;~~
- 2) ~~B.~~ If certain speech could injure the harmony, whether the City's duties to its citizenry requires a close working relationship to exist between the speaking employee and his/her coworkers that could be harmed by the speech~~;~~
- 3) ~~C.~~ The time, manner, and place of the speech (the City recognizes that there is a difference between an informal chat with a co-worker and publicly broadcasting one's speech)~~;~~
- 4) ~~D.~~ The context in which the questioned speech arose~~;~~
- 5) ~~E.~~ The amount of public interest in the speech~~;~~
- 6) ~~F.~~ Whether the employee's speech impedes ~~his or her~~their ability to do his or her duties~~;~~
- 7) ~~G.~~ Whether the employee's speech is true and accurate.

If speech does not relate to matters of public concern, a person must be aware that ~~he or she~~ isthey are an employee of the City. Although speech regarding private matters is not totally beyond the protection of the constitution's First Amendment, an employee should try not to make comments that reflect poorly on the City. Any such speech could give rise to adverse employment consequences, up to and including termination, though every case will be considered separately.

If an employee is unsure as to whether or not an issue relates to a matter of public concern, the matter should be reviewed with the City Manager before making any public comments.

### Specific Types of Speech

In addition to the general rule set forth immediately above, the following specific types of speech will not be tolerated by employees and could give rise to adverse employment consequences, up to and including termination. The list is not meant to be exhaustive.

- Words or conduct that are not of public concern and that are critical of the City, its services, or its officers and employees (for example, personal or vindictive attacks on individuals, and speech that pursues nothing more than an employee's personal grievance).
- Words or conduct that are of public concern but motivated primarily by an employee's personal interests, unless the speech is purely private (for example, made to a single co-employee with no intent to disseminate it).
- Words or conduct that amount to insubordination against the employee's supervisor or other City management.
- Words that are false and that the employee knew were false or that the employee made in reckless disregard of their falsity.



- Words that are not of public concern that disrupt or cause dissension within the City.
- Words that are not of public concern that cause disharmony in the City's workplace.
- Threatening words.
- Words or conduct that are prohibited by state or federal law, including words or conduct that could reasonably give rise to civil or criminal litigation (e.g., slander, civil rights violations, and harassment).

### **Political Activities**

This policy does not address political activities by employees. In general, employees should be aware that the State of Michigan's Political Activities by Public Employees Act (MCL § 15.401 et seq.) regulates political activities of municipal employees. Under that Act an employee may, on his or her own time, engage in political activities on behalf of a political party or become a candidate for an elective office. However, if an employee is elected to an "incompatible office" (e.g., City Commissioner), he or she may be required to resign employment with the City. The Act prohibits an employee from coercing, directly or indirectly, another public employee to contribute to a political campaign or to support or defeat a ballot issue.

### **~~800 LIFE-THREATENING ILLNESSES IN THE WORKPLACE~~**

~~Employees with life-threatening illnesses, such as cancer, heart disease, and AIDS, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. City of Sturgis supports these endeavors as long as employees are able to meet acceptable performance standards without posing a direct risk to the safety or health of others. As in the case of other disabilities, City of Sturgis will make reasonable accommodations in accordance with legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.~~

~~Medical information on individual employees is treated confidentially. City of Sturgis will take reasonable precautions to protect such information from inappropriate disclosure. Managers and other employees have a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to disciplinary action, up to and including termination of employment.~~

### **~~880 AMENDMENTS~~**

~~Any amendments to these rules or regulations may be proposed by any employee. Such proposed amendment shall be submitted to the appropriate department head.~~

~~The department head will forward the proposed amendment to the City Manager with any comments and recommendations, who shall make the final decision regarding the adoption of any such amendment.~~

~~Additional or other rules and regulations governing the operation and conduct of individual departments may be adopted by department heads subject to approval of the City Manager. Copies of all other personnel rules shall be filed with the City Manager.~~

DRAFT

## City of Sturgis Employee Handbook Acknowledgment of Receipt

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By signing this receipt, I acknowledge that I have been given a copy of the Employee Handbook (revised ~~2/22/2012~~December, 2024) which contains a brief summary of benefits and employment rules and responsibilities of the City of Sturgis.

I ~~will have~~ read the information contained in the Employee handbook ~~and agree to keep the Handbook for future reference. I also agree to abide by all policies, standards and rules outlined in the Handbook.~~

I understand that all ~~of this information~~Handbook is subject to change at any time. The City of Sturgis reserves the right to change, revise, or eliminate any of the policies and/or benefits described in this handbook, except for its policy of employment-at-will.

I understand that the Handbook is not an employment contract and is not intended to create contractual obligations of any kind between me and the City of Sturgis.

I understand that I can contact Human Resources for questions regarding employee benefits and employment rules and responsibilities.

I understand that any provision of this Handbook that is in conflict with a provision of a Collective Bargaining Agreement entered into between the City of Sturgis and a recognized bargaining unit will not apply to a member of that unit.

Dated: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_

Print Name: \_\_\_\_\_

DRAFT

DRAFT

DRAFT

**DISCRIMINATION, HARASSMENT OR RETALIATION COMPLAINT FORM**

**I. PLEASE PROVIDE THE FOLLOWING: (Attach additional sheets if necessary.)**

**a. The facts, events or circumstances that caused you to file this complaint**

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**b. The names of the people who engaged in the alleged discrimination, harassment or retaliation**

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**c. The date(s) the incident(s) occurred**

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**d. The names of any witnesses to the incident(s).**

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**e. Describe what you did or said in response to the conduct or statements.**

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**II. WHAT ACTION OR CHANGE ARE YOU SEEKING TO RESOLVE THIS COMPLAINT?**

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**Date:** \_\_\_\_\_ **Employee's Signature:** \_\_\_\_\_



City of Sturgis - Employee Handbook Update  
Summary of Changes - December 2024

CHANGES MADE THROUGHOUT HANDBOOK			
Legal review of document completed and recommended language changes updated throughout			
"Human Resource Director" changed to Human Resources			
Various formatting, spelling, standardized use of bullets, numbering, City references			
Removed "contact Human Resources for questions" in many sections to one reference on the acknowledgment			
ACKNOWLEDGMENT OF RECEIPT Form Updated			
CHANGES MADE TO SPECIFIC SECTIONS			
SECTION	HEADING	ORIGINAL HEADING	CHANGE
80	DEFINITIONS	DEFINITIONS	Modified language recommended by attorney. List of Administrative Positions Deleted
103	EQUAL EMPLOYMENT OPPORTUNITY	EQUAL EMPLOYMENT OPPORTUNITY	Added language recommended by attorney
104	POLICY REGARDING USE OF SOCIAL SECURITY NUMBERS	POLICY REGARDING USE OF SOCIAL SECURITY NUMBERS	Added language recommended by attorney
106	MEDICAL EXAMINATIONS	MEDICAL EXAMINATIONS	Modified language for bona fide positions only
114	DISABILITY ACCOMODATION	DISABILITY ACCOMODATION	Added language recommended by attorney
115	PREGNANCY ACCOMMODATION		New section required by law, drafted by attorney
116	JOB POSTING	JOB POSTING	Added language for interview process
201	EMPLOYMENT CATEGORIES	EMPLOYMENT CATEGORIES	Modified categories per attorney Eliminated Introductory in this section Added seasonal category Changed CASUAL to occasional and sporadic
301	EMPLOYEE BENEFITS	EMPLOYEE BENEFITS	Added IRA to List Modified benefit descriptions
303	VACATION BENEFITS	VACATION BENEFITS	Added first-year only for front-loaded 40 hours. Eliminated 90 day waiting period Changed cap from 30 days to 240 hours Simplified vacation cap language Updated language for annual payout Changed from half-day to quarter hour Requires one year of service for payout upon termination
304	LONGEVITY PAY	LONGEVITY PAY	Added language for in year of retirement
305	HOLIDAYS	HOLIDAYS	Added Veterans Day Benefit Added language regarding work rules for holidays
306	PERSONAL LEAVE BENEFITS	WORKERS COMPENSATION INSURANCE	New section to define personal leave benefit
307	SICK LEAVE BENEFITS	SICK LEAVE BENEFITS	Removed reference to old sick plan Modified language for physician certification Added chart. Modified to comply with Earned Sick Time Act (ESTA)
308	PAID MEDICAL LEAVE POLICY	NONE	New section for policy previously approved Modified for ESTA
309	BEREAVEMENT LEAVE	BEREAVEMENT LEAVE	Updated immediate family definition to include grandparent-in-law, uncle, aunt, niece, and nephew
310	WORKERS COMPENSATION	NONE	Moved to new section
311	JURY DUTY	JURY DUTY	Updated language.
312	WITNESS DUTY	WITNESS DUTY	Added language recommended by attorney
313	GROUP HEALTH CONTINUATION COVERAGE UNDER COBRA	GROUP HEALTH CONTINUATION COVERAGE UNDER COBRA	Reduced language recommended by attorney
314	EDUCATIONAL ASSISTANCE	EDUCATIONAL ASSISTANCE	Modified language to include department head and human resource approval
317	LIFE INSURANCE	LIFE INSURANCE	Added availability of voluntary benefits
319	DISABILITY BENEFITS	DISABILITY	Added language recommended by attorney
320	IRA & 457 SAVINGS PLANS	401(k), IRA, & 457 SAVINGS PLANS	Removed 401(k) references Removed tax savings paragraph
380	RETIREMENT	RETIREMENT	Simplified language Added reference to city ordinance sections Added city contribution cap of 10 percent

City of Sturgis - Employee Handbook Update  
Summary of Changes - December 2024

CHANGES MADE THROUGHOUT HANDBOOK			
Legal review of document completed and recommended language changes updated throughout			
"Human Resource Director" changed to Human Resources			
Various formatting, spelling, standardized use of bullets, numbering, City references			
Removed "contact Human Resources for questions" in many sections to one reference on the acknowledgment			
ACKNOWLEDGMENT OF RECEIPT Form Updated			
CHANGES MADE TO SPECIFIC SECTIONS			
381	RETIREE HEALTH INSURANCE	RETIREE HEALTH INSURANCE	Added per policy approved in 2015
403	PAYDAYS	PAYDAYS	Removed reference to availability if an employee is on vacation
405	EMPLOYMENT TERMINATION	EMPLOYMENT TERMINATION	Removed Layoff upon attorney recommendation
409	ADMINISTRATIVE PAY CORRECTIONS	ADMINISTRATIVE PAY CORRECTIONS	Added employee responsible to review Replaced "quickly" with "the following pay period after investigation"
410	DEDUCTIONS	DEDUCTIONS	Employees responsible for understanding the deductions made from the paycheck.
502	WORK SCHEDULES	WORK SCHEDULES	Added normal and shift schedule definitions Added language for remote work
504	INFORMATION TECHNOLOGY SYSTEMS	USE OF PHONE AND VOICEMAIL SYSTEMS	Entire section updated
505	SMOKING	SMOKING	Expanded product list Removed paragraph about breaks
506	OCCASIONAL AND SPORADIC EMPLOYMENT	NONE	New section to reflect policy
507	OVERTIME	OVERTIME	Added Sunday double-time for callback reflecting current practice. Added holiday language for clarification
508	USE OF EQUIPMENT AND VEHICLES	USE OF EQUIPMENT AND VEHICLES	Clarified language for non-bargaining accident
512	BUSINESS TRAVEL EXPENSES	BUSINESS TRAVEL EXPENSES	Updated per diem, modified vehicle guidelines and mileage reimbursements
516	RESERVED	COMPUTER AND E-MAIL USAGE	DELETED SECTION
581	SAFETY SHOES	SAFETY SHOES	Updated amount and modified definition
601	FAMILY AND MEDICAL LEAVE ACT POLICY	FAMILY AND MEDICAL LEAVE ACT POLICY	Entire section updated
602	NON-FMLA MEDICAL LEAVE OF ABSENCE	NONE	New section recommended by attorney
701	EMPLOYEE CONDUCT	EMPLOYEE CONDUCT AND WORK RULES	Entire section updated
702	PROHIBITED SUBSTANCES POLICY	DRUG AND ALCOHOL USE	Entire section updated
703	SEXUAL AND OTHER UNLAWFUL HARASSMENT AND DISCRIMINATION	SEXUAL AND OTHER UNLAWFUL HARASSMENT	Entire section updated
704	ATTENDANCE AND PUNCTUALITY	ATTENDANCE AND PUNCTUALITY	Added one hour notice before start of shift
706	MEALS AND BREAKS	MEALS AND BREAKS	Added breaks for nursing mothers
708	RESIGNATION	RESIGNATION	Removed language recommended by attorney
713	MOTOR VEHICLE POLICY	NONE	New section
716	PROGRESSIVE DISCIPLINE	PROGRESSIVE DISCIPLINE	Modified language recommended by attorney
718	PROBLEM RESOLUTION	PROBLEM RESOLUTION	Changed calendar days to business days
800	LIFE-THREATENING ILLNESSES IN THE WORKPLACE	LIFE-THREATENING ILLNESSES IN THE WORKPLACE	Deleted section as recommended
880	AMENDMENTS	AMENDMENTS	Deleted section as recommended

**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 10B**





December 3, 2024

*Via bcox@sturgismi.gov*

Barry Cox, City Engineer, PE  
130 N. Nottawa  
Sturgis, MI, 49091

**RE: MSA Amendment No. 03 – North Centerville Resurfacing Design and Bidding Services.**

Dear Barry:

We appreciate the opportunity to submit this proposal for Professional Services related to the City's Small Urban Resurfacing project. The following is a summary of our understanding of the project, as well as a proposed Scope of Services, Schedule, and Budget for the project.

## STATEMENT OF UNDERSTANDING

The City of Sturgis has received federal Surface Transportation Funding (STP) through the MDOT Small Urban Program to resurface North Centerville Road. The following is a summary of the proposed project.

- The project will begin at the 30 feet north of the right-of-way (R/W) line of West Chicago Road (US-12) and North Centerville Road.
- The project will continue north to the spring point at the north side of West Lafayette Street (east leg across from Kirsch Airport).
- Resurfacing within the railroad R/W is assumed to go to the railroad tracks and will be confirmed during the preliminary design phase.
- The project limits for the cross streets will be determined during the preliminary design phase.
- No work will be done in the driveways.
- The roadway cross section is proposed as 1.5-inches of HMA cold milled, with 1.5-inches of HMA surface course placed in one lift and will be confirmed during the preliminary design phase.
- Roadway cross sections will be designed to match the existing widths and slopes.
- No sidewalk placement is expected.
- Pavement markings will be replaced to match the existing cross section and be designed per the Michigan Manual of Uniform Pavement Markings Current Edition.
- Structures within the milling limits are new manholes and will not be adjusted unless directed by the City.
- Water valve boxes within the milling limits will be evaluated during preliminary design to determine the best method of adjustment.
- The City will provide a list of structures requiring new castings.

## SCOPE OF WORK

F&V proposes to provide the following Design and Bidding Phase Services for the North Centerville Resurfacing Project.

- Preliminary Engineering:
  - Schedule and attend a Diagnostic System Team Review meeting to determine the improvements and limits for the railroad crossings.

- Complete topographic survey of the project limits.
  - Utilities will be identified using the American Society of Professional Engineers (ASCE) Standard 38-22, Quality Level D
- Request a ProjectWise folder from MDOT and complete the Local Agency Environmental Clearance Form 5323 for environmental review.
  - Our proposal assumes the project is excepted from the Section 106 requirements (Group 1) and there are no public controversies about the project.
- Complete the required Program Application for City signature.
  - Our proposal assumes there are no recent crashes caused by geometric problems.
- Create a strip set of project plans and special provisions following the Michigan Department of Transportation Local Agency Program guidelines.
- Complete a site visit with City Staff to finalize project limits and valve box adjustments.
- Submit 30% and 60% plans to the City for review. Receive comments via email on the plans.
- Final Engineering:
  - Incorporate 30% and 60% comments into a Grade Inspection Package and submit to MDOT for review.
  - Schedule and attend the Grade Inspection (GI) Meeting.
  - Incorporate GI Comments into a 95% complete package for City review.
  - Incorporate 95% review comments into a final package for MDOT letting.
  - Assist MDOT with contractor questions during bidding and review contract bids.

## SCHEDULE

The project is on the Small Urban 2026 fiscal year funding. The following schedule assumes the FY 2026 LAP project planning guide will be similar to the FY 2025 Project Planning Guide.

Phase / Task	Date
Submit Program Application and Section 106 Documents	April, 2025
Submit GI Documents	August, 2025
Approximate GI Meeting	September, 2025
Submit Biddable Package to MDOT	October, 2025
Open Bids	January 9, 2026

## PROFESSIONAL FEE

We propose to provide the scope of services outlined about for a Lump Sum fee of \$31,300.

If the City concurs with our project understanding, scope of services, budget, authorization can be given to begin work by signing and returning the attached Amendment No. 3 to the Professional Services Agreement entered between the City and F&V, executed on August 29, 2024.

We look forward to working with you on this important assignment. Please call if you have any questions.

Sincerely,

**FLEIS & VANDENBRINK**



Matt Johnson  
Regional Manager

12-3-2024

**AMENDMENT NO. 03**

**TO THE**

**PROFESSIONAL SERVICES AGREEMENT**

**FLEIS & VANDENBRINK ENGINEERING, INC.**  
2960 Lucerne Drive SE, Grand Rapids, MI 49546  
(616) 977-1000 fax (616) 977-1005

The Professional Services Agreement ("PSA") entered into between Fleis & VandenBrink Engineering, Inc. ("Engineer") and **City of Sturgis**, whose address is **130 N. Nottawa, Sturgis, Michigan 49091**, ("Owner") dated November 11, 2024 including previous amendments, if applicable, is hereby amended.

**DESCRIPTION OF PROJECT AND SCOPE OF SERVICES:** The description of the Project ("Project") and the scope of services ("Services") provided under the PSA are amended as follows;

**North Centerville Resurfacing Design and Bidding Services**

**AGREEMENT DOCUMENTS:** The following additional obligations are hereby included in the Agreement Documents, and are incorporated herein by reference;

Engineer's letter dated December 3, 2024

**COMPENSATION OF ENGINEER:**

The services to be provided under this Amendment shall be  
a Lump Sum Fee contract in the amount of **\$31,300**, billed monthly based on the percentage of Work completed.

**TERMS AND CONDITIONS:** The Terms and Conditions of the PSA and amendments to date shall apply to all work performed by Engineer.

**ELECTRONIC/FACSIMILE SIGNATURES.** The signatures on this PSA shall be deemed to be original signatures when transmitted electronically or by facsimile machine or by any other medium. No party shall be required to produce a PSA with an original signature in order to enforce any provision of this PSA.

IN WITNESS WHEREOF, the parties hereto have made and entered into this Amendment to the PSA. To be valid, this Amendment must be signed by an authorized representative of Fleis & VandenBrink Engineering, Inc.

**OWNER  
CITY OF STURGIS**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ENGINEER  
FLEIS & VANDENBRINK ENGINEERING, INC.**

By:  \_\_\_\_\_ **12-3-2024**

Title: Regional Manager

DESIGNATED REPRESENTATIVE FOR AMENDMENT:

By: Barry Cox, PE

Title: City Engineering

Date: \_\_\_\_\_

DESIGNATED REPRESENTATIVE FOR AMENDMENT:

By: Matt Johnson, PE

Title: Project Manager

Date: \_\_\_\_\_

Sturgis Purchase Order No.: \_\_\_\_\_

F&V Vendor No.: 00776

N. Centerville Road Resurfacing - 2026 Small Urban

			202 - Major Streets		TOTAL PROJECT			
FY 2024-2025							Notes	
BUDGETED FUNDS								
N. Centerville (US-12 to Haines Blvd.) (Small Urban)			\$30,000.00		\$30,000.00			
TOTAL BUDGETED FUNDS			\$30,000.00		\$30,000.00			
PROJECT COSTS								
Design and Bid-Phase Engineering		Recommended 12/18/2024	\$	31,300.00	\$	31,300.00	Fleis & VandenBrink Prof. Services Agreement Amendment #3	
TOTAL FY 2024-2025			\$	31,300.00	\$	31,300.00		
OVER (UNDER) BUDGET FY 2024-2025			(\$1,300.00)					
FY 2025-2026							Notes	
BUDGETED FUNDS								
N. Centerville (US-12 to Haines Blvd.) (Small Urban)			\$648,000.00		\$648,000.00		Includes grant funds of \$385,000.00 (MDOT Small Urban)	
TOTAL BUDGETED FUNDS			\$648,000.00		\$648,000.00			
PROJECT COSTS								
Construction		Estimated	\$	461,000.00	\$	461,000.00	Construction estimate from 6/4/24	
Contingency Budget		Estimated	\$	46,000.00	\$	46,000.00	~ 10% of Project Cost	
Construction Phase Engineering		Estimated	\$	55,000.00	\$	55,000.00	Est. incl. const. eng., contract admin, and materials testing	
TOTAL FY 2025-2026			\$	562,000.00	\$	562,000.00		



**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 10C**



SPECIAL TRUNKLINE  
NON-ACT-51  
ADDED WORK

DA	
Control Section	NH 78022
Job Number	210856CON
Fed Project #	25A0105
Contract	24-5389

THIS CONTRACT is made by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF STURGIS, a Michigan municipal corporation, hereinafter referred to as the "CITY"; for the purpose of fixing the rights and obligations of the parties in agreeing to construction improvements in conjunction with the DEPARTMENT'S construction on Highway US-12, within the corporate limits of the CITY.

WITNESSETH:

WHEREAS, the DEPARTMENT is planning hot mix asphalt milling and resurfacing work along Highway US-12 from Highway M-66 to Franks Avenue; and

WHEREAS, the CITY has requested that the DEPARTMENT perform additional work for and on behalf of the CITY in connection with the Highway US-12 construction, which additional work is hereinafter referred to as the "PROJECT" and is located and described as follows:

Hot mix asphalt milling and resurfacing work of parking lanes along Highway US-12 from Jefferson Street and Monroe Street; together with necessary related work, located within the corporate limits of the CITY; and

WHEREAS, the DEPARTMENT presently estimates the PROJECT COST as hereinafter defined in Section 1 to be: \$48,500; and

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written Contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties shall undertake and complete the construction of the PROJECT in accordance with this Contract. The term "PROJECT COST", as herein used, is hereby defined as the cost of the construction of the PROJECT including the costs of physical construction necessary for the completion of the PROJECT as determined by the DEPARTMENT, construction engineering (CE), and any and all other expenses in connection with any of the above.

2. The cost of alteration, reconstruction and relocation, including plans thereof, of certain publicly owned facilities and utilities which may be required for the construction of the PROJECT, shall be included in the PROJECT COST; provided, however, that any part of such cost determined by the DEPARTMENT, prior to the commencement of the work, to constitute a betterment to such facility or utility, shall be borne wholly by the owner thereof.

3. The CITY will approve the design intent of the PROJECT and shall accept full responsibility for the constructed PROJECT functioning as a part of the CITY'S facilities. The CITY is solely responsible for any input which it provides as it relates to the design of the PROJECT functioning as part of the CITY'S facilities.

4. The DEPARTMENT will administer all phases of the PROJECT and will cause to be performed all the PROJECT work.

Any items of PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

5. The PROJECT COST shall be charged to the CITY 100 percent and paid in the manner and at the times hereinafter set forth. Such cost is estimated to be as follows:

PROJECT COST - \$48,500

The CE costs will be apportioned in the same ratio as the actual direct construction costs.

6. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT. The DEPARTMENT may submit progress billings to the CITY on a monthly basis for the CITY'S share of the cost of work performed to date, less all payments previously made by the CITY not including payments made for a working capital deposit. No monthly billings of a lesser amount than \$1,000 shall be made unless it is a final or end of fiscal year billing. All billings will be labeled either "Progress Bill Number \_\_\_\_\_", or "Final Billing". Payment is due within 30 days of receipt of invoice. Upon completion of the PROJECT, payment of all items of PROJECT COST and receipt of all Federal Aid, the DEPARTMENT shall make a final billing and accounting to the CITY.

The CITY will deposit with the DEPARTMENT the following amount which will be used by the DEPARTMENT as working capital and applied toward the end of the project for the contracted work and cost incurred by the DEPARTMENT in connection with the PROJECT:

DEPOSIT - \$19,400

The total deposit will be billed to the CITY by the DEPARTMENT and shall be paid by the CITY within 30 days after receipt of invoice.

7. Pursuant to the authority granted by law, the CITY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its

obligations as specified herein. If the CITY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the CITY of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, the DEPARTMENT is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the CITY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the CITY with payment thereof, and to notify the CITY in writing of such fact.

8. Upon completion of the PROJECT and sidewalk work, the CITY shall accept the facilities constructed as built to specifications within the construction contract documents. It is understood that the CITY shall own the facilities and shall operate and maintain the facilities in accordance with all applicable Federal and State laws and regulations, including, but not limited to, Title II of the Americans with Disabilities Act (ADA), 42 USC 12131 et seq., and its associated regulations and standards, and DEPARTMENT Road and Bridge Standard Plans and the Standard Specifications for Construction at no cost to the DEPARTMENT.

9. If, at any time in the future, the pavement for the parking lanes is required for trunkline purposes, the DEPARTMENT shall take over and use such extra width pavement without replacement of the facility or reimbursement to the CITY.

10. Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT pursuant to the terms of this Contract are done to assist the CITY. Such approvals, reviews, inspections and recommendations by the DEPARTMENT shall not relieve the CITY of its ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT is assuming any liability, control or jurisdiction.

When providing approvals, reviews and recommendations under this Contract, the DEPARTMENT is performing a governmental function, as that term is defined in MCL 691.1401 et seq., as amended, which is incidental to the completion of the PROJECT.

11. In connection with the performance of PROJECT work under this Contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this Contract. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

11. This Contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the CITY and for the DEPARTMENT; upon the adoption of a resolution approving said Contract and authorizing the signatures thereto of the respective officials of the CITY, a certified copy of which resolution shall be attached to this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed as written below.

CITY OF STURGIS

MICHIGAN DEPARTMENT  
OF TRANSPORTATION

By \_\_\_\_\_  
Title:

By \_\_\_\_\_  
Department Director MDOT

By \_\_\_\_\_  
Title:

## **APPENDIX A**

### **PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS**

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011



## **APPENDIX B**

### **TITLE VI ASSURANCE**

During the performance of this contract, the contractor, for itself, its assignees, and its successors in interest (hereinafter referred to as the “contractor”), agrees as follows:

1. **Compliance with Regulations:** For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contractor covers a program set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor’s obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:
  - a. Withholding payments to the contractor until the contractor complies; and/or
  - b. Canceling, terminating, or suspending the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011

## **APPENDIX C**

### **TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES**

#### **Assurance that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR 26.13)**

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:**

**The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).**

- B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:**

**The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.**

**City of Sturgis  
City Commission  
Regular Meeting**

**Agenda Item 10D**





**City of Sturgis**  
**St. Joseph County, Michigan**

**Lafayette Street Utility Extension**  
**Project #865000**

**BID SUMMARY**

<b>Bidder</b> (listed below from low to high)	<b>Total</b>
1. Parrish Excavating, Incorporated	\$636,803.70
2. Concord Excavating & Grading, Inc.	\$794,356.03



## RECOMMENDATION OF AWARD

December 10, 2024

Barry Cox, City Engineer  
City of Sturgis  
130 N. Nottawa  
Sturgis, MI 49091

**RE: Lafayette Street Utility Extension**

Dear Barry:

We have reviewed the bids received on November 25, 2024, for the above referenced project. Two bids were received, and the bid summary is attached.

The low bidder is Parrish Excavating, Incorporated of Quincy, Michigan with a bid amount of \$636,803.70.

Parrish Excavating has completed work for the City and is aware of the Project requirements.

Based on the above information, we recommend the award of the Lafayette Street Utility Extension project to Parrish Excavating, Incorporated with a bid amount of \$636.803.70.

Please feel free to call with any questions.

Sincerely,

FLEIS & VANDENBRINK ENGINEERING, INC.

Matt Johnson, P.E.  
Project Manager

Enclosure

City of Sturgis

City of Sturgis - Lafayette Street Utility Extension

BID TABULATION



Date 11/25/2024  
PM MGJ  
Project No. 865000

Item No.	Item Description	Unit	Estimated Quantity	Engineer's Estimate		Parrish Excavating, Inc.		Concord Grading	
				Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	General Conditions, Bonds and Insurance, Max 10%	Lsum	1	\$67,969.70	\$67,969.70	\$26,790.00	\$26,790.00	\$65,000.00	\$65,000.00
2	Trench Undercutting and Backfill	Cyd	100	\$25.00	\$2,500.00	\$51.80	\$5,180.00	\$35.00	\$3,500.00
3	San Sewer, 10 inch	Lft	1,300	\$45.00	\$58,500.00	\$74.40	\$96,720.00	\$135.00	\$175,500.00
4	Sanitary Lateral, 6 inch	Lft	180	\$60.00	\$10,800.00	\$88.80	\$15,984.00	\$47.50	\$8,550.00
5	Sanitary MH, 48 inch dia	Ea	3	\$3,750.00	\$11,250.00	\$4,957.00	\$14,871.00	\$8,200.00	\$24,600.00
6	Sanitary Manhole, Tap, 10 inch	Ea	1	\$600.00	\$600.00	\$675.00	\$675.00	\$850.00	\$850.00
7	Sanitary Sewer, Connect	Ea	1	\$1,200.00	\$1,200.00	\$395.00	\$395.00	\$1,200.00	\$1,200.00
8	Wye, 10 inch x 6 inch	Ea	3	\$300.00	\$900.00	\$265.00	\$795.00	\$550.00	\$1,650.00
9	Property Line Riser	Ea	3	\$900.00	\$2,700.00	\$62.00	\$186.00	\$1,100.00	\$3,300.00
10	Structure Cover, Adj, Case 2	Ea	1	\$500.00	\$500.00	\$425.00	\$425.00	\$725.00	\$725.00
11	Structure Cover, EJ 1045	Ea	3	\$1,500.00	\$4,500.00	\$1,601.00	\$4,803.00	\$850.00	\$2,550.00
12	Sign, Rem, Salv, Replace	Ea	2	\$50.00	\$100.00	\$139.00	\$278.00	\$250.00	\$500.00
13	Post, Steel, 3lb. Green	Ea	26	\$8.00	\$208.00	\$4.00	\$104.00	\$27.50	\$715.00
14	Turf Establishment	Syd	7,000	\$10.00	\$70,000.00	\$11.15	\$78,050.00	\$8.25	\$57,750.00
15	Pavt, Rem, Modified	Syd	2,350	\$20.00	\$47,000.00	\$7.50	\$17,625.00	\$4.50	\$10,575.00
16	HMA, 13A/4EL	Ton	600	\$125.00	\$75,000.00	\$95.55	\$57,330.00	\$101.50	\$60,900.00
17	HMA, 36A/5EL	Ton	300	\$135.00	\$40,500.00	\$99.75	\$29,925.00	\$110.50	\$33,150.00
18	Driveway, HMA	Lsum	10	\$150.00	\$1,500.00	\$1,357.00	\$13,570.00	\$1,350.00	\$13,500.00
19	Aggregate Base, 8 inch	Syd	2,350	\$15.00	\$35,250.00	\$12.25	\$28,787.50	\$15.75	\$37,012.50
20	Aggregate Base, 6 inch	Syd	30	\$20.00	\$600.00	\$28.00	\$840.00	\$22.75	\$682.50
21	Subbase, CIP	Cyd	800	\$25.00	\$20,000.00	\$44.40	\$35,520.00	\$26.50	\$21,200.00
22	Water Main, 12 inch	Lft	1,280	\$120.00	\$153,600.00	\$109.80	\$140,544.00	\$144.50	\$184,960.00
23	Water Main, 12 inch, Jacked in Place	Lsum	1	\$58,800.00	\$58,800.00	\$26,835.00	\$26,835.00	\$24,655.00	\$24,655.00
24	Fire Hydrant	Ea	3	\$7,000.00	\$21,000.00	\$4,925.00	\$14,775.00	\$8,300.00	\$24,900.00
25	Hydrant Lead	Lft	30	\$250.00	\$7,500.00	\$210.20	\$6,306.00	\$120.00	\$3,600.00
26	Tee, 12 Inch Run, 6 Inch Branch	Ea	3	\$1,200.00	\$3,600.00	\$965.00	\$2,895.00	\$2,600.00	\$7,800.00
27	Gate Valve and Box, 12 inch	Ea	1	\$4,000.00	\$4,000.00	\$3,745.00	\$3,745.00	\$4,300.00	\$4,300.00
28	Water Main, Connect	Ea	2	\$2,250.00	\$4,500.00	\$1,018.00	\$2,036.00	\$5,000.00	\$10,000.00
29	Water Service, Copper, 1 inch	Lft	36	\$50.00	\$1,800.00	\$69.70	\$2,509.20	\$65.00	\$2,340.00
30	Corp Stop, Curb Stop and Box, 1 inch	Ea	3	\$1,000.00	\$3,000.00	\$623.00	\$1,869.00	\$1,100.00	\$3,300.00
31	Driveway, Nonreinf Conc, 6 inch	Syd	19	\$6.00	\$114.00	\$161.00	\$3,059.00	\$72.50	\$1,377.50
32	Post, Mail box	Ea	3	\$250.00	\$750.00	\$165.00	\$495.00	\$175.00	\$525.00
33	Barricade, Type III, High Intensity, Lighted, Furn	Ea	3	\$100.00	\$300.00	\$73.50	\$220.50	\$140.00	\$420.00
34	Barricade, Type III, High Intensity, Lighted, Oper	Ea	3	\$5.00	\$15.00	\$5.30	\$15.90	\$7.00	\$21.00
35	Plastic Drum, Florescent, Furn	Ea	20	\$250.00	\$5,000.00	\$17.85	\$357.00	\$28.00	\$560.00
36	Plastic Drum, Florescent, Oper	Ea	20	\$5.00	\$100.00	\$1.05	\$21.00	\$2.20	\$44.00
37	Sign, Type B, Temp, Prismatic, Furn	Sft	113	\$135.00	\$15,255.00	\$4.20	\$474.60	\$4.75	\$536.75
38	Sign, Type B, Temp, Prismatic, Oper	Sft	113	\$135.00	\$15,255.00	\$1.00	\$113.00	\$0.06	\$6.78
39	Pavt Mrkg, Waterborne, 4 inch, white	Lft	2,000	\$5.00	\$10,000.00	\$0.84	\$1,680.00	\$0.80	\$1,600.00
Total:				\$756,166.70		Total	\$636,803.70	Total	\$794,356.03



**AMENDMENT NO. 04**

**TO THE**

**PROFESSIONAL SERVICES AGREEMENT**

**FLEIS & VANDENBRINK ENGINEERING, INC.**  
2960 Lucerne Drive SE, Grand Rapids, MI 49546  
(616) 977-1000 fax (616) 977-1005

The Professional Services Agreement ("PSA") entered into between Fleis & VandenBrink Engineering, Inc. ("Engineer") and **City of Sturgis**, whose address is **130 N. Nottawa, Sturgis, Michigan 49091**, ("Owner") dated November 11, 2024 including previous amendments, if applicable, is hereby amended.

**DESCRIPTION OF PROJECT AND SCOPE OF SERVICES:** The description of the Project ("Project") and the scope of services ("Services") provided under the PSA are amended as follows;

**E. Lafayette Street Utility Extension Construction Phase Services**

**AGREEMENT DOCUMENTS:** The following additional obligations are hereby included in the Agreement Documents, and are incorporated herein by reference;

Engineer's letter dated December 11, 2024

**COMPENSATION OF ENGINEER:**

The services to be provided under this Amendment shall be

An Hourly Rate with Estimated Fee contract with a budget of **\$89,300**, billed monthly based on the Work completed.

**TERMS AND CONDITIONS:** The Terms and Conditions of the PSA and amendments to date shall apply to all work performed by Engineer.

**ELECTRONIC/FACSIMILE SIGNATURES.** The signatures on this PSA shall be deemed to be original signatures when transmitted electronically or by facsimile machine or by any other medium. No party shall be required to produce a PSA with an original signature in order to enforce any provision of this PSA.

IN WITNESS WHEREOF, the parties hereto have made and entered into this Amendment to the PSA. To be valid, this Amendment must be signed by an authorized representative of Fleis & VandenBrink Engineering, Inc.

**OWNER**  
**CITY OF STURGIS**

**ENGINEER**  
**FLEIS & VANDENBRINK ENGINEERING, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: Regional Manager

DESIGNATED REPRESENTATIVE FOR AMENDMENT:

DESIGNATED REPRESENTATIVE FOR AMENDMENT:

By: Barry Cox, PE

By: Matt Johnson, PE

Title: City Engineering

Title: Project Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Sturgis Purchase Order No.: \_\_\_\_\_

F&V Vendor No.: 00776

December 11, 2024

*Via bcox@sturgismi.gov*

Barry Cox, City Engineer, PE  
130 N. Nottawa  
Sturgis, MI, 49091

**RE: MSA Amendment No. 04 – E. Lafayette Street Utility Extension Construction Phase Services.**

Dear Barry:

Fleis & VandenBrink (F&V) appreciates the opportunity to continue working with the City on this important utility extension project. We have assisted the City on many projects throughout the years and are excited to continue working with the City of Sturgis.

## PROJECT UNDERSTANDING

F&V assisted the City with design and bidding for the E. Lafayette Street Utility Extension project. Bids for the project were opened on November 25, 2024; with Parrish Excavating being the low bidder in the amount of \$636,803.70. F&V anticipates the City will award the construction contract to Parrish Excavating at the December 18, 2024, Board Meeting.

## SCOPE OF SERVICES

Services will include construction engineering services and resident project representative services.

### Construction Engineering Services

F&V shall perform the following tasks for the project:

- Submittals – Shop Drawings, Product Data, and Product Samples
  - F&V will provide support to review construction submittals including shop drawings, product cut sheets, and sample submittals for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed project as a functioning whole as indicated by the Contract Documents. Submittal requirements are based on the “Issued to Bid” set of Plans & Specifications. It is assumed no more than 2 reviews per submittal will be required. Such reviews and approvals or other actions will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto, and do not relieve the contractor from responsibility for verifying measurements or existing conditions in the field. Contractor’s submittal schedule shall be accepted by F&V in advance. In cases of conflict between Contract Documents and accepted submittal, Contract Documents take precedence unless a change is authorized.
- Requests for Information (RFI) – Clarification of Construction Documents
  - F&V will issue formal clarifications and engineering interpretation of the construction drawings and technical specifications (Construction Documents) to assist the Contractor in understanding the intent of the Construction Documents. Such clarifications and interpretations will be consistent with the intent of, and reasonably inferable from Contract Documents.

- Field Orders
  - In response to Contractor's requests, and subject to any limitations in Contract Documents, F&V may issue field orders authorizing minor variations of the Work from the requirements on Construction Documents. Minor variations are defined as such variations that will not alter the design concept or functionality of the Project as a whole system and will not increase construction line-item cost. Additional services beyond the limitations indicated within this scope shall require written authorization.
- Construction Staking
  - F&V will provide construction staking for the designed improvements. We have budgeted two trips to the site for staking.
- Project Records
  - F&V, through the Office and Onsite representatives, will provide record keeping of Project Construction Documents and will deliver Project records to the City in electronic format upon completion of the Project unless otherwise noted. F&V will:
    - Maintain record drawings and specifications and will furnish electronic portable document file (PDF) and Geographic Information System (GIS) Shapefile set of record drawings to the City. Contractor shall maintain and provide final and complete as-built conditions to produce record drawings.
    - Coordinate Project close-out and record keeping of important documents.
  - F&V will maintain project records of the following important documents and will transmit updated records at project closeout:
    - Important correspondences such as formal letters, notice of non- performance or underperformance, notice of concern, etc.
    - Notes of meetings and conference calls
    - Change orders, work change directives, field orders, modifications, addenda
    - Documents concerning unforeseen site conditions
    - General observation, and specific detail observation for major works such as observing major tests procedures.
    - RFIs, clarifications and interpretations of the Construction Documents
    - Shop Drawings
    - Product and sample submittals
    - Documents concerning required permits by regulatory agencies having jurisdiction over the Project.
    - Inspection reports performed by independent inspection agencies or special inspections.
  - F&V will compile records of the following Contractor-generated information, and will furnish updated records (when applicable):
    - Construction schedule, work breakdown schedule, progress schedule
    - Procurement schedule of major equipment and material
    - Contractor's daily activities reports and hours of operation on the Project site.
    - Contractor's routine QA/QC and inspection reports
    - On-site and off-site material testing results
    - Equipment inspection and testing reports
    - Extreme weather conditions reports
    - Changed conditions
    - Material log and chain of custody
    - Pre-Construction and Progress Meetings
  - F&V will perform engineering site visits to observe the progress of the work. We are budgeting two site visits.

- We have budgeted two F&V staff to attend the Pre-Construction Conference. F&V will:
  - Coordinate and schedule the meeting with City, Contractor, and other staff as appropriate.
  - Create an agenda and distribute minutes of the meeting to attendees
- F&V will coordinate progress meetings throughout the project. We have budgeted for three F&V staff (Two Engineers and an RPR) to attend three progress meetings throughout the project. F&V will prepare agenda's and distribute minutes.
- In general, deviations from Contract Documents require City and F&V approval. F&V will:
  - Reasonably assess and evaluate changes required by Contractor, City, or changes required as result of unforeseen site conditions, and will provide professional opinion after engineering determination.
  - As necessary, and when change order(s) is approved, modify construction documents and drawings.

### **Resident Project Representative (RPR) Services**

- F&V shall provide the services of Resident Project Representatives (RPRs) to provide observation of Contractor's work according to the following schedule to allow for an acceptable level of construction monitoring and oversight
  - One full-time (50 hr./weeks) RPR is assumed from June 4, 2025, to August 4, 2025 (8 weeks), monitoring onsite construction activities.
  - RPRs will conduct on-site general observation to assist F&V and the City in observing if Work generally complies with design intent, Construction Documents, and construction schedule.
  - RPRs will generally review adequate number of Contractor's routine testing results to assist the City in determining if Work complies with Construction Documents.
  - RPRs will inform the City when Contractor's work does not meet the requirements of tests, manufacturer requirements, or approvals required in Contract Documents to the extent possible. RPRs will advise Engineer of work that should be corrected, rejected, or uncovered for observation, or that requires special testing, inspection, or approval. It shall remain Contractor's responsibility to provide work and material in compliance with Contract Documents at all times.
  - RPRs will inform the City of any part of work-in-progress that does not comply with Construction Documents, or will not produce a completed project in general conformance with Contract Documents, or may imperil the integrity of the design concept as a functioning whole as indicated by Contract Documents
  - RPR will provide HMA density testing of the pavement.
  - The RPR will observe to the extent possible, and will compile and furnish to the City records, reports, and necessary details relative to the test procedures and inspections performed by Contractor.
  - The RPR shall not be responsible for coordinating Contractor's quality control, testing and inspection required by Contract Documents
  - Project Completion Coordination
    - RPR will assist the City and Contractor's QA/QC team to maintain deficiency punch list and will follow up with Contractor for timely correction of the deficiencies detected during construction.
    - After notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with the City and Contractor, F&V will visit the Project to determine if the Work is substantially complete and the deficiencies have been corrected satisfying the requirements of the Construction Documents. F&V will advise prior to the City issuing certificate of Substantial Completion (in parts or the entire Project)

## SCHEDULE

We discussed the contract and schedule with the Contractor. Our proposal is based on the following schedule.

December 18, 2024:	Award Construction Project
May 2025 :	Preconstruction Meeting
June 4, 2025 :	Start Construction
August 4, 2025 :	Substantially Complete Construction
June 1, 2025 :	Complete Final Construction
August 3, 2026 :	Closeout Contract

## BUDGET

We propose to complete the Scope of Services identified above on an **hourly fee contract with 1.1 times reimbursable expenses with an estimated fee of \$89,300.**

If the City concurs with our project understanding, scope of services, budget, authorization can be given to begin work by signing and returning the attached Amendment No. 4 to the Professional Services Agreement entered between the City and F&V, executed on August 29, 2024.

We look forward to working with you on this important assignment. Please call if you have any questions.

FLEIS & VANDENBRINK

Matt Johnson, PE  
Regional Manager

## Lafayette Utility Extension

			590 Sanitary		591 Water		TOTAL	
<b>Prior FY Costs</b>								<b>Notes</b>
<b>PROJECT COSTS</b>								
Design Engineering - Water Loop	Approved 5/12/21	\$	-	\$	5,500.00	\$	5,500.00	Part of Task Order #98 - FY 21-22
Design Engineering	Approved 1/24/24	\$	15,750.00	\$	15,750.00	\$	31,500.00	Task Order #15 - split 50/50
<b>TOTAL Prior FY Costs</b>		<b>\$</b>	<b>15,750.00</b>	<b>\$</b>	<b>21,250.00</b>	<b>\$</b>	<b>37,000.00</b>	
<b>FY 2024-2025</b>								<b>Notes</b>
<b>BUDGETED FUNDS</b>								
Collection - E. Lafayette Utility Extension		\$	187,000.00			\$	187,000.00	Budgeted amount
E. Lafayette Utility Extension				\$	327,000.00	\$	327,000.00	
<b>TOTAL BUDGETED FUNDS</b>			<b>\$187,000.00</b>		<b>\$327,000.00</b>	<b>\$</b>	<b>514,000.00</b>	
<b>PROJECT COSTS</b>			<b>53.6% of Total</b>		<b>46.4% of Total</b>			
Construction Award	Recommended 12/18/24	\$	341,326.78	\$	295,476.92	\$	636,803.70	Parrish Excavating
Contingency Budget	Recommended 12/18/24	\$	17,152.00	\$	14,848.00	\$	32,000.00	~ 5% of construction award
Construction Phase Engineering	Recommended 12/18/24	\$	47,864.80	\$	41,435.20	\$	89,300.00	PSA Amendment #4
<b>TOTAL FY 2024-2025</b>		<b>\$</b>	<b>406,343.58</b>	<b>\$</b>	<b>351,760.12</b>	<b>\$</b>	<b>758,103.70</b>	
<b>OVER (UNDER) BUDGET</b>		<b>\$</b>	<b>(219,343.58)</b>	<b>\$</b>	<b>(24,760.12)</b>			