

**ARTICLE XXI  
ARTICLE XXI HIGHWAY OVERLAY-  
ACCESS MANAGEMENT DISTRICT**

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**Section 21.01 Findings and Intent.**

Conditions along the major highways and roadways in Mason County are changing with increasing development and traffic. Continued development along US-31, NORTH OF US-10 AND ALL OF US 10, TO THE EAST COUNTY LINE (henceforth, the "corridor") will further increase traffic volumes and introduce additional conflict points which will erode traffic operations and increase potential for traffic crashes. Numerous published studies document the positive relationship between well-designed access management systems and traffic operations and safety. Those studies and the experiences of many other communities demonstrate that implementing standards on the number, placement and design of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for crashes while preserving a good business environment and the existing investment in the highway.

The Highway Overlay Access Management District is hereby established along US-31, NORTH OF US-10 AND ALL OF US 10, TO THE EAST COUNTY LINE. As such, a series of access management recommendations are embodied in the Access Management Plan. Among those recommendations are the creation of an overlay district along these highways within Mason County and the adoption of uniform access management standards by all the jurisdictions along the corridor which are based on the Michigan Department of Transportation access management standards and the Michigan Access Management Guidebook, provided to local governments by the Michigan Department of Transportation.

The provisions of this Section are intended to promote safe and efficient travel on state highways within Mason County; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the Comprehensive Plan and the Access Management Plan recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, the Mason County Road Commission, and adjoining jurisdictions, as applicable.

To these ends, the following provisions:

1. Establish a Highway Overlay District to regulate access points along the highway.
2. Identify additional submittal information and review procedures required for developments that require site plan review which front along the corridor.
3. Require demonstration that new parcels are accessible and in compliance with the access standards of this Ordinance to ensure safe accessibility as required by the Land Division Act.
4. Restrict lots and parcels to a single access point except under certain circumstances.
5. Require longer frontages or wider minimum lot widths than are required in underlying zoning districts to help achieve access management spacing standards;
6. Require coordinated access and shared driveways among adjacent lands wherever feasible;

7. Improve situations where existing development along the highways does not conform to the standards and intent of this Article.
8. Establish uniform standards to ensure fair and equal application.

### **Section 21.02 Applicability.**

The standards of this Section apply to all lots and parcels that abut the highway right-of-way of US-31, NORTH OF US-10 AND ALL OF US 10, TO THE EAST COUNTY LINE and such other lands that front on intersecting streets within three hundred fifty (350) feet along the corridor of the US-31, NORTH OF US-10 AND ALL OF US 10, TO THE EAST COUNTY LINE right-of-way within zoned areas under the jurisdiction of Mason County. This area is referred to as the Highway Overlay District. The standards of this Section shall be applied by the Planning Commission and the access management advisory committee during site plan review.

These regulations apply in addition to, and simultaneously with, the other applicable regulations of the Zoning Ordinance. Permitted and Special Land Uses within the Highway Overlay District shall be as regulated in the underlying zoning district (as designated on the zoning map), and shall meet all the applicable requirements for that district, with the following additional provisions:

1. The number of access points is the fewest needed to allow motorists reasonable access to the site.
2. Access spacing from intersections and other driveways shall meet the standards within the Highway Overlay District, and the guidelines of the applicable road agency (MDOT and/or Mason County Road Commission) and the recommendations of the Access Management Access Plan as appropriate.
3. Where an applicant shares access with adjacent uses, either now or in the future, any shared access and maintenance agreements must be recorded with the County Register of Deeds.
4. No building or structure, nor the enlargement of any building or structure, shall be erected unless the Highway Overlay District regulations applicable to the site are met and maintained in connection with such building, structure, or enlargement.
5. For a change of use, building or parking lot expansions, or site redevelopment (on parcels created prior to the enactment of this ordinance) that cannot meet the standards of this ordinance due to parcel size or configuration, the Planning Commission shall determine the extent of upgrades to bring the site into closer conformance with the access standards of this Highway Overlay District. In making its decision, the Planning Commission shall consider the existing and projected traffic conditions, any sight distance limitations, site topography or natural features, impacts on internal site circulation, characteristics of the affected land uses, recommendations within the corridor and Access Management Plan, and any recommendations from the MDOT, and/or Mason County access management advisory committee as appropriate. Required improvements may include removal, rearrangement or redesign of driveways or other access.
6. Where conflict occurs between the standards of this Ordinance and other applicable ordinances, the more restrictive regulations shall apply.

### **Section 21.03 Additional Site Plan Information.**

In addition to the information required in Section 18.03, the information listed below shall also be submitted for any lot or parcel within the Highway Overlay District.

1. Existing access points. Existing access points within 500 feet on either side of the corridor frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.

2. Surface type and dimensions for all existing and proposed driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and internal traffic signs), intersecting streets, and all curb radii within the site.
3. The site plan shall illustrate the route and dimensioned turning movements of any passenger vehicles as well as expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing of vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.
4. The applicant shall submit evidence indicating that the sight distance, driveway spacing and drainage requirements of the Michigan Department of Transportation or Mason County Road Commission are met.
5. Dimensions between proposed and existing access points on both sides of the highway or road (and median cross-overs if applicable now or known in the future).
6. Design dimensions and justification for any alternative or innovative access design such as frontage roads, rear access or service drives, or parking lot cross-access.
7. The location of all proposed snow storage from parking lots which must not interfere with clear sight distance when turning into or out of a site, or safely moving within a site.
8. Traffic impact analysis meeting the requirements of Section 18.12, where applicable.
9. The applicant shall submit evidence indicating that the drainage standards from the Mason County Drain Commissioner are met.

#### **Section 21.04 Review and Approval Process.**

1. The review and approval process for the Highway Overlay district shall be addressed through the site plan approval process in Article 18.
2. The Zoning Administrator shall obtain comments from the access management advisory committee. Comments shall be provided to the Planning Commission for their site plan deliberation.

#### **Section 21.05 Access.**

1. All land in a parcel or lot registered with the County Register of Deeds or which has been approved through the Land Division process as described in MCL 560.101, *et seq.*, as of the effective date of the amendment adding this section to the ordinance, that shares a lot line for less than six hundred (600) feet with right-of-way on the corridor shall be entitled to reasonable access from said public road or highway, unless hereafter shared access or alternative access is provided to that parcel.
  - a. All subsequent land divisions of a parent parcel, shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel on the effective date of this amendment.
  - b. Parcels subsequently divided from the parent parcel, either by metes and bounds descriptions, or as a plat under the applicable provisions of the Land Division Act, Public Act 288 of 1967, as amended, or developed as a condominium project in accord with the Condominium Act, Public Act 59 of 1978, as amended, shall have access by a platted subdivision road, by another public road, by an approved private road, frontage road or rear service drive as appropriate.
2. Parent parcels with more than six hundred (600) feet of frontage on a public road or highway shall also meet the requirements of this section, except that whether subsequently divided or not, they are entitled to not more than one additional driveway for each six hundred (600) feet of public road frontage thereafter, unless a registered traffic engineer determines to the satisfaction of the Planning Commission and the Michigan Department of Transportation that topographic conditions on the site,

curvature on the road, and sight distance limitations all demonstrate an additional driveway within a lesser distance is safer or the nature of the land use to be served requires an additional driveway for improved safety.

#### **Section 21.06 Applications.**

1. After site plan approval, applications for driveway or access approval shall be made on a form prescribed by and available at the Michigan Department of Transportation and Mason County Road Commission as applicable. A copy of the completed form submitted to the applicable road authority shall be submitted to the Zoning Administrator as well. Such applications shall only be submitted in conjunction with or after site plan approval.
2. Applications for all uses requiring site plan review shall meet the submittal, review and approval requirements of Article 18 and, in addition to the required information of Section 21.03, the Planning Commission may require the following improvements (with comment from the access management advisory committee):
  - 1) Shared driveways.
  - 2) Cross access agreements
  - 3) Service drives: front and/or rear.
  - 4) Parking lot connections with adjacent property.
  - 5) Deceleration lanes.
  - 6) Other appropriate designs to limit access points on an arterial or collector including but not limited to relocation of driveways, closing driveways or consolidating driveways.

#### **Section 21.07 Change of Use Also May Require New Driveway.**

When a building permit is sought for the reconstruction, rehabilitation or expansion of an existing site or a zoning or occupancy certificate is sought for use or change of use for any land, buildings, or structures, all of the existing, as well as proposed driveway approaches and parking facilities shall comply, or be brought into compliance, with all design standards as required by this ordinance, the Michigan Department of Transportation and/or the Mason County Road Commission as applicable.

#### **Section 21.08 Closing of Driveways.**

Application to construct or reconstruct any driveway entrance and approach to a site shall also cover the reconstruction or closing of all nonconforming or unnecessary entrances and approaches to the same site at the expense of the property owner.

#### **Section 21.09 Access Management Standards**

No road, driveway, shared access, parking lot cross-access, service road, or other access arrangement to all lots and parcels within the Highway Overlay District shall be established, reconstructed or removed without first meeting the requirements of this Section.

1. Each lot/parcel of record as of the adopting of this District with highway frontage on the corridor shall be permitted reasonable access. This access may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. In determining access, the Planning Commission shall seek the recommendation of the access management advisory group.

2. When alternatives to a single, two-way driveway are necessary to provide reasonable driveway access to property fronting on the corridor and shared access or a service drive are not a viable option, the following progression of alternatives should be used:
  - a. Additional ingress/egress lanes on one (1) standard, two-way driveway;
  - b. Two (2), one-way driveways;
  - c. Additional ingress/egress lanes on two (2), one-way driveways;
  - d. Additional driveway(s) on an abutting street with a lower functional classification;
  - e. Additional driveway on arterial street.
  
3. Driveways and new intersecting streets shall provide the following spacing from other access points along the same side of the public street (measured from centerline to centerline of each access point), based on the posted speed limit along the public street segment, unless the appropriate road authority approves closer spacing based on the land use characteristics, lot size, and/or restricted turns in the driveway design.

**TABLE 21-1  
DRIVEWAY SPACING ACCORDING TO SPEED LIMIT**

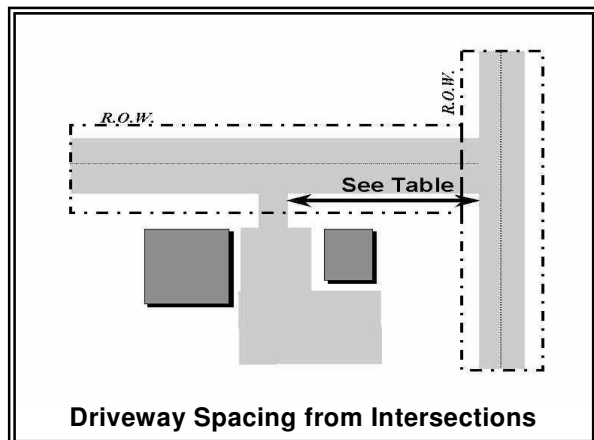
Posted Speed Limit	Along the corridor*	Along Other Intersecting Primaries	Along all Other Intersecting Streets
35 mph or less	245 ft.	245 ft.	150 ft.
40 mph	300 ft.	300 ft.	185 ft.
45 mph	350 ft.	350 ft.	230 ft.
50 mph	455 ft.	455 ft.	275 ft.
55 mph	455 ft.	455 ft.	350 ft.

\* Unless greater spacing is required by MDOT and/or the Mason County Road Commission.

4. Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential outlots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.
  
5. Driveways or new intersecting streets along sections of the corridor with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards.

**FIGURE 21-1  
DRIVEWAY DISTANCE FROM INTERSECTING STREETS**

6. Driveways and new intersecting streets shall be aligned with driveways on the opposite side of the street or offset a minimum of 250 feet, centerline to centerline wherever feasible. The Planning Commission may reduce this to not less than 150 feet where each of the opposing access points generates less than 50 trips (inbound and outbound) during the peak hour of the public street or where sight distance limitations exist, or shall rely on the best option identified by MDOT.



7. Minimum spacing of driveways from intersections shall be in accordance with the table below (measured from pavement edge to pavement edge) unless MDOT authorizes a lesser spacing:

**TABLE 21-2  
MINIMUM SPACING OF DRIVEWAYS FROM INTERSECTIONS**

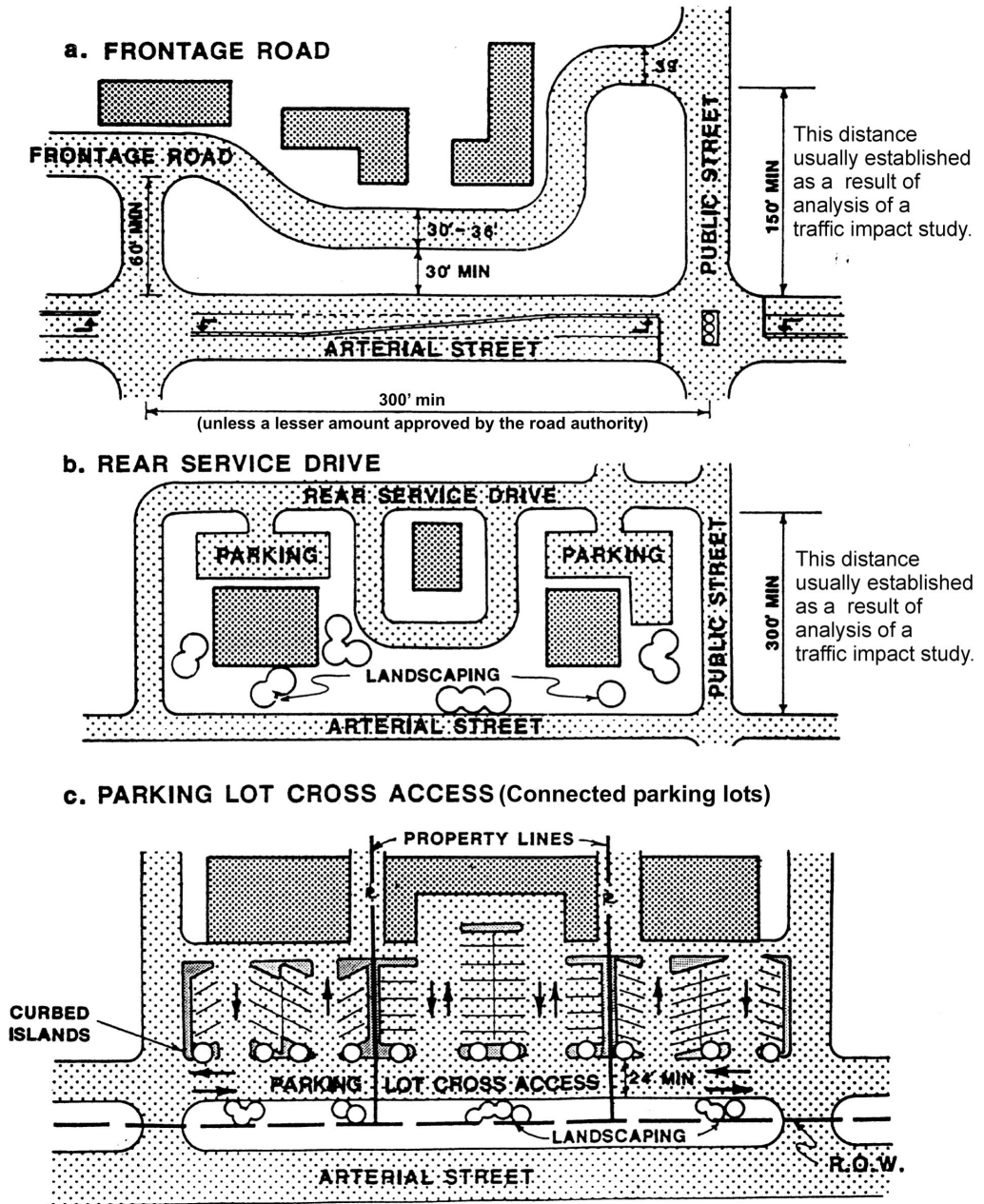
<b>Signalized Locations*</b>	<b>Distance in Feet</b>	<b>Unsignalized Locations</b>	<b>Distance in Feet</b>
Along the corridor	300	Along the corridor	300
Along other public streets	200	Intersections intersecting the corridor	300
		Other intersections	150

\* Spacing for signalized intersections shall also be applied at intersections where MDOT and/or the Mason County Road Commission indicates that spacing and approach volumes may warrant a signal in the future.

8. Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized intersections, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.
- 9.
- a. Sharing or joint use of a driveway by two or more property owners may be required. In cases where access is restricted by the spacing requirements of this section a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement recorded with the County Register of Deeds is provided which allows traffic to travel across one parcel to access another, and/or access the public street.
  - b. In cases where a shared access facility is recommended, but is not yet available, temporary direct access may be permitted, provided the site plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This shall require posting of a performance guarantee to cover the cost of removing the temporary driveway if the applicant or then owner does not remove the temporary driveway once a permanent driveway is established.
10. Frontage roads or service drives (see Figure 21-1) shall be designed, constructed and maintained in accordance with the following standards:
- a. Location - Frontage roads or service drives shall generally be parallel to the front property line and may be located either in front of, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the Planning Commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.
  - b. Alignment - The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This determination may require use of aerial photographs, property line maps, topographic information and other supporting documentation.
  - c. Setback - Service drives and frontage roads shall be set back as far as reasonably possible from the intersection of the access driveway with the public street. A minimum of thirty (30) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum sixty (60) feet of throat depth provided at the access point. The access point location shall conform with all the applicable standards of this Ordinance.
  - d. Access Easement - A frontage road or service drive shall be within an access easement permitting traffic circulation between properties. The easement shall be recorded with the County

Register of Deeds. In a Commercial District a frontage road or service drive shall have a minimum pavement width of twenty-four (24) feet, measured face to face of curb with an approach width of thirty-six (36) feet at intersections. The frontage road or service drive shall be constructed to meet Mason County Road Commission standards for base and thickness of asphalt or concrete. In a residential district, a frontage road shall be a minimum of 20'. Curbing and asphalt are not required but construction design shall meet the standards of the Mason County Road Commission and the Mason County Drain Commission.

**FIGURE 21-1  
FRONTAGE ROADS AND SERVICE DRIVES**



- e. Service Drive Maintenance - No service drive shall be established on existing public right-of-way. The service drive shall be a public street (if dedicated to and accepted by the public), or a private road maintained by the adjoining property owners it serves who shall enter into a formal agreement for the joint maintenance of the service drive. This agreement shall be approved by the applicant, approved by the county attorney and recorded with the deed for each property it serves by the County Register of Deeds. If the service drive is a private road, the County shall reserve the right to make repairs or improvements to the service drive and charge back the costs directly or by special assessment to the benefiting landowners if they fail to properly maintain a service drive.
- f. Landscaping - Landscaping along the service drive shall conform with the requirements of Section 3.04, 3.13 and 3.14 of the Ordinance.
- g. Parking Areas shall be delineated and separated from service drives and shall not be used for loading spaces.
- h. Pavement markings shall be provided to promote safety and efficient circulation. The property owner shall be required to maintain all pavement markings. All directional signs and pavement markings along the service drive shall conform with the current Michigan Manual of Uniform Traffic Control Devices.
- i. Assumed Width of Pre-existing Service Drives - Where a service drive in existence prior to the effective date of this provision has no recorded width, the width will be considered to be forty (40) feet for the purposes of establishing setbacks and measured an equal distance from the midpoint of the road surface.
- j. Pedestrian and Bicycle Access - Separate, safe access for pedestrians and bicycles shall be provided on a sidewalk or paved path that generally parallels the service drive unless alternate and comparable facilities are approved by the Planning Commission.
- k. Roads not parallel with the main roadway shall have a designated name on a sign meeting the standards for emergency services and the Mason County Road Commission.
- l. Pre-existing Conditions - In the case of expansion, alteration or redesign of existing development, where it can be demonstrated that pre-existing conditions prohibit installation of a frontage road or service drive in accordance with the aforementioned standards, the Planning Commission may permit alternative cross access between adjacent parking areas through the interconnection of main circulation aisles or as rear access.
- m. All cross access areas shall be clearly defined with islands, curbing, landscaping and signage, as deemed necessary to delineate the edges of the route to be used by through traffic.

**Section 21.10 Inspection.**

The Zoning Administrator or designated staff shall inspect the driveway and any other required access elements during construction and following construction for conformance with the approved site plan prior to allowing occupancy. The Zoning Administrator may consult with MDOT and/or the County Road Commission as applicable, prior to making a determination of conformance or nonconformance with an approved application.



**ARTICLE XXII  
REGULATION OF CONDOMINIUM DEVELOPMENTS**

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**Section 22.01 Application.**

The following regulation shall apply to all condominium developments within Mason County and under County Zoning.

**Section 22.02 General Requirements.**

All condominium developments within Mason County shall be subject to all density requirements and standards of the applicable zoning district, except as specifically provided herein. All condominium developments shall also be serviced by a public water supply and public sanitary sewage system where available.

**Section 22.03 Initial Information.**

1. Concurrent with the notice required to be given Mason County, pursuant to Section 71 of PA of 1978, as amended (the Condominium Act), a person, firm, corporation intending to develop a condominium development in the County shall provide the following information:
  - a. The name, address, and telephone number of:
    - 1.) All person, firms, or corporations with, and ownership interest in, the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee).
    - 2.) All engineers, attorneys, architects, or registered land surveyors associated with the project.
    - 3.) The developer or proprietor of the condominium development.
  - b. The legal description of the land on which the condominium development will be developed together with any proposed expansion plans and appropriate tax identification numbers.
  - c. The acreage of the land on which the condominium development will be developed.
  - d. The purpose of the development (for example, residential, commercial, industrial, etc.)
  - e. Approximate number of condominium units to be developed on the subject parcel.
  - f. Whether or not a public water system is contemplated.
  - g. Whether or not a public sewer system is contemplated.

**Section 22.04 Information to be Kept Current.**

The information shall be furnished to the Zoning Administrator and shall be kept updated until such time as a zoning permit has been issued.

**Section 22.05 Site Plans for New Projects.**

Prior to recording of the Master Deed required by Section 72 of PA 59 of 1978, as amended, the condominium development shall undergo site plan review and approval pursuant to Article XVIII of this

Ordinance. In addition, the County shall require appropriate engineering plans and inspections prior to the issuance of any Certificate of Zoning Compliance.

**Section 22.06 Site Plans for Expandable or Convertible Project.**

Prior to expansion of or conversion to a condominium development, the project shall undergo site plan review and approval pursuant to Article XVIII of this Ordinance. As part of the site plan review record, it shall be recognized that the development may be nonconforming with current zoning regulations

**Section 22.07 Master Deed, Restrictive Covenants, and "As Built" Survey.**

The condominium development developer or proprietor shall furnish Mason County with the following: two (2) certified copies of the Master Deed, two (2) copies of all restrictive covenants, and two (2) copies of an "as built" survey. One (1) copy of each of the above shall be provided to the County Zoning Administrator and one (1) copy to the Mason County Assessor. The "as built" survey shall be reviewed by the Zoning Administrator for compliance with County Ordinances. Fees for this review shall be established by resolution of the County Board of Commissioners. One element of these documents shall be the manner of open space maintenance.

**Section 22.08 Monuments Required.**

1. All condominium developments, which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites, shall be marked with monuments as provided in this subsection. All work shall be accomplished by a registered surveyor.
  - a. All monuments used shall be made of solid iron or steel bars at least one-half inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
  - b. Monuments shall be located in the ground at all angles in the boundaries of the condominium development; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium development; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
  - c. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.
  - d. If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof will be clearly indicated on the plans and referenced to the true point.
  - e. If a point required to be monumented is on bedrock outcropping, a steel rod, at least one half inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
  - f. All required monuments shall be placed flush with the ground where practicable.
  - g. All units, corners, and the intersection of all limited common elements and all common elements shall be monumented by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half inch in diameter, or other approved markers.
  - h. The Planning Commission may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the County Treasurer cash or a certified check, or irrevocable bank letter of credit to Mason County, whichever the proprietor selects in an amount to be established by the County Board of

Commissioners. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

**Section 22.09 Compliance with Federal, State, and Local Law.**

All Condominium developments shall comply with federal and state statutes and local ordinances.

**Section 22.10 Occupancy of Condominium Development.**

The Planning Commission may allow occupancy of the condominium development before all improvements required by this Ordinance are installed provided that cash, a certified check, or an irrevocable bank letter of credit is submitted in an amount approved by the County Board of Commissioners sufficient to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the County.

**Section 22.11 Single-family Detached Condominiums.**

1. Single-family detached condominium developments shall be located in a residential district and shall be subject to all requirements and standards of the applicable residential district.
2. Single-family detached condominium project shall be subject to the requirements of Mason County, as provided by the Mason County Zoning Ordinance.
3. Roadways within a single-family condominium project shall be constructed in accordance with minimum road standards approved by the County Road Commission. Such minimum standards shall be designed to permit access by residents and public safety vehicles at all times.
4. The natural features and character of lands must be preserved wherever possible. Due regard must be shown for all natural features such as large trees, natural groves, water courses, and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate protection, where appropriate, shall be required.
5. Walkways shall be installed in all single-family detached condominium developments. Such walkways shall be a minimum of three (3) feet in width and be so located as to provide access to all general common areas. Upon review of the site plan, the Planning Commission may approve alternate locations for the walkways or may waive the walkway requirement if it would not serve the purpose of providing adequate pedestrian circulation.
6. All unimproved surface area of the site shall be planted with grass, ground cover, shrubbery, or other suitable landscape materials, except that patios, terraces, decks, and similar site features may be allowed.
7. Utilities
  - a. An adequate storm drainage system including necessary storm sewers, catch basins, manholes, culverts, bridges, and other appurtenances shall be required in all developments.
  - b. A sanitary sewer system shall be required as regulated by the State of Michigan.
  - c. A water supply system shall be required as regulated by the State of Michigan.
  - d. The proprietor shall make arrangements for all lines for telephone, electric, television, and other similar services distributed by wire or cable to be placed underground entirely throughout the development area. Such conduits or cable shall be placed within easements of record provided to such service companies by the developer or within dedicated public ways. Overhead lines may be permitted upon written recommendation of the Zoning Administrator and the approval of

the Planning Commission at the time of site plan approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare, design, and character of the development.

- e. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All drainage and underground utility installations which traverse privately held property shall be protected by easements granted by the proprietor.

**ARTICLE XXIII  
PLANNED UNIT DEVELOPMENT DISTRICT**

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**Section 23.01 Intent.**

The planned unit development (PUD) provisions of this Ordinance are intended to allow flexibility in the design of residential neighborhoods to encourage the conservation of natural features such as, but not limited to, woodlots, slopes, meadows, floodplains, and wetland areas and achieve economies of design related to vehicular and pedestrian circulation ways, utility construction, and dwelling unit siting. This Article provides for a mix of housing types provided that the overall project density does not exceed the density permitted by the underlying zoning district, based on the formula provided by this Article. Further, under certain circumstances and based on a comprehensive plan for the entire development, this Section allows for a mix of residential and compatible non-residential uses oriented toward the planned unit development residents but not exclusively for the residents of the planned unit development.

**Section 23.02 Application of Planned Unit Development Provisions.**

1. **Minimum Parcel Criteria:** The provisions of this Article may be applied to any parcel of land twenty (20) acres or greater, located in any zoning district which allows residential development, and is under single ownership and for which an application for a planned unit development is made as provided herein. In addition to the required residential land area, property zoned for commercial use, which is under the same ownership as the aforementioned residentially zoned property, may be included as a part of the overall planned unit development proposal.
2. **Exceptions to Minimum Parcel Criteria:** Notwithstanding the provisions of Section 23.02.1., an application for a planned unit development on a parcel of land of less than twenty (20) acres may be submitted if the Planning Commission finds, based upon information provided by the landowner, that the minimum area requirement should be waived because a planned unit development is in the public interest and that one (1) or more of the following conditions exist:
  - a. The parcel of land, or the neighborhood in which it is located, has an unusual physical feature(s) that will be conserved by employing the provisions of this Article;
  - b. The parcel of land has a historical character of importance to the County that will be protected by employing the provisions of this Article; or
  - c. The parcel of land is adjacent to, or across the road from, a parcel which has been developed as a planned unit development and such will contribute to the maintenance of the amenities and values of the neighboring development.
3. **Application Criteria:** An applicant for planned unit development must demonstrate all of the following:
  - a. Application of the planned unit development provisions will result in one of the following:
    - 1.) A recognizable and material benefit to the future residents of the project as well as the community, where such benefit would otherwise be unfeasible or unlikely without application of the planned unit development provisions; or
    - 2.) The long-term conservation of natural features and the environmental character to the County will be achieved; or
    - 3.) A nonconforming use shall be rendered more conforming to the zoning district in which it is situated.

- b. The proposed type and density of use shall not result in an unreasonable increased burden upon public services, facilities, and/or utilities in comparison to the use or uses otherwise permitted by the underlying zoning district.
- c. The proposed planned unit development shall not result in any unreasonable negative economic impacts on the surrounding properties.

**Section 23.03 Design Standards.**

1. A planned unit development proposal shall be consistent with the statement of purpose of this Article as well as the following general standards for the use of land, the type, bulk, design, and location of buildings, the density of use, common open space and public facility requirements, and the development of geographic divisions of the site.
  - a. Residential Dwellings: The plan may provide for a variety of permanent housing types, including both detached and attached single-family dwellings, manufactured homes, and multiple-family dwellings, but not mobile homes, as herein defined. Single-family attached dwelling and cluster housing can be used as a means of conserving natural features and providing additional common open space.
  - b. Permitted Residential Density: The permitted residential density shall be determined based on the maximum density permitted by the underlying zoning district, as modified by the following formula:
    - 1.) Gross parcel area minus the area occupied by proposed or existing dedicated public rights-of-way, and minus eighty (80) percent of the area occupied by any wetlands, and floodplain areas. The resulting land area shall be divided by the minimum lot size of the underlying zoning district to establish the maximum number of permitted dwelling units.
    - 2.) The minimum permitted lot size for a detached single-family dwelling in areas not served by public sewer and water shall be determined by the Mason County Health Department standards. The minimum permitted lot size for a detached single-family dwelling in areas served by public sewer and water shall not be less than eleven-thousand (11,000) square feet.
  - c. Common Open Space: All planned unit developments shall maintain a minimum of fifty (50) percent of the parcel as common open space which is readily accessible and available to the residents of the planned unit development. A portion of the common open space requirement may be fulfilled by wetland, floodplain, and/or open water areas, provided that not more than twenty-five (25) percent of the designated common open space area is wetland area, floodplain area, and/or open water.
  - d. Educational and Recreational Uses: Both public and private nonresidential uses of an educational or recreational nature, including but not limited to golf courses, tennis clubs, swim clubs, riding stables, and necessary accessory uses and structures, designed as an integral part of the overall planned unit development, may occupy appropriate portions of the site. The area so occupied may be applied, at the discretion of the Planning Commission, to satisfy a percentage of the total common open space requirement. Developed recreational uses such as tennis clubs, swim clubs, riding stables, and the like, may be used to satisfy twenty-five (25) percent of the common open space requirement. Golf courses may be used to satisfy up to sixty (60) percent of the common open space requirement, provided such use is integrated into the overall development.
  - e. Commercial Uses: Commercial uses together with such other uses deemed consistent with the overall development plan, may occupy up to ten (10) percent of the gross area.
    - 1.) The following commercial uses may be permitted within a planned unit development:

- a.) Professional offices including but not limited to the offices of a lawyer, accountant, insurance agent, real estate broker, architect, engineer, doctor, dentist, or similar occupation.
  - b.) Banks, credit unions, savings and loan associations, and similar financial institutions.
  - c.) Retail businesses which supply commodities on the premises such as, but not limited to, groceries, meats, dairy products, baked goods, drugs, dry goods, clothing, notions, hardware, books, and similar establishments.
  - d.) Personal service establishments which perform services on the premises such as but not limited to repair shops (watches, electronics, shoes, etc.), tailor shops, beauty parlors, barber shops, photographic studios, and dry cleaners.
- 2.) Adjacent property which is zoned commercial and included as part of the planned unit development proposal shall not be subject to this subsection.
  - 3.) Planned commercial uses shall be accessed by public roads and sited in such a manner as to not encourage through traffic within the planned unit development or adjacent residential areas.
  - 4.) Approval of commercial uses shall be dependent upon the market potential or demand for the uses in the area. The developer shall submit sufficient evidence to justify the need for commercial uses within the planned unit development.
- f. Off-Street Parking and Loading: Off-street parking and loading/unloading spaces shall be provided in accordance with Article XIX of this Ordinance.
  - g. Other Site Improvements: Signage, lighting, landscaping, exterior building materials, and other features of the project shall be designed and constructed with the objective of creating an integrated and controlled development, consistent with the character of the community, the surrounding developments, and the site's natural features.
  - h. Perimeter Setback and Buffering: The proposed location and arrangement of structures shall not be materially detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood. There shall be a perimeter setback and landscaping and/or berming, as recommended by the Planning Commission, for the purpose of buffering the adjacent properties from the planned unit development. The setback distance and buffering treatment need not be uniform at all points on the perimeter of the development.
  - i. However, in cases where nonresidential uses in the planned unit development are adjacent to residentially zoned property, such uses shall be visually screened by a landscape berm, evergreen screen, or a decorative wall.
  - j. Phasing: Each residential development phase shall be designed to stand alone and provide a residential environment which is compatible with the surrounding existing development. Deviations from the number of dwelling units per acre established for the entire planned unit development may be permitted within certain development phases as long as the number of dwelling units authorized per acre is not affected. Further, each development phase shall be designed to provide a proportional amount of common open space in each proposed phase.
  - k. A minimum of fifty (50) percent of the total number of residential dwelling units in any planned unit development must be constructed and be ready for sale prior to the construction of any commercial portion of the planned unit development, except that site grading, road construction, and utility installations related to the commercial portions of the planned unit development may be

undertaken concurrent with the development of residential units and public or private recreation uses. However, based on supportive evidence provided by a professional market study, the Planning Commission may authorize the construction of commercial uses prior to the completion of fifty (50) percent of the total number of residential dwelling units.

- l. **Planned Unit Development Agreement:** The plan shall contain such proposed covenants, deed restrictions, easements, and other provisions relating to the bulk, location, and density of such residential units, nonresidential uses and public facilities, and provisions for the ownership and maintenance of the common open space as are necessary for the welfare of the planned unit development and are not inconsistent with the best interests of the County. Said covenants, deed restrictions, easements, and other provisions, which are a part of the plan as finally approved, may be modified, removed, or released only in accordance with regulations and standards as may be subsequently set forth by the Planning Commission. The enforcement of covenants, deed restrictions, and easements shall be carried out by an association formed by the residents of the planned unit development. Further, the bylaws of such association shall provide for the assessment of fees to finance enforcement actions undertaken by the association. This agreement shall include a provision that the County does have the right to enforce the deed restrictions and covenants.
- m. The landowner shall make such easements, covenants, and other arrangements, and shall furnish such performance guarantees, as may be required, to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of proposed development before completion.
- n. **Land Division Requirements:** All portions of the planned unit development, including single-family lots, multiple-family dwellings, commercial areas, and public and private recreational uses, and common open space areas shall be platted in conformance with the requirements of the State of Michigan Subdivision Control Act, PA 288 of 1967, as amended, and with this ordinance; or prepared in conformance with the requirements of the State of Michigan Condominium Act, PA 59 of 1978 and the condominium provisions of this Ordinance.

#### **Section 23.04 Procedure for Review and Approval.**

##### **1. Optional Conceptual Planned Unit Development Submittal.**

An applicant for planned unit development approval may prepare a conceptual planned unit development submittal to provide the Planning Commission with a general overview of the proposed planned unit development. The conceptual submittal shall be processed in accordance with the following procedures.

- a. The applicant shall provide twenty (20) copies of the conceptual submittal to the Zoning Administrator at least fourteen (14) days prior to the meeting at which the submittal is to be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the conceptual submittal on the Planning Commission's agenda. If the submittal is not complete, the Zoning Administrator shall return the application with a letter detailing the deficiencies.
- b. The following minimum information must be provided as part of the concept submittal.
  - 1.) Statement of purpose, objectives, and development program including:
    - a.) Discussion of the rationale for employing the planned unit development provisions rather than developing the project conventionally.
    - b.) Total project area.



- c.) Description of existing site characteristics.
  - d.) Description of proposed character of the development.
  - e.) Densities, areas and setbacks for various residential types.
  - f.) Area and percent of developed and undeveloped open spaces.
  - g.) Discussion of proposed means of serving the development with water, sanitary waste disposal, and storm water drainage.
  - h.) Proposed project phasing and estimated timing schedule by phase to completion.
  - i.) Statement of anticipated impact on natural features, public facilities, and services such as but not limited to police and fire protection, roads, and schools.
  - j.) Overall map at a minimum scale of one (1) inch equals two-thousand (2,000) feet showing the relationship of the proposed planned unit development to its surroundings, including section lines, parcel boundaries, major roads, collector streets, among other landmarks.
  - k.) Generalized graphic depiction at a scale of one (1) inch equals two-hundred (200) feet showing the following:
    - i. Major access roads serving the site, including rights-of-way widths, and existing and proposed road surfacing.
    - ii. Existing utility lines including sanitary sewer, storm sewer, water main, and gas and electric service.
    - iii. Existing adjacent land uses and structures within two-hundred (200) feet of the proposed planned unit development boundary.
    - iv. Proposed internal pedestrian and vehicular circulation system.
    - v. Areas to be developed for residential, commercial, recreational, and common open space uses and structure locations.
    - vi. Areas to be preserved in a natural state.
    - vii. Other data or graphics which will serve to further describe the proposed planned unit development.
- c. The Planning Commission shall review the concept plan with the applicant, shall inform the applicant of the County's development policies, and shall make comments and suggestions about the proposed concept plan. The Planning Commission may refer appropriate portions of the submittal to the County Attorney and appropriate County agencies for review and comment, prior to making comments and suggestions to the applicant. The Planning Commission shall report the final results of this review in writing to the County Board of Commissioners.
2. Preliminary Planned Unit Development Submittal, a preliminary planned unit development submittal shall be processed in accordance with the following procedures:
- a. The applicant shall provide twenty (20) copies of the preliminary planned unit development submittal to the Zoning Administrator at least fourteen (14) days prior to the meeting at which the submittal is to be presented. The Zoning Administrator shall review the submittal to determine

that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the preliminary submittal on the Planning Commission's agenda. If the application is not complete, the zoning administration shall return the application with a written statement of deficiencies.

- b. The following minimum information must be provided by the preliminary planned unit development submittal. If the applicant did not prepare a conceptual submittal, the preliminary planned unit development submittal shall also include the information required in that submittal.

#### Existing Site Features

- 1.) An overall area map at a scale of not less than one (1) inch equals two-thousand (2,000) feet showing the relationship of the planned unit development to its surroundings such as section lines and/or major roads or collector streets.
- 2.) Physical development plan prepared at a minimum scale of one (1) inch equals one-hundred (100) feet.
- 3.) Boundaries of proposed planned unit development, section or corporation lines within or adjacent to the tract, and overall property dimensions.
- 4.) Property lines of adjacent tracts of subdivided and un-subdivided land shown in relation to the proposed planned unit development site, including those of areas across abutting roads.
- 5.) Location, widths, and names of existing or prior platted streets and private streets, and public easements within or adjacent to the proposed planned unit development site, including those located across abutting roads.
- 6.) Location of existing sewers, water mains, storm drains, and other underground facilities within or adjacent to the proposed planned unit development site.
- 7.) Topography drawn at a two (2) foot contour interval. Topography must be based on United States Geologic Survey (USGS) datum and be extended a minimum distance of two-hundred (200) feet outside the proposed planned unit development boundaries.
- 8.) Layout of internal roads indicating proposed road names, right-of-way widths, and connections to adjoining platted roads, and also the widths and location of alleys, easements, and pedestrian ways.
- 9.) Layout, numbers, and dimensions of single-family lots, including building setback lines.
- 10.) Layout of proposed multiple-family dwellings, including setbacks, buildings, drives, parking spaces, pedestrian ways, and landscaping.
- 11.) Location and function of both developed and undeveloped open spaces, as well as the layout of facilities to be included on developed open spaces.
- 12.) Depiction of major wooded areas and description of means to be employed to preserve them.
- 13.) An indication of ownership and existing and proposed use of any parcels identified as "excepted."
- 14.) An indication of the proposed sewage, water supply, and storm drainage system. If county drains are involved, the proposed drainage shall be acceptable to the Mason County Drain Commissioner.

15.) Conceptual site grading and conceptual landscaping plans.

16.) Depiction of proposed development phases.

17.) Architectural renderings of typical structures and landscape improvements, in detail sufficient to depict the basic architectural intent of the improvements.

18.) Tabulations

a.) Total site acreage and percent of total project in various uses, including developed and undeveloped open space.

b.) Total site density of single-family and multiple-family dwellings and percent of ground area covered by structures other than detached single-family dwelling units.

c.) Acreage and number of single-family lots, multiple-family dwellings (including number of bedrooms) to be included in development phases.

19.) Planned Unit Development Agreement

a.) Legal description of the total site.

b.) Statement of developer's interest in the land proposed for development.

c.) Statement regarding the manner in which open space is to be maintained.

d.) Statement regarding the developer's intentions regarding sale and/or lease of all or portions of the planned unit development, including land areas, units, and recreational facilities.

e.) Statement of covenants, grants of easements (including easements for public utilities), and other restrictions to be imposed upon the uses of the land and structures.

f.) Statement of required modifications (variances) to the regulations which are otherwise applicable to the site.

g.) Schedule indicating the time within which applications for final approval of each phase of the planned unit development are intended to be filed.

c. The Planning Commission shall accept the submittal and refer the appropriate portions to the County Attorney, and appropriate County agencies for review and recommendation.

a.) The Planning Commission shall review the preliminary planned unit development submittal as well as the comments from the County Attorney, and appropriate State and County agencies and then set a public hearing to receive citizen input on the proposed planned unit development. Notice of such public hearing shall be given in accordance with Section 25.05 of this ordinance.

d. Planning Commission shall hold a public hearing to determine that the stated purpose of the Planned Unit Development Ordinance and the specific conditions of Section 23.02.3 exist and the requirements of Section 23.03 have been met. If all conditions are met, the Planning Commission shall approve or approve with conditions the preliminary plan. If all conditions are not met the Planning Commission shall either reject the plan or table action until a satisfactory plan is submitted.

- e. Following approval of the preliminary planned unit development submittal, the Planning Commission shall authorize the developer to prepare the planned unit development agreement and the final planned development submittal.
- f. The developer shall then prepare a planned unit development agreement which is reviewed by the County Attorney.
- g. The Planning Commission shall review the planned unit development agreement and either approve, approve with conditions, or deny the planned unit development agreement.
- h. A final planned unit development submittal for some portion of the planned unit development must be submitted within twenty-four (24) months following approval of the preliminary planned unit development. If no final planned unit development submittal is accepted within that period, approval of the preliminary planned unit development shall automatically expire. However, the County Board of Commissioners, upon written application by the developer, may extend the designation for successive two (2) year periods; provided that no more than two (2) such twenty-four (24) month extensions may be granted.

### 3. Final Planned Unit Development Submittal

The final planned unit development submittal for all or a portion of the total planned unit development shall be reviewed by the Planning Commission and acted upon by the County Board of Commissioners to assure substantial compliance with the preliminary planned unit development submittal.

- a. The final planned unit development submittal must be prepared as one of the following:

- 1.) Subdivision Plat as Defined by the Land Division Act.

The final planned unit development submittal must be prepared in the form of a preliminary plat in detail sufficient to be granted tentative preliminary plat approval in conformance with the State of Michigan Land Division Act, this Ordinance, and the conditions established in the preliminary planned unit development submittal and planned unit development agreement.

- 2.) Construction of the initial phase of the planned unit development shall be completed within two (2) years following final preliminary plat or condominium plan approval by the County Board of Commissioners. This limit may be extended for a reasonable period to be determined by the County Board of Commissioners, upon written application by the developer for cause shown. If, however, this time limit is not met and an extension is not granted, the planned unit development agreement should automatically expire.

- 3.) Condominium Plan as Defined by the Condominium Act

The final planned unit development submittal shall be prepared in the form of a condominium plan pursuant to the requirements of the Condominium Act in detail sufficient to be granted approval in conformance with the condominium provisions of this Ordinance and the conditions established in the preliminary planned unit development submittal and planned unit development agreement.

- b. The following minimum information must be provided by the developer at the time of filing of a final planned unit development submittal for all or a portion (phase) of a planned unit development:

- 1.) Detailed grading plan.

- 2.) Detailed landscaping plan.

- 3.) Detailed utilities layout.
  - 4.) Total phase acreage and percent of total planned unit development.
  - 5.) Acreage and percent of portion of phase and total planned unit development occupied by single-family, multiple-family, and developed and undeveloped open space.
  - 6.) Total phase density and percent of total planned unit development.
  - 7.) Number of bedrooms per multiple-family dwelling unit by type (i.e., efficiency, one bedroom).
  - 8.) Percent of ground area covered by structures other than detached single-family dwelling units.
  - 9.) Supporting materials
  - 10.) Legal description of the total phase, each use area, and dedicated open space.
  - 11.) Copies of covenants, easements, and other restrictions to be imposed.
  - 12.) Proposed dates of construction start and completion of phase.
- c. The final planned unit development submittal shall not:
- 1.) Vary the proposed gross residential density or intensity of use in any portion of the planned unit development by more than ten (10) percent; or
  - 2.) Involve a reduction of the area set aside for common space; or
  - 3.) Increase by more than ten (10) percent the floor area proposed for nonresidential use; or
  - 4.) Increase by more than five (5) percent the total ground area covered by buildings.
- d. The final planned unit development submittal shall be processed in accordance with the following procedures:
- 1.) The applicant shall provide twenty (20) copies of the final planned unit development submittal to the Zoning Administrator at least fourteen (14) days before the meeting at which the submittal will be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the preliminary submittal on the Planning Commission's agenda. If the plan is found by the Zoning Administrator to be incomplete, the plan shall be returned to the applicant with a written statement of deficiencies.
  - 2.) The Planning Commission shall accept the plan to refer the appropriate portions of the submittal to the County attorney, engineer, and/or planner, as well as the appropriate state and county agencies for review and recommendation
  - 3.) The Planning Commission shall review the final planned unit development submittal to assure conformance with the approved preliminary planned unit development submittal and planned unit development agreement. Within thirty (30) days following receipt of the final planned unit development submittal, the Planning Commission shall approve or, if the final planned unit development submittal deviates from the preliminary planned unit development submittal by

more than the limits prescribed in this Ordinance, require modifications to assure conformance.

- e. Before either the Planning Commission recommends final approval or the County Board of Commissioners grants final approval to any planned unit development, the Planning Commission and County Board of Commissioners shall, respectively, determine that:
  - 1.) Provisions, satisfactory to the County Board of Commissioners, have been made to provide for the financing of any improvements shown on the plan for open spaces and common areas which are to be provided by the applicant, and that maintenance of such improvements is assured by a means satisfactory to the County Board of Commissioners.
  - 2.) The cost of installing all streets and necessary utilities has been assured by a means satisfactory to the County Board of Commissioners.
  - 3.) The final plan for any phase is in conformity with the overall comprehensive plan of the entire neighborhood acreage. Any changes or amendments requested shall terminate the overall planned unit development approval until such changes and/or amendments have been reviewed and approved as in the instance of the preliminary submittal.
  - 4.) Proceeding with a planned unit development should only be permitted if it is mutually agreeable to the County Board of Commissioners and the developer.
- f. Following approval of a final planned unit development submittal by the Planning Commission, the developer shall begin processing the plat through the County Board of Commissioners in conformance with the Land Division Act and this Ordinance or the condominium plan through the Planning Commission and County Board of Commissioners in conformance with the Condominium Act and condominium provisions of this Ordinance.

#### **Section 23.05 Appeals.**

No decision or condition related to a planned unit development submittal shall be taken to the Board of Appeals.

#### **Section 23.06 Time Limit for Approved Planned Unit Developments.**

- 1. Once the final site plan for the planned unit development is approved, the area subject to the approval must be under construction within twelve (12) months after the date of approval of the planned unit development final development plan, except as noted in this subsection.
- 2. The County Board of Commissioners may grant an extension for a period of time determined by the County Board of Commissioners from the expiration date of the planned unit development or phase of a planned unit development if the applicant applies for such extension at least thirty (30) days prior to the date of the expiration of the planned unit development or planned unit development 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 planned unit development requirements and standards, including those of the Zoning Ordinance, that are reasonably related to the development have not changed. Review of the approved planned unit development final plan shall be required by the Zoning Administrator and/or the Planning Commission; and
  - c. Development or redevelopment in proximity to the approved planned unit development has not resulted in changed conditions impacting the site; and

- d. Land use designation of the subject site or areas adjacent to the subject site in the Mason County Master Plan has not changed.
3. Should neither of the above provisions be fulfilled, or an extension has expired without construction underway, the planned unit development final plan approval(s) shall be null and void. This does not include any phases that may have previously received final planned unit development approval.

**ARTICLE XXIV  
BOARD OF ZONING APPEALS**

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**Section 24.01 Statement of Purpose.**

The purpose of this Article is to ensure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that flexibility be provided for in the strict application of this Ordinance, that the spirit of the Ordinance be observed, public safety secured, and substantial justice done.

**Section 24.02 Creation and Membership.**

1. Establishment: A Zoning Board of Appeals (ZBA), first established by the Zoning Ordinance adopted December 13, 1971, is hereby retained in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. The Zoning Board of Appeals shall consist of not less than three (3) nor more than seven (7) members. One member shall be a member of the County Planning Commission and the remaining members appointed by the County Board of Commissioners from the electors residing in the unincorporated area of the County.
2. Conflict of Interest: A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Conflict of interest shall be assumed if the Board member stands to realize a financial gain or loss as a result of the Board's action. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes misconduct in office.

**Section 24.03 Organization.**

1. Rules of Procedure: The Zoning Board of Appeals shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The Zoning Board of Appeals shall annually elect a chairperson, a vice chairperson, and a secretary.
2. Meetings and Quorum: Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Zoning Board of Appeals' Rules of Procedure may specify. A majority of the total membership of the Board shall comprise a quorum. The Zoning Board of Appeals shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act, PA 267 of 1976.
3. Oaths and Witnesses: The chairperson may administer oaths and compel the attendance of any witness in order to ensure a fair and proper hearing.
4. Records: The minutes of all meetings shall contain the grounds for every determination made by the Zoning Board of Appeals including all evidence and data considered, all findings of fact and conclusions drawn by the Zoning Board of Appeals for every case, along with the vote of each member and the final ruling on each case. The Zoning Board of Appeals shall file its minutes in the office of the County Clerk.
5. Legal Counsel: An attorney for the County shall act as legal counsel for the Zoning Board of Appeals pursuant to procedures established by the County Board of Commissioners.

**Section 24.04 Jurisdiction.**

The Zoning Board of Appeals shall act upon questions as they arise in the administration of this Ordinance. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but does have the power to act on those matters for which this



Ordinance provides an administrative review, interpretation, variance, or temporary land use permit. Within this capacity, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator, Planning Commission, or any official administering or enforcing the provisions of this Ordinance. This jurisdiction shall not include the hearing of appeals related to planned unit development (PUD) decisions.

#### **Section 24.05 Authorized Appeals.**

The Zoning Board of Appeals shall hear the following specified categories of appeals in accordance with the following standards:

1. **Administrative Review:** The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official or by the Planning Commission in administering or enforcing the provisions of this Ordinance. This authority shall not include review of PUD decisions of the Planning Commission.
2. **Interpretation of the Ordinance:** The Zoning Board of Appeals shall hear and decide upon requests to:
  - a. Interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon such request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance.
  - b. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.
3. **Variance:** The Zoning Board of Appeals shall have the power to authorize specific variances from site development requirements such as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, off-street parking and loading space requirements, and sign requirements of this Ordinance, provided that all the required findings listed below are met and the record of proceedings of the Zoning Board of Appeals contains evidence supporting each conclusion. If it is determined that the variance does meet all of the following standards and requirements, the variance shall be allowed. If it is determined that the proposed development does not meet all of the following requirements, the development shall not be allowed.
  - a. The strict enforcement of the provisions of this Ordinance would cause a practical difficulty and deprive the owner of rights enjoyed by all other property owners within the same zoning district.
  - b. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title.
  - c. The requested variance will not grant special privileges that are denied other properties similarly situated and in the same zoning district.
  - d. The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance.
4. A variance under this Ordinance shall not be granted which permits a use not otherwise permitted within the zoning district, upon the property for which a variance is being requested.
5. **Conditions:** The ZBA may impose conditions upon an affirmative decision. The conditions may include, conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to

ensure compatibility with adjacent land uses, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

- a. Be designed to protect natural resources, the health, safety, and welfare, as well as social and economic well being of those who will use the proposed land use or activity, residents, and landowners immediately adjacent to the proposed land use, or activity, and the community as a whole.
  - b. Be related to valid exercise of the police power and purposes which are affected by the proposed use or activity.
  - c. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.
  - d. The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.
6. Except as provided in this section, a decision of the Zoning Board of Appeals shall be final. The Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following.
- a. The applicant who brought the matter before the Zoning Board of Appeals made misrepresentation concerning a material issue which was relied upon by the Zoning Board of Appeals in reaching its decision.
  - b. There has been a material change in circumstances regarding the Zoning Board of Appeals' findings of fact which occurred after the public hearing.
7. Reapplication: After eight (8) days following a decision by the Zoning Board of Appeals, no application for a variance, Ordinance interpretation, or appeal which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions found upon inspection by the Board to be valid.

#### **Section 24.06 Procedures.**

1. Notice of Appeal: Appeal requests for Ordinance interpretation and requests for variances may be made to the Zoning Board of Appeals by any person aggrieved, or by an officer or department of the County, by filing a written Notice of Appeal with the County Zoning Administrator on forms established for that purpose and accompanied with such information as is necessary to decide such request. At a minimum, eight (8) copies of the information required to be submitted for a land use permit (either a plot plan or site plan) shall be submitted. Upon receipt of a Notice of Appeal, the office shall promptly transmit the records concerning the appealed action, as well as any related information to the chairperson of the Zoning Board of Appeals. For appeal requests related to Ordinance interpretation, an application shall be filed not later than 30 days after the order, decision or determination as to which the application or appeal is taken.
2. Hearing: Upon receipt of a Notice of Appeal, or of an application for Ordinance interpretation, or variance request, the chairperson of the Zoning Board of Appeals shall schedule a reasonable time and date for a public hearing.
3. Notice of Hearing: Before holding a hearing on an appeal of an administrative decision, a request for an interpretation of the zoning ordinance, or a request for a variance, notice of the hearing shall be delivered and published in accordance with Section 25.05 of this Ordinance.

4. Appearance: Upon the hearing, any party may appear in person or by agent or attorney. The Zoning Board of Appeals may recess such hearing from time to time, and, if the time and place of the continued hearing are announced at the time of adjournment, no further notice shall be required.
5. Stay: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reason of facts stated a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals, or, on application, by court of record.
6. Decision: The Zoning Board of Appeals shall render its decision within sixty (60) days of filing of a Notice of Appeal, or application for Ordinance interpretation or variance, unless in the opinion of Zoning Board of Appeals, an extension of time is necessary to review information pertinent to making the decision. The concurring vote of a majority of the total membership of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or body, or to decide in favor of the applicant on any matter upon which they are required to pass under or to effect any variation in this Ordinance. Any decision of the Zoning Board of Appeals shall not become final until the expiration of eight (8) days from the date of entry of such order, unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.
7. Any variance granted under the provisions of this Ordinance shall become null and void unless the construction or other work authorized by a variance shall be substantially under way not later than one year after the granting of the variance and is being carried forward to completion or occupancy of land, premises or buildings. The applicant may be eligible for a one (1) year extension upon approval by the Zoning Administrator. A maximum of two extensions may be granted provided that there have been no changed conditions.
8. Performance Guarantee: In authorizing any variance, or in granting any temporary dwelling permits, the Zoning Board of Appeals may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the County covering the estimated cost of conditions or improvements associated with a project for which zoning approval is sought, be deposited with the County Treasurer to insure faithful conformance with the conditions or completion of the improvements.

#### **Section 24.07 Review by Circuit Court.**

The decision of the Zoning Board of Appeals shall be final. A review of a Zoning Board of Appeals decision is by way of circuit court.

**ARTICLE XXV**  
**ADMINISTRATION, PENALTIES, AMENDMENT, AND OTHER REMEDIES**

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**Section 25.01 Administrative Official.**

1. The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or his deputies, or such other official or officials as may be designated by the County Board.
2. The Zoning Administrator or other designated person appointed by the County Board shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform to this Ordinance.
3. Under no circumstances is the Zoning Administrator permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his duties as Zoning Administrator.
4. The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are met despite violations of deed restrictions, covenants or contracts which may exist.
5. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing, the person responsible for such violation, or the owner of record of the lot upon which such violation is taking place, indicating the nature of the violation. He shall order discontinuance of the illegal use of any lot or structures; or if illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

**Section 25.02 Permits Required.**

1. General Provisions. The following shall apply in the issuance of any permits:
  - a. Permits Not to be Issued. No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance. Zoning permits shall not be issued until any and all additional state or local permits have been obtained. This shall include but not necessarily be limited to MDEQ, County Road Commission, County Health Department and state health department permits.
  - b. Permits for New Use of Land. No vacant land shall be developed or used or an existing use of land be changed to a use of a different class or type of use unless a certificate of occupancy is first obtained.
  - c. Permits for New Use of Building. No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy and site plan approval is first obtained for the new or different use.
  - d. Permits Required. No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairway type of construction, type, class, or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the County of Mason Building Code, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.

- e. All zoning permits shall be valid for one (1) year. Building permits may be renewable on an annual basis.
2. Zoning Compliance. To determine satisfactory compliance with requirements of the Zoning Ordinance the application shall be accompanied by two (2) sets of plans and specifications conforming to the requirements of this Article as hereinafter set forth and the County Building Code. No permit shall be required for alterations or repairs for roofing repairs, siding or painting, or interior repairs, provided that such repairs shall not be construed to include the cutting away of any stone or masonry wall, the addition or removal of any beam or support, or the removal, change or closing of any staircase, means of ingress or egress, or of any chimney or window.
3. Certificates of Occupancy. It shall be unlawful to use, or occupy, or permit the use, or occupancy of any structure or premises, or parts thereof, hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of occupancy and zoning compliance shall have been issued therefore by the Zoning Administrator.
  - a. No occupancy permit shall be granted until the water and sewer facilities are approved by the County or State.
  - b. No change of use shall be made in any building, or premise or land or part thereof now or hereafter erected, altered or used that is not consistent with the provisions of this Ordinance and no such change of use or occupancy shall be made without the issuance of a certificate of occupancy and compliance for such new use.
  - c. A certificate of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued after the erection or alteration of such building shall have been completed in such a manner as to meet or exceed the Building Code. Where a certificate of use and occupancy is required not in conjunction with the issuance of a building permit, the same shall be issued on forms furnished by the Zoning Administrator. Every change of use shall require the issuance of a certificate of use.
  - d. A temporary certificate of occupancy may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations for partial occupancy of a structure pending completion of such alterations, provided that such temporary certificate may include such conditions and safeguards as will protect the safety and health of the occupants and the public.
  - e. The Zoning Administrator shall maintain a record of all certificates of zoning compliance.
  - f. Failure to obtain a certificate of occupancy shall be a violation of this Ordinance and punishable under the applicable provisions of this Ordinance.

### **Section 25.03 Violations.**

A violation of this Ordinance is deemed to be a nuisance per se and is a civil infraction, the penalty for which shall not exceed One hundred (\$100.00) Dollars per day. The Court is authorized to add costs of prosecution thereto as provided by law. The rights and remedies provided herein are cumulative daily and in addition to any other remedies provided by law. The imposition of any fine shall not exempt the offender from compliance with the requirements of this Ordinance. Uses of land, dwellings, buildings or structures including tents, trailer coaches, and mobile homes, used, erected, altered, razed, or converted in violation of any provision of the Ordinance are hereby declared to be a nuisance per se. Liens authorized by MCL 600.8731 for a civil infraction violation are authorized to be issued and recorded and enforced as provided by law.

#### **Section 25.04 Amendments.**

1. Any person, body, or institution may initiate an amendment to this Ordinance, including the zoning districts map; provided, however that the Planning Commission and Board of County Commissioners may determine, in their discretion, whether to consider an amendment in the text of the Zoning Ordinance.
2. In considering whether to approve a requested change in the zone districts map, the Planning Commission and the Board of County Commissioners shall consider the following criteria, among others:
  - a. Whether the proposed rezoning would be in accordance with the intents and purposes of the zoning ordinance.
  - b. Whether the proposed rezoning would be generally consistent with the goals, policies and future land use map of the County Comprehensive land use plan. Further, if conditions have changed since the Comprehensive plan was adopted, then whether the proposed amendment would be consistent with recent development trends in the vicinity or the area.
  - c. Whether conditions have changed since the time the current zoning of the land was adopted and, further, whether such change in conditions justify the proposed amendment.
  - d. Whether the proposed zoning would be generally consistent with the zoning classification of surrounding and nearby land.
  - e. Whether the uses available under the proposed zoning would be generally compatible with the physical, hydrological and other environmental features of the land.
  - f. Whether the potential land uses permitted by the terms of the proposed zoning district would be generally compatible with surrounding land uses and zoning in terms of land suitability, impacts on the environment, building density, nature of potential uses, traffic impacts, necessary infrastructure and potential influence on property values.
  - g. Whether the capacity of available public utilities, fire protection and other public services would be sufficient to accommodate the uses permitted in the requested district, or whether such services could be enhanced or augmented so as to provide an appropriate level of public services for the uses that would be permitted in the requested district.
  - h. Whether there would be sufficient capacity in the public street system adjoining and near the lands proposed to be rezoned, so as to safely and efficiently accommodate expected motor vehicle traffic to be generated by the land uses permitted in the requested zone district.
  - i. Whether some other zone district provided for in the Zoning Ordinance would be more suitable or appropriate than the zone district being requested.

#### **Section 25.05 Publication And Delivery Of Notice Of Public Hearing.**

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

1. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the County.

2. For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel; and for all planned unit development and special land use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
  - a. The applicant;
  - b. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application; and
  - c. The occupants of all structures within 300 feet of the property that is the subject of the application.
  - d. If the above-described 300-foot radius extends outside of the County's boundaries, then notice must be provided outside of the County boundaries, within the 300-foot radius, to all persons in the above-stated categories.
3. The notice of public hearing shall include the following information:
  - a. A description of the nature of the application or request.
  - b. An identification of the property that is the subject of the application or request. The notice shall include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.
  - c. State when and where the application or request will be considered.
  - d. Identify when and where written comments will be received concerning the application or request.

#### Section 25.06 Schedule of Fees, Charges and Escrow Expenses.

1. The County Board shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for zoning compliance permits, appeals, Special Land Uses, variances, site plan reviews, rezoning applications and other matters pertaining to this Ordinance. The schedule of fees shall be available in the office of the Zoning Administrator and may be amended only by the County Board.
2. An appropriate fee established by the County Board shall accompany any application. Additionally, a separate escrow deposit may be collected from the applicant, as determined by the County Board, and used to reimburse another party retained by the County to provide expert consultation and advice including but not limited to legal, planning, transportation and engineering professionals regarding the application. The amount of the deposit shall be based on a reasonable estimate to provide such services. Any unused portions of this fee shall be returned to the applicant after the County has paid all costs for consultant services.

#### Section 25.07 Stop Work Orders.

1. Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this Ordinance, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent, or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.

2. Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed to perform to remove a violation, shall be in violation of this Ordinance.

**Section 25.08 Issuance of Civil Infraction Citations.**

1. As stated in Section 25.03, a violation of this Ordinance is a municipal civil infraction. Each of the following local officials is authorized to issue a municipal civil infraction citation for violation of any provision of this Ordinance, if the local official has reasonable cause to believe that a violation has occurred:
  - a. The County Zoning Administrator;
  - b. The County Zoning Fieldperson; and
  - c. A law enforcement official of the Mason County Sheriff's Department.
2. If a citation is based solely upon investigation of a complaint of someone who allegedly witnessed a person violate this Ordinance, and one of the above-stated authorized local officials has reasonable cause to believe that such person is responsible for the violation, then the citation may be issued if the County Prosecuting Attorney first approves in writing the issuance of the citation.
3. Citations shall be numbered consecutively and shall be in a form approved by the State Court Administrator's office.
4. Citations shall be served upon the alleged violator as provided by law.
5. Citations shall require an appearance by the alleged violator at the District Court within a reasonable time after the citation has been issued.
6. The procedures for the admission or denial of responsibility, requests for informal or formal hearings and all other matters relating to the processing of citations for municipal civil infractions of this Ordinance shall be as provided by law.
7. In addition to other remedies provided by this Ordinance and available by law, the County may institute injunction, mandamus, abatement or other applicable legal actions or proceedings to prevent, enjoin, abate or remove any violation of this Ordinance.



**ARTICLE XXVI  
EFFECTIVE DATE**

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Public hearings having been held as required by the Michigan Zoning Enabling Act, this Ordinance shall become effective seven (7) days after being published in a newspaper of general circulation within the County.

Public Hearings: March 16, 2010

County Planning Commission recommendation for approval: April 20, 2010

County Board of Commissioners Adoption: June 9, 2010

Effective Date: June 30, 2010

- Amended 11-26-10: Meteorological Towers, Section 17.40a (new)
- Amended 6-2-11: Utility Grid Wind Energy Systems, Section 17.70, modified
- Amended 12-27-11: Warehouses, Section 17.67a (new)
- Amended 5-29-12: Fuel Storage (bulk), Agricultural Storage Facility, Church or other place of Religious Assembly (C-1)
- Amended 12-7-12: Medical Marihuana Caregiver as a Home Occupation, Section 3.10 (12)
- Amended 7-23-14: Mud Bog Pits in AG, Storage of Buildings, Moving of Buildings, Detached Accessory Building Increased 30%, Section 3.01 (6), Agriculture Setbacks (side, rear: 25-feet)