

## **ARTICLE XVII. SPECIAL USES**

### **Section 17.01. Purpose.**

The formulation and enactment of this zoning ordinance is based upon the division of the city into zoning districts, each of which include permitted uses which are mutually compatible. In addition to such permitted uses in districts, however, it is recognized that there are certain specific or unique uses which may be necessary or desirable to allow in definable locations in certain districts; but, which on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the permitted uses in a district. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as an unrestricted permitted use.

### **Section 17.02. Authority to grant permits.**

The planning commission shall have the authority to grant special use permits, subject to such conditions of design and operations, safeguards and time limitations as it may determine for all special uses conditionally allowed in the various district provisions of this ordinance and in accordance with article XXII, "Site Plan Review."

### **Section 17.03. Application and fees.**

Application for any special use permit allowed under the provisions of this ordinance shall be made to the zoning administrator by filling in the official special use permit application form, submitting required data, exhibits and information; and depositing the necessary fee in accordance with the city schedule of fees on file with the zoning administrator. No fee shall be required of any governmental body or agency.

### **Section 17.04. Data, exhibits and information required in applications.**

An application for any special use shall contain (a) the applicant's name and address in full, (b) a notarized statement that the applicant(s) is (are) the owner(s) involved, (c) the address of the property involved, (d) an accurate survey and site plan of said property showing the existing and proposed location of all buildings and structures thereon, and types thereof, and their uses and (e) a statement and supporting data, exhibits, information and evidence regarding the required findings set forth in this ordinance, including all applicable requirements of article XXII, "Site Plan Review."

### **Section 17.05. Public hearing.**

The city planning commission shall hold a public hearing, or hearings, upon any application for a special use, notice of which shall be given by one publication in a newspaper of general circulation in the city, and shall be sent by mail or personal delivery to the owners of the property for which approval is being considered, to all persons to

whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Said notices shall not be given less than five nor more than 15 days before the date of hearing.

(Ord. No. 142G, § 5, 10-15-96)

#### **Section 17.06. Required standards and findings for making determinations.**

The planning commission shall review the particular circumstances and facts of each proposed special use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing that such a special use on the proposed site, lot, or parcel and makes its decision accordingly.

- A. Will be harmonious with and in accordance with the general objectives, intent and purposes of this ordinance.
- B. Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- C. Will be required to be served by public sanitary sewer and water supply systems and served adequately by other essential public facilities and services; such as, highways, streets and drives, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed special use shall be able to provide adequately all such services.
- D. Will not be hazardous or disturbing to existing or future neighboring uses.
- E. Will not create excessive additional requirements at public cost for public facilities, utilities and services.
- F. Shall meet all of the applicable requirements of the zoning district in which a special use is to be located including those specific to each special use.

#### **Section 17.07. Site plan review.**

If a site plan is disapproved, the applicant is required to wait one year before resubmittal of the same or similar site plan for review and approval consideration by the planning commission on the same or approximately the same parcel of land. The applicant has the right to request the review of a disapproved site plan on matters of interpretation of the provisions of this zoning ordinance, but not of land, building or structural use to the zoning board of appeals.

#### **Section 17.08. Junkyards.**

- A. Junkyards may be established and maintained in accordance with all applicable statutes of the State of Michigan, and are only permitted in the "I" districts, and shall be located only in sites which are completely screened from adjacent properties and public view.

#### **Section 17.09. Mobile home parks.**

All mobile home parks shall comply with the requirements of Act No. 243 of the Public Acts of Michigan of 1959 (MCL 125.1035 et seq., MSA 5.278(65) et seq.), "The Trailer Coach Park Act" and Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq., MSA 19.855(1) et seq.), "The Mobile Home Park Commission Act" and the following additional regulations. Minimum site size for a mobile home park shall be 20 acres.

Editor's note: Act No. 419 of the Public Acts of Michigan of 1976 was repealed by Act No. 96 of the Public Acts of Michigan of 1987. For current provisions see MCL 125.2301 et seq., MSA 19.855(101) et seq.

A. Open space. An open area shall be provided on each mobile home lot, to insure privacy, adequate natural light, ventilation, and a sufficient area for outdoor uses essential to each mobile home, and shall equal at least 75 percent of the area of each lot.

B. Location and access. Mobile home parks shall have frontage and direct access from a hard surfaced paved street.

C. Mobile home lot access. Convenient access to each mobile home lot apron shall be provided by means of a minimum 12-foot wide access street and drive reserved for maneuvering mobile homes into positions and kept free of trees and other immovable obstructions.

D. Streetways. There shall be provided a hard surfaced and adequately drained streetway of at least 24 feet in width, which affords direct access to each mobile home lot and precludes through traffic. A mobile home park shall provide vehicle parking spaces as provided for in article XX. A 16-foot wide open way shall be maintained at all times on all roadways for the passage for fire apparatus or other emergency vehicles. Curvilinear street patterns are encouraged. In parks containing more than 30 mobile home lots, a boulevard type entrance roadway with a planted median is required for traffic control and ingress and egress. The entrances and exits to the travelled pavement of the public street upon which it has access shall be provided with acceleration and deceleration lanes which meet established standards of the street or highway agency responsible for construction and maintenance of the street or highway.

E. Walkways. The mobile home park shall include hard surfaced walkways, of at least 36 inches width, from each mobile home lot to parking and any other service facilities located in and immediately adjacent to the mobile home park. Individual mobile home entrance walks shall be a minimum of 24 inches wide.

F. Electricity and lighting. All electric and telephone lines leading to each mobile home lot shall be buried at least 18 inches underground, and provide both 115 volt and 220 volt service with weatherproof plug-in outlets. When separate meters are installed, each meter shall be located on a uniform standard post on a lot line of each mobile home park. The wiring system shall comply with the recommended standards for mobile home parks by the Consumers Power Co.

G. Skirting.

1. The skirting shall be of no less than 26 gauge metal and connected with a ratproof wall or slab, so constructed and attached to the mobile home as to make it impossible for the entrance of rodents, flies, bugs, or other insects. One access door in the skirting shall be permitted and a screen vent shall be installed along such skirting at intervals of 20 feet so as to provide adequate cross-ventilation.

2. Each mobile home shall be jacked up in a uniform manner.

3. Each mobile home must be skirted within 90 days after establishment in a mobile home park.

H. Fences. If fences are constructed on each mobile home site, they shall be uniform in design and character for all mobile home lots. Such fences shall not exceed 30 inches in height and shall be constructed in such a manner as to permit access to all sides of each mobile home for firefighting purposes.

I. Landscaping.

1. All mobile home park boundary line areas shall be maintained in a clean and presentable condition at all times. A grass lawn or other suitable ground cover shall be maintained as yard surfacing on each mobile home lot, except for those portions of the lot covered by the mobile home, structural additions, sheds, walks, concrete pads or planting beds.

2. The retention of existing desirable trees on a site is encouraged.

J. Outdoor storage. No outdoor storage shall be permitted, except in outdoor sheds or cabinets for the storage of tools or equipment and shall be limited to one well-maintained structure, located at the rear of the mobile home lot, and not exceeding 80 square feet in floor area or seven feet in height. To the maximum extent possible, these facilities shall be uniform in design, location, and color throughout the mobile home park, and in character with the designs of the mobile homes located on each lot in the park.

K. Trash disposal. Adequate facilities for the storage and disposal of trash, garbage and other waste materials shall be provided at conveniently located points within 150 feet of any given mobile home lot. All containers shall be situated on stands and shall be fly-tight, watertight, rodentproof, and shall be sufficient in number and capacity to properly store all the accumulated refuse. All containers shall be enclosed in accordance with section 19.19 "Solid Waste Receptacle Areas."

L. Television antenna. One or more master antenna facilities shall be installed with underground service connections to each mobile home lot.

M. Roadway and yard lights. Roadway and yard lights shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians and effectively diverting unnecessary illumination from the dwelling portions of each mobile home lot.

N. Central building. Central buildings for other than administrative or laundry facility usage are permitted. These may be used for indoor recreation, assembly halls, and for storm shelters. Such buildings should be conveniently located on the park site, may be combined structurally with the administrative and laundry facilities, and may include swimming pools or other clubhouse facilities in connection with on-site recreation facilities.

O. Permit requirement. It shall be unlawful for any person or corporation to construct, alter or extend any mobile home park unless they first obtain valid licenses and permits from the Director of the Michigan Department of Commerce and the city in the name of said person or corporation. The application for permit shall be accompanied by a site plan submitted in accordance with article XXII, "Site Plan Review" and showing:

1. Area and dimensions of the tract of land.
2. Number, location, and size of mobile home lots and common open space.
3. Expected maximum size and type of mobile homes to be situated on each lot.
4. Location and width of roadways, walkways and parking areas.

5. Location and usage of service buildings.
6. Location of utilities and service facilities.
- P. License and certificate requirements. It shall be unlawful for any person or corporation to conduct or operate a mobile home park in the city without a currently valid license issued by the Director of the Michigan Department of Commerce and a certificate of occupancy and an annual permit from the city zoning administrator.
- Q. Periodic inspection. The zoning administrator is hereby granted the power and authority at least on an annual basis to enter upon the premises of a mobile home park at any time for the purpose of determining compliance to the provisions of this zoning ordinance and/or enforcing any provision of this or any other city ordinance applicable to the construction and operation of a mobile home park.

**Section 17.10. Temporary mobile homes located outside of a mobile home park, including trailers, motor homes and recreation vehicles.**

From and after the effective date of this ordinance, it shall be unlawful for any person to move a mobile home, travel trailer, motor home or recreation vehicle on to any lot, parcel or tract of land in the city for any purpose, except as provided and permitted hereinafter in this section, or as specifically permitted elsewhere in this ordinance.

- A. Mobile homes, travel trailers, motor homes or recreation vehicles shall be permitted for construction contractor purposes when located on a construction-site approved by the planning commission. The applicant must furnish all pertinent data, including description of land to be used, number of mobile home, travel trailer, motor home or recreation vehicle units involved, and the expected length of construction time. The zoning administrator must verify that (a) the location of units will be a reasonable distance from any public highway and/or boundary of adjoining property, and (b) adequate fresh water supply and sanitary facilities are available on-site. A "temporary permit" shall be issued covering the period of the specific construction job, not to exceed one year; subject to an extension approved by the planning commission for good cause which shall not exceed one year.
- B. For parking or storage of mobile homes and recreation vehicles in RA, R-1, R-2A and R-3 residential zoning districts refer to section 19.23.
- C. For temporary occupancy of visitor-owned mobile homes and recreation vehicles refer to section 19.26.
- D. Use of mobile homes as an accessory use for reasons of health and infirmity as provided in section 17.17.

**Section 17.11. Valid nonconforming use of mobile homes, travel trailers, motor homes or recreation vehicles.**

The use of any mobile home, travel trailer, motor home or recreation vehicle placed on a lot, parcel or tract of land in the city prior to the effective date of this ordinance, which use is not prohibited by this ordinance, shall be "valid nonconforming use" that may be continued, subject to the provisions pertaining to "nonconforming uses" contained in article XVIII.

### **Section 17.12. Temporary transient uses.**

The following provisions shall apply in addition to all applicable regulations in the district in which they are to be located:

- A. "Temporary transient uses" shall include all uses, such as, circuses, carnivals, meetings and assemblies of people in tents or other temporary structures, dispensing and/or selling of goods or offerings of services from vehicles or other temporarily parked structures.
- B. All fenced-in areas shall be set back at least 100 feet from any front street or property line.
- C. Side and rear yards shall be at least 100 feet in depth from all adjacent lots or parcels.
- D. All traffic ingress or egress shall be on public streets and all local traffic movements shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements onto or off from public streets. All points of entrance or exit for motor vehicles shall be located no closer than 200 feet from the intersection of any two streets or highways.
- E. Temporary transient amusement uses are not permitted in any RA, R-1, R-2, R-3 or R-4 residential district

### **Section 17.13. Gasoline service stations.**

All gasoline service stations or filling stations shall conform to the following regulations in addition to all applicable regulations in effect in the district in which they are to be located.

- A. Frontage and area: Every gasoline service station shall have a minimum frontage of 200 feet and a minimum area of 30,000 square feet.
- B. Setbacks: Every structure, including gasoline pumps and other equipment, erected or installed for use as a gasoline service station shall have a minimum setback from the street right-of-way as required by the regulations in the zone in which they are to be located.
- C. Construction standards: All vehicle service areas shall be constructed to conform to the following standards:
  - 1. Suitable separation shall be made between the pedestrian sidewalk and vehicular parking or moving area with the use of appropriate bumper, wheel guards or traffic islands.
  - 2. The entire area used for vehicles service shall be paved with a hard surface, except for such unpaved area as is landscaped and protected from vehicle use by a low barrier.
  - 3. Hydraulic hoist, lubricating, greasing, washing, and repair equipment shall be entirely within a building. Tire and battery service and minor automobile repair, excluding automobile body repair and painting, are permitted if conducted entirely within a building.
  - 4. The maximum widths of all driveways at the public sidewalk crossing or street line shall be no more than 24 feet.

5. Minimum angle or driveway intersection with the roadway from the curb line to lot line shall be no less than 60 degrees.
6. The minimum distance of any driveway from any property line shall be at least 20 feet.
7. The minimum distance between roadway curb cuts for driveway access shall be no less than 100 feet.
- D. Lighting: All lighting shall be installed in a manner so that no light source is visible beyond all property lines.
- E. Gasoline service stations are only permitted in C-1 and C-2 zoning districts.

#### **Section 17.14. Sanitary landfills.**

Sanitary landfills shall: (1) only be located in the city, (2) only if planned to be located in accordance with the county plan prepared in conformance with Act No. 641 of the Public Acts of Michigan of 1978 (MCL 299.401 et seq., MSA 13.29(1) et seq.) "The Solid Waste Management Act" or under the jurisdiction of the Michigan Department of Natural Resources in conformance with Act No. 64 of the Public Acts of Michigan of 1979 (MCL 299.501 et seq., MSA 13.30(1) et seq.) "The Hazardous Waste Act" and (3) with direct access only permitted from an impervious hard surface paved all-weather yearround streets and highways.

*Editor's note:* Act No. 641 of the Public Acts of Michigan of 1978 was repealed by Act No. 451 of the Public Acts of Michigan of 1994. For current provisions see MCL 324.11501 et seq., MSA 13A.11501 et seq. Act No. 64 of the Public Acts of Michigan of 1979 was repealed by Act No. 451 of the Public Acts of Michigan of 1994. For current provisions see MCL 324.11101 et seq., MSA 13A.11101 et seq.

#### **Section 17.15. Extraction of natural resources.**

A. Permitted uses. The following special uses shall be permitted only in the CR, C-2 and I zoning districts and when applicable, in conformance with Act No. 303 of the Public Acts of Michigan of 1982 (MCL 425.1101 et seq., MSA 18.594(101) et seq.), "Michigan Surface and Underground Mine Reclamation Act":

*Editor's note:* Act No. 303 of the Public Acts of Michigan of 1982 was repealed by Act No. 57 of the Public Acts of Michigan of 1995. For current provisions see MCL 324.63501 et seq., MSA 13A.63501 et seq.

1. The excavation or mining of sand and gravel. The incidental excavation of sand and gravel for on-site use only are excluded from the regulations of this section except for the setback and yard requirements specified in the district in which the special use is located.
2. The processing, storage, loading, and transportation of sand and gravel, incidental to its marketing.
3. The mining of clay.
4. The extraction of peat or marl.
5. The quarrying of stone.
6. The mining of coal.

7. The extraction of water or other subterranean liquids.
- B. Permitted accessory uses. Any use customarily incidental to the permitted principal special use.
- C. Extractive mining area, bulk and equipment location requirements, as applicable.
  1. Limits of excavation: Sufficient setbacks shall be provided from all property lines and public highways, to assure adequate, lateral support. Minimum allowable setback shall be 50 feet from any property line and 75 feet from any public highway or street.
  2. Placement of processing plants: The permanent processing plant and its accessory structures shall not be closer than 250 feet from any property line or public highway or street.
  3. Elevation of plant site: Wherever practicable, the permanent processing plant shall be located within the excavation area, at a point lower than the general level of the surrounding terrain, in order to reduce the visual impact of the plant structure and noise emanating from it.
  4. Management of storage piles and overburden: Storage piles of processed material and overburden stripped from mining areas shall not be located closer than 50 feet from any property line, or 100 feet from any public highway or street.
  5. Minimum site area for natural resource extraction sites under this ordinance shall be 20 acres.
- D. General requirements. Natural resource extraction operations shall be carried out under the conditions of a mining permit, issued and maintained under the following requirements:
  1. Before commencement of mining operations, the operating company shall file an operational plan with the city planning commission, which plan and any necessary subsequent revisions shall be approved by the commission, setting forth the area or areas to be mined, the location of permanent structures, the points of access upon public street and highways, and the street or highway routes to be followed in the transportation of finished materials. This plan, and any approved necessary subsequent revisions, shall be filed with the zoning administrator by the planning commission.
  2. The operational plan, which shall be submitted to and approved by the planning commission, shall include a determination of the net operational areas, i.e., the area stripped of overburden, the area being mined, the area used for structures and storage piles, and worked out areas which have not been reclaimed. Performance bonds, hereinafter considered in relation to the reclamation of the area, shall be calculated on the basis of the net excavation and operational area as measured in acres.
  3. Upon commencement of mining operations, perimeter controls shall be established for the mining area:
    - a. The mining area shall be enclosed within a five-foot high continuous wall or fence or by an evergreen screen planting or hedge fence of similar capability.
    - b. The property shall be posted against trespass, with conventional signs placed not more than 100 feet apart around the perimeter of the parcel.
  4. Sight barriers shall be provided along all boundaries adjacent to streets which lack natural vegetative or terrain conditions which provide effective screening of mining operations. Sight barriers shall consist of one or more of the following:
    - a. Earth berms, which shall be constructed to a height of six feet above the mean elevation of the centerline of the public highway adjacent to the mining property, or six

feet above the general level of terrain along property lines. These berms shall have slopes not in excess of one foot vertical to four feet horizontal, and shall be planted and maintained permanently with grass, trees and shrubs.

b. Screen plantings of evergreen trees and shrubs, at least six feet in height, in rows parallel to the boundary of the property, with the spacing of rows and the spacing of the trees and shrubs within rows which shall be sufficient to provide effective screening.

c. Masonry walls or solid fences which shall be constructed to a height of six feet.

5. Noise and vibration shall be minimized in their effect on adjacent properties by the proper use of berms, walls, fences and screen plantings. In addition, all equipment used for the production of sand and gravel shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.

6. Air pollution in the form of dust and dirt shall be kept at a minimum. All equipment used for production of sand and gravel shall be operated in such a manner as to minimize, insofar as is practicable, dust conditions which are injurious or substantially annoying to persons living in the vicinity. Interior streets serving the mining operation shall be paved, treated, or watered, insofar as is practicable, to minimize dust conditions.

7. No mining of sand or gravel shall take place within the specified distance from the margin of any stream or waterway as established by the Michigan Water Resources Commission, Department of Natural Resources.

E. Reclamation of mined areas.

1. All natural resource extraction areas shall be reclaimed and rehabilitated as soon as may be practicable after each mining phase has been completed in accordance with the plan approved by the planning commission. Wherever the operational plan shall permit, reclamation shall be accomplished concurrently with phased mining operations, i.e., a mined-out phase section of the area may be undergoing rehabilitation while a second phase may be undergoing active mining, and a third phase area may be being stripped of overburden. Substantial completion of reclamation shall be effected for one phase of the three permitted to be opened at any one time for extraction purposes prior to proceeding with the next approved phase. After all extraction operations are completed, the final phases of extraction shall be reclaimed in accordance with the approved final reclamation plan within one year after all extraction has been completed.

2. Before commencement of mining operations, the operating company shall submit a generalized reclamation plan to the planning commission, setting forth the intended disposition of all land and water areas, the proposed configuration of the terrain as shown on a topographic map, a plan of any proposed streets or other improvements to be made upon the property, and a general statement of the intended final utilization of the mined property. This plan, and any subsequent revisions, shall be approved by the planning commission before any zoning permit is issued by the zoning administrator.

3. Rehabilitation and reclamation of natural resource extraction areas shall be in accordance with the following standards:

a. All excavation shall have either a water depth of not less than ten feet below the average summer level of water in the excavation, or shall be graded or backfilled with nonnoxious, noninflammable and noncombustible solids in accordance with the approved reclamation plan in order to insure:

1. That the excavated area shall not collect and retain stagnant water, or

2. That the surface of such area which is not permanently submerged is graded or backfilled as necessary to produce gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
  - b. The finished grade of all slopes resulting from excavations shall not be steeper than one foot vertical to three feet horizontal.
  - c. Topsoil of a quality equal to that occurring naturally in the surrounding area shall be replaced on all excavated areas not covered by water, except those areas where streets, beaches, or other planned improvements are planned. Top soil shall be applied to a depth of at least six inches.
  - d. Vegetation shall be restored by the appropriate planting of grass, trees and shrubs, in order to establish a permanent vegetative cover on the land surface, and to minimize erosion.
  - e. Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time, not to exceed 12 months thereafter, shall remove all plant structures, buildings, stockpiles, and equipment.
4. The operating company shall post a minimum financial guarantee in the amount of \$5,000.00 for the first five net operational acres. The financial guarantee shall be increased on the yearly anniversary date of the mining permit at the rate of \$1,000.00 per each additional operational acre which exceeds the first five net operational acres. The guarantee shall be provided in one of the following forms: (1) cash, (2) certified check, (3) irrevocable bank letter of credit, or (4) surety bond acceptable to the city commission. Upon rehabilitation of mined acreage, and reduction of net operational area, the bond or security shall be released in accordance with the amount of security required per acre.
- F. Administration of mining districts.
  1. The following procedures shall be followed before establishing a mining operation:
    - a. The operating company shall file an operational plan, in accordance with the requirements of section 17.15D of this ordinance. This plan may be in the form of a written statement and maps, and shall carry evidence of review and approval, if required, by any city or state agency of competent jurisdiction, in addition to the required approval of the planning commission. On the basis of this plan, the operating company shall file a statement of net area to be excavated as measured in acres.
    - b. The operating company shall file a reclamation and rehabilitation plan, subject to the requirements of section 17.15E.2 and shall provide a financial guarantee in accordance with the requirements of section 17.15E.4 of this ordinance.
    - c. The planning commission shall review the operations and reclamation plans and accept or reject the plan. Upon acceptance of the plan, the city shall receive the financial guarantee of reclamation in accordance with section 17.5E.4 of this ordinance.
  2. Before commencement of mining operations, a mining permit shall be issued by the zoning administrator upon payment of an annual fee in accordance with the established city "fee schedule." This fee shall defray any city administrative expenses rising out of the mining operation.
  3. Inspections and conformance.
    - a. Inspections shall be made of the mining site, not less often than twice in each calendar year by the zoning administrator in order to insure conformance with the requirements of the approved plans for the special use.

b. Any violations shall be reported in writing to the city administrator. The report shall be forwarded with a request for compliance, to the operating company by the zoning administrator.

c. Failure on the part of the operating company to correct a reported violation within 30 days after such request is made by the zoning administrator shall be reason for revocation of the zoning permit for the mining use. Additional time for correction of the cited violation may be allowed upon submission to the zoning administrator of proof of good and sufficient cause by the operating company, otherwise the operating company shall be declared to be in violation of this ordinance and subject to the penalties of both the ordinance and the special use requirements approved for the natural resource extraction operation.

G. Special requirements.

1. Waiver of excavation limits. The city zoning board of appeals may approve a reduction of the setback limits required for excavations in section 17.15C.1 under the following conditions:

a. The operating company shall have provided the zoning board of appeals with acceptable proofs that lateral support shall not be endangered.

b. Adjacent property owner or owners shall have given written consent to the waiver of limits for excavation.

c. All other requirements of this ordinance have been met and maintained at the time of applying for and receiving approval of any waiver.

(Ord. No. 142G, § 8, 10-15-96)

#### **Section 17.16. Housing of the elderly in detached single-family homes.**

Housing of the elderly, aged 55 or older, at two per bedroom, up to a maximum of six, per detached single-family dwelling is permitted; provided that the bedrooms so used shall be in excess of the bedroom needs of the family occupying the detached single-family home. The family needs shall be computed at two family members per bedroom. Further, each two bedrooms designated for the elderly shall be provided with a full bathroom for sanitary and bathing purposes which shall be located within ten feet of the most accessible door of the respective bedroom it is designated to serve.

#### **Section 17.17. Use of mobile homes as an accessory use for the sick and infirm.**

The use of one mobile home as a temporary dwelling for the sick and infirm shall be permitted on a single-family lot or parcel in any zoning district providing the following conditions are met:

A. The lot or parcel has a principal single-family dwelling located upon it.

B. The lot or parcel is a legal lot of record.

C. The occupancy of the lot shall not exceed the maximum lot coverage permitted in the zoning district in which it is to be located.

D. The occupants have a direct family relationship to those persons occupying the principal dwelling.

E. The persons seeking the use of and occupancy of the mobile home have a need as determined by their acquisition and presentation to the zoning administrator of a

physician's certificate prescribing the need for such housing during the period of illness or infirmity.

F. Mobile homes shall have a minimum width of ten feet and a minimum floor area, as measured inside and the perimeter of the exterior walls, of 400 square feet.

G. Mobile homes used for this purpose shall have immediate and unlimited access to all facilities located in the principal dwelling for the maintenance of proper health and sanitation, including potable water and sanitary disposal facilities for solid and liquid wastes.

H. All such accessory mobile homes shall be located within the setback requirements for the side and rear yards. No front yard shall be used for the location of a mobile home for this purpose.

I. Zoning permits shall be issued by the zoning administrator for this purpose and thereafter reviewed annually for continued need and compliance.

J. Zoning permits issued for such use shall terminate at such time that any one or combination of the above conditions cease to be met, in which case the mobile home shall be removed.

K. Prior to the issuance of a zoning permit the applicant shall submit to the zoning administrator a performance guarantee in the amount of \$500.00 in the form approved by the city commission.

L. Mobile homes are to be skirted in accordance to section 17.09G.  
(Ord. No. 142G, § 8, 10-15-96)

### **Section 17.18. Roadside stands.**

Roadside stands are only permitted in the frontage of farms located within the city and shall be for the purpose of selling produce or other products grown on the farm and produced by the family occupying the farm. The roadside stand shall be located and constructed to meet the following requirements.

A. The roadside stand shall not exceed 15 feet in height.

B. The floor area of the stand shall not exceed 400 square feet.

C. The stand shall be located no closer than 40 feet from the nearest edge of the street pavement or other travelled surface. In no case shall the stand occupy any part of the street right-of-way or easement.

### **Section 17.19. Bed and breakfast facility.**

While this subsection is established to enable single family dwelling units to be used as bed and breakfast facilities, it is the intent of the zoning ordinance to preserve the character of the district in which the operation is located. A bed and breakfast facility is a subordinate use to a single-family dwelling unit and is subject to the standards of article XVII (Special Uses) sections 17.01 through 17.07 as well as this section.

Bed and breakfast facilities may be permitted providing that these establishments will blend with the unique character of the town and offer accommodations that are both inconspicuous and a logical alternative to traditional accommodations.

Bed and breakfast facilities shall only be carried on in owner occupied and owner managed residential structures under the following conditions:

- a. A maximum number of four bedrooms may be available for guest use for compensation.
- b. Not more than eight guests shall be accommodated at any time.
- c. The maximum stay for any guest shall be 14 consecutive days per each separate reservation.
- d. At least one off-street parking space shall be available for each bedroom available for bed and breakfast usage, plus two parking spaces for the owner. A minimum area of 200 square feet, measured by a minimum width of ten feet and a minimum depth of 20 feet, shall be provided for each vehicle parking space, exclusive of aisles and access. The parking area shall be landscaped and screened.
- e. The structure must maintain the appearance of a single-family residence, except for one sign, not to exceed four square feet in area and attached flat against the principal building wall, to indicate that the structure is being utilized as a bed and breakfast. The sign shall be in conformance with the requirements of the East Jordan Zoning Ordinance and shall be appropriate to a residential area.
- f. The applicant shall submit a floor plan of the entire structure showing the present use and the proposed use of each room in the structure. City approval of the floor plan is required prior to issuance of a land use permit. The floor plan shall also be subject to approval by the fire marshal.
- g. The operation shall not require alteration of, or construction to, the structure not customarily found in residential dwellings.
- h. Every bed and breakfast facility shall maintain a register of guests. Such register shall be made available to the administrator upon request.
- i. Every bed and breakfast facility may be subject to annual inspections by the administrator and may be terminated by order of the administrator whenever the same fails to comply with this ordinance.
- j. Guests shall have access to lavatory and bathing facilities meeting public health standards.
- k. Meals may be served only to overnight guests, and in accordance with public health regulations regarding bed and breakfast facilities, unless the bed and breakfast owner applies for and receives an additional special use permit for serving gourmet dinners to non-overnight guests.
- l. The bed and breakfast facility shall produce no excessive noise, traffic, glare or other nuisance that would be detrimental to the character of the neighborhood.
- m. In the event the planning commission determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the planning commission may require that fencing and/or a planting buffer be constructed and maintained.
- n. No more than 50 percent of the parcel shall be covered by structures and parking areas.
- o. The applicant shall submit one site plan of the parcel showing all structures, parking areas, landscaping, and setbacks. A separate site plan showing the bed and breakfast's relationship to the surrounding parcels and structures shall also be submitted.
- p. All refuse and garbage collection areas shall be screened and located in a designated area.

q. Use of snowmobiles, all-terrain vehicles or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment, shall be prohibited.

The planning commission may impose additional conditions pursuant to article XVII: Reasonable conditions may be required by the planning commission with the approval of special uses. Such conditions may include conditions necessary to:

a. Insure that public services, such as police, fire, ambulance and similar services are capable of accommodating increased service or facility loads caused by the land use or activity;

b. Protect the natural environment and conserve natural resources and energy;

c. Insure the special use is compatible with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall:

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

2. Be related to the valis exercise of the police power, and purposes which are affected by the proposed special land use.

3. Be necessary to meet the intent and purpose of the East Jordan Land Use Plan and the East Jordan Zoning Ordinance, and to insure compliance with the standards contained in the zoning ordinance.

(Ord. No. 142U, 5-6-03; Ord. No. 142V, 7-1-03)

### **Section 17.20. Child group day care homes in residential zoned districts.**

Child group day care homes are permitted as special uses in all residential zoned districts providing the following conditions are met:

1. The child group day care home is licensed by the State of Michigan.

2. The applicant can provide adequate information and evidence that the special use will be operated, maintained and managed so as to be harmonious with the surrounding neighborhood.

(Ord. No. 142G, §§ 9, 14, 10-15-96)

### **Section 17.21. Child day care centers.**

Child day care centers are allowed as special uses in the nonresidential zoned districts providing the following conditions are met:

1. The child day care center is licensed by the State of Michigan.

2. The proposed site for any child day care center shall have at least one property line abutting a major public street, and the site shall be so planned as to provide all access directly to said major streets(s). Vehicular access to minor public streets shall not be permitted.

3. Street front, waterfront, side and rear yards shall be set back at least 50 feet, and shall be landscaped in trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards,

except necessary entrance drives and those fences, walls, berms and vegetation used to screen the use from abutting lots and parcels.

4. Shall meet off-street parking requirements specified in article XX.  
(Ord. No. 142G, § 14, 10-15-96)

### **Section 17.22. Adult only businesses.**

Because certain forms of expression relating to sexual materials have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of regulatory standards which can be used for approving or disapproving this type of special use.

A. Definitions. The following words and phrases shall have the following definitions when used in this section:

Adult bookstore: An establishment having as its principal activity the sale and/or rental of books, magazines, video tapes, films, recordings, and other periodicals which are depicting, describing or relating to "specified sexual activities" or "specific anatomical areas" or any other "sexually explicit matter" as herein defined, or an establishment with a segment or section devoted to the sale of or display of such material.

Adult entertainment business: One or a combination of more than one of the following types of businesses; adult bookstore, adult motion picture theater, adult personal service business, adult novelty business, adult nightclub, cabaret, bathing establishment.

Adult motion picture theater: An enclosed building used as its principal activity for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specific anatomical areas" or any other "sexually explicit matter" as herein defined for observation by patrons therein.

Adult nightclub: A business with the principal activity of providing entertainment by nude or partially nude performers.

Adult novelty business: A business which has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.

Adult personal service business: A business having as a principal activity a person, while nude or partially nude, providing personal services for another person on an individual basis in a closed room. It includes, but is not limited to, the following activities and services; massage parlors, exotic rubs, modeling studios, body painting studios, wrestling studios, individual theatrical performances. It does not include activities performed by persons pursuant to and in accordance with licenses issued to such persons by the State of Michigan.

Bathing establishments: Any place of business which, in exchange for a fee, provides as its principal function, bathing facilities, sauna baths, steam rooms or Turkish baths.

Cabaret: A business establishment which features or offers as a portion of its business the services of models, masseurs, masseuse, employees, etc.[,] who are nude, semi nude, or topless when performing their services.

Partially (semi) nude: Having any or all of the following bodily parts exposed: buttocks, male or female genitals, pubic area or female breasts.

Principal activity: A use accounting for more than 20 percent of a businesses' stock in trade, display space, floor space, live entertainment time or movie display time per year.

Sexually explicit matter: All matter defined as being sexually explicit under the provisions of Act No. 33 of the Public Acts of Michigan of 1978, as amended, being MCL 722.671 et seq., MSA 25.254(1) et seq. which definitions are hereby adopted and included herein by reference.

Specified anatomical areas:

- a. Less than completely and opaquely covered; (1) human genitals, pubic regions, (2) buttocks and (3) female breasts below a point immediately above the tope of the areola; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities:

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

B. Site location principles: The following principles shall be utilized to evaluate the proposed location of any adult only business. These principles shall be applied by the planning commission as general guidelines to help assess the impact of such a use upon the district in which it is proposed.

1. No adult only business shall be located within 500 feet, measured from the property line, of a church, school, public park or play ground, noncommercial public assembly facility, public office building, day care center, arcade, or any other adult only business, nor within 300 feet of any residential zoned district, waterfront zoned district, professional office zoned district, central business zoned district (C-1) or planned unit development district.
2. Any adult only business shall be located in a general commercial district (C-2) or industrial zoned district.

C. Site development requirements:

1. The site layout, setbacks, structures, function and over all appearance of any such business shall be compatible with adjacent uses and structures.
2. Windows, displays, signs and decorative or structural elements of buildings shall not include or convey examples of a sexual nature, and are limited to one sign. All such displays and signs shall be in conformance with article XXI of this Code and shall be approved by the planning commission prior to their use. Any alterations in the above media shall and must be reviewed and approved by the planning commission.
3. All building entries, windows and other such openings shall be located, covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area; and wherever else it is requested by the planning commission.
4. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that the sound can be discerned by the public from public or semi-public areas.
5. The adult only business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.

D. Use regulations:

1. No person shall reside in or permit a person to reside in the premises of an adult only business.

2. No person shall operate an adult only business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the prices for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
3. The owners, operators or persons in charge of an adult only business shall not allow entrance into such building or any portions of a building used for such use, to any minors, as defined by MCL 722.51 et seq., MSA 25.244(51) et seq., as amended.
4. No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., MSA 28.579(361) et seq., as amended.
5. No person shall operate an adult personal service business without obtaining a current code compliance license. Such license shall be issued by the zoning administrator or the administrator's designee following an inspection to determine compliance with the relevant ordinances of the City of East Jordan. Such license shall be subject to all regulations of federal, state and local governments.
6. No person shall become the lessee or sublessee of any property for the purpose of using said property for an adult entertainment business without the express written permission of the owner of the property for such use.  
(Ord. No. 142G, § 9, 10-15-96; Ord. No. 142U, 5-6-03)

**Section 17.23. New and used automobile sales.**

Outdoor sales for new and used automobiles shall be subject to the following provisions:

- A. There shall be no strings of flags, pennants or bare light bulbs permitted.
- B. No vehicles or merchandise for sale shall be displayed within any required front yard setback.
- C. There shall be no broadcast of continuous music or announcements over any loudspeaker or public address system.

(Ord. No. 142M, 8-4-99)

**Sec. 17.24. Tattoo parlors and/or body piercing establishments.**

Tattoo parlors and/or body piercing establishments may be permitted only as a special use in the C1 Local Commercial and CBD Central Business District providing the following conditions are met:

- A. The operation shall be in conformance with all applicable state and federal statutes.
- B. Such business shall be permitted to operate only between the hours of 8:00 a.m. and 9:00 p.m.
- C. The area within the building used for body piercing or tattooing shall be situated or configured so that the activity is not visible from outside the building and the area used for body piercing or tattooing shall be physically separated from other areas of the building.
- D. The site layout, setbacks, structures, function and overall appearance of any such business shall be compatible with uses and structures in the vicinity.

- E. There shall be no strings of flags, pennants or bare light bulbs visible from public or semi-public areas.
  - F. There shall be no loud speakers, public address system or equipment used that projects sound outside of the business so that the sound can be discerned by the public from public or semi-public areas.
  - G. No displays shall be within any required front yard setback.
  - H. Property used for such business shall not abut a residential zone.
  - I. The applicant shall provide adequate information and evidence that the special use will be operated, maintained and managed so as to be harmonious with the surrounding neighborhood.
- (Ord. No. 142U, 5-6-03)

**Sec. 17.25. Home based business.**

- A. A home based business may be permitted as a special use on lots of over four acres in the RA and R1 Single Family Residential Zoning Districts provided that it will blend with the unique character of East Jordan and the following conditions are met.
- B. All zoning applications for special use approval of home based businesses shall include the following information:
  - 1. A written description of the nature of the business.
  - 2. Number and type of vehicles involved.
  - 3. Hours of operation.
  - 4. Location of off-street parking for patrons and persons engaged in business.
  - 5. Number of employees and the names of the occupants or family member conducting business at the location.
  - 6. Amount and type of waste products or effluent discharges (if any).
  - 7. Noise level and types involved.
  - 8. Any other potentially identifiable adverse effects, including any conditions resulting from the services and/or products being created which generate noise, noxious odors, unsanitary or unsightly conditions, excessive traffic, fire hazards, and the like, involved in or resulting from such occupation.
- C. Once the zoning administrator receives a complete application, that official will forward a copy of the complete site plan to the planning commission for consideration.
- D. Any approved home occupation shall be subject to inspection by the zoning administrator with reasonable notice to the proprietor of the business.
- E. Home businesses shall only be approved on the basis of individual merit and will adhere to the use and any special conditions stated on the permit.
- F. The business shall be in compliance with the general standards of section 17.06 and the following specific standards:
  - 1. Any structural additions to the home for purposes of operating said business shall be of an architectural style that is comparable with the architectural style of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the business is discontinued.
  - 2. No more than 25 percent of the floor area of the dwelling shall be devoted to such home based business.

3. The proprietor of the home based business shall live on the premises and shall remain so during the entire life of the business. In the RA District, only occupants or family members living on the premises may work in the business. In the RA District, up to two persons not residing on the premises may work in the business.
4. All activities shall be conducted within the dwelling or accessory building and there shall be no outside storage or display of materials, goods, or services in connection with the home based business.
5. If an accessory building is to be used, it must be identified on the special use permit. A site plan layout is required and shall depict the accessory building to be sited, designed, and located on the property in such a manner as to avoid the appearance of a retail store or industrial building.
6. Any accessory building space for home based business shall not exceed a total floor area of 800 square feet.
7. The accessory building shall meet all setback requirements of the district in which it is located.
8. The planning commission may set other conditions on the special use permit, including hours of operation, as authorized by article XVII.  
Signage indicating the type of home based business or advertising for the home based business shall be limited to one, non-illuminated sign not to exceed four square feet in area and attached to the front wall of the structure where the home based business takes place.

(Ord. No. 142U, 5-6-03)