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## CITY COUNCIL MINUTES

January 17, 2023  
Regular Meeting - 7:00 PM

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**1) CALL TO ORDER**

IN A REGULAR SESSIONS held on Tuesday, January 17, 2023 at 7:00 PM in the Council Chambers of Town Hall, 323 West Michigan Ave, Marshall, MI 49068, the Marshall City Council was called to order by Mayor Schwartz.

**2) ROLL CALL**

Roll was called:

Present: Council Members: Mayor Schwartz, Gates, Traver, Underhill and Wolfersberger

Also Present: City Manager Perry and Clerk Eubank

Absent: None

**3) INVOCATION**

Devon Shepard of Woodland Church led the invocation.

**4) PLEDGE OF ALLEGIANCE**

Mayor Shwartz led the Pledge of Allegiance.

**5) APPROVAL OF AGENDA** - Items can be added or deleted from the Agenda by City Council action.

Mayor Schwartz recommended a friendly amendment to move the Public Hearing for the PA425 for Multiple Township Properties to the first public hearing and stated that there is also the addition of the December power purchase totaling \$800,914.27 for a new purchase total of \$1,666,533.83.

**Moved** Jacob Gates, supported Ryan Traver to approve the agenda as amended . On a voice vote: **MOTION CARRIED.**

**6) PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS** - Persons addressing Council are required to give their name and address for the record when called upon by the Mayor. Members of the public shall be limited to speaking for a maximum of five (5) minutes on any agenda item.

NONE.

**7) CONSENT AGENDA**

**Moved** Scott Wolfersberger, supported Ryan Underhill to approve the Consent Agenda as amended to include the December power purchase for a total amount on the city bills of \$1,666,533.83. On a roll call vote:

Ayes: Jacob Gates, Scott Wolfersberger, Ryan Traver, Ryan Underhill, James Schwartz

Nays: None

Abstain: None

**A. City Council Minutes**

Regular Session - January 3, 2023

Work Session- January 3, 2023

**B.     City Bills**

|                       |                     |
|-----------------------|---------------------|
| Purchases- 12/30/2022 | \$785,122.66        |
| Purchases- 1/6/2023   | \$80,496.90         |
| <b>TOTAL</b>          | <b>\$865,619.56</b> |

**8)   PRESENTATIONS AND RECOGNITIONS**

**9)   INFORMATIONAL ITEMS**

**10) PUBLIC HEARINGS & SUBSEQUENT COUNCIL ACTION**

**E.     PA425 FOR MULTIPLE MARSHALL TOWNSHIP PROPERTIES**

Manager Perry stated that the City received requests for City services from the mentioned properties, which requires the PA 425 agreement.

Mayor Schwartz opened the Public Hearing on PA425 for Multiple Township Properties.

A written comment was received from Mark Robinson of 1114 Fennimore opposing the megasite due to the loss of farm land and the existing parcels in the Brooks Industrial Park.

A written comment was received from Greg Kowalske of Marshall Township opposing the megasite as he believes it will change the character of the town and that hidden deals have been made.

Josh Sheppler of 17850 L Dr N stated that he opposes the megasite and believes at most 400 people in the local area would have a new job.

Michael Woods of 155 River Park Dr stated that this is the polar opposite of what Marshall needs and that it would completely change the character of the town.

Regis Klingler of 334 N Grand questioned if there would be capacity in the utilities, where new residents would live and if the current industrial park could handle the project as opposed to new land.

Maggie Rich of 616 Union St stated that she is opposed to the megasite as she doesn't believe the city can handle the infrastructure, nor does she feel a plant on the river is a good idea. She enjoys Marshall due to the small size and that an influx of people would ruin the town.

Amy Sheppler of 17850 L Dr N stated she felt farm land should be protected as it is an important resource.

Ian Stewart of 515 Schuyler stated that he supports the project as too many businesses have left, hurting the community. He further stated that this is a huge opportunity and if we miss it, it could be problematic.

Emily Emerson Rich of 616 Union St stated that her family left Lansing due to the toll industry took on the area. She questioned what the next steps would be, as more people would mean more need for education, police, groceries and other businesses.

Sara Jefferey of 116 S Sycamore stated that she supports the megasite as it would bring Marshall back all the jobs lost when State Farm and Eaton left. She further stated that the state is willing to invest a lot of money and Marshall should take advantage of that.

Robert Morse of 16325 Division Dr stated that he believes it would destroy the properties and the river and it would be better on one of the vacant industrial lands elsewhere.

Dave Mason of 229 Marshall St Ceresco stated that there are brownfields that currently exist in surrounding areas that could be used for the project as opposed to taking away farm land. He further stated that he believes the homeowners on C dr are being forced out and don't want to sell.

Stephanie Klingler of 334 N Grand stated she would like to see it go to a referendum.

Connie of 22680 B Dr N stated that she doesn't see any increase in tax benefits, as any big business would be given tax breaks, and there are no homes to house additional people. She further stated she was concerned about the possibility of contamination in the river which would lead into Lake Michigan.

Doug Damon of 13775 E Dr S stated that he had received several calls from people concerned about odor and that there would be a lack of control.

Tim White of 118 Single Tree Lane stated that he is concerned about all the unknowns surrounding the project and can't support it until there is more information.

Sherry Mason of 229 Marshall, Ceresco, asked the board to be their advocates and to shut down the megasite. She would also like to see more communication and transparency.

Lacy Pardoe of 18140 Homer Rd stated she would like to keep the farm land.

Dee Nelson of 333 Westbrook Ct stated she is concerned about the air quality and global warming and stated that while she understands the benefits, the risks don't outweigh them.

Frank Brownell of 21 Friendship Lane stated that he is concerned about contamination in the river and that property values will change.

Jim Dyer of 1118 O'Keefe stated that he spent a number of years on the City planning commission, city council and as mayor planning for this project. He believes that the city has a strong zoning ordinance and not to make a mistake out of fear. He further stated that the only thing on the docket is bringing the parcels in to the city and subjecting them to our zoning ordinance and regulations.

Rebecca Glotfelty of 02217 Us 31S, Charlevoix, stated that Marshall is dying and it

needs to create a community not an economy, and that jobs have to be appropriate for the community and the space. She does not want to see green space ruined.

Melissa Fish of 180 E Water St, stated that she is part of SW Michigan First and is in full support of the megasite and sees the PA425 as a critical step to making the site more competitive.

Marcia Strange of 604 Laura Ln stated that she supports the development and that while we currently have a strong local economy, that isn't always the case. She further stated that farms near a river also have a negative impact on the environment and encourages the close monitoring of the many steps this development will take along the way.

Georgina Morris of 118 Single Tree Ln, Emmett Twp, stated that she loves the small town of Marshall, and that the farm land is key for food and wildlife.

Tim Fisher of 10859 I Dr N, Emmett Twp, stated that he worries about crime, pollution and how long the factory will stay. He encouraged looking for a space to reuse.

Pete Baily of 19801 Michigan Ave stated that he put his local farm on a list of non-developable areas and believes these should not be developed as Calhoun county would not be the same.

Caryn Drenth of 602 Laura Ln stated that when State Farm and Eaton left, the town and businesses felt that impact and this would replace those lost jobs. She further stated that the state is going to spend the money somewhere and it should be here.

Julianna Kiessling of 137 Marshall St, Ceresco, stated that she moved to Ceresco for peace and animals and that a factory would ruin that. She further stated that factory work is not the kind of work we should be bringing in.

Justin Kazmar of 14200 18 1/2 Mile Rd stated that this will destroy Marshall and that MAEDA does not have the public interest at heart.

Laura Bartlett of 435 N Linden St stated that small town charm is what brings people to Marshall and she would like to stay that way. She further stated that the impact of pollution will be felt for generations.

Kelly Hills of 1113 Cathedral Pkwy stated that she is opposed to the development and questions how it would be staffed.

Elizabeth Wolfersberger of 22760 B Dr N stated that she started in schools that were overflowing and understaffed and when she moved to Marshall she felt safe, comforted and supported. She is opposed to the development.

Jim Durian of 351 E Bailey Circle, Mason, stated that he supports the megasite as it is a one of a kind opportunity that would bring in the 2,000 jobs lost when State Farm and Eaton left. He further stated that this would bring an increase to businesses around town and the property values.

Dale Borders of 12750 E Michigan stated that he is strongly opposed and is concerned

about potential environmental damage and the high potential for a disaster with the river.

Jack Reed of 116 S Sycamore stated that the PA425 is a unique and cherished agreement between Marshall and the surrounding townships and that this decision is for the future of the community. He further stated that as the population continues to decrease, this is a unique opportunity to bring in jobs which will support the downtown and schools.

Sabrina DeMott of 525 Hill Rd stated that she is opposed to the development as it will bring major changes to the area. She further stated that Ceres Farm should be looked in to for not paying taxes while they were looking to develop the property.

Matt Davis of 296 Lyon Lake stated that any of the owners in question could choose not to sell their properties and are doing it of their own free will. He further stated that this has been in the works for years and that all of the owners have requested the transfer.

Martha Beck of 305 Squaw Creek Rd stated that she is opposed to the development as it will change the heart and soul of the community. She further stated that there needs to be more transparency in the process and that residents shouldn't have to search for things.

Richard Lindsay of 15009 17 1/2 Mile Rd stated that economic development supports the schools. He further stated that this project has been a long time coming and that once there is something official to announce, it would be announced.

Mayor Schwartz closed the Public Hearing on PA425 for Multiple Township Properties.

Member Traver stated that he appreciated everyone coming out and voicing their opinions. He further stated that as all the property owners have requested this transfer, he is supporting the transfer, as that is what is on the agenda.

Member Wolfersberger thanked everyone for coming out and stated that the only way to ensure it is a good fit for Marshall is to bring it in to Marshall.

Member Gates stated that he appreciated everyone who came out and that he shares their passion for the community. He further stated that as there has been a request from the property owners, he feels it is in the best interest to grant their request.

Member Underhill stated that he appreciated everyone coming out and all the work staff had put in. He further stated that PA425 agreements have been made multiple times since he started on council, with several in the last year, and this one should be treated no differently.

Mayor Schwartz stated that he cares deeply about the city and the surrounding area and that everyone utilizes the resources here. He further stated that the properties being brought into the City would stimulate economic growth. He stated that the issue at hand is the PA425 agreement and that if it comes into the City it will fall under much more stringent rules and ordinances.

**Moved** Ryan Traver, supported Scott Wolfersberger to Approve the Public Act 425

Conditional Land Transfer for the following parcels: 16-282-003-00, 16-281-024-00, 16-201-015-00, 16-290-009-00, 16-290-006-00, 16-201-021-00, 16-281-021-00, 16-291-009-00, 16-282-006-00, 16-320-003-00, 16-330-015-00, 16-330-003-00 and 16-291-015-00 and authorize the City Manager to execute the associated Contract for Conditional Transfer of Property documents. On a roll call vote:

Ayes: Scott Wolfersberger, James Schwartz, Jacob Gates, Ryan Traver, Ryan Underhill,  
Nays: None  
Abstain: None

Mayor Schwartz called for a 10 minute recess, with the meeting to resume at 9:20 pm.

**A. REZONING OF 211 W SPRUCE**

Director Zuzga gave background, stating that this would bring the parcel in line with the others that were part of the former Oether's complex.

Mayor Schwartz opened the Public Hearing on the Rezoning of 211 W Spruce.

Hearing no comment, Mayor Schwartz closed the Public Hearing on the Rezoning of 211 W Spruce.

Council questioned the ownership of the property. Zuzga stated that the railroad who currently owns the property is in the process of selling it to the requesting party.

**Moved** Jacob Gates, supported Ryan Traver to Approve Ordinance 2023-01 for the rezoning of 211 West Spruce to Regional Commercial (B-4) from Research and Technology (I-1). On a roll call vote:

Ayes: Ryan Traver, Ryan Underhill, James Schwartz, Jacob Gates, Scott Wolfersberger  
Nays: None  
Abstain: None

**CITY OF MARSHALL  
ORDINANCE #2023-01**

**AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF  
MARSHALL SO**

**AS TO CHANGE THE ZONING OF A PARCEL OF REAL PROPERTY AT 211  
WEST SPRUCE STREET, PARCEL #53-001-329-00, FROM RESEARCH AND  
TECHNOLOGY DISTRICT (I-1) TO REGIONAL COMMERCIAL DISTRICT (B-4).  
THE CITY OF MARSHALL, MICHIGAN ORDAINS:**

Section 1. Pursuant to the authority granted in Section 7.1 of the Marshall City Code, the Zoning Map of the City of Marshall is hereby amended so as to change the zoning

district for the below described properties from Research and Technology District (I-1) to Regional Commercial (B-4).



TAX PARCEL #53-001-329-00 (311 West Spruce Street) Legal Description  
MARSHALL CITY, UPPER VILLAGE LOTS 328 TO 339 INCL. ALSO LOTS 350 TO 353 INCL.& INCLUDING ALL OF VACATED UNNAMED STREET LYING BETWEEN LOT 338 & 339 AND LOTS 350 & 351. ALSO INCLUDING E 1/2 OF VACATED GRAND STREET ADJACENT ABOVE PARCEL. ALSO INCLUDING W 1/2 OF VACATED EAGLE ST LYING SLY OF N LI RAILROAD.EXC THAT PART LYING SLY OF A LINE DESCRIBED AS BEG NE COR LOT 391; NWLY 233 FT TO PT ON W LI EAGLE ST VACATED 190 FT N OF N LI PEARL ST; NWLY PARL & 10 FT SLY AT R/A OF SLY RAIL MOSCOW BRANCH TRACK CONNECTION 233 FT; SWLY 22 FT; NWLY 32 FT; NELY 17.9 FT TO PT 8.5 FT SLY AT R/A OF CL MOSCOW BRANCH; SWLY PARL & 8.5 FT SLY OF MOSCOW BRANCH 198 FT; S 63.9 FT; W 66 FT; S 45.5 FT; W 45 FT TO NW COR LOT 347.COMBINED 001-328-00,001-330-00,PART OF 001-334-00, & 001-350-00 12/1/16 TO CORRECT LEGAL DESCRIPTIONS BLL ON THIS PROPERTY 299-101-00, 299-102-02,299-102-01, 299-341-10

Section 2. This Ordinance or a summary thereof shall be published in the Marshall Chronicle, a newspaper of general circulation in the City of Marshall qualified under state

law to publish legal notices, within ten (10) days after its adoption. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the

signature of the Mayor and the City Clerk.

Section 3. This Ordinance is declared to be effective immediately upon publication.

Adopted and signed this 17<sup>th</sup> day of January, 2023.

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James Schwartz, Mayor

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Michelle Eubank, City Clerk

I, Michelle Eubank, being duly sworn as the City Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved

by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on January 17, 2023, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

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Michelle Eubank, City Clerk

**B. ORDINANCE 2023-02- ADDING ARTICLE 8- SPECIAL DEVELOPMENT DISTRICTS IN THE CITY ZONING ORDINANCE**

Director Zuzga gave background on the proposed Ordinance. He stated that this is the fourth public hearing that has been held on the issue, and that it has been in the works for 9 months, with input from Marshall Township, the MEDC, and a private consultant among others. He pointed out that the Planning Commission recommended the Ordinance on a 6-0 vote, with some proposed amendments that have been presented to council.

Mayor Schwartz opened the Public Hearing on Ordinance 2023-02- Adding Article 8-Special Development Districts in the City Zoning Ordinance.

Maggie Rich of 616 Union St questioned if this was the last public hearing on the issue. Director Zuzga replied that it depends on the motion from the Council.

Jim Dyer of 1118 O'Keefe stated that he had read through the proposed ordinance and that he believed it was a strong ordinance that would protect the city.

Mayor Schwartz closed the Public Hearing on Ordinance 2023-02- Adding Article 8-Special Development Districts in the City Zoning Ordinance.

Council requested adding flour mills, steel mills and refineries to the list of Special Land Uses. They further questioned having unlimited height on items not adding to the square footage. Zuzga stated that it was in line with the existing industrial uses. Council questioned having the plan review done in a public meeting. Perry stated that it could be made a policy that all plan reviews be done in a public forum with the meeting posted.

**Moved** Scott Wolfersberger, supported Ryan Traver to Approve Ordinance 2023-02 which would create Article 8- Special Development Districts in the City Zoning Ordinance with the following amendments:



1. Section 8.10.B.10 Move chemical factories, flour mills, steel mills and refineries to Special Land Use- 8.10.C.3
2. Section 8.26.C.2- Change American Nurserymen & Landscape Association (ANLA) to AmericanHort
3. Section 8.26.H- Change American Nurserymen & Landscape Association (ANLA) to AmericanHort
4. Section 8.30.D.5.a- Add the following language in italics "and the Zoning Administrator, subject to the review and recommendation *of the Development Review Team*, shall be responsible for granting approval"

On a roll call vote:

Ayes: Ryan Underhill, James Schwartz, Jacob Gates, Scott Wolfersberger, Ryan Traver

Nays: None

Abstain: None

## CITY OF MARSHALL, MICHIGAN

### ORDINANCE #2023-02

AN ORDINANCE TO AMEND THE CITY OF MARSHALL ZONING CODE, BY THE ADDITION OF ARTICLE 8.0-  
SPECIAL DEVELOPMENT DISTRICTS

THE CITY OF MARSHALL HEREBY ORDAINS:

**Section 1.** That Article 8.0, Special Development Districts is added to the Marshall City Zoning Code as follows:

#### **8.1 PURPOSE.**

This Article is established to provide for the creation of Special Development Districts that are specifically written to address circumstances and types of development that are unique for reasons of considerable size, intensity of use, or other condition that is typically not found within other City of Marshall zone districts.

#### **8.2 DESIGN AND DEVELOPMENT REQUIREMENTS.**

All uses shall comply with all applicable provisions of this Article and other City codes and ordinances. Unless otherwise indicated within this Article, requirements for Articles 3, 4, 5, and 6 of the City of Marshall Zoning Ordinance shall not apply to districts in zones created by this Article. No structure shall be erected, reconstructed, altered, or enlarged, nor shall permits or certificates of occupancy be issued, except in conformance with this Chapter and other City codes and ordinances.

#### **8.3 DISTRICTS ESTABLISHED, ZONING MAP, AND DISTRICT BOUNDARIES.**

For the purpose of this Ordinance, the following districts are created for use in the City of Marshall:

#### **1. I-3 Industrial & Manufacturing Complex**

1. Purpose and Intent. The purpose of the I-3 zone district is to provide for the siting of larger scale manufacturing, processing, and production operations which may require extensive access to transportation facilities and community utilities and may include multiple supporting ancillary services such as storage, daycare, cafeteria, gym, or other supportive amenities. This district may be established in areas that are;
  - a. comprised of an extensive amount of contiguous land area that is greater than two-hundred (200) acres;
  - b. served by major highways, rail or air service, or secondary road improved to state standards;
  - c. served by public water and sewer, and
  - d. clearly suitable for intended uses with regard to physical characteristics and relationship to surrounding development.

2. The boundaries of the zoning district are hereby established as shown on the official zoning map for the City, which is hereby made an integral part of this Chapter. All references, notations and information shown on the zoning map shall be as much a part of this Chapter as if fully described herein.

#### **8.4 STREET, ALLEY, AND RAILROAD RIGHTS-OF-WAY.**

All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

#### **8.5 ZONING OF ANNEXED AREAS.**

Wherever any area is annexed to the City or the boundaries of the City are otherwise extended through a development agreement to include additional land area, zoning classification of the land area brought in shall be subject to the following:

- A. Land that is brought into the City from another governmental jurisdiction shall be classified to whatever district of this Chapter most closely conforms with the zoning designation of the other governmental unit.
- B. The City Council may adopt a new official zoning map for the land area following a public hearing and recommendation from the Planning Commission, per Section 7.1.
- C. In making a recommendation to City Council on the zoning classification(s) for such land areas, the Planning Commission shall consider any previous township or county zoning classifications that existed for the land prior to extension of the City boundaries, the pattern of land uses in the area, adopted City Master Plan recommendations, and planned future land use designations for the land area or adjacent areas within the City.
- D. Rezoning processes may run concurrent with public hearings and development agreement processes.

#### **8.6 ZONING OF VACATED AREAS.**

Any street, alley, railroad right-of-way or other public way or portion thereof within the City not otherwise classified within the boundaries of a zoning district on the official zoning map shall, upon vacation, automatically be classified in the same zoning district as the parcel(s) to which it attaches.

#### **8.7 PROHIBITED USES.**

Uses that are not specifically listed as a principal or special condition use permitted by this Chapter in a zoning district, or not otherwise determined to be similar to a listed and permitted use, shall be prohibited in the district.

#### **8.8 PRINCIPAL PERMITTED USES IN DISTRICTS.**

Within each zoning district there are uses that, when developed in accordance with sound planning and site plan principles, are consistent with the purpose and objectives of the district. For the purpose of this Chapter, these uses shall be known as principal permitted uses as set forth in the individual districts, and shall be allowed within that particular district subject to the development requirements of this Chapter.

#### **8.9 LAND USES SUBJECT TO SPECIAL CONDITIONS.**

- A. Within each zoning district it is recognized that there are uses, because of their unique characteristics which cannot be properly classified in any particular district or districts without consideration in each case of the impact of such uses upon neighboring land, and of the public need for the particular use at the particular location. Such uses may be consistent with the purpose and objectives of the particular zoning district only in specific locations, under specific conditions and when developed in accordance with sound planning and site plan principals.
- B. Uses subject to special conditions are listed as special land uses, which may be permitted as set forth in the individual districts, subject to a public hearing, review and recommendation by the Planning Commission, and approval by the City Council in accordance with the procedures and conditions specified in Section 8.51.

#### **8.10 I-3 Industrial & Manufacturing Complex District.**

- A. Intent. The I-3 Industrial & Manufacturing Complex district is intended to provide locations for larger scale manufacturing, processing, and production operations which may require extensive access to transportation facilities and utilities.

2. Principal Permitted Uses-

1. Light manufacturing and equipment servicing
2. Assembly and packaging of products
1. Manufacture or treatment of goods
2. Compounding, manufacturing, and processing or treatment of materials or products
3. Electroplating, heat-treating, metal plating, stamping, pressing, casing, buffing, and polishing
4. Laboratories for research and testing
5. Experimental product development facilities
6. Machine shops
7. Printing, lithographic, blueprinting, and similar processes
8. Canning factories and chemical plants
9. Assembly, fabrication, manufacture, or treatment of goods
10. Recycling collection facilities
11. Recycling processing facilities
12. Wireless communication facilities
13. Electronics production and assembly, including semiconductors and batteries
14. Steel fabrication plants for large stampings, such as automobile chassis
15. Utility services and municipal uses such as water treatment plants, reservoirs, sewage treatment plants, public utility structures, substations, telephone exchange buildings, electric transformer stations and substations, gas regulator stations, and public works maintenance facilities (excluding outdoor storage)
16. Electric vehicle charging stations, Levels 1, 2, and 3
17. Parking Structures
18. Open space, wetlands, woodlands, drains, and greenbelt areas dedicated to the public, and publicly owned or operated pedestrian malls, parks, trails, playgrounds, and playfields
19. Worker mobility accommodations, including bus shelters, bus stations, carpooling area, and parking structures

3. Special Land Uses

1. Parking facilities, off-street and off-site, when not accessory to a permitted use
1. Trade schools, regional educational facilities, vocational education facilities, intermediate career centers, and similar technological or vocational training facilities
2. Chemical Plants
3. Refineries
4. Steel Mills
5. Flour Mills

4. Accessory Permitted Uses

1. Accessory Structures customarily incidental to permitted uses
2. Adult and child care centers
3. Ground-level large solar facilities
4. Helipads
5. Indoor warehousing
6. Medical facilities, health clubs, and recreational facilities
7. Mobile food vending
8. Outdoor storage, fully screened
9. Parking facilities and structures

10. Retail sales of goods produced on-site
11. Restaurants, cafeteria facilities
12. Test Track
13. Solar energy systems- small, medium, and large
14. Wind Energy Conversion Systems
15. Where an above-listed use is desired to be the primary use, then Special Land Use procedures shall apply

## 5. Development Standards

1. Lot Size
  1. Minimum Lot area- 200 acres
2. Lot Coverage
  1. Maximum Lot Coverage- 60%
  2. An additional 10% of lot coverage may be allowed with the submittal of a Leadership in Energy and Environmental Design (LEED) checklist and proof of registration that demonstrates the intent to apply for LEED building certification with the U.S. Green Building Council, facilities that are Zero Net Carbon (ZNC), Zero Net Energy (ZNE), or other generally recognized building certification.
3. Setbacks
  1. Minimum front yard setback- 50 feet
  2. Minimum rear yard setback- 30 feet
  3. Minimum side yard setback- 30 feet
  4. To protect the public health, safety, comfort, and welfare and minimize land use conflicts, it may be required that structures for uses which pose a potential nuisance as determined by the Zoning Administrator or Planning Commission in its review of matters addressed under the impact assessment of Section 8.12 , shall be setback a minimum of 200 feet from any residential district or use.
4. Building Height
  1. Maximum building height- 200 ft by right, w/proportionate setback for structures over 80'
  2. Structures within 200 feet of a residential district or use and are greater than 80 feet in height, shall have setbacks circumscribed by the minimum front, side, and rear setbacks plus one additional foot of setback for each foot of height above 60 feet. Setback requirements associated with this provision may be reduced or waived by the Planning Commission in accordance with Special Land Use standards.
  3. Structures greater than 80 feet in height must incorporate on-site fire control provisions, unless the applicant submits certification that proposed building height meets the ability of local fire and rescue teams to serve the facility. Certification in the form of a letter signed by the fire chief shall be provided. If the building cannot be certified, then on-site fire control provisions must be provided.
1. Floor Area
  1. Minimum floor area per unit- None specified
2. Exceptions to Height Limitations, Lot Area, or Width Requirements
  1. Elevator and stairway towers; ventilation fans or mechanical equipment; firewalls or parapet walls; skylights; individual domestic radio and television reception antennae; wireless communication facilities; scenery lofts; steeples; chimneys; grain elevators; silos; gas containers; industrial production facilities for flour mills, steel mills and refineries; and similar appurtenances may be erected above the height limits herein prescribed. No such structures shall be allowed for the purpose of providing additional floor space for business or industrial use.
  2. Lots of record existing prior to the adoption or amendment of this Article with less than the required minimum lot area or width for the zoning district in which such lot is located may be used for any use permitted within the district.

#### **8.11 NOTES TO DISTRICT STANDARDS.**

A. Applicability. The notes contained in Section 8.11 are additions, exceptions, and clarifications to the district standards contained in Section 8.10.

B. Notes to district standards:

1. Except as otherwise specified, all side yards abutting residentially zoned land shall have a minimum distance of twice the one-yard requirement.
2. All rear yards abutting residentially zoned land shall have a minimum distance of 75 feet between the principal building and rear property line.
3. The Planning Commission may waive these standards if it determines it is necessary to allow flexibility in the siting and construction of new buildings in the district.
4. Accessory Permitted Uses, in the I-3 zoning district, as listed in 8.11.D shall equal no more than 15% of the gross building square footage for interior uses and shall be the sum of no more than 20% of the gross developable area of the lot or lots in common ownership of outdoor uses, unless approved by the Planning Commission.
6. Any parcel subdivisions must meet Land Division Act, Planned Unit Development (Chapter 3.1.17), or Site Condominium standards (Chapter 6.1) for multiple parcel planned development.
7. The City reserves the right to hire experienced professionals to evaluate information provided by the applicant and prepare additional analyses, with the cost borne by the applicant.

#### **8.12 I-3 DEVELOPMENT BUILDING REQUIREMENTS AND IMPACT ASSESSMENT.**

To ensure compatibility with the intent and purpose of the I-3 (Industrial & Manufacturing Complex) district, any uses occurring within 500' of a residential building and any portion of a principal or accessory building or structure erected within 500' of a residential building shall be subject to the following additional development requirements. The requirements of this Section may be reduced or waived by the Planning Commission in accordance with Special Land Use standards.

- A. Materials. All exterior walls of office related functions shall be constructed of not less than 20 percent brick, face brick, stone, or cast stone. Metal siding or paneling may be used, provided it is not higher than 24 gauge and any change in profile shall be non-corrugated with a minimum rib depth of 1-inch.
- B. Windows. A minimum of 10 percent of building walls of office related functions shall have windows. Glass block shall be allowed in non-office locations.
- C. Impacts. Due to the intensive nature of many uses allowed in the I-3 zone district, measures to evaluate potential adverse impacts within 500' of a residential building are provided in this section. The applicant shall document how the site and proposed use will affect the community, including any potential mitigation methods. Proposed mitigation methods required by this Section shall be approved by the Planning Commission. Failure to perform in conformance with the information provided may be cause for enforcement.
  1. Stormwater. Stormwater and soil erosion permits must be received from the City of Marshall and Calhoun County Road Department respectively.
  2. Odors. Describe how the use will not produce the emission of hazardous, objectionable, or offensive odors in such concentration as to be readily perceptible at or beyond the lot line of the property on which the use is located.
  3. Noise and Vibration. Detail what noise and/or vibration impacts are expected for the proposed use. Where such impacts are anticipated, the applicant shall detail the frequency, duration, noise level, hours of operation, or other factors that could be potentially disturbing to nearby uses. All measurements to assess potential adverse effects shall be made from the use's nearest parcel boundary to the primary building or structure of an affected use.
  4. Electromagnetic Interference. Describe how any use, activity, or processes that may produce electromagnetic interference with normal radio or television reception beyond the lot line of the property on which the use is located will be prevented.

#### **8.13 ACCESS THROUGH YARDS.**

Walks, terraces, access drives, or other pavement serving a like function shall be permitted in any required yard, except a minimum of ten (10) feet shall be maintained between the encroachment and the property line.

#### **8.14 RUBBISH AND WASTE MATERIAL.**

It shall be unlawful to openly store, collect or place garbage, discarded building materials, tires, refuse, junk, inoperable and unlicensed motor vehicles, or other similar materials, except upon land owned and operated as a solid waste site in accordance with applicable state or federal law.

#### **8.15 RESTORATION OF UNSAFE BUILDINGS.**

Nothing in this Chapter shall prevent the strengthening or restoring to a safe condition of any part of any structure declared unsafe by the Building Inspector, or required compliance with his or her lawful order.

#### **8.16 ESSENTIAL SERVICES.**

Essential services shall be permitted as authorized and regulated by law and other ordinances of the City, it being the intent hereof to exempt such essential services from the application of this chapter, with the following exceptions:

- A. Public utility transformer stations, substations, and gas regulator stations shall be subject to the following:
  - 1. A front yard setback of not less than 50 feet shall be provided, and two side yards and a rear yard shall be provided, each shall not be less than 25 feet in width.
  - 2. The site shall be enclosed by a fence; or another suitable screening as determined by the Zoning Administrator in accordance with the standards of Section 5.15.8.
  - 3. Such uses shall not include outdoor storage yards.
- B. Buildings 200 square feet or less and 12 feet in height or less shall be reviewed and approved by the Zoning Administrator and are subject to the accessory building requirements of the district in which they are located. Buildings associated with essential services not meeting the above criteria shall be subject to the height and setback requirements of the district and a site plan shall be reviewed and approved by the Planning Commission.

#### **8.17 USE STANDARDS.**

All uses listed in this Article shall be regulated in the same way as described in Article 3 Use Standards.

#### **8.18 SIGNS.**

- A. Intent. These regulations establish rules and standards for the construction, location, maintenance, and removal of privately-owned signs. Directional, emergency, or traffic-related signs owned by City, county, state, or federal government agencies are not regulated by this Section. The execution of these regulations recognizes that the purpose of this Chapter is to protect the interest of public health, safety, and welfare and to ensure the maintenance of an attractive physical environment while satisfying the needs of sign users for adequate identification, communication, and advertising. In order that such purposes can be achieved, the following objectives shall be applied for this Chapter and any future additions, deletions, and amendments:
  - 1. General. Ensure that signs are located, designed, constructed, installed, and maintained in a way that protects life, health, morals, property, and the public welfare;
  - 2. Public Safety. Protect public safety by prohibiting signs that are structurally unsafe or poorly maintained; that cause unsafe traffic conditions through distraction of motorists, confusion with traffic signs, or hindrance of vision; and that impede safe movement of pedestrians or safe ingress and egress from buildings or sites;
  - 3. Protect Aesthetic Quality of Districts and Neighborhoods. Prevent blight and protect aesthetic qualities by preventing visual clutter and protecting views; and eliminating signs and sign structures on unused commercial properties. Also, to avoid glare, light trespass, and skyglow through selection of fixture type and location, lighting technology, and control of light levels;
  - 4. Content. Respect constitutional rights and to allow signs as a means of communication;
  - 5. Reduce Conflict. Reduce conflict among signs and light and between public and private information systems;
  - 6. Business Identification. Allow for adequate and effective signage for business identification and other commercial speech, non-commercial speech, and dissemination of public information, including but not limited to, public safety information and notification as may be required by law;
  - 7. Foster Economic Development. Ensure that signs are located in a manner that does not cause visual clutter, blight, and distraction, but rather promotes identification and communication necessary for sustaining and expanding economic development in the City; and,
  - 8. Recognize Unique Areas. Acknowledge the unique character of certain districts, and establish special time, place and manner regulations that reflect the unique aesthetic, historical, and/or cultural characteristics of these areas.
- B. General Sign Regulations.

1. General Requirements. The following regulations shall apply, unless otherwise specifically stated in this Chapter, to all signs erected or located in any zoning district within the City.
  - a. All signs shall conform to all applicable codes and ordinances of the City and, where required, shall be approved by the Building Inspector, and have a license and permit issued.
  - b. Signs not visible from any street, alley or publicly-owned property are exempt from the provisions of this Chapter and do not require a sign permit.
  - c. A sign shall not be placed in, upon or over any public street, public right-of-way, alley, or other publicly-owned land, except as otherwise expressly permitted by this Chapter.
  - d. Only signs established and maintained by the City, county, state, or federal governments or expressly permitted by this Chapter shall be permitted in a public street right-of-way, dedicated public easement or upon publicly-owned land.
  - e. No public or commercial pole, utility pole or other supporting member located in a public right-of-way shall be used for the placement of any sign unless specifically designed and approved for the use.
  - f. No sign shall be located on or attached to any tree or other natural feature.
  - g. A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of or be confused with any authorized traffic sign, signal, or device, obstruct the view of any intersection or entrance to any public street or alley, or constitute a public nuisance.
  - h. No sign shall employ animated or moving parts, except as otherwise permitted in this Section.
  - i. No sign shall employ any flashing, moving, oscillating, blinking or variable intensity light; except as otherwise provided for in this Chapter.
  - j. No sign shall exhibit statements, words, or pictures of an obscene or pornographic nature.
  - k. No sign shall emit a sound, odor, or visible matter such as smoke or vapor.
  - l. All signs with a sign height of greater than two feet shall be set back the lesser of three feet from a street right-of-way line or 15 feet from any front, side or rear property line unless attached to a building or permitted within the public street right-of-way.
  - m. Signs affixed to the ground shall not obstruct vision above a height of two feet from the established street grades within a clear vision zone. A clear vision zone is the triangular area formed by the intersection of any street right-of-way lines and a point along each right-of-way line 25 feet from the point of the intersection.
  - n. All signs, except directional signs must be set back 15 feet from the intersection of the edge of an access drive and a street right-of-way line.
  - o. Signs required by any federal, state, or municipal statute or ordinance shall be exempt from the provisions of this Chapter and shall not be included when calculating sign area.
  - p. Any commercial message lawfully established on a sign may be replaced with a non-commercial message provided that the regulations of this Chapter are otherwise met.
  - q. Abandoned signs shall be removed or put into service. Removal of such signs shall include removal of the poles and/or supports. If the property upon which the sign is located is vacant and the previous use is abandoned, the entire sign (including above-ground base, height, poles, size, wires, panels, and any other element) shall be removed within 30 days of the property becoming abandoned.
2. Signs Not Requiring a Permit. The following signs shall be permitted without a permit, pursuant to the applicable regulations in this Section:
  - a. Address signs.
  - b. Construction signs
  - c. Directional signs.
    - (1) On premises.
    - (2) Temporary signs.
  - e. Flag signs.
  - f. Incidental signs.
  - g. Murals.
  - h. Real estate signs.
  - j. Water tower signs.
3. Prohibited Signs. The following signs are prohibited:
  - a. Balloon signs.
  - b. Portable signs, except as otherwise permitted in this ordinance.
  - c. Roof signs.
  - d. Snipe signs.
  - e. Pennant signs.
  - f. Feather and flutter signs.

- g. Any sign which requires a permit and is erected without a permit.
  - h. Any sign or sign structure which obstructs the view of, or may be confused with, a traffic directional/safety sign.
  - i. Signs which simulate or imitate in size, color, lettering or design, any traffic sign or signal or any sign which by design or location may in any manner interfere with, mislead, or confuse the public with respect thereto or obstruct the public view thereof.
  - j. Any signs not permitted under this Chapter.
4. Measuring Sign Area.
- a. The sign area shall include the surface area which encloses the extreme limits of sign copy, together with the frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
  - b. A double-faced sign, as defined in this Chapter, shall be considered as having one face and the area of one face shall be included in computing the sign area.
5. Measuring Sign Height. Sign height shall be the vertical distance measured from the point of ground immediately beneath the sign to the highest point of the sign, including decorative embellishments. Where the ground elevation beneath a sign varies, the average grade of the ground within a five-foot radius of the sign structure shall be used. The average grade shall be the highest point within said radius plus the lowest point within said radius, divided by two. Any filling, berming, mounding or excavating solely for the purpose of locating the sign shall not be included in the calculation of average grade.
6. Addresses. Address signs shall be visible and legible from the public right-of-way.
7. Illumination of Signs.
- a. Where illumination of signs is permitted by this ordinance, three methods of illumination are permitted:
    - (1). Internal Illumination. Where a sign is internally illuminated, no portion of the surface of the sign shall be transparent.
    - (2). External Illumination. Where a sign is externally illuminated, the source of illumination shall be directed downward and shielded from directing glare onto neighboring properties or into the public right-of-way.
    - (3). Halo Illumination (Backlighting). Where a sign is backlit, forming a halo of light around the sign copy on the surface behind the sign, the source of illumination shall not be visible from neighboring properties or the public right-of-way.

C. Signs by Type

| Sign Type                         | Max Surface Display Area   | Max Height                   | Number                           | Permit Required |
|-----------------------------------|--|------------------------------|----------------------------------|-----------------|
| Construction Signs                | 32 square feet   | 8 feet                       | 1                                | Y               |
| Directional                       | 4 square feet per sign   | 6 feet                       | 5                                | N               |
| Flag Signs                        | 120 square feet  | 40 feet when ground- mounted | 3                                | N               |
| Incidental                        | 24 square feet (total of all signs)  | 6 feet                       | Limited by total permitted area  | N               |
| Ground; Changeable copy permitted | 60 square feet; 120 square feet for multi-tenant buildings; 100 total square feet where more than one ground sign is present; no more than 25% changeable copy | 9 feet                       | 1 per frontage on a thoroughfare | Y               |
| Real Estate                       | 24 square feet   | 8 feet                       | 1 per frontage                   | N               |



|      |  |  |   |   |
|------|--|--|---|---|
| Wall | Total 25% of ground floor wall area, up to 500 square feet | Shall not project above the eave or roofline | 1 | Y |
|------|--|--|---|---|

D. Specific Sign Regulations.

1. Changeable Copy Signs. Changeable copy signs are permitted as follows:
  - a. Any changeable copy area may be part of a permanent ground sign
  - b. The changeable copy sign area of any sign shall not exceed 25% of the sign area.
  - c. The changeable copy sign area shall be counted as part of the total sign area allowed.
  - d. Changeable copy signs include animated signs and electronic signs with changeable messages, including fuel price signs. The illumination average of any electronic sign shall be limited to 2,000 nits during daylight hours, and shall be reduced to 250 nits from a half hour before sunset to a half hour after sunrise. Animated signs shall be subject to the following:
    - (1). Animated signs shall be turned off from midnight to 5:00 a.m.; excluding businesses open during this time period.
    - (2). No animated sign will be allowed in the same yard that directly abuts or is across the street from a residential property.
    - (3). The rate of change for an animated sign shall not exceed once per 12 seconds where the speed limit is less than 45 miles per hour and once per 10 seconds where the speed limit is 45 miles per hour or greater.
2. Directional Signs. Directional signs are permitted in all districts subject to the following:
  - a. Permanent directional signs:
    - (1). The maximum height of an on-premises directional sign shall be six feet.
    - (2). The number of directional signs per parcel shall not exceed five.
    - (3). Directional signs shall not exceed four square feet in area.
    - (4). Permanent directional signs are permitted only for non-residential uses.
  - b. Off-premises temporary directional signs, including but not limited to directional signs for a real estate open house or auction sale:
    - (1). The maximum height of a temporary off-premises directional sign shall be three feet.
    - (2). Temporary off-premises directional signs shall not exceed four square feet in area. Temporary off-premises directional signs shall be permitted to remain on private property for a maximum of six days.
    - (3). Temporary off-premises directional signs may be placed in the right-of-way, provided they are at least five feet from the back of curb or the pavement where there is no curb, and that they are not located in the clear vision triangle of any driveway or roadway. Signs shall be removed within three days of posting.
3. Flag Signs. Flag signs are permitted in all districts subject to the following:
  - a. Flag signs shall not exceed 120 square feet.
  - b. Flag signs shall be displayed in one of two ways:
    - (1). Affixed to a permanent pole affixed to the ground. Said pole shall not exceed 40 feet in height.
    - (2). Affixed to a permanent or temporary pole that is attached to a mounting point on the ground floor exterior wall of a building. Where such a flag sign extends over a sidewalk, there shall be not less than 8 feet of clearance from the lowest part of the flag to the surface of the sidewalk.
  - c. Flag signs shall be maintained in good condition.
4. Ground Signs. Ground signs are permitted, subject to the following:
  - a. Ground signs shall have a maximum height of nine feet. The area of a ground sign shall 60 square feet. Ground signs for multi-tenant commercial developments shall be permitted a maximum sign area of 120 square feet.
  - b. Where a property fronts on two thoroughfares, one ground sign per frontage shall be permitted, provided that the total area of the ground signs does not exceed 100 square feet.
5. Incidental Signs. Incidental signs are permitted, subject to the following:
  - a. The total square footage of incidental signs on a property shall not exceed 24 square feet.
  - b. The height of any incidental sign shall not exceed six feet, except where an incidental sign is mounted on a building, fence, or other structure, in which case, the sign shall not protrude beyond the eave or upper edge of the structure.
6. Temporary Signs.
  - a. General Requirements:
    - (1). Temporary Off-Premises Directional Signs. See Directional Signs.
    - (2). Temporary Signs

- (a) Temporary signs shall not exceed six feet in height, except as otherwise permitted by the Requirements for Specific Types of Temporary Signs.
    - (b) No temporary sign shall exceed six square feet in area, except as otherwise permitted by the Requirements for Specific Types of Temporary Signs.
    - (c) The total area of all temporary signs displayed concurrently on one parcel shall not exceed 32 square feet.
    - (d) Temporary signs shall not be placed within the clear vision triangle.
  - b. Requirements for Specific Types of Temporary Signs:
    - (1). Construction Signs. Construction signs are permitted, subject to the following:
      - (a) One construction sign is permitted per site.
      - (b) Construction signs shall have a maximum height of 8 feet.
      - (c) Construction signs shall not exceed 32 square feet
      - (d) Construction signs shall not be erected until a building permit is obtained for the project, if required, or until construction begins, whichever is later.
      - (e) Construction signs shall be removed when construction is complete or when real estate signs are erected on the property, whichever occurs first.
      - (f) Construction signs 6 square feet in area or greater or greater than 6 feet in height shall require a permit.
    - (2). Real Estate Signs. Real estate signs are permitted, subject to the following:
      - (a) One real estate sign is permitted per street frontage;
      - (b) Real estate signs shall not exceed 24 square feet in area in non-residential districts. An additional two square feet is permitted for attachments such as, but not limited to, announcements that the property is sold, reduced, or pending, information regarding the property, or the agent's name.
      - (c) Including attachments, the height of a real estate sign shall not exceed 8 feet.
      - (d) One temporary real estate "open house" sign may be located on the premises being sold. Temporary real estate open house signs shall be erected no more than ten days prior to the day(s) of the open house and shall be removed within one day after the open house.
      - (e) Real estate signs shall be removed within 5 days of completion of the sale, signing of a lease agreement or other similar action, as determined by the City.
- 7. Wall Signs. Wall signs are permitted, subject to the following:
  - a. Wall signs shall not project outward from the surface of the wall more than 12 inches. No sign attached to the wall of a building shall be erected so as to extend above the top of the wall or beyond the edge of the wall of the building to which it is attached.
  - b. Each property is permitted one or more wall signs. Total sign area:
    - (1). Shall not be greater than the maximum sign area permitted for the property;
    - (2). Shall not be more than 25% of the ground floor wall area of the wall to which it is attached. In a commercial development with more than one tenant, the total sign area of all wall signs may exceed 25%, provided that no sign for any tenant shall exceed 25% of that tenant's ground floor store frontage.
- E. Signs Permitted Subject to Special Conditions.
  - 1. The Planning Commission may, through granting a special use sign permit, approve signs that exceed the number, sign area or height permitted by the other provisions of this Chapter for sites that exceed two acres in area and have more than 200 feet of public street frontage, provided the applicant furnishes the surveys, site plans and other information as may be reasonably required by the Commission for proper consideration of the matter.
  - 2. The Planning Commission shall notify all parties having an interest in property within 300 feet of the affected site of the time and place of any hearing or meeting which may be held relative to the application.
  - 3. The Commission may impose such conditions or limitations granting approval as may, in its judgment, be necessary to fulfill the spirit and purpose of this Chapter.
  - 4. In reviewing the application, the Commission shall consider the following standards as a basis for establishing size, setback, and placement of signs:
    - a. Visibility of vehicular and pedestrian traffic off-site and at the site, visibility, and legibility of signs for drivers and/or pedestrians and the impact upon the visibility of traffic signals or regulatory devices in the public street right-of-way.
    - b. Negative impact of proposed signs upon adjacent properties and their signage and the impact of lighting and appearance of signs upon nearby residential zoned property.
    - c. Particular site characteristics such as yard areas, landscaping, topography, location of buildings, site use and number of street frontages.

F. Non-Conforming Signs.

1. A sign lawfully erected prior to the adoption of this Chapter or any applicable amendment thereto which does not meet the standards of this Chapter may be continued as a legal non-conforming sign, except as hereinafter provided. A legal non-conforming sign shall not:
  - a. Be substantially altered in content unless the use to which it applies remains the same after the change in the words or symbols;
  - b. Be substantially altered in structure so as to change the shape, size, location, type, or design of the sign; or
  - c. Be reestablished or continued after the activity, business or use to which it applied has been discontinued for 180 days or longer.
  - d. "Substantially altered" does not refer to normal maintenance, such as painting, or a change in message panels.
  - e. A non-conforming sign may remain as long as the sign is properly maintained and is not detrimental to health, safety, and welfare. If damaged beyond normal maintenance, the sign shall not be repaired/replaced except in conformity.
2. If the owner of the premises on which a sign is located changes the use of the premises, or changes the location of a property line or sign so that a sign is rendered non-conforming, the sign must be removed or made to conform to the provisions of this Chapter.

G. Administration and Enforcement.

1. Enforcement.

- a. The sign provisions of this ordinance shall be administered and enforced by the Building Inspector(s) or their designee.
- b. The Building Inspector(s) or their designee may enter at any reasonable time upon the premises where any sign is located. All sign violations shall be considered civil infractions. No criminal penalty shall be attached for violations except where a police officer has actually observed a criminal violation being committed or probable cause exists for such enforcement.
2. Permits. No person shall erect, place, relocate, alter, or add to any sign for which a permit is required without obtaining a permit.
3. Plans and Specifications. No person shall erect or alter any sign, except in accordance with the plans and specifications approved by the Building Inspector.
4. Application and Permit Fee. Application for sign permits shall show the name and address of the owner of the sign and the person responsible therefore and the location, type, sign height and sign area of the sign and shall contain a drawing or other rendering of the proposed sign. The application and permit fee shall be filed with the Building Inspector for investigation. If the Inspector finds that the sign conforms to all provisions of this Chapter a permit shall be issued. The Inspector shall make a finding within ten business days of filing the application or within 30 calendar days of the filing of the application if the code official requires an interpretation or the application shall be deemed approved as submitted.
5. Fees. The fee for sign permits shall be as adopted and amended from time to time by resolution of the City Council.
6. Inspection.
  - a. After being erected, each sign for which a permit is required, shall be approved and inspected by the Building Inspector for zoning compliance.
  - b. If, upon any inspection by the Building Inspector, a sign is found to be unsafe or in a condition that does not comply with the provisions of this Chapter, the Building Inspector shall give notice of the condition to the owner or the person responsible. Within 30 days thereafter, the necessary repairs shall be made in order to bring the sign into compliance with this Chapter.
  - c. If the Inspector finds a sign to be in such an unsafe condition that immediate repairs or the removal thereof are required, the Building Inspector shall take such precautions as may be necessary to protect the safety of the public in the use of the streets the cost of which shall be the responsibility of the owner.
7. Maintenance.
  - a. Signs, including the face, framing and all supports thereof, shall be kept, and maintained in a safe condition, shall be adequately protected against corrosion, and shall conform to all the provisions of this Chapter.
  - b. Signs which are broken, torn, bent or whose supports are broken, bent or damaged, and signs that are not reasonably level and plumb shall be repaired and installed in a manner prescribed by the Enforcement Officer and / or Building Official, but in no case shall repair requirements exceed building code requirements and the original condition of the sign and/or its supports.

- c. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Code. Failure to comply with this Section may result in action by the Enforcement Officer or Building Official to rescind the permit with subsequent removal of the entire structure.
- d. A sign shall have no more than 20 percent of its surface area covered with disfigured, cracked, ripped or peeling paint, poster paper or other material for a period of more than 30 successive days.
- e. A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 degrees from vertical for a period of more than 30 successive days, unless determined by the Building Official to pose a safety hazard, in which case immediate action may be required.
- f. A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the public right-of-way from which it is to be viewed, for a period of more than 30 successive days.
- g. An internally illuminated sign shall not be allowed to stand with only partial illumination for a period of more than 30 successive days.
- 8. Nuisance. Any sign erected or displayed without a permit or any sign which does not comply with the provisions of this Chapter shall be deemed a hazard to the safety of the public and is declared to be a public nuisance and may be abated by removal without notice.
- 9. Signs Within Fire Limits. No person shall erect a lighted or mechanical sign within the fire limits of the City unless the sign and supports therefore be entirely constructed of fire-resistant materials and complies with the provisions of the City's Fire Code.
- 10. Obstruction Hazard. No person shall erect, display, or maintain any sign which obstructs any fire escape, building entrance or public passage, or at a horizontal distance of less than ten feet from any fire hydrant or traffic light.
- 11. Appeals. The Zoning Board of Appeals is authorized to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, or determination made by the Inspector in connection with the enforcement of this Section. The Zoning Board of Appeals shall also have the power to authorize a variance from the strict application of this Section where the strict application would result in peculiar or exceptional practical difficulties to the person owing or having the beneficial use of the property. The relief may be granted provided it is without substantial detriment to the public good and without substantially impairing the intent and purpose of this Section. In considering applications, the Board shall follow the procedures contained in Section 7.8 of the Zoning Ordinance.

#### **8.19 ACCESSORY STRUCTURES AND USES.**

Accessory structures, except as otherwise permitted in this Chapter, shall be subject to the following:

- A. General standards. Accessory structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building within the same zoning district.
  - 1. No accessory structure or use shall be placed upon, occupied, or utilized on a lot unless the principal building is occupied or utilized except as provided for in this Chapter. No accessory structure shall be constructed upon or moved to any parcel of property until a principal building is under construction for which a building permit has been issued.
  - 2. Such accessory structure shall not be utilized as a separate place of business.
- B. No detached accessory structure shall exceed the primary building in height, unless approved by the Zoning Board of Appeals.
- C. An accessory structure having a two-foot overhang shall be subject to the following:
  - 1. Shall not be located closer than five feet to a side or rear lot line or public street right-of-way measured from the foundation. In the case of an easement, the easement shall become the setback for the accessory structure and in no instance shall any part of the accessory structure project into the easement.
  - 2. Be located closer than ten feet to any principal building measured from the foundation.
  - 3. The side and rear yard setback shall be increased one foot for every one foot of overhang beyond two feet.
  - 4. No accessory building shall be located in an easement.
- D. No accessory structure may be closer than four feet to any other accessory structure except for an accessory structure that complies with subsection E of this Section.
- E. Accessory structures shall be erected in a rear yard, except an accessory structure may be allowed in a non-required side yard, when set back a minimum of 75 feet from the front lot line and meets the side yard setback of the parcel.
- F. No accessory building, structure or use shall be erected in any yard with public street right-of-way frontage, including all such sides of a corner lot.
- G. In no instance shall such an accessory structure be nearer than five feet to any adjoining lot line.

- H. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
- I. In the case of an accessory building located in the rear yard on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, such accessory building shall be set back from the street side at least as far as the required front yard setback of the lot at the rear of the subject corner lot.
- J. Additional standards. The following additional standards shall apply to attached garages, accessory mechanical equipment, and flagpoles:
  - 1. Commercial or industrial mechanical equipment - such as blowers, ventilating fans, exhaust fans, and air conditioning units greater than four tons located adjacent to a residential district shall be placed such that they will not have an adverse impact on the residential use due to noise and odors.
  - 2. Flagpoles. Flagpoles on the building or on the ground shall not exceed the maximum height allowed in the zoning district. Flagpoles shall be set back a minimum distance from all lot lines ten feet or the maximum extension of the largest flag intended to be displayed on the pole, whichever is greater. Flags may be illuminated, provided the source of illumination shall be designed, arranged, and shielded to prevent glare onto adjacent properties, telescopes, and adverse effects on motorist visibility on adjacent rights-of-way.
- K. Accessory structures and uses such as parking attendant, guard shelters, gate houses, and transformer buildings may be located in the front or side yard and may occupy any of the ground area that the principal building is permitted to cover or as otherwise allowed under this Chapter.

#### **8.20 TEMPORARY CONSTRUCTION STRUCTURES AND USES.**

The following standards shall apply to all structures used for construction purposes on a development site:

- A. A zoning permit for such structure shall be required, prior to installation.
- B. No temporary structure shall be used as a dwelling unit.
- C. The placement of temporary structures shall be in conformance with the requirements of this Chapter.
- D. Temporary structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation, solid waste or fuel facilities related to construction activity on the same lot.
- E. Temporary structures shall be removed from the lot within 15 days after an occupancy permit is issued by the City for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on such lot.

#### **8.21 CORNER CLEARANCE AREA.**

- A. No structure, fence, wall, hedge, planting, tree, or other obstruction to vision shall exceed two feet in height from grade within a triangular section of land on that part of a corner lot formed by the two street right-of-way lines and a line connecting them at points 25 feet from the intersection of such street right-of-way lines. The Planning Commission may grant an exception to the height requirement of no more than one foot upon finding that pedestrian and vehicle safety has not been compromised.
- B. In any district branches of trees within such areas shall be trimmed to not less than six feet above the finish grade except for those branches overhanging into the City right-of-way shall be not less than ten feet above finish grade.

#### **8.22 BUILDING GRADES AND GRADING OF LAND.**

A minimum sloping grade of one foot above the street level, or other grade as established by the City, shall be required of all buildings having a front yard.

- A. No premises shall be filled or grades established so as to discharge the surface runoff on abutting property in such a manner that will cause inconvenience or damage to adjacent properties.
- B. The grade at any lot boundary shall be developed and maintained in accordance with the Michigan Building Code as amended and subject to inspection and approval.

#### **8.23 PROTECTION OF EXCAVATIONS.**

The construction, maintenance, or existence within the City of any unprotected, un-barricaded, open, or dangerous excavations, holes, pits, or wells that are reasonably likely to constitute a danger or menace to the public health, safety or welfare shall be prohibited. This Section shall not prevent any excavation under a permit issued pursuant to this Chapter or the State Construction Code enforced by the City, where such excavation is properly protected, warning signs are properly posted, and construction is progressing in a timely manner.

#### **8.24 FENCE, WALLS, HEDGES OR SIMILAR PLANTINGS, OR STRUCTURES.**

Fences, walls, and hedges may be permitted in any yard, or along the edge of any yard, subject to the following:

- A. Maximum height. The height of fences and walls shall not exceed eight feet in height in any side or rear yard. In all districts no fence, wall, planting, or hedge shall be over four feet along a property line in a front yard or front yard setback.
  1. Fences, walls, and hedges within corner visibility areas shall be further regulated by Section 8.21 unless otherwise allowed for in this Article.
  2. A fence may be permitted up to eight feet in height along the side or rear lot line.
  3. A maximum of one additional foot for barbed wire is allowed, in a side or rear yard, with the yes facing inside of the lot line.
- B. Obstructions prohibited. No fence shall be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways. No fence or wall shall be erected within any public right-of-way.
- C. Orientation. A finished side of a fence in any yard shall face outwards away from the property on which they are placed.
- D. Trees, shrubs, flowers, or plants shall be permitted in any front, side, or rear yard, in conformance with subsection 1 of this Section or as regulated by Section 8.21.
- E. Other specified structures. Walls, driveways, arbors, curbs, retaining walls, mailboxes, and structures of a like nature shall be permitted in any front, side or rear yard provided they do not exceed the height allowed in subsection 1 of this Section for front yard fences or Section 8.21.
- F. Other standards. The following additional standards shall apply to all fences, walls, and hedges in any zoning district:
  1. Fences may be placed up to a lot line. No parts of any fences, including foundations, may extend beyond any lot line unless agreed to in writing by the owner of the adjacent property.
  2. If a fence exists in the rear or side yard of an adjacent lot, only one other fence may be placed along the adjoining boundaries of such adjacent lot. Areas between abutting fences must be maintained in accordance with this Chapter and the City's Code of Ordinances.
  3. The use of electric current or charge on any fence or part thereof is prohibited.
  4. Orange plastic fencing, snow fencing, cyclone fencing, silt fencing, or similar type fencing shall be prohibited unless required during construction to comply with other governmental agencies or regulations.

#### **8.25 PARKING, LOADING, AND ACCESS MANAGEMENT.**

- A. Purpose. The purpose of this section is to regulate the parking, loading, and access of automotive vehicles in all zoning districts.
- B. Scope.
  1. Parcels located within the I-3 Industrial and Manufacturing Complex zone district, and those areas designated on the official zoning map as being parking exempt, are exempted from the requirements of Section 8.25 Part E. It is the responsibility of property and building owners to provide sufficient on-site parking to meet their needs.
  2. Parking with adequate access to all spaces shall be provided in all districts at the time of erection or enlargement of any main building or structure. The number and character of off-street parking spaces, in conjunction with all land or building uses shall be provided, prior to occupancy, as hereinafter prescribed.
- C. Deferment of Required Parking Spaces.
  1. The Planning Commission, without proof of unnecessary hardship, may defer the requirements of this subchapter upon determination from the evidence presented by the property owner that the intended use will not require parking or loading facilities to the degree required by this subchapter. The proposed site plan shall show the location and layout of the deferred parking area which shall remain undeveloped to permit construction of the required parking should the use of the building change or a change in circumstances indicate that additional parking is required. At that time, a new site plan shall be submitted pursuant to Section 8.35.
  2. In addition, the property owner shall sign a development agreement which shall be recorded with the deed binding on future owners that the open space is retained for future parking and shall not be developed or sold for development except in conformance with the approved site plan.
  3. If a new site plan is submitted to develop the area reserved for deferred parking, the Planning Commission must evaluate the impact of the new development on existing parking when considering the new site plan. The Planning Commission may consider the reductions in parking requirements provided for in Section 8.26.D.3.
- D. General Regulations. The following regulations shall apply in all zoning districts.
  1. Location of spaces. All parking, loading and maneuvering space shall be contained within the site.
  2. Irrevocable use of spaces. All required off-street parking spaces shall be stated in an application for site plan review and shall be reserved irrevocably for such use, unless otherwise provided in this Chapter. Minimum

- required off-street parking spaces shall not be displaced by any other use unless the parking requirements of the site change.
3. Reduction of space area. Off-street parking existing at the effective date of this Chapter in connection with the operation of an existing use shall not be reduced to an amount less than that required for a similar new use except as allowed under Section 8.25.C.
  4. Collective use of spaces. The city recognizes that different types of uses may have different peak usage times. Therefore, two (2) or more non-residential buildings or uses may collectively provide the required off-street parking, in which case the required number of parking space for the uses calculated individually may be reduced for the following:
    - a. Reduction in required spaces. Where peak operating hours do not overlap or patrons can access more than one use from the parking lot, the Planning Commission may grant a reduction in the required number of spaces of up to 25%.
    - b. Agreement. A signed agreement between all parties concerned shall be provided to the City for the collective use of parking spaces.
  5. Similar use. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with a similar listed use, as determined during site plan review.
  6. Screening. Off-street parking areas shall be effectively landscaped, and screened on any side which adjoins or faces a residential district or street right-of-way, per Section 8.26.G.
  7. Setbacks. No part of any off-street parking area shall be closer than ten feet to any street right-of-way line or the lot boundary of any residential use.
  8. The number of required off-street parking spaces for new uses or buildings and additions to existing buildings shall be determined in accordance with the schedule set forth in Section 8.25.E.4 Schedule of minimum required parking by use. Parking requirements listed in Section 8.25.E.4 Schedule of minimum required parking by use shall not include loading spaces as set for in Section 8.25.H.
  9. Prohibited activities. The storage of merchandise, refuse storage and receptacles, or other materials, and the storage or repair of unregistered or unlicensed vehicles or inoperable vehicles or other machinery shall be prohibited in areas serving as parking spaces.
  10. Vehicular access for employees, delivery vehicles, and trucks shall be coordinated or shared with adjoining uses where feasible, in the determination of the Planning Commission, and shall be designed to minimize impacts on public streets and surrounding uses. Access management techniques will be employed.
- E. Minimum Number of Spaces Required. The following standards shall apply to the determination of the required minimum and maximum number of off-street parking spaces by type of use in all zoning districts, excepting those within the I-3 Industrial and Manufacturing Complex zone district and those designated on the official zoning map as parking exempt:
1. Fractional units. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one parking space.
  2. Maximum number of spaces permitted. To minimize excessive areas of pavement that contribute to higher rates of stormwater runoff, exceeding the minimum parking space requirements of this Section by more than 20% shall be prohibited. The Zoning Administrator may waive this provision to allow additional parking spaces upon determining that such parking is necessary, based on documented evidence, to accommodate the use on a typical day.
  3. Units of measurement. The usable floor area (UFA) shall be used to determine the required number of off-street parking and loading spaces, unless otherwise noted.
    - a. Usable floor area (UFA) shall apply to all internal building areas excluding the floor area used for incidental service, storage, mechanical equipment rooms, heating/cooling systems, lavatories, and similar uses, and other areas not intended for use by the general public. Where these areas are not yet defined, leasable floor area shall be considered to be 85% of the gross floor area.
    - b. Where the number of spaces required is based on the number of employees, calculations shall be based upon the maximum number of anticipated employees during the peak shift. An employee for the purposes of meeting the requirements of this Section shall include hourly, salaried, and contracted workers.
  4. Schedule of minimum required parking by use. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

| Use                                      | Minimum Spaces Required  |
|--|--|
| Health, fitness, and exercise centers    | One per four persons allowed within the maximum occupancy load as established by the building code |
| Business offices or professional offices | One per 300 square feet of usable floor area   |

|   |   |
|---|---|
| Industrial, research or laboratory uses not otherwise specified herein, where established for a known user  | Five, plus one per employee based upon the maximum number of employees per shift or overlapping shifts plus one per 275 square feet of usable floor area for office areas |
| Industrial, research or laboratory buildings established on speculation, or where the end user or number of anticipated employees is not known                            | Five, plus one per 2,000 square feet of GFA for the industrial, research or laboratory uses, plus one per 275 square feet of usable floor area for office areas           |
| Research and development facilities, laboratories, and technical centers  | One per 425 square feet of usable floor area for the research/laboratory uses, plus one per 300 square feet of usable floor area for any offices or other accessory uses  |
| Warehouses and wholesale establishments and related accessory offices   | Five, plus one per employee in the largest working shift  |
| Trade schools, regional educational facilities, vocational education facilities, intermediate career centers, and similar technological or vocational training facilities | One (1) per four (4) persons allowed within the maximum occupancy load as established by the building code  |

- F. Barrier-Free Parking Requirements. Barrier-free parking spaces signed and striped shall be provided at conveniently accessible locations within each parking lot, in accordance with the Michigan Building Code.
- G. Off-Street Parking Layout, Construction, and Maintenance Standards. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

| Parking Pattern    | Maneuvering Lane Width | Parking Space Width | Parking Space Length | Width of Maneuvering Lane Plus Two Rows |
|--------------------|------------------------|---------------------|----------------------|---|
| 0 parallel parking | 12'                    | 8'                  | 24'                  | 40'                                     |
| 45                 | 12' (one-way)          | 9'                  | 20'                  | 49'                                     |
| 60                 | 16' (one-way)          | 9'                  | 20'                  | 56'                                     |
| 90                 | 20' (two-way)          | 9'                  | 20'                  | 60'                                     |

- Backing directly onto a street, backing into an access drive, or requiring the use of the street for maneuvering between parking rows shall be prohibited.
- Adequate ingress and egress to the parking lot by means of clearly limited and defined maneuvering lanes and access drives shall be provided for all vehicles. Entrance to such area shall be only from a public street, an adjoining principal use or an adjoining alley.
- Ingress and egress to a parking lot accessory to a non-residential use shall not be across land in any residential district.
- Ingress and egress to a parking lot accessory to a non-residential use shall be set back at least 25 feet from the boundary of any residential district.
- All maneuvering lanes shall permit one-way traffic movement, except that the 90- degree pattern may permit two-way movement.
- The entire parking area, including parking spaces and maneuvering lanes, required under this Chapter shall be provided with a dust-free surfacing of concrete or plant-mixed bituminous material according to the requirements of this Chapter and the Marshall City Code.
- Parking areas must be landscaped in accordance with Section 8.26.G.
- Necessary curbs or other protection for the public and for the protection of adjoining properties, streets and sidewalks shall be provided and maintained. Where parking areas abut public sidewalks, a curb at least six inches high shall be placed thereon to prevent vehicle encroachment.
- Off-street parking areas shall be drained so as to dispose of accumulated surface water without drainage onto adjacent property or toward buildings.
- All lighting used to illuminate any off-street parking area shall be so designed, located, and shielded to prevent glare onto adjacent properties and prevent adverse impacts on motorist visibility. The source of illumination shall not be more than 25 feet above the parking surface.



11. All illumination for such parking facilities shall not exceed one foot-candle at any lot or property line, nor shall it exceed 0.5 foot candles at a lot line adjacent to a single family residential district. The average to minimum foot candle ratio over the parking lot, drives, walkways, and similar illuminated areas shall not exceed 4:1.
  12. Off-street parking shall be permitted to occupy a portion of the required front yard, provided that a minimum setback of ten feet shall be maintained between the nearest point of the off-street parking area and the right-of-way line. The ten-foot setback shall be unobstructed except for landscaping plant materials. Access driveways may extend through this setback.
- H. Loading Space Requirements. For every building or addition to an existing building erected or occupied by a use requiring the receipt or distribution of materials or merchandise, there shall be provided and maintained on the same premises adequate off-street loading spaces, as follows:
1. No such space shall be located closer than 50 feet to any lot in any residential district unless wholly within a completely enclosed building or enclosed on all sides by a wall, or a greenbelt, berm, or buffer strip.
  2. Lights used to illuminate loading areas shall be arranged so as to reflect away from adjacent properties.
  3. Loading spaces shall not be provided in the front yard, the front side of any building, or on any side facing and directly visible to a public street, unless determined during site plan review that it's determined such a location is necessary due to the building's location or placement or existing street patterns.
  4. Access to the loading area shall be designed in such a manner as to allow trucks to enter and leave the loading area without having to back from or onto the public street.
  5. Loading spaces shall be covered with a pavement of concrete or plant-mixed bituminous material, and shall be graded and drained to a storm sewer so as to dispose of surface water in accordance and conformity with the requirements of the City.

#### **8.26 LANDSCAPING AND SCREENING STANDARDS.**

- A. Intent. The intent of this subchapter is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, as buffer areas between uses, on the interior of a site, within parking lots, and adjacent to buildings. Landscaping is a critical element contributing to the aesthetics, development quality, stability of property values, and the overall character of the City. The standards of this subchapter are intended to provide incentives to preserve quality mature trees, screen headlights to reduce glare, integrate various elements of a site, ensure compatibility between land uses, assist in directing safe and efficient traffic flow at driveways and within parking lots, and minimize negative impacts of storm water runoff and salt spray.
- B. Scope. The standards of this subchapter are considered the minimum necessary to achieve the above intent. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property. The standards of this subchapter shall apply to all uses, lots, and sites altered, developed, or expanded after the effective date of this Chapter subject to site plan review under Section 8.30. Parcels that are developed under a planned unit development or other master planned industrial area can achieve the required site buffering from residential districts, residential uses, or street rights-of-way through landscaping on common space between the aforementioned uses and the development site.
- C. Requirements and Timing of Landscaping. All landscape plans, plant installations, and required plant materials shall conform to the following standards:
1. Plan required. A separate landscape plan shall be included with any site plan application reviewed by the City, subject to the following:
    - a. The plan shall be prepared at a minimum scale of one-inch equals 40 feet.
    - b. The plan shall show the location, type, size, and spacing of all existing and proposed plant materials, and details and specifications describing planting techniques, installations, planting mixtures, mulch, material depths, seed blends, and other necessary information.
    - c. Existing and proposed contours shall be shown at intervals not to exceed two (2) feet.
    - d. Existing and proposed utilities shall be shown.
    - e. All required and proposed walls, fencing, berms, and other screening treatments shall be shown on the plan.
    - f. Protection measures for preserved trees during construction shall be shown in accordance with City standards.
    - g. The Planning Commission shall require landscape plans to be reviewed and sealed by a State of Michigan licensed landscape architect for parcels of one acre or more in size and may require it for other projects that may have a significant impact on surrounding residential districts.
    - h. Parcels over 500 acres are not required to submit a detailed landscaping plan, however, should note general landscaping areas on their site plan.

2. Installation methods. Landscaping shall be installed in a manner consistent with the standards of AmericanHort and generally accepted planting procedures. Tree stakes, guy wires and tree wrap are to be removed after one year.
  3. Timing of installation. Required landscaping or screening shall be planted within 180 calendar days from the date of issuance of a certificate of occupancy, and shall be maintained in accordance with the standards of this subchapter and the approved landscape plan.
  4. Performance guarantee. The city may require a performance guarantee to cover the cost of landscaping installation for development activity or construction completed in an off-planting season.
    - a. Such guarantees shall be submitted to the City prior to the issuance of a certificate of occupancy to ensure installation of required landscaping in the next planting season.
    - b. The Zoning Administrator shall conduct an inspection of plant materials within three months of written notification of installation before releasing the performance guarantee.
  5. Maintenance. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance, and free from refuse and debris.
- D. Special Provisions for Existing Sites.
1. Special provision shall be made for applying these standards to developed sites that existed prior to the City adopting landscaping requirements. When an existing site is undergoing improvement, a change in use or expansion, the objective of these standards shall be to gradually bring the site into compliance with the minimum standards of this subchapter in proportion to the extent of the expansion or improvement.
  2. Upgrades to landscaping or screening on an existing site shall conform to the following guidelines:
    - a. Landscaping requirements for building expansions equal to or less than 300 square feet of gross floor area and/or projects that do not propose any additional hard surfaced area for parking, may be limited to areas outside of the internal parking lot and site landscaping.
    - b. Landscaping along the street and as a buffer between adjacent land uses shall take priority over parking lot and site landscaping. Where parking lot landscaping cannot be provided, additional landscaping along the street or in the buffer areas shall be considered.
- E. General Landscaping Provisions
1. Public Street Plantings - Street trees. On every site involving new development or redevelopment, deciduous street trees shall be provided along the fringe of the street right-of-way in conformance with §99.06 of this Code of Ordinances.
  2. Landscaping shall not obscure traffic signs or lighting, obstruct access to fire hydrants or interfere with adequate motorist sight distance.
  3. Adequate area shall be provided for snow storage within the parking lot.
  4. Waste Receptacle and Mechanical Equipment Screening. Waste receptacles such as dumpster(s) and ground mounted mechanical equipment excluding air conditioning units of four tons or less shall be located, screened, and secured in accordance with Section 8.26.J, except if a fence is used it shall be six feet in height, or as provided for in any other City Ordinance.
  5. Screening of Residential Districts and Uses. To provide adequate protective screening for residential areas adjacent to or near non-residential uses or districts, the following regulations shall apply:
    - a. Where the industrial district abuts directly upon a residential district unless provided for in Section 8.26.J, a landscaped greenbelt or other screening meeting the standards of Section 8.26.F. shall be required.
  6. Interior Landscaping. For every new development, under 500 acres, interior landscaping areas, exclusive of any other required landscaping, shall be provided. This landscaped area should be grouped near building entrances, along building foundations, along pedestrian walkways, and along service areas and contain grass or other suitable living groundcover.
  7. Plant Material Variety, Size, and Separation Standards. Required landscaping shall comply with the following minimum plant material and plant variety standards. The Planning Commission may vary these standards when these established minimums will not serve the purpose and intent of this subchapter. Suggested plant materials listed in Table 5.15.11.C is commonly available in hardiness Zone 5. This list is to be used as a general guideline for plant selection but is not meant to be limiting.
    - a. Species variety. The overall landscape plan shall not contain more than 33% of any one species. The use of a mixture of trees from the same species association shall be encouraged.
    - b. Plant size specifications. Required landscaping shall comply with the following minimum size standards at planting:
      - (1). Deciduous canopy trees. Two and one-half inch caliper minimum trunk measurement at four feet off the ground, with a minimum eight feet in height above grade when planted.
      - (2). Evergreen trees. Six feet in height, with a minimum spread of three feet. The size of the root ball shall be at least ten times the caliper of the tree measured six inches above grade.

- (3). Deciduous ornamental trees. One and one-half inch caliper minimum at three feet off the ground, with a minimum height of six feet above grade when planted.
    - (4). Shrubs. Minimum 30 inches in height above planting grade.
    - (5). Groundcovers. Planted in such a manner as to present a finished appearance and reasonably complete coverage after one complete growing season.
  - c. Grasses, other than ornamental types, shall consist of species normally grown as permanent lawns in the region.
  - d. Rolled sod, erosion reducing net or suitable mulch shall be used in swales or other areas subject to erosion. Groundcovers shall be clean and free of weeds, noxious pests, and disease.
  - e. Steel, aluminum, or black plastic edging shall be used for any planting beds.
  - f. Mulch material. Minimum of two and a maximum of four inches of biodegradable mulch or equivalent for planted trees, shrubs, and vines.
  - g. Prohibited plant materials. The following plant materials shall not be used for landscaping purposes, except where specified below:
    - (1). The following plant materials shall not be used for landscaping purposes under any circumstances because of susceptibility to storm damage, disease, insect infestation, fruit bearing or other undesirable characteristics: Ash varieties, American Elm, Aspen, Ailanthus, and European Barberry.
    - (2). The following tree species shall not be permitted except where appropriate for the ecosystem, such as in a wetland environment not in proximity to any existing or proposed structures: Box Elder, Poplars, Willows, Horse Chestnut (nut bearing), Tree of Heaven, Catalpa, Buckthorn, and European Alder.
  - h. Plant material spacing. Plant materials species grouped together shall meet the standards as indicated in Section L. General Layout and Design Standards.
- F. Greenbelt Buffer. A required greenbelt buffer shall be used around the perimeter of a parcel or parcels in common ownership within the I-3 Industrial and Manufacturing Complex zone district to shield views of the development site from the public where there are street rights-of-way, residential districts, or residential uses. Where a greenbelt buffer is provided, a parking lot perimeter screen shall not be required. A greenbelt buffer shall meet the following standards:
1. Width. The minimum greenbelt width shall be seventy-five feet. No structures, drives, or parking areas may be located within the greenbelt. The Planning Commission may reduce the required width to accommodate existing conditions or maintain the character of the zoning district. In such cases, the greenbelt requirement may be met through the provision of street trees per § 90.06 of the City Code of Ordinances.
  2. Berm. A berm is required that consists of a raised earth mound that meets the following standards:
    - a. Minimum height of three feet with a crest of at least three feet in width. The height of the berm may meander if the intent of this subchapter is met, and an appropriate screen is provided.
    - b. The exterior face of the berm shall be constructed as an earthen slope, with a slope not to exceed one foot of vertical rise to three feet of horizontal distance (1:3 ratio). The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace, or other means that shall not exceed thirty inches (30").
  3. Vegetated Screen. Within the greenbelt and in association with the berm, a vegetated screen that obscures views will be provided in compliance with the following requirements:
    - a. Minimum width of ten feet.
    - b. Plantings shall consist of a mix of closely spaced evergreen and deciduous trees with year-round screening characteristics in compliance with the plant size specifications of this Article and recommended species as described in Sections 5.15.11.C. and 5.15.8.D.
    - c. A staggered planting pattern is encouraged.
    - d. Plant height at maturity will be a minimum of thirty (30) feet tall.
    - e. Irrigation shall be provided to ensure the long-term viability of the vegetation.
    - f. Grass or other suitable living ground cover shall be provided.
- G. Parking Lot Landscaping. The following standards shall apply to all proposed parking lots with ten or more parking spaces, any existing parking lot containing ten or more parking spaces that is proposed to be expanded, and any existing parking lot on an existing site subject, with the exception of lots that comply with the standard in 8.26.F for common area buffers, to review of a site plan per Section 8.30:
1. Perimeter screening. A planted hedgerow, or a decorative masonry wall or fence with a planting strip; or any combination thereof will provide sufficient screening of off-street parking areas. The Planning Commission may accept existing vegetation to meet this requirement.
    - a. Hedgerow. The use of a totally obscuring hedge with a minimum height of 24 inches and a maximum height of 36 inches shall be provided.

- b. Decorative wall or fence with planting strip. This method shall consist of a planting strip abutting the base of a decorative brick wall, ornamental fence or wall and fence combination, subject to the following:
      - (1). The decorative wall or fence shall have a minimum height of thirty (30) inches, and shall not exceed three feet in height above grade. Decorative posts shall be allowed to extend a maximum of six inches above the top of the fence
      - (2) The planting strip shall abut the base of the wall or fence, and shall have a minimum width of six feet and a maximum height of 36 inches.
      - (3) A mixture of trees and shrubs shall be planted along the entire length of the planting strip, at a minimum concentration of one tree and five shrubs per each 30 linear feet of planting strip or plantings determined by the Planning Commission to meet the screening requirements.
    - c. Screen walls. Screen walls shall meet the following standards:
      - (1). A solid masonry wall, ornamental on both sides and not less than six feet in height above grade. Such walls shall be constructed of the same materials as that of the main building, or be faced with either brick, decorative block, or pre-cast concrete formed into a decorative pattern and painted in the same color scheme as that of the main building.
      - (2). Where vehicles, open-air displays, waste receptacles, or other site features exceed a six-foot height, the wall shall be increased to a height adequate to completely screen such features, not exceeding ten feet.
      - (3) Such walls shall be constructed of durable, weather resistant, rustproof materials.
  - 2. Landscaping within parking lots. Landscaping shall be provided and maintained within off-street parking lots, as follows:
    - a. Landscape island endcaps and midpoint. Landscaping islands shall be required at the end of any row of parking. There shall be at least 20 square feet of landscape island per parking space. For parking areas in excess of 40,000 sq. ft., at least one midpoint landscape island, a minimum of fifteen feet deep, shall be placed in a parking row.
    - b. Landscaping Island Standards. Landscaping islands shall have a minimum width of ten feet and a minimum area of 180 square feet, and shall be two (2) feet shorter than any adjacent parking space.
    - c. Minimum Landscaping Required. A minimum of one deciduous canopy tree shall be provided within the boundaries of the parking lot for every ten parking spaces. The required trees shall be planted in landscaping islands within the parking lot. Up to 33% of parking lot trees may be planted within 15 feet of the back of curb or edge of a parking space and shall not be utilized to satisfy other requirements. Landscaping islands, in addition to the canopy tree, shall be planted with lawn, perennials, ornamental grasses, or shrubs with a maximum height of 30 inches. Planting materials shall cover a minimum of 25% of the island area with mulch shall be used around plantings where appropriate.
    - d. Properties within the I-3 Industrial and Manufacturing Complex zone district consisting of five hundred (500) acres or more shall be exempt from Parts a - c of this Section. To provide areas for snow storage, stormwater pretreatment, and to mitigate the heat island effect the following will apply:
      - (1). One landscape area shall be provided equivalent to eight percent (8%), or fraction thereof, for each one (1) acre of surface parking.
      - (2). The use of white roof/s shall reduce the required landscape area to four percent (4%) for each acre where rooftop and parking area acreage is proportionate.
      - (3). Curbing is not required.
      - (4). Five (5) deciduous trees are required for each landscape area
  - 3. A parking space overhang of two feet may be used to widen a perimeter landscaped area and reduce the length of a parking space by two feet less than required by this Chapter.
  - 4. Landscaped areas within and around parking lots, except where exempted, shall be protected with concrete curbing.
- H. General Layout and Design Standards. Plant materials shall conform to the American Standard for Nursery Stock of AmericanHort, and the following:
  - 1. Plant quality. Plant materials shall be hardy to the climate of the central lower Michigan area, free of and resistant to disease and insects, and nursery grown with orderly growth characteristics.
  - 2. Replacement required. Any plant material required by this Chapter that dies or becomes diseased shall be replaced within 30 days of written notice from the Zoning Administrator or within an extended time period as specified in said notice.
  - 3. Protection of landscaped areas. Landscaped areas shall be protected from vehicular encroachment by use of curbing. Landscaped areas shall be elevated above surrounding driveways or parking lots to a minimum height of six inches to protect plant materials from snow removal operations, salt, and other hazards.

4. Salt-resistant species. Cul-de-sacs, site entrances, parking lots, street tree areas, and boulevard medians shall be landscaped with species tolerant of roadside conditions.
5. Irrigation. All landscaped areas shall be provided with a readily available and acceptable water supply.
6. Clearance and visibility. Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, and adequate clearance for pedestrians and vehicles in accordance with Corner Clearance under Section 5.10 and the following:
  - a. Required landscaping and screening elements shall not inhibit access to fire hydrants. Plantings within 15 feet of a fire hydrant shall be no taller than six inches.
  - b. Landscaping within the site shall provide adequate overhead clearance, maintain visibility to approved signs of adjacent uses, and preserve sight lines from rights-of-way and public property to streams, lakes, and other waterways.
- I. Incentives to Preserve Existing Trees. The City encourages the preservation of quality and mature trees by providing credits toward the required trees for greenbelts, buffer strips, interior landscaping, and within parking lots. Preserved trees shall be protected during construction through use of a fence around the drip line, with protection measures noted on the landscape plan.
  1. To obtain credit, a tree survey shall be submitted to the Zoning Administrator prior to clearing the site. The survey shall identify the tree by species, location, and caliper on the landscape plan.
  2. The preserved trees shall be of a high quality and at least two and one-half inches caliper.
  3. Trees to be preserved shall be counted for credit only if they are located on the developed portion of the site or required screening area, as determined during site plan review. Trees over 12 inches in caliper to be removed shall be noted on the landscape plan.
  4. Preserved trees receiving credit that are lost within two years after construction shall be replaced by the land owner with trees otherwise required.
  5. The credit for preserved trees shall be as follows.

| Caliper of Preserved Tree | Numbers of Trees Credited |
|---------------------------|---------------------------|
| Over 12 inches            | 3                         |
| 8 to 12 inches            | 2                         |
| 2 ½ to 8 inches           | 1                         |

Note: Caliper measurement for existing trees is the diameter at a height of four and one-half feet above the natural grade (Diameter at Breast Height, D.B.H.).

- J. Waiver of Modification of Standards. The Planning Commission may determine existing landscaping or screening intended to be preserved, or a different landscape design, would provide all or part of the required landscaping or screening to meet the intent of this subchapter and Chapter. In making such a determination to waive or reduce the landscape or screening requirements of this subchapter, the following circumstances shall be considered:
  1. Extent that existing natural vegetation provides desired screening.
  2. There is a steep change in topography that would limit the benefits of required landscaping.
  3. The presence of existing wetlands.
  4. Existing and proposed building placement.
  5. The abutting or adjacent land is developed or planned by the city for a use other than residential.
  6. Building heights and views.
  7. The adjacent residential district is over 500 feet away from the subject site.
  8. Similar conditions to the above exist such that no-good purpose would be served by providing the landscaping or screening required.

## 8.27 SIDEWALKS.

- A. Intent. The intent of this subchapter is to protect and promote public health, safety, and welfare by specifying standards for design, development, and maintenance of a comprehensive non-motorized system to allow for enhanced access. Sidewalks, walkways, and pathways shall be designed to provide convenient access within all properties.

- B. Site Plan Review. For all developments requiring site plan review, the proposed sidewalk or pathway shall be shown on the site plan, which shall be reviewed in accordance with the site plan review procedures set forth in the Zoning Ordinance.
- C. Sidewalks (public ROW). The City will determine where sidewalks shall be required along public ROW. Sidewalks may be required in other locations as part of site plan review where the Zoning Administrator determines that they are needed for pedestrian traffic, safety, or connectivity.
  - 1. Location. Sidewalks shall be installed one foot from the property line, within the dedicated street right-of-way, private street access easements or special easement where grades or other factors prevent placement within the right-of-way or access easement. Sidewalks shall align horizontally and vertically with existing sidewalks on adjacent lots. The Planning Commission has discretion to waive or modify the location of the sidewalk when it is not practical or an alternate design is necessary due to the existing site conditions.
- D. Sidewalks (internal). Pedestrian access and connectivity within internal circulation areas shall be required for all new site plans.
  - 1. Accessways shall be provided for pedestrians through parking lots to building entries.
    - a. Walkways shall be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination; not solely based on parking lot configuration.
    - b. Where the primary pedestrian access to the site crosses drive aisles or internal roadways, the pedestrian crossing shall emphasize pedestrian access and safety.
    - c. Required walkways shall not be within the driving aisle, and, where possible, shall be within a landscaped island running perpendicular to the building entry.
  - 2. Walkways shall be provided in each surface parking area that has one hundred (100) or more parking spaces, and/or where parking spaces are located more than five hundred (500) feet from the main entry door associated with the parking area.
  - 3. Walkways shall be:
    - a. Paved dedicated sidewalks that are raised above the surface of the parking lot, or, if at the same level as the parking lot, clearly marked with tactile alerts, pavement striping, alternative paving material, or a stamped pattern or texture in the pavement.
    - b. A minimum of five (5) feet in width and installed in accordance with the City's engineering design standards.
    - c. At least seven (7) feet in width where parking spaces are adjacent to the sidewalk to allow for vehicular overhang or car doors.
  - 4. Pedestrian scale lighting fixtures no greater than 15 feet in height shall be provided along walkways to provide ample lighting during nighttime hours. This may be waived when street or parking lot lighting fixtures are deemed by the Zoning Administrator to be sufficient to adequately illuminate adjacent walkways.
  - 5. Pedestrian access points at property edges and to adjacent parcels shall be coordinated with existing development to provide pedestrian circulation between developments, where feasible.
  - 6. Pedestrian accessways may be included in the calculation of open space required by this Ordinance.
- E. Pathways. An off-road shared use, non-motorized path, with paved surface or boardwalk, separate from the public road, may be required when a wider multi-surface use is desired, there are environmentally sensitive areas that require an alternate type of construction, and/or the pathway would serve as a connection to an existing trail system shall be provided where required by the non-motorized transportation plan or designated open space.
- F. Construction Standards. All sidewalks shall be concrete, at least five (5) feet wide and constructed to the specifications of the Department of Public Works. Pathways shall be a minimum of ten (10) feet, or as designated by the City.
- G. Crosswalks. An inclined approach shall be required where sidewalks and pathways intersect curbs for barrier free access. Crosswalk pavement markings and signs may be required at intersections.
- H. Modification. The Zoning Administrator may modify these width and location requirements upon finding that another location would be more appropriate because of the location of utilities, existing landscaping or trees, the location of connecting sidewalks or pathways on adjacent parcels, or other site considerations.
- I. Maintenance. It shall be the duty of the property owner to maintain and keep clear of obstructions public sidewalks or pathways on or adjoining property.
- J. Deferment. A deferment for the installation of sidewalks may be granted by the City Council when topographic conditions exist that make the sidewalk installation difficult or when the installation of the sidewalk is premature. Where the installation of a sidewalk is deferred by the City Council, an agreement will be executed between the property owner/developer and the City of Marshall that will ensure the future installation of the sidewalk. The deferment agreement will be accompanied by a cash escrow, letter of credit or other form of acceptable financial security to cover the cost of the installation of the sidewalk.

- K. Performance Guarantees. The City may request performance guarantees in accordance with Section 7.10 Performance Guarantees.

### 8.28 EXTERIOR LIGHTING.

Subject to the provisions set forth herein, open space and recreational uses, all non-residential parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.

- A. Permitted Lighting. Only downward-directed, fully shielded, concealed-source lighting shall be permitted. Lighting shall be placed and shielded so as to direct the light onto the site and away from adjacent properties. The lighting source shall not be directly visible from adjoining properties. Lighting shall be shielded so that it does not cause glare or interfere with the vision of motorists. Fixtures attached to canopies or eaves of a building or structure shall be recessed and flush with the surface of the structure. Low voltage, upward-directed lighting for flags, landscaping, or other decorative feature, with the exception of searchlights, may be permitted during site plan review.
- B. Required Conditions:
  - 1. All lighting used to illuminate any off-street parking area shall be so designed, located, and shielded to prevent glare onto adjacent properties and prevent adverse impacts on motorist visibility.
  - 2. Soffit or canopy lighting shall be installed so the lens cover is recessed and the fixture is flush with the building.
  - 3. The following illumination levels shall act as standards for all exterior lighting. Lighting will be governed by the four to one (4:1) ratio of average to minimum illumination of surface being lit. Illumination levels shall not exceed one foot-candle at any residential zoned or used lot or property line, nor ten foot-candle at any point within the site.
  - 4. Height. Fixture height shall be measured from the grade of the illuminated surface to the bottom of the fixture and shall be 25'.
  - 5. Exposed bulbs, LED displays, or other bright lights that may be used as advertising to draw attention to a site are prohibited.
  - 6.. Barn lights, non-shielded wall packs, floodlights, or lights not aimed downward are prohibited.
- C. Sign lighting. Sign illumination shall be in accordance with the regulations set forth in Section 8.18, Signs.
- D. Site Plan Requirements
  - 1. All lighting, including ornamental lighting, shall be shown on site plans in sufficient detail to allow determination of the effects of such lighting upon adjacent properties, traffic safety, and overhead sky glow. The objective of these specifications is to minimize undesirable off-site effects.
  - 2. A detail of the lighting fixture, including manufacturer's specifications for shielding, wattage, and illumination, shall be provided on a site plan. The location and height of all fixtures shall be noted on the site plan.
  - 3. A photometric plan shall be required showing all lighting levels and averages to determine compliance.
- E. Modifications. The Planning Commission may modify the requirement for existing developed sites seeking modest expansions to bringing all lighting into compliance with these lighting standards based on consideration of the following: the position and height of buildings, other structures, and trees on the site; the potential off-site impact of the lighting; the character of surrounding land use; and the extent of the proposed change in floor area and/or land use.

### 8.29 SPECIAL LAND USES.

- A. Purpose.
  - 1. Special land uses include those uses that serve an area, interest or purpose that extends beyond the borders of the City, create particular problems of control in relation to adjoining uses or districts, have detrimental effects upon public health, safety, or welfare, or possess other unique characteristics that prevent such uses from being classified as principal permitted uses in a particular zoning district.
  - 2. This subchapter sets forth review procedures and standards for review and approval of special land uses. These procedures are instituted to provide an opportunity to use land or structure(s) for one or more activities that, under usual circumstances, could be detrimental to other permitted land uses. Such uses may be permitted under circumstances particular to the proposed location, subject to specific conditions or limitations that provide protection to adjacent land uses.
  - 3. These procedures are adopted to provide a consistent and uniform method for review of special land use applications, ensure full compliance with the standards contained in this Chapter, achieve efficient use of land, prevent adverse impacts on neighboring properties and districts, preserve the public health, safety,

- morals, and general welfare, and facilitate development in accordance with the land use objectives of the master plan.
- B. Applications for Special Use Approval. Any person owning or having an interest in the subject property may file an application for one or more special land use permits, as provided for in this subchapter and the zoning district in which the parcel is situated. Application shall be submitted through the Zoning Administrator to the Planning Commission on a special form for that purpose. Each application shall be accompanied by the payment of a fee, in accordance with the duly adopted schedule of fees to cover costs of processing the application.
  - C. Required Information. Every application shall be accompanied by the following information and data:
    1. Application and ownership information:
      - a. The applicant's name and address.
      - b. A statement that the applicant is the owner of the property, acting on the owner's behalf, or a statement as to the nature of the applicant's interest in the property.
      - c. The name, address, and current phone number of the owner of record, if the applicant is not the owner of record.
      - d. The address and parcel number of the property.
    2. Submittal of a site plan with any special use application, subject to the standards of Section 8.30. For developments less than an acre in size which do not abut residential property and do not propose any expansion of parking areas or building areas, staff may permit a site plan with reduced information requirements. In those cases, the applicant shall submit a scaled drawing accurately depicting the following minimum information:
      - i. Property boundary and accompanying legal description.
      - ii. Existing structures and uses thereof.
      - iii. Location of all abutting streets, easements, and similar public areas.
      - iv. Existing zoning on the parcel and adjacent parcels.
    3. A detailed use statement describing all proposed activities for which the building and lot will be used, including proposed hours of operation, building capacity, and other characteristics of the use(s).
    4. The Planning Commission may require an analysis of the planning implications of the proposed use(s) or development. The analysis shall be carried out by planning, design, engineering, and appraisal professionals and shall include, but need not be limited to the following topics:
      - a. An analysis of the potential impacts of the proposed use(s) on abutting uses and the surrounding neighborhood, along with a description of proposed mitigation measures to address these impacts.
      - b. Estimated population holding capacity and a brief analysis of the age structure of the estimated population for any residential land uses to be included in the proposed development, and a general description of the scope of any impacts on community facilities such as schools and parks.
      - c. A traffic analysis that relates the trip-generating capacity of the proposed development to existing and projected traffic volumes and patterns on surrounding streets.
      - d. An environmental assessment.
      - e. An analysis of project impact on municipal services and public utilities, including capacity in relation to proposed development, improvements necessitated by development and proposed means of financing needed improvements.
  - D. Planning Commission Public Hearing. The Planning Commission shall review the application for a special land use at its regular meeting upon publishing a notice and notifying property owners pursuant to Section 103 (General Provisions) of the Michigan Zoning Enabling Act (P.A. 110 of 2006).
  - E. Planning Commission Action. The Commission shall recommend approval, approval with conditions, or denial of the application based upon materials received and testimony recorded at the public hearing. Any motion by the Commission shall include a record of the recommended conditions to be imposed on the use, and the underlying findings supporting the Commission's determination. The conditions shall remain unchanged, unless an amendment to the special land use permit is approved in accordance with this subchapter. The Planning Commission recommendation shall then be forwarded to the City Council for final action.
  - F. City Council Action. Upon receiving the Planning Commission recommendation, the City Council shall consider and take final action on the special land use application. Any action by the City Council shall include a record of conditions imposed on the use, and the underlying findings supporting the final action.
  - G. Effect of Denial. No application for a special land use permit which has been denied by the City Council shall be resubmitted for a period of one year from the date of denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Zoning Administrator.
  - H. Issuance of Permit and Compliance by Applicant. Upon approval of the application for the special land use permit by the City Council, the Zoning Administrator shall issue a special land use permit. The Zoning Administrator shall be responsible for ensuring that any conditions attached to the approval of the special land use permit are



followed and enforced. An applicant who is granted a special land use permit shall comply with the site plan review procedures contained in this subchapter.

- I. Validity of Special Land Permit. Approval of a special land use permit shall be valid regardless of change of ownership, provided that the new owner complies with all terms and conditions. Said permit shall be placed on file with the Zoning Administrator.
  1. Where development authorized by a special land use permit has not commenced within one year of issuance, the permit shall automatically become null and void, and all rights hereunder shall terminate. Upon written application filed 30 days prior to the termination of the one-year period, the Commission may authorize a single extension of the time limit for a further period of not more than one year.
  2. Any use for which a special land use permit may be granted shall be deemed a use permitted in the district in which such use is located, provided:
    - a. Such permit was issued in conformity with the provisions of this subchapter;
    - b. Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.
- J. Standards for Special Use Approval. Special land uses shall conform to all applicable requirements of this subchapter and Chapter. Approval of a special condition use shall be based upon the determination that the proposed use complies with all applicable requirements of this Chapter, and all of the following standards as deemed applicable to the use by the Planning Commission:
  1. The proposed use shall be in accordance with the City Master Plan and the intent and purpose of this subchapter.
  2. A documented and immediate need exists for the proposed use within the community.
  3. The use is compatible with adjacent uses and the existing or intended character of the surrounding neighborhood, and will not have an adverse impact upon or interfere with the development, use or enjoyment of adjacent properties, or the orderly development of the neighborhood.
  4. The proposed use shall be designed, constructed, operated, and maintained so as to be compatible with the use of adjacent lands.
  5. The proposed use shall be compatible with the natural environment.
  6. The proposed use shall be adequately served by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
  7. The proposed use shall not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to public health, safety, and welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or unreasonable or offensive odors.
- K. Conditions, Safeguards and Performance Bond. Prior to granting any special land use permit, the City Council, with input from the Planning Commission, may impose any additional conditions or limitations upon the establishment, location, design, construction, maintenance, or operation of the use authorized by the special land use permit deemed necessary for protection of the public interest.
  1. Said conditions and limitations may be for the purpose of:
    - a. Ensuring that public services and facilities can accommodate increased demands caused by the land use.
    - b. Protecting the natural environment, conserving natural resources, and promoting the conservation of energy.
    - c. Promoting uses of land in a socially and economically desirable manner.
    - d. Ensuring compatibility with adjacent land uses.
  2. Conditions imposed may include those which will:
    - a. Protect natural resources, the health, safety and welfare and the social and economic well being of those who will use the land under consideration, adjacent landowners, and the community as a whole.
    - b. Be related to a valid use of State of Michigan enabling legislation.
    - c. Be related to purposes impacted by the land use.
    - d. Be necessary to meet the purpose of this subchapter.
    - e. Be related to standards contained in this subchapter.
    - f. Be necessary to ensure compliance with the standards of this subchapter.
  3. In authorizing a special land use permit, the City Council may require that the developer furnish a performance bond, letter of credit or other financial guarantee in a form and amount acceptable to the City Attorney.
  4. All plans, specifications and statements submitted with the application for a special land use permit shall become, with any changes ordered by the City Council, shall be considered part of the conditions of any special land use permit approval.

- L. Compliance Required. It shall be the responsibility of the owner of the property and the operator of the use for which special land use approval has been granted to develop, improve, operate, and maintain the use, including the site, structures, and all site elements, in accordance with the provisions of this Chapter and all conditions of special land use approval until the use is discontinued.
  - 1. Failure to comply with the provisions of this subchapter shall be a violation of the use provisions of this Chapter and shall be subject to the same penalties appropriate for a use violation.
  - 2. The Zoning Administrator shall make periodic investigations of developments authorized by the special land use permit to determine compliance with all permits and ordinance requirements.
- M. Rescinding Approval. Approval of a special land use may be rescinded by the City Council upon determination that the use has not been improved, constructed, or maintained in compliance with this Chapter, approved permits, site plans, or conditions of special land use approval. Such action shall be subject to the following:
  - 1. Public hearing. Such action may be taken only after a public hearing has been held in accordance with Section 103 of the Michigan Zoning Enabling Act (P.A. 110 of 2006) at which time the owner of an interest in land for which special land use approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
  - 2. Determination. Subsequent to the hearing, the decision of the City Council with regard to the rescission shall be made and written notification provided to the owner or designated agent.
- N. Appeals. The Zoning Board of Appeals shall not have the authority to consider appeals of special land use determinations. Any person aggrieved by the decision of the City Council in the granting or denying a special land use permit shall have the right to appeal said decision to the Circuit Court of Calhoun County.
- O. Amendment of a Special Land Use Permit.
  - 1. Any person or agency that has been granted a special land use permit shall notify the Zoning Administrator of any proposed amendment to the special land use permit. The Zoning Administrator shall notify the Planning Commission in writing of the amendment. A copy of said amendment shall be placed in the original special use permit file. Amendments to a special land use permit shall be subject to the same review and approval procedures and standards as a new application for special land use approval.
  - 2. A major amendment to a special land use permit shall comply with the filing procedures contained in sections herein. An expansion or increase in intensity of use shall constitute a major amendment to a special land use permit. A major amendment to a permit may consist of, but shall not be limited to, the following actions:
    - a. The addition of land to the legal description of original permit;
    - b. The establishment of another use or uses; and/or
    - c. The addition of more dwelling units.

### 8.30 SITE PLAN REVIEW.

- A. Purpose. The purpose of this subchapter is to establish procedures and standards that provide a consistent method for review of site plans, and to ensure full compliance with the standards contained in this Chapter and other applicable codes and ordinances. It is the further purpose of this subchapter to protect natural, cultural, and civic resources, minimize adverse impacts on adjoining or nearby lots and uses, encourage cooperation and consultation between the City and the applicant, and facilitate development in accordance with the City's Master Plan.
- B. Scope. In accordance with the purpose of this subchapter and prior to a building permit being issued, a site plan shall be submitted for review and approval by the Planning Commission for the following types of uses and development-related activities:
  - 1. Any use or development for which the submission of a site plan is required by any provision of this Chapter.
  - 2. All uses subject to special land use approval.
  - 3. Any use or development for which off-street parking areas are required under Section 8.25.
  - 4. All permitted use, new construction, development, or any change of use of land or structure(s) in any zoning district lying contiguous to or across the street from a single- or two-family residential district.
  - 5. Any new use, building addition, or accessory structure that requires additional off-street parking to that already provided on the site in accordance with Section 8.25.
  - 6. All uses not otherwise included within a specific use district.
  - 7. Any use or development for which the Zoning Administrator determines that site plan review is necessary to determine compliance with the requirements and standards of this Chapter, in accordance with the purpose of this subchapter.
- C. Minimum Site Plan Information Required. Every site plan submitted to the city shall be in accordance with the requirements of this Chapter and shall be reviewed by the Zoning Administrator prior to submission to the Development Review Team for compliance with the minimum standards of this Chapter. The following information shall be included on the site plan:

1. Plans submitted for site plan review shall be stamped by a design professional licensed by the State of Michigan such as a landscape architect, architect, or civil engineer.
  2. Site plans shall be drawn to an engineer's scale appropriate for a sheet size of at least 24 inches by 36 inches, not to exceed one-inch equals 50 feet. If a large development must be depicted in sections on multiple sheets, then an overall composite sheet shall be provided.
  3. Date, north arrow scale, existing zoning, zoning of adjacent properties, legal description of the property, easements, and the names and addresses of the architect, planner, designer, or civil engineer responsible for the preparation of the site plan.
  4. The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties and a boundary survey of the parcel.
  5. The location, height, and dimensions of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property.
  6. A finished floor elevation and exterior building elevation drawing shall be submitted with the site plan.
  7. The location of all existing and proposed drives, walks and parking areas.
  8. The location and right-of-way widths of all abutting streets and alleys.
  9. The location and size of all existing and proposed sanitary sewer lines, water lines, and storm drainage facilities must be shown.
  10. The location and size of all existing and proposed electric, natural gas, telephone, cable TV and solid waste disposal facilities must be shown.
  11. The location, height area of illumination and fixture details of all existing and proposed lighting shall be provided. All lighting shall be located and oriented to have minimal impact on adjacent properties.
  12. The size, height, location, and illumination of all existing and proposed signs shall be provided to ensure ordinance compliance.
  13. The location of existing natural features such as wooded areas, floodplains, wetlands, drainage courses, and a topographic survey of spot elevations of the site.
  14. Other information as requested by the Zoning Administrator or Planning Commission to verify that the site and use are in compliance with this Chapter.
  15. The Planning Commission may waive any of the foregoing requirements determined unnecessary for site plan review purposes.
- D. Site Plan Review Procedure. Site plans shall be reviewed in accordance with the following:
1. Pre-application meetings. To minimize time, costs and interpretation of City development requirements, applicants may meet with the Zoning Administrator and other City officials to discuss a conceptual site plan, site issues and application of Chapter standards, prior to submitting site plans for formal review.
    - a. Comments and suggestions by the City regarding a conceptual site plan shall constitute neither an approval nor a disapproval of the plan, nor shall the City be bound in any way by such comments or suggestions in preparing for formal submittal or review of a site plan.
  2. Application submittal requirements. The owner of an interest in land for which site plan approval is sought, or the owner's designated agent, shall submit a completed application form and sufficient copies of a site plan to the City. The site plan shall contain all of the information and site details required by Section 8.30.C. Any application or site plan that does not satisfy the information requirements of this Section shall be considered incomplete, and shall be returned to the applicant.
  3. Technical review. Prior to official site plan review, the site plan and application shall be distributed to appropriate City officials and staff for review and comment. The Zoning Administrator may also submit the plans to applicable outside agencies and designated City consultants for review and comment.
  4. Standards for Site Plan Approval. The Zoning Administrator shall consider the following standards in the process of reviewing any site plan for approval:
    - a. Adequacy of information. The site plan information is complete, accurate, and in an understandable form that accurately depicts and describes the proposed development. requirements of this Section shall be considered incomplete, and shall be returned to the applicant.
    - b. Site appearance and preservation. The site layout promotes the normal and orderly development of surrounding lots, and the development layout preserves, to the extent feasible, the site's natural, cultural, and historical features, such as but not limited to significant buildings, wetlands, topography, and woodlands.
    - c. Pedestrian access. Existing and proposed sidewalks or pedestrian pathways connect to existing and planned public sidewalks and pathways in the area, and comply with applicable barrier-free access standards.
    - d. Vehicular circulation. Drives, streets, parking, site access and other vehicle-related elements are designed to minimize traffic conflicts on adjacent streets, and to promote safe and efficient traffic circulation.

- e. Parking and loading. Off-street parking lots and loading areas are arranged and located to accommodate the intensity of proposed uses, minimize conflicts with adjacent uses, and promote shared-use of common facilities where feasible.
- f. Building composition. Building design and architecture are harmonious with the surrounding neighborhood with regard to scale, mass, proportion, and materials.
- g. Screening. Adequate screening elements have been provided to buffer or separate unlike or conflicting land uses, and to screen off-street parking, mechanical appurtenances, loading and unloading areas and storage areas from abutting residential districts and street rights-of-way.
- h. Exterior lighting. All exterior lighting fixtures are designed and arranged to minimize glare and light trespass, prevent vision impairments, and maximize security.
- i. Impact upon public services. The impact upon public services (including utilities, streets, police and fire protection, emergency access, and public sidewalks and pathways) will not exceed the existing or planned capacity of such services.
- 5. Decisions and Approval.
  - a. A development team consisting of the Zoning Administrator, Inspection Department, Police Department, Fire Department, Electric Department, Water and Wastewater Departments, Department of Public Works, and any other identified individuals, shall be responsible for reviewing site Plans, and the Zoning Administrator, with review and recommendation by the Development Team, shall be responsible for granting approval. The following decisions may be made based upon requirements and standards contained in the zoning ordinance, other statutorily authorized and properly adopted City planning documents, other applicable ordinances, and state and federal statutes:
    - (1) Postponement. Upon determination that a site plan is not sufficiently complete for approval or denial, or upon a request by the applicant, the Zoning Administrator may postpone consideration until a later date.
    - (2) Denial. Upon determination that a site plan does not comply with the standards of this Chapter or would require extensive revisions to comply with such standards, the site plan may be denied. If a site plan is denied, a written record shall be provided to the applicant listing the reasons for such denial. Failure of the applicant or the applicant's designated representative to attend two or more meetings shall be grounds to deny site plan approval.
    - (3) Approval. Upon determination that a site plan is in compliance with the standards and regulations set forth in this Chapter, the site plan shall be approved.
    - (4) Approval subject to conditions. The Zoning Administrator may approve a site plan, subject to any conditions necessary to address minor required modifications, ensure that public services and facilities can accommodate the proposed use, ensure compatibility with adjacent land uses, or otherwise meet the intent and purpose of this Chapter. Such conditions may include the need to obtain variances or approvals from other agencies.
  - b. The Zoning Administrator or their designee will provide a decision in writing to the applicant no longer than fifteen business days after the date of submittal.
  - c. Any revisions to the site plan shall be submitted in accordance with Section 8.30.C
  - d. If approved, the site plan shall become part of the record of approval, and subsequent actions related to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance is agreed to by the landowner and the body or official that initially approved the site plan.
- 5. Recording of site plan action. Action on the site plan shall be recorded in the stating the name and location of the project, the proposed use, the most recent plan revision date, and the conditions or grounds for the action. The Zoning Administrator or their designee shall mark and sign at least two copies of the site plan "APPROVED" or "DENIED" as appropriate, with the date that action was taken and any conditions of approval. At least one copy shall be kept on file in the City, and one shall be returned to the applicant.
- E. Outside Agency Permits or Approvals. The applicant shall be responsible for obtaining all necessary permits or approvals from applicable outside agencies, prior to construction plan approval.
- F. Construction Plans. When detailed construction or engineering plans are required by the City, county or other agency with jurisdiction, the applicant shall submit copies of such plans to the City for review and approval. The Zoning Administrator or designated consultant shall verify that the site design and improvements shown on the construction or engineering plans are consistent with the approved site plan, except for changes that do not materially alter the approved site design, or that address any conditions of site plan approval.
  - 1. Where construction or engineering plans are not consistent with the approved site plan, the Zoning Administrator or designated consultant shall direct the applicant to revise the plans to conform to the approved site plan.

2. Where specific engineering requirements or conditions require an alteration from the approved site design, such construction or engineering plans shall be subject to review and approval by the Zoning Administrator as an amended site plan, prior to the start of development or construction on the site.
- G. Approval of Phased Developments. The Zoning Administrator may grant approval for site plans with multiple phases, subject to the following:
  1. The site design and layout for all phases and outlots be shown on the site plan to ensure proper development of the overall site.
  2. Improvements associated with each phase shall be clearly identified on the site plan, along with a timetable for development. Development phases shall be designed so that each phase will function independent of any improvements planned for later phases.
  3. Each phase shall be subject to a separate plan review by the Planning Commission. Any revisions to the approved site plan shall be reviewed in accordance with Section 8.30.D.4.
- H. Site Plan Resubmission. A site plan that has been denied may be modified by the applicant to address the reasons for the denial and then resubmitted for further consideration. Upon determination that the applicant has addressed the reasons for the original denial, the Zoning Administrator shall review the amended site plan as if it were a new application, per Section 8.30.C.
- I. Site Plan Expiration. Site plans shall expire 365 calendar days after the date of approval, unless the construction plan for the project has been submitted to the City for review. Upon written request received by the City prior to the expiration date, the Zoning Administrator may grant one extension of final approval for up to 365 calendar days, provided that site conditions have not changed in a way that would affect the character, design or use of the site, the approved site plan remains in conformance with all applicable provisions of this Chapter and any required fees have been paid.
- J. Rescinding Approval of Site Plans. Site plan approval may be rescinded by the Zoning Administrator upon determination that the site has not been improved, constructed, or maintained in compliance with approved permits, site plans, or conditions of site plan or special land use approval. Such action shall be subject to the following:
  1. Public hearing. Such action may be taken only after a public hearing has been held in accordance with the Michigan Zoning Enabling Act (P.A. 110 of 2006), at which time the owner of an interest in land for which site plan approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
  2. Determination. Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to the owner or designated agent.
- K. Amendments.

All site improvements shall conform to the final site plan. A site plan may be amended upon application and in accordance with the procedure herein. The Zoning Administrator or their designee shall have the authority to determine if a proposed change requires an amendment to an approved final site plan, provided that a revised final site drawing be submitted showing such minor changes, for purposes of record.
- L. As-Built Plan. After construction has concluded, as-built plans shall be submitted to ensure compliance with Final Site Plan approval.
- M. Compliance with an Approved Site Plan. It shall be the responsibility of the property owner, and the owner or operator of the use(s) for which site plan approval has been granted, to develop, improve and maintain the site, including the use, structures, and all site elements in accordance with the approved site plan and all conditions of approval, until the property is razed, or a new site plan is approved.
  1. Failure to comply with the provisions of this Section shall be a violation of this Chapter, and shall be subject to the penalties specified under this Chapter.
  2. The Zoning Administrator shall make periodic investigations of developments for which site plans have been approved. Noncompliance with the requirements and conditions of the approved site plan shall constitute grounds to rescind site plan approval.

**Section 2. Severability.** It is the legislative intent of the City adopting this Ordinance that all provisions hereof shall be liberally construed to protect the public health, safety, and general welfare of the inhabitants of the City and all other persons affected by this Ordinance. Consequently, should any provision of this Ordinance be held to be unconstitutional, invalid or of no effect, such holding shall not be construed as affecting the validity of any of the remaining provisions of this Ordinance or Zoning Code, it being the intent of the City Council that this Ordinance shall stand and remain in effect, notwithstanding the invalidity of any provision hereof.

**Section 3.** This Ordinance shall be published in a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

**Section 4.** This Ordinance is declared to be effective seven (7) days after publication or as provided by law.

Adopted and signed this 17<sup>th</sup> day of January, 2023.

-----  
James Schwartz, MAYOR

-----  
Michelle Eubank, CITY CLERK

I, Michelle Eubank, being duly sworn as the City Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on January 17, 2023, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

-----  
Michelle Eubank, CITY CLERK

**C. INTERNATIONAL PROPERTY MAINTENANCE CODE ORDINANCE AND  
RESOLUTION TO APPOINT DEPUTY BUILDING OFFICIALS**

Chief Lankerdt gave background.

**Moved** Ryan Traver, supported Wolfersberger to extend the regular session of the City Council for January 17, 2023 past 10 pm to finish the business presented on the agenda. On a voice vote: **MOTION CARRIED.**

Mayor Schwartz opened the Public Hearing on the International Property Maintenance Code Ordinance and Resolution to Appoint Deputy Building Officials.

Hearing no comment, Mayor Schwartz closed the Public Hearing on the International Property Maintenance Code Ordinance and Resolution to Appoint Deputy Building Officials.

**Moved** Ryan Traver, supported Jacob Gates to approve Resolution 2023-01, a resolution to appoint deputy building officials and Approve Ordinance 2023-03, the Adoption of the 2015 International Property Maintenance Code. On a roll call vote:

Ayes: Scott Wolfersberger, Ryan Traver, Ryan Underhill, James Schwartz, Jacob Gates

Nays: None

Abstain: None

**MOTION CARRIED.**

**CITY OF MARSHALL**

RESOLUTION No. R2023-01

RESOLUTION TO APPOINT DEPUTY BUILDING OFFICIALS AND

INTRODUCE

ORDINANCE NO. 2023-03

THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 15<sup>th</sup> EDITION  
City of Marshall, Calhoun County, Michigan (hereinafter, "Marshall City").

At a regular meeting of the Marshall City Council held at City Hall, in the City of Marshall, in the County of Calhoun, State of Michigan, on the \_\_\_\_ day of January, 2023, at \_\_\_\_\_ o'clock in the PM.

The meeting was called to order at \_\_\_\_\_ o'clock in the PM  
by \_\_\_\_\_.

Present: \_\_\_\_\_  
\_\_\_\_\_

Absent: \_\_\_\_\_  
\_\_\_\_\_

The following preamble and resolution were offered by  
\_\_\_\_\_ and supported by  
\_\_\_\_\_:

**WHEREAS:**

1. The City Council desires to reduce blighted buildings and to prioritize the safety of structures within the City, and
1. The City Council has adopted prior editions of the International Property Maintenance Code, and
1. The City Council introduces Ordinance No. 2023-03 to adopt the International Property Maintenance Code 15th Edition, as amended by ordinance, and
1. The City Council desires to authorize the City's Building Official to appoint deputy building officials, subject to the concurrence of the City Manager, to facilitate enforcement of the International Property Maintenance Code.

**NOW, THEREFORE BE IT RESOLVED** that the City Council of Marshall, agrees, adopts, and resolves as follows:

1. The City Building Official is granted such authority to appoint deputy building officials, subject to the concurrence of the City Manager, or designee, to enforce City ordinance and the International Property Maintenance Code, as amended.
2. The City Council of Marshall introduces Ordinance No. 2023-03 to adopt the International Property Maintenance Code 15th Edition, as amended by ordinance.

3. All resolutions and parts of resolutions in conflict herein are hereby repealed.

Upon a call of the roll, the vote was:

AYES: \_\_\_\_\_  
NAYES: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

Resolution declared adopted this \_\_\_\_\_ day of January, 2023.

Marshall

\_\_\_\_\_  
Michelle Eubank, Clerk, City of

The undersigned duly qualified and acting Clerk of the City of Marshall, hereby certifies that the foregoing is a true and complete copy of a Resolution adopted by the City Council at a Regular meeting held on the \_\_\_\_\_ of January, 2023, the original of which is a part of the City's minutes and further certifies that notice of the meeting was given to the public pursuant to the provisions of the Open Meetings Act, 1976 PA 267, as amended.

Marshall

\_\_\_\_\_  
Michell Eubank, Clerk, City of

City of Marshall, Calhoun County, Michigan

Ordinance No. 2023-03

**PREAMBLE**

**AN ORDINANCE TO AMEND THE CITY OF MARSHALL CODE OF ORDINANCES, PURSUANT TO THE AUTHORIZATION SET FORTH IN SECTION 3(K) OF THE MICHIGAN HOME RULE CITIES ACT (MCL 117.3), ADOPTS THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2015 EDITION PUBLISHED BY THE INTERNATIONAL CODE COUNCIL AS A PROPERTY MAINTENANCE CODE FOR THE CITY OF MARSHALL REGULATING AND PROVIDING MINIMUM STANDARDS WITH REFERENCE TO SPACE AND OCCUPANCY, STRUCTURAL, ELECTRICAL, MECHANICAL AND PLUMBING REQUIREMENTS, FIRE SAFETY AND EXITING REQUIREMENTS, NOTICES, APPEALS AND PENALTIES FOR VIOLATIONS THEREOF, TO REPEAL ANY CODE PROVISION INCONSISTENT HERewith; AND TO ESTABLISH AN EFFECTIVE DATE HEREOF.**

**THE CITY OF MARSHALL ORDAINS:**



**Section 1 [Code §150.086]. Adoption of International Property Maintenance Code of 2015 (IPMC).**

- A. Pursuant to the authorization set forth in Section 3(k) of the Michigan Home Rule Cities Act (MCL 117.3), the City of Marshall does hereby adopt the International Property Maintenance Code of 2015 (the "Code") prepared by the International Code Council, Inc., as the Property Maintenance Code of the City of Marshall, as amended herein.
- B. That said Code, three (3) copies of which shall at all times be available for public inspection at the office of the City Clerk together with all amendments marked and designated as the International Property Maintenance Code, 2015 Edition, published by the International Code Council shall be and is hereby adopted by the City of Marshall. That said Code is adopted and made a part hereof by reference except as amended by and within this Ordinance. In accordance with the Authorization Set Forth In Section 3(K) of the Michigan Home Rule Cities Act (MCL 117.3), the Clerk shall make available copies of the ordinance in the Clerk's office together with amendments which shall be available for distribution to members of the public at large at a charge to be established by the City Council.
- C. Said Code shall be incorporated into the Marshall City Code §150.084, *et seq.*, as amended.

**Section 2. [Code §150.086] AMENDMENTS TO INTERNATIONAL PROPERTY MAINTENANCE CODE.**

In order to provide consistency in enforcement with other City ordinances the following International Property Maintenance Code (IPMC) sections shall be amended as follows:

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the **city manager, or designee**, ~~appointing authority~~, the code official shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the code official. Law enforcement officials shall be authorized **to enforce Section 109, subsection 109.1, and other code sections as deputized by the Building Official.**

1. Section 106.3 Prosecution for Violation; Civil Penalty; Collection. Section 106.3 shall be and is hereby amended to read:

**Any person or entity failing to comply with a notice of violation or order served in accordance with Section 107 shall be responsible for a municipal civil infraction and shall be subject to a civil fine as follows: \$25.00 first offense, \$50.00 second offense and \$250.00 third offense. Repeat violations are determined based on the date of the commission of the violation. Each day that a violation continues beyond the time specified for compliance shall be deemed to be a separate offense. If the notice of violation is not complied with, City officials may institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Any action taken by the City on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.**

**Section 106.3.1. Violation of Code Section 109 – Emergency Measures, Section 109.1 Imminent danger. Penalties. Section 106.3.1 shall be and is hereby added to read:**

**Conviction for violation of subsection 109.1, shall be punishable by imprisonment for not more than ninety (90) days or a fine of not more than Five Hundred Dollars (\$500.00), or both such fine and imprisonment.**

1. Section 107.1 Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3. **Notwithstanding Section 107, the City may initiate immediate legal action as necessary to enforce the Code and state law, including but not limited to abate hazardous violations and nuisances, and such action shall serve as notice.**
1. Section 110 of the IPMC regarding demolition shall be deleted. (Chapter 150 of the City Code shall govern, as amended).
1. ~~Section 302.3 of the IPMC regarding sidewalks and driveway shall be deleted (\$90.16 through 90.18 of the City Code shall govern); Deleted.~~
1. Section 302.4 of the IPMC regarding noxious weeds shall be deleted. (Chapter 92 of the City Code shall govern, as amended).
1. Section 302.8 of the IPMC regarding inoperable abandoned vehicles shall be deleted. (The Uniform Traffic Code and Chapter 70 of the City Code shall govern, as amended).
1. Section **308** of the IPMC regarding rubbish and garbage shall be deleted. (Chapter 50 of the City Code shall govern, as amended).
1. **Section 302.5 of the IPMC regarding rodent harborage shall be deleted. (Chapter 92 of the City Code shall govern, as amended).**

1. **Section 308.2.2 of the IPMC regarding discarded refrigerators shall be deleted. (Chapter 134, Section 134.28 of the City Code shall govern, as amended).**

1. **Section 506.1 of the IPMC regarding wastewater connections shall be deleted. (Chapter 52, Section 52.04 of the City Code shall govern, as amended).**

(Ord. 05-02, passed 3-18-2005; Am. Ord. 08-04, passed 05-19-2008; Am. Ord. 2023-03, passed 01-\_\_ - 2023).

### **Section 3. All Other IPMC Provisions.**

All other provisions of the International Property Maintenance Code not specifically amended herein shall remain as printed in said Code.

### **Section 4. Savings Clause.**

All proceedings pending and all rights and liabilities existing or incurred at the time this amendatory Ordinance takes effect are saved and may be consummated according to the law enforced when they were commenced. This amendatory Ordinance shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory Ordinance for an offense committed before that date.

### **Section 5. Conflicting Ordinances Repealed.**

Except as to prosecution and legal actions pending and saved pursuant to Section 4 above, any Marshall City Ordinances or parts of Ordinances in conflict with or inconsistent with any of the provisions of this Ordinance and prior editions of the International Property Maintenance Code, as amended hereby, are repealed.

### **Section 6. Severability.**

If any section, paragraph, clause, phrase or part of this Ordinance is held invalid by any court of competent jurisdiction or any agency, department or commission empowered by statute for such purposes, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstance shall not be affected thereby.

### **Section 7. Effective Date.**

This Ordinance shall become effective seven (7) days after its adoption by the Marshall City Council.

**Section 8. Code Edits.** The editors of the Marshall City Code are hereby authorized, subject to approval of the City Manager, or designee, to update and revise code section numbers to effectuate the provisions of this Ordinance

AYES: Wolfersberger, Mayor Schwartz, Gates, Traver, Underhill

NAYES: None

ABSTENTIONS: None

James Schwartz, Mayor

Michelle Eubank, Clerk

**D. RECODIFICATION OF MARSHALL CODE OF ORDINANCES**

Manager Perry gave background.

Mayor Schwartz opened the Public Hearing on the Recodification of the Marshall Code of Ordinances.

Emily Emerson Rich of 616 Union St questioned if there were any changes to the Ordinances besides just the numbers or letters that they may be associated with and the publisher. Manger Perry stated that she was correct, there were no changes to the wording of the Code of Ordinances besides the potential for the change of numbers or letters.

Mayor Schwartz closed the Public Hearing on the Recodification of the Marshall Code of Ordinances.

**Moved** Ryan Traver, supported Ryan Underhill to approve Ordinance 2023-04, An Ordinance Adopting and Enacting a New Code for the City of Marshall. On a roll call vote:

Ayes: Jacob Gates, Scott Wolfersberger, Ryan Traver, Ryan Underhill, James Schwartz

Nays: None

Abstain: None

**MOTION CARRIED.**

**CITY OF MARSHALL**

**COUNTY OF CALHOUN**

**ORDINANCE NO. 2023-04**

AN ORDINANCE ADOPTING AND ENACTING THE REPUBLICATION OF THE MARSHALL CITY CODE FOR THE CITY OF MARSHALL PURSUANT TO SECTION 5b OF THE HOME RULE CITY ACT AND CITY CHARTER SECTIONS 2.16, 4.01, 4.02, AND 4.06; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE CITY OF MARSHALL CITY COUNCIL FINDS:

WHEREAS, the Home Rule City Act, Act 279 of 1909, as amended, Section 5b, provides that cities shall have the power to codify, recodify, and republish its code and municipal ordinances without the necessity of publishing the entire code in full. Section 5b, states:

Sec. 5b. Each city shall have power, whether provided in its charter or not, to codify, recodify and continue in code its municipal ordinances, in whole or in part, without the necessity of publishing the entire code in full. The ordinance

adopting the code, as well as subsequent ordinances repealing, amending, continuing or adding to the code, shall be published as required by law. The ordinance adopting the code may amend, repeal, revise or rearrange ordinances or parts of ordinances by reference by title only.

WHEREAS, the City of Marshall, for the health, safety and welfare, and benefit of the citizens of the City of Marshall and persons therein, and pursuant to Marshall City Charter, Section 4.06, Codification, hereby codifies, recodifies, and republishes its current code and adopts the republication of the “Marshall City Code” by way of Ordinance No. 2023-04, as provided for under City Charter and state law.

NOW THEREFORE,

The City of Marshall ordains the codification, recodification, and republication of the Marshall City Code:

**Section 1. Purpose.** The purpose of this Code adoption and Code republication is for the health, safety, and welfare of the citizens of the City of Marshall and those persons within the City and property subject to City jurisdiction.

**Section 2. Code Citation.** The Code entitled “Marshall City Code”, or “Code” is republished by Municode, that consists of Chapters 1 through 156, each inclusive, and adopted under Ordinance No. 2023-04, as permitted by law. The City Charter is republished in the Marshall City Code.

**Section 3. Additions or amendments.** Additions or amendments to the Code when passed in such form as to indicate the intention of the City of Marshall to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

**Section 4. Ordinances Adopted After October 31, 2022.** Ordinances adopted after October 31, 2022, that amend or refer to ordinances that have been codified in the Code shall be adopted, added to, and construed as if they amend or refer to like provisions of the Code.

**Section 5. Penalties; remedies.** Unless another penalty is expressly provided by ordinance, every person responsible of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine as determined by ordinance or resolution; every person convicted of an ordinance or codification of same, shall be punished by a fine and/or imprisonment, as expressly provided for under applicable ordinance. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City of Marshall may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits, or other such relief as permitted by law and court order.

**Section 6. Conflicting Ordinances Repealed.** Except as to prosecution and legal actions pending and saved pursuant to Section 7 below, any Marshall City Ordinances or parts of Ordinances in conflict with or inconsistent with any of the provisions of this Ordinance and the Code, as amended, are repealed. The repeal provided for in Section 8 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

**Section 7. Savings Clause.** All proceedings pending and all rights and liabilities existing or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law enforced when they were commenced. This Ordinance shall not be construed to affect any prosecution pending or initiated before the effective date of this Ordinance for an offense committed before that date.

**Section 8. Severability.** If any section, paragraph, clause, phrase or part of this Ordinance is held invalid by any court of competent jurisdiction or any agency, department or commission empowered by statute for such purposes, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstance shall not be affected thereby.

**Section 9. Code Edits.** The editors of the Marshall City Code are hereby authorized, subject to approval of the City Manager, or designee, to update and revise Code section numbers to effectuate the provisions of this Ordinance and the Marshall City Code.

**Section 10. Effective Date.** This Ordinance shall become effective seven (7) days after its adoption by the Marshall City Council and publication.

AYES:

NAYES:

\_\_\_\_\_  
Mayor

Certificate of Adoption

STATE OF MICHIGAN  
COUNTY OF CALHOUN

I, the undersigned, the qualified and acting City Clerk of the City of Marshall, Calhoun County, Michigan, do certify that the foregoing is a true and complete copy of Ordinance No. 2023-04 adopted by the City Council of the City of Marshall at a meeting called and held on the \_\_\_\_ day of \_\_\_\_\_, 2023, the original of which is on file in my office.

\_\_\_\_\_  
Michelle Eubank, Clerk of the City of  
Marshall

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

**11) OLD BUSINESS**

**12) REPORTS AND RECOMMENDATIONS**

**A. ELECTRIC LINE CLEARANCE PROGRAM**

**Moved** Scott Wolfersberger, supported Ryan Underhill to award the 2023-2026 line clearance contract to Top to Bottom Tree Service of Marshall, Michigan. On a roll call vote:

Ayes: Ryan Traver, Ryan Underhill, James Schwartz, Jacob Gates, Scott Wolfersberger  
Nays: None

Abstain: None

**MOTION CARRIED.**

**B. PURCHASE OF ELECTRIC DISTRIBUTION TRANSFORMERS**

**Moved** Jacob Gates, supported Ryan Underhill to award the bid for the Calhoun County fairgrounds transformers to Resco of Mount Pleasant, Michigan in the not to exceed amount of amount of \$33,282.00. On a roll call vote:

Ayes: Ryan Underhill, James Schwartz, Jacob Gates, Scott Wolfersberger, Ryan Traver

Nays: None

Abstain: None

**MOTION CARRIED**

**C. ELECTRIC DEPARTMENT MINIMUM CASH RESERVE POLICY**

**Moved** Ryan Underhill, supported Ryan Traver to adopt the Electric Fund Minimum Cash Reserve Policy to help ensure the Electric Department maintains adequate cash to meet its requirements and as a safeguard against potential future deficits. On a voice vote:

**MOTION CARRIED**

**D. SCHEDULE A PUBLIC HEARING FOR ADOPTION OF THE JULY 1, 2023 – JUNE 30, 2029 CAPITAL IMPROVEMENT PROGRAM**

**Moved** Scott Wolfersberger, supported Jacob Gates to set a Public Hearing for discussion and public comment regarding the proposed July 1, 2023 through June 30, 2029 Capital Improvement Program for February 6, 2023. On a voice vote: **MOTION CARRIED**

**E. POLICE PATROL VEHICLE PURCHASES**

**Moved** Jacob Gates, supported Scott Wolfersberger to approve the purchase of (2) 2023 Dodge Charger AWD for a total amount of \$127,248.54 (\$63,624.27 out of the 2022-2023 budget and \$63,624.27 out of the 2023-2024 budget). On a roll call vote:

Ayes: Scott Wolfersberger, Ryan Traver, Ryan Underhill, James Schwartz, Jacob Gates,

Nays: None

Abstain: None

**MOTION CARRIED.**

**F. DEER MANAGEMENT**

Member Gates stated that he has had several complaints from constituents about deer. Mayor Schwartz stated that his wife is vehemently opposed.

**Moved** Scott Wolfersberger, supported Ryan Underhill to approve the expansion of the City of Marshall Deer Management program to include the filling of 50 DNR deer permits between January 2nd and March 31, 2023, with costs not to exceed \$500.00. On a roll call vote:

Ayes: Jacob Gates, Scott Wolfersberger, Ryan Traver, Ryan Underhill, James Schwartz

Nays: None

Abstain: None

**MOTION CARRIED.**

**G. ICE, WINE, BEER AND BLUES SPECIAL EVENT REQUEST**

**Moved** Ryan Underhill, supported Scott Wolfersberger to Approve the Ice, Wine, Beer and Blues special event request for February 3 and 4, 2023. On a voice vote: **MOTION CARRIED.**

**13) APPOINTMENTS / ELECTIONS**

**14) PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS**

Persons addressing Council are required to give their name and address for the record when called upon by the Mayor. Members of the public shall be limited to speaking for a maximum of five (5) minutes on any item not on the agenda.

Rebecca Glotfelty of 02217 Us 31 S, Charlevoix, stated that she hoped the council would address the air quality issues that are currently present from the nearby highways and any potential development. She would like to see more trees. She further stated that she would like to see more parks and recreational areas.

Jim Dyer of 1118 O'Keefe, stated he believed the public hearing was handled well on a controversial issue and that what has been done will be appreciated.

**15) COUNCIL AND MANAGER COMMUNICATIONS**

Member Wolfersberger stated that the Zoning Board of Appeals will be meeting Thursday, January 19, 2023 to discuss two appeals.

Mayor Schwartz expressed his gratitude for those in attendance and stated that all comments will be kept in mind as any potential projects come forward.

**16) ADJOURNMENT**

The meeting was adjourned at 10:42 pm.