

## **Article III**

### **GENERAL PROVISIONS**

#### **Section 3.01 ADMINISTRATIVE REGULATIONS**

**A. Scope of Regulations**

No structure or tract of land shall hereafter be used or occupied, and no structure, or part thereof, shall be erected, altered, or moved, except in conformity with the provisions of this Ordinance.

However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Ordinance and construction is begun within six (6) months of the effective date, said building or structure may be completed in accordance with the approved plans. Furthermore, upon completion the building may be occupied under a Certificate of Zoning Compliance for the use for which the building was originally designated, subject thereafter to the provisions of Article IV concerning nonconformities. Any subsequent text or map amendments shall not affect previously issued valid permits.

**B. Minimum Requirements**

The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, morals, prosperity, and general welfare.

**C. Relationship To Other Ordinances or Agreements**

This Ordinance is not intended to abrogate or annul any ordinance, rule, regulation, permit, easement, covenant, or other private agreement previously adopted, issued, or entered into and not in conflict with the provisions of this Ordinance.

However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than other such ordinances, rules, regulations, permits, easements, covenants, or other private agreements, the requirements of this Ordinance shall govern.

**D. Vested Right**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or permissible activities therein. Furthermore, such rights as may exist through enforcement of this Ordinance are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the preservation or protection of public health, safety, and welfare.

**E. Continued Conformity With Yard and Bulk Regulations**

1. No building or structure shall hereafter be erected or altered to exceed the height; to occupy a greater percentage of lot area; to have (a) narrower or smaller rear yards, front yards, side yards, or other open spaces than prescribed for the district in which the building or structure is located.
2. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth for the district in which the yard or lot is located. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this Ordinance.
3. No part of yard or other open space required for or in connection with, any structure for the purpose of complying with this Ordinance, shall be included as part of a yard or open space similarly required for any other structure.

**F. Division and Consolidation of Land**

The division and consolidation of land shall be in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended. No lot or parcel shall hereafter be divided into two or more lots and no portion of any lot shall be sold, unless all lots resulting from each such division or sale conform with all regulations of the zoning district in which the property is located.

**G. Unlawful Buildings, Structures, Site Designs and Uses**

A building, structure, or use which was not lawfully existing at the time of adoption of this Ordinance shall not be made lawful solely by adoption of this Ordinance. In case any building, or part thereof, is used, erected, occupied or altered contrary to the provisions of this Ordinance, such building or use shall be deemed an unlawful nuisance and may be required to be vacated, torn down or abated by any legal means, and shall not be used or occupied until it has been made to conform to the provisions of this Ordinance. Public expenditures toward abating any such nuisance shall become a lien upon the land.

**Section 3.02 ACCESSORY STRUCTURES**

All accessory buildings and structures permitted in this Zoning Ordinance shall be subject to the following:

- A. Relation to principal building:** Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with, a principal building, structure or use which is permitted in the particular zoning district. No accessory building, structure or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

- B. Maximum number and coverage:** There shall be a maximum of one (1) detached building of over one hundred (100) square feet and a maximum of two (2) total detached accessory buildings on any lot. The combined total of all accessory buildings, structures and uses, excluding swimming pools, shall occupy a maximum of twenty five percent (25%) of a required rear yard (as defined by minimum set backs).
- C. Restrictions on placement:** Accessory buildings shall not be erected in any right-of-way, easement, or required front yard. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot to the rear of such corner lot. In the case of attached residential dwelling developments, detached parking garages or carports may be permitted in the non-required front yard provided the Planning Commission recommends approval of the site plan, landscaping, elevation drawings and construction materials. In reviewing such structures, the Planning Commission shall consider the impact of headlights and views from nearby public streets and adjacent properties.
- D. Required setbacks (attached):** Where the accessory building, structure or use is structurally attached to a principal building, structure or use (e.g. a deck, garage or breezeway), it shall be subject to all the regulations of this section applicable to principal buildings, structures and uses.
- E. Required setbacks (detached):** Detached accessory buildings shall be at least ten (10) feet from any principal building or other accessory building or public street right-of-way line, at least three (3) feet from any side or rear lot line, at least fifty (50) feet from any shoreline and at least ten (10) feet from the boundary of a wetland regulated by the Michigan Department of Natural Resources or the federal government.
- F. Maximum, height:** The maximum building height of any detached accessory building or structure in any One-Family Districts shall be fourteen (14) feet, measured from the average height between the eaves and the ridge. Accessory buildings in all other districts may be constructed to equal the permitted maximum height of structures in said districts, subject to Board of Zoning Appeals' review and approval if the building exceeds one (1) story or fourteen (14) feet in height.
- G. Drainage:** The placement and design of any accessory building or structure shall not have a significant impact on stormwater runoff. The Zoning Administrator may require grading plans or a sketch plan to ensure compliance with this provision.
- H. Restrictions on use:** Accessory buildings shall not be occupied for dwelling purposes nor used for any business profession, trade or occupation.

- I. **Permit required:** Any accessory building or structure greater than one hundred (100) square feet shall require a building permit.

### **Section 3.03 LAWFUL USE OF A STRUCTURE AS A DWELLING UNIT**

#### **A. Incompletely Constructed Structures**

Any incompletely constructed structure which does not meet the requirements of the Building Code or this Ordinance shall not be issued a Certificate of Final Zoning Compliance and shall not be used as a dwelling. For the purposes of this section, a basement which does not have a residential structure constructed above it shall be considered an incompletely constructed structure. The restrictions shall not prevent temporary use of structure as a residence in accordance with Section 3.06.

### **Section 3.04 SINGLE FAMILY DWELLING DESIGN STANDARDS**

Single family dwellings, whether mobile homes, manufactured homes, modular homes or site ("stick") built homes, located outside a mobile home park, shall conform to the standards of this Section in addition to HUD standards or the County Building Code, as appropriate. In order to preserve the substantial investment of property owners in single-family neighborhoods, single-family homes erected in residential districts shall be similar in appearance to the exterior design and appearance of existing detached single family homes in the surrounding area.

The standards herein are intended to prevent dissimilar dwelling designs which would adversely affect the value of dwellings in the surrounding area, adversely affect the desirability of an area to existing or prospective homeowners, impair the stability of the environment, prevent the most appropriate use of real estate and lessen the opportunity to realize the development pattern envisioned in the Dexter Master Plan.

- A. **Code compliance:** Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements. Where there are conflicting applicable regulations, the more stringent shall apply.
- B. **Building permit:** All construction required herein shall be commenced only after a building permit has been obtained in accordance with the County Building Code and other building regulations.
- C. **Certification:** If the dwelling unit is a mobile home, the mobile home must either be (1) new and certified by the manufacturer and/or appropriate inspection

agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or (2) used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in Subsection (3) above, and found, on inspection by the Zoning Administrator or their designee, to be in excellent condition and safe and fit for residential occupancy.

- D. Dimensional Standards:** Each such dwelling unit shall comply with the minimum standards listed in Article XX for the Zoning District in which it is located, including minimum lot area, minimum lot width, minimum floor area, required setbacks and maximum building height.
- E. Foundation:** Each dwelling unit shall be firmly attached to a permanent basement or crawl space foundation constructed on the site in accordance with the County Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. If said dwelling is a mobile home, the dwelling shall be securely anchored to the foundation to prevent displacement during windstorms.
- F. Undercarriage:** In the event that such dwelling unit shall be a mobile home, the wheels, tongue, hitch assembly and other towing appurtenances shall be removed before attachment to its permanent foundation. The foundation or skirting shall fully enclose the towing mechanism, undercarriage and chassis.
- G. Architectural Compatibility:** In the event that such dwelling unit shall be a manufactured, modular or mobile home as defined herein, each such home shall be aesthetically compatible in design and appearance with other residences in similar zoning districts in the surrounding area. Surrounding area shall be defined as within five hundred (500) feet of the subject dwelling unit; with measurements made from the edge of the lot in each direction. The determination shall be made by the Zoning Administrator based on the following factors:
1. The residential floor area of the proposed dwelling shall be at least seventy five percent (75%) of the average square footage of constructed single-family dwellings in the surrounding area.
  2. The type of material used in the proposed dwelling is not grossly dissimilar to the type of materials used in single family homes in the surrounding area, provided the reflection from such exterior surface shall be no greater than from white semi-gloss exterior enamel.
  3. The design and position of windows shall not be grossly dissimilar in relation to other single-family homes in the surrounding area.

4. A roof overhang of not less than six (6) inches on all sides shall be provided, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
5. A minimum of two (2) exterior doors shall be provided with the second one being in either the rear or side of the dwelling.
6. The width across any front, side or rear elevation shall be a minimum of twenty (20) feet and comply in all respects with the City and County Building Code (BOCA).
7. An applicant may appeal to the Board of Zoning Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision.
8. The above standards shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

**H. Sewage disposal and water supply:** Each such dwelling unit shall be connected to a public sewer and water supply.

**I. Exceptions:** The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this ordinance and pertaining to such parks. Mobile homes which do not conform to the standards of this section shall not be used for dwelling purposes within the City unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this Ordinance.

### **Section 3.05 HOME OCCUPATION**

A. A home occupation may be permitted in a single-family detached dwelling within a zoning district where such dwelling is permitted, subject to the following conditions.

- (1) Application and approval of the home occupation is received from the City of Dexter in accordance with this section.
- (2) Certain uses by the nature of their operation have a pronounced tendency to increase in intensity beyond the limits permitted for home occupations, thereby impairing the reasonable use and value of surrounding residential properties. Therefore, the following uses shall not be permitted as home occupations: medical care services (unless otherwise permitted by law and City ordinance), mortuaries, funeral homes, tea rooms (café's & coffee houses), antique shops, restaurants, private clubs, veterinary

clinics, animal grooming establishments, barbers shops or beauty parlors with more than one stylist, clinics or hospitals, commercial stables or kennels, real estate offices, restaurants, vehicle repair or painting shops, retail sales, landscape installation and maintenance businesses, snow removal businesses, construction contractors, trailer rentals, funeral homes, nursing homes, private clubs, adult regulated uses and repair shops in general. However, this section is not intended to prohibit offices related to the administration of construction contracting, landscaping, maintenance, or snow removal businesses. Note, this list does not include every use that is prohibited as a home occupation.

- (3) The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than one-quarter (25%) of the floor area of the dwelling unit may be used for the purposes of the home occupation or for storage purposes in conjunction with the home occupation.
- (4) A home occupation shall be conducted completely within the principal structure.
- (5) There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation, and there shall be no external or internal alterations not customary in residential areas, including the expansion of off-street parking areas in excess of residential standards.
- (6) No article shall be sold or offered for sale on the premises except such as is primarily produced within the dwelling.
- (7) A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, wireless communications interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in a similarly zoned residential district.
- (8) Signs not customarily found in residential areas shall be prohibited. However, one (1) non-illuminated name plate, not more than two (2) square feet in area, may be attached to the building, and which sign shall contain only the name, occupation, and address of the premises.
- (9) There shall be no deliveries to or from a home occupation with a vehicle larger than a 15,000-pound truck with not more than two (2) axles.
- (10) In no case shall a home occupation be open to the public earlier than 8:00 a.m., nor later than 7:00 p.m.
- (11) No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises. The home occupation shall not be visible from the street.
- (12) Bed & Breakfast operations shall be permitted in Residential Districts as regulated in Section 8.11 of this Ordinance.

- (13) No more than one other person shall be employed or involved with such activity on premises other than a member of the immediate family residing in the dwelling unit.
- (14) Services and transactions shall be conducted by appointment only, walk-in retail trade shall be prohibited.

B. Medical Marihuana Home Occupation. The intent of the zoning ordinance is to regulate medical marihuana home occupations by providing for regulations and fees in a manner that promotes and protects the public health, safety and welfare, mitigates the potential impacts on surrounding properties and persons, and that conforms with the policies and requirements of the Michigan Medical Marihuana Act, MCL 333.26421, et seq. In addition to the requirements in Section 3.05(1), Medical marihuana home occupations shall be subject to the following requirements:

- (1) The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
- (2) Medical Marihuana Home Occupations are not permitted within 1000 feet of a public school or public library in accordance with the Drug Free School Zone Act (MCL 333.7410).
- (3) All medical marihuana shall be contained within the main building in an enclosed, locked facility.
- (4) The registered primary caregiver may cultivate marihuana for compensation, for up to 5 patients, plus themselves, to whom the primary caregiver is connected through the Michigan Department of Community Health registration system.
- (5) No patients to whom the primary caregiver is not connected through the Michigan Department of Community Health registration system shall be permitted to visit the home as a customer. No other patients to whom the primary caregiver is not connected through the Michigan Department of Community Health registration system are allowed to purchase or receive medical marihuana at the home, nor are any patient to patient transfers of any kind allowed at the home except between the primary caregiver and the patients connected to the primary caregiver.
- (6) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
- (7) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11pm and 7am shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a

distraction for adjacent residential properties.

- (8) That portion of the residential structure where energy usage and heat exceeds typical residential use, such as grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to insure compliance with the Michigan Fire Protection Code.
- (9) Any person who violates any provision of this article shall be responsible for violations as set forth in Chapter 22, Section 22-10a.
- (10) Revocation of Permit; Appeal: Permits issued pursuant to this section may be revoked by the City upon finding based upon competent, material and substantial evidence of the following clauses:
  1. Any fraud, misrepresentation or false statement contained in the application or in connection with the home occupation being permitted;
  2. Any violation of this section;
  3. Conviction by the permittee of any felony;
  4. Conducting the home occupation in an unlawful manner or in such a manner as to constitute breach of the peace.
  5. Conducting the home occupation in a manner that does not comply with the Medical Marihuana Act, MCL 333.26421 *et seq.* and Michigan Administrative Rules, R 333.101 *et seq.*
  6. If the medical marihuana home occupation is held invalid or unconstitutional by any court of competent jurisdiction.
  7. Notice of revocation of permit shall be given in writing, setting forth specifically the grounds for the revocation; such notice shall be mailed to the permittee at the address provided in the application. Any permittee whose permit has been revoked as herein provided shall have the right to appeal the revocation to the City Council at a public hearing. City Council shall submit to the applicant a written statement of its findings and determinations. The Council's determination shall be based upon competent, material and substantial evidence showing failure to comply with the requirements.

## **Section 3.06 TEMPORARY STRUCTURES AND USES**

### **A. General Requirements**

Temporary buildings and structures shall comply with the following requirements:

#### **1. Temporary Structures Used for Residential Purposes**

A building or structure may be approved for temporary residential use only while damage to the principal dwelling due to fire, flood, ice, wind, or other natural disaster is being repaired. Any such temporary building shall not be used as a residence without prior review and approval by the Zoning Administrator.

Also, a mobile home or other approved living quarters may be occupied as a residence on a temporary basis on sites for which a building permit has been issued for construction, major repair, or remodeling of a new dwelling unit, subject to the following:

- a. Such permits may be issued by the Zoning Administrator for up to six (6) months in duration and may be renewed for a period of up to six (6) months, provided that work is proceeding in an expeditious manner.
- b. The total duration of a temporary permit shall not exceed twelve (12) months.
- c. Temporary structures shall comply with the setback standards for the district in which they are located.
- d. The Zoning Administrator shall approve electrical and utility connections to any temporary structure.
- e. An approved temporary structure may be moved onto a site fourteen (14) days prior to commencement of construction and shall be removed within fourteen (14) days following issuance of a Certificate of Occupancy for the permanent dwelling.

**2. Temporary Structures Used for Nonresidential Purposes**

Temporary buildings for nonresidential use, including semi-trucks/trailers and concrete batch plants, shall be permitted only when the intended use is by a contractor or builder in conjunction with a construction project, and only after review and approval by the Zoning Administrator. Such temporary structures shall be removed immediately upon completion of the construction project and prior to a request for a Certificate of Occupancy for the project.

**3. Permits**

Permits for the utilization of temporary structures shall be issued by the Zoning Administrator. The permit shall specify a date for the removal of the temporary structure, and the Zoning Administrator shall require posting of a bond to ensure removal. A Certificate of Occupancy shall be required for such structures.

- a. The applicant shall furnish the City with a performance guarantee in the amount of five hundred dollars (\$500.00) to assure removal of the temporary structure.
- b. The Zoning Administrator may require a performance bond to assure proper clean-up.

**4. Use as an Accessory Structure**

A temporary building or structure shall not be used as an accessory building or structure, except as permitted herein.

**5. Special Events and Other Temporary Uses**

The Zoning Administrator may grant temporary use of land and structures for special events and other temporary uses, as defined in Article II of this Ordinance, subject to the following general conditions:

- a. Adequate off-street parking shall be provided.
- b. The applicant shall specify the exact duration of the temporary use.
- c. Electrical and utility connections shall be approved by the Zoning Administrator.

The following conditions apply to specific temporary uses:

- a. Carnival or Circus
  - Maximum duration: 10 days.
  - Operator or sponsor: Non-profit entity
  - Location: Shall not be located in or adjacent to any developed residential area except on church, school or park property.
- b. Sidewalk Display and Sale of Bedding Plants
  - Maximum duration: 90 days.
  - Location: In commercial districts only.
  - Sidewalk Coverage: Shall not cover more than 50 percent of the width of the sidewalk.
- c. Christmas Tree Sales
  - Maximum duration: 45 days.
  - Location: Shall not be located in or adjacent to any developed residential area.
  - Clean-up: Stumps, branches, and other debris shall be completely removed from site.

**Section 3.07 USES NOT OTHERWISE INCLUDED WITHIN A DISTRICT**

**A. General Requirements**

A land use which is not cited by name as a permitted use in a zoning district may be permitted upon determination by the Planning Commission that such use is clearly similar in nature and compatible with the listed or existing uses in that district. In making such a determination, the Planning Commission shall consider the following:

**1. Determination of Compatibility**

In making the determination of compatibility, the Planning Commission shall consider specific characteristics of the use in question and compare such characteristics with those of the uses which are expressly permitted in the district. Such characteristics shall include, but are not limited to, traffic generation, types of service offered, types of goods produced, methods of operation, and building characteristics.

**2. Conditions by which Use May Be Permitted**

If the Planning Commission determines that the proposed use is compatible with permitted and existing uses in the district, the Commission shall then decide whether the proposed use shall be permitted by right, as a special land use, or as a permitted accessory use. The proposed use shall be subject to the review and approval requirements for the district in which it is located. The Planning Commission shall have the authority to establish additional standards and conditions under which a use may be permitted in a district.

No use shall be permitted in a district under the terms of this section if the use is specifically listed as a use permitted by right or as a special or conditional use in any other district.

**Section 3.08 YARD AND BULK REGULATIONS**

**A. General Regulations**

All lots, buildings, and structures shall comply with the following general yard and bulk regulations unless specifically stated otherwise in this Ordinance:

**1. Minimum Lot Size**

Every building hereafter erected on a lot or parcel of land created subsequent to the effective date of this Ordinance shall comply with the lot size, lot coverage, and setback requirements for the district in which it is located. No yards in existence on the effective date of this Ordinance, shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this Ordinance.

**2. Number of Principal Uses per Lot**

Only one principal building shall be placed on a lot of record or parcel in single-family residential districts. In a single-family site condominium

project, only one principal building shall be placed on each condominium lot, as defined in Article II.

**3. Clear Vision Areas**

All corners at an intersection of two public streets shall maintain a clear vision zone free of buildings, fences, walls, signs, structures and landscaping. The clear vision zone shall be provided vertically between a height of thirty (30) inches and six (6) feet above the centerline elevation of the intersecting streets. The clear vision area shall be provided within a triangular area twenty five (25) feet in length measured along abutting public street right-of-way lines with the third side being a line connecting these two sides. A non-obscuring fence may have a maximum height of thirty six (36) inches in a clear vision zone.

**4. Relocation of Existing Buildings Into the City**

No existing building or structure shall be relocated upon any parcel or lot in City of Dexter unless the building or structure conforms to all requirements for the district in which the building or structure is to be located.

**Section 3.09 STREETS, ROADS AND OTHER MEANS OF ACCESS**

- A. In all districts, every use, building, or structure established after the date of this Ordinance shall be on a lot or parcel which adjoins a public street, such street right-of-way to be at least sixty (60) feet in width unless a lesser width has been established and recorded prior to the effective date of this Ordinance. This provision does not include alleys.
- B. Every building and structure constructed or relocated after the effective date of adoption or amendment of this Ordinance shall be so located on lots as to provide safe and convenient access for fire protection vehicles and required off-street parking and loading areas.
- C. Curb cuts and driveways may be located only upon approval by the Zoning Administrator and such other county and state authorities as required by law; provided however, such approval shall not be given where such curb cuts and driveways shall unnecessarily increase traffic hazards.
- D. Concrete curb and gutter shall be required for all private roadway and parking lot construction in the City of Dexter. This requirement shall apply to all zoning districts in the City with the following exception:

In RD district, private roadway and parking lots may be constructed without concrete curb except for the approach and the first fifty (50) feet beyond the radii of any approach connecting a private drive to a public street. In the absence of concrete curb and gutter, site improvements must be designed, engineered, and

constructed in such a manner as to properly and completely collect and convey all on-site storm-water runoff to approved points of discharge.

- E. Concrete curb and gutter shall be constructed to a configuration, dimension, and material which complies with the Michigan Department of Transportation Standard Plan Curb and Gutter, either Detail C4 or D2, as such standard may be amended from time-to-time and the City engineering standards.
- E. Proper storm management shall be installed with all roadway and parking lot construction which requires concrete curb and gutter. The storm water runoff from all proposed site development shall be collected and conveyed by means of storm sewers to approved points of discharge. Where an approved point of discharge is not available to a development site as determined by City engineers, such necessary improvements shall be constructed or installed so as to properly and safely dissipate or retain storm water runoff on-site.

### **Section 3.10 ESSENTIAL PUBLIC SERVICES**

Essential services buildings and structures shall be permitted as authorized under any franchise in effect within the City, subject to regulation as provided in any law of the State of Michigan the list of uses within each zoning district or in any other City Ordinance provided it is the intent of this section to ensure conformity of all buildings, structures uses and storage yards to the requirements of this Zoning Ordinance wherever such conformity shall be practicable and not in conflict with the specific requirements of such franchise, state legislation or City Ordinance. In the absence of such conflict, the Zoning Ordinance shall prevail. Appeal from the application of this Ordinance in regard to any essential service may be made to the Board of Zoning Appeals.

Public and On-Site Utilities: Prior to issuance of a building permit under the terms of this Ordinance, the applicant shall obtain engineering approval from the City.

The location and installation of wireless communication towers, poles, and related facilities is not considered an essential public service as defined and regulated by this ordinance. Regulations pertaining to the location, construction, and use of wireless communication facilities within the City may be found in Section 3.26 of this zoning ordinance.

### **Section 3.11 PROPERTY MAINTENANCE**

Every parcel of property including buildings, vacant or occupied, and every part thereof, shall be kept clean and shall be kept free from any accumulation of dirt, filth, rubbish, garbage or other matter in or on the same, or in the yards, courts, passages, area of alleys connected therewith or belonging to the same. The owner of every dwelling shall be responsible for keeping the entire building free from vermin. The owner shall also be responsible for complying with the provision of this section except that the tenants shall

be responsible for the cleanliness of those parts of the premises which they occupy and control. Any hazardous places that are necessary during the construction must be fenced or boarded up. Property owners and/or occupants shall be held responsible for the condition, cleanliness and maintenance of the areas between their lot lines and adjoining streets and curbs, where existing.

### **Section 3.12 SIDEWALKS**

For all developments requiring site plan approval, except those located in the RD District zoning classification, either a new public concrete sidewalk or the reconstruction of existing sidewalks shall be required to be constructed to City engineering standards along the perimeter of the lot which abuts any paved public right-of-way. New or reconstructed sidewalks or bikeways shall be aligned with existing or proposed sidewalks or bikeways. The planning commission may waive the requirement for sidewalks in areas not already served by sidewalks or if the installation of sidewalks would serve no public benefit.

If existing infrastructure, natural impediments, topography or mature trees would make construction of a sidewalk impractical and the City concurs in such a determination, the Owner shall be required to provide the sidewalk in an alternative on-site route which adequately provides a proper connection to the existing City sidewalk system.

### **Section 3.13 NATURAL FEATURES PRESERVATION: WETLANDS**

The City of Dexter intends to promote compliance with Part 303 Wetlands Protection, of the Natural Resources and Environmental Protection Act of 1994, Public Act 451 as amended. The City encourages placement of buildings to protect Michigan Department of Environmental Quality regulated wetlands and non-regulated wetlands between two acres and five acres in size. The City intends to ensure important wetlands are preserved, to prevent the mistaken elimination of regulated wetlands and to promote the goals of the Dexter Master Plan.

- A. Any disturbance of soils, removal of landmark trees or stumps, grading, alteration of water flowing into or from an MDNR regulated wetlands or any prohibited activity as listed in Section 5 of Public Act 203 of 1979, without a permit from the MDNR, may result in a stop work order issued by the City and/or require restoration of the wetland in accordance with MDNR standards.
- B. Judicious effort shall be made through site plan design to preserve non-MDNR regulated wetlands which exceed two (2) acres in size, particularly those with standing water or considered to be important wildlife habitat.
- C. Where stormwater is planned to drain into a wetlands, a approved filtration method shall be used to control runoff of sediment and the wetlands. Maintenance of these material shall be addressed in a deed or as a condition of site plan approval.

- D. Land shall not be subdivided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Section or the MDNR regulations.

### **Section 3.14 NATURAL FEATURES PRESERVATION: GRADING, REMOVAL AND FILLING OF LAND**

Any grading which changes site elevation by more than three (3) feet, or the use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish or other wastes or by-products, is not permitted in any zoning district except under a certificate from, and under the supervision of the Zoning Administrator in accordance with a topographic plan, approved by the Zoning Administrator and City engineer, submitted at a scale of not less than one (1) inch equals fifty (50) feet and shall show existing and proposed grades and topographic features and such other data as may from time to time be required by the Zoning Administrator. Such certificate may be issued in appropriate cases upon the filing with the application of a performance or surety bond in an amount as established by the Zoning Administrator sufficient to rehabilitate the property upon default of the operator or such other reasonable expenses. The form of the bond shall be approved by the City Attorney. This regulation does not apply to normal soil removal for basement or foundation work when a building permit has previously been duly issued by the Zoning Administrator.

### **Section 3.15 RECEPTION ANTENNAE**

In all zoning districts, the installation or use of a reception or transmission antenna facility shall be permitted only as an accessory use, and only when meeting the standards of this section. Upon review of the application, the Zoning Administrator shall grant approval if it is found that the plans comply in all respects with this Ordinance. It is the intent and purpose of this section to provide reasonable regulations for the mounting of reception antenna facilities.

- A. Intent:** The intent of this section is to regulate reception antenna facilities to achieve the objectives listed below.
1. Promote safety and prevent hazards to persons and property resulting from accidents involving antenna facilities which could fall from building or structural mountings due to wind load, snow load or other factors.
  2. Promote utilization of ground mounting for antennae facilities where reasonably feasible.
  3. Require screening of ground-mounted facilities and minimize visibility to roof or structure mounted facilities to maintain architectural integrity and aesthetic quality of property improvements and preserve property values.

4. Exclude from provisions of this section, conventional VHF and UHF television antennae, FM reception antennae and short wave radio antennae used by amateur radio operators based upon the following findings: there is relatively minor concern for wind and snow load issues due to an established safety record; there has been an historical acceptance of such facilities from architectural and aesthetic standpoints; amateur radio operators provide benefits to emergency service providers, and the cost of complying with the procedure for application and review would be unreasonable in relation to the cost of purchasing and installing the facility.
5. Balance regulations on the placement and manner of reception antenna installation to the minimum required to achieve the objectives herein.
6. Promote and protect the public health, safety and welfare by the exercise of City police powers in relation to a property owner's right to construct and use reception antennae to receive signals without reasonable restriction.

**B. Ground-mounted facilities** shall be subject to the conditions listed below.

1. The maximum diameter shall be ten (10) feet for a dish type receiver where diameter can be measured.
2. The maximum height of any part of the facility shall be fourteen (14) feet.
3. The antenna facility shall be located only in the rear yard and shall not be located in a required yard setback area.
4. An antenna facility within fifty (50) feet of a residential property line or public street right-of-way shall be screened from view by a wall, fence, berm, evergreen plantings, or a combination of these elements, provided, if there is no conforming location on the property where the facility may be so obscured from view, screening shall be accomplished to the extent reasonably feasible, as approved by the Zoning Administrator or if the antenna is mesh type, screening need not exceed six (6) feet in height.
5. The color of all antennae shall be of tones similar to the surroundings. Ground-mounted antennae shall not be white unless they are of a mesh type or unless the background consists primarily of a white building. Bright colors shall not be used in any instance.
6. If a usable signal cannot be obtained by locating the antenna in the rear yard, the antenna may be located in the side yard of the property subject to the submission of a written affidavit and approval of the Board of Zoning

Appeals provided the placing of an antenna in a side yard shall remain subject to all other conditions set forth in this section.

7. All electrical and antenna wiring shall be placed underground, where applicable, and grounded to meet County Building Code requirements.
8. The antenna shall be located and designed to meet manufacturer specifications to withstand a wind force of one hundred (100) miles per hour.
9. No advertising or identification display shall be placed on any portion of the antenna or tower except the name and logo of the manufacturer and the serial number.

**C. Roof or structure mounted facilities in residential districts:** In one-family residential districts, reception antenna facilities mounted on a roof of a building, or on a structure more than three (3) feet in height, shall be subject to the following regulations.

1. The antenna facility itself shall not be larger than ten (10) feet in height or diameter width. Moreover, the facility shall be of perforated, mesh or rod and/or pole construction, and shall not be of solid sheet or panel construction.
2. A roof-mounted antenna facility shall be located on that portion of the roof adjacent to the rear yard on the property, and a structure-mounted facility shall be located in the rear yard area but shall not be located in a required yard setback area.
3. No part of the antenna facility shall extend higher than three (3) feet above the ridge and/or peak of the roof, but in no event higher than the maximum height limitation in the zoning district in the case of a building mounted facility; and/or seventeen (17) feet above grade in the case of a structure mounted facility.

**D. Roof or structure-mounted facilities not situated in residential districts.**

1. Roof mounted reception antenna shall be a maximum ten (10) feet in diameter.
2. The top of the antenna shall be within the maximum height for principal buildings permitted in the district.
3. Reception antennae shall be of a color to match the building.
4. No advertising may be applied or attached to the antenna.

- E. Interpretation guidelines.** The provisions of this section shall be interpreted to carry out the stated objectives of this section, and shall not be interpreted so as to impose costs on the applicant which are excessive in light of the purchase and installation cost of the antenna facility and accessory equipment.
- F. Exemption.** Up to three (3) conventional VHF or UHF television antennae, FM reception antennae and antennae used by amateur radio operators licensed by the FCC which have width and height dimensions of not more than one hundred thirty-five (135) inches and ten (10) feet, respectively, which are situated on that portion of the roof adjacent to the rear yard on the property, and which do not extend higher than three (3) feet above the ridge and/or peak of the roof or the maximum height limitation in a residential zoning district or ten (10) feet above the roof in a nonresidential district, shall be exempted from the requirement of applying for and receiving approval under this section.
- G. Variance.** If a hardship or practical difficulty exists on a particular lot or parcel of land such that compliance with the provisions of this ordinance is impossible because satellite reception signals are blocked, then a variance may be sought from the Zoning Board of Appeals.

### **Section 3.16 DUMPSTER AND WASTE RECEPTACLES**

Dumpster, including waste receptacles, waste compactors, and recycling bins shall be designed, constructed and maintained according to the standards of this section. Waste receptacle location and details of construction shall be shown on site plans. A change in receptacle location or size shall require modification to the enclosure, as warranted by this section.

- A. Location:** Waste receptacles shall be located in the rear yard or non-required side yard, unless otherwise approved by the Planning Commission and shall be as far as practical, and in no case be less than twenty (20) feet from any residential district and in such a way that they are not easily damaged by the refuse device. The location and orientation of waste receptacle and enclosure shall minimize the potential for the waste receptacle to be viewed from public street or adjacent residential districts.
- B. Access:** Waste receptacles shall be easily accessed by refuse vehicles without potential to damage the building or automobiles parked in designated parking spaces.
- C. Base Design:** The receptacle base shall be at least twelve (12) feet (twenty feet for a dual dumpster corral) by eight (8), constructed of six (6) inches of reinforced concrete pavement. A base apron shall extend ten (10) feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.
- D. Enclosure:** Waste receptacles shall meet the following standards:

1. Each waste receptacle shall have an enclosing lid or cover.
2. Waste receptacles shall be enclosed on three (3) sides with a gate on the fourth side. A gate shall not be required if the opening of the enclosure is not visible from the public street or a residential district, as determined by the Planning Commission. A gate must be maintained in operable and sanitary condition.
3. The enclosure shall be constructed of brick, concrete or decorative precast panel with brick effect or a wooden enclosure provided the lumber is treated to prevent decay or is determined by the Zoning Administrator to be durable and suitable for outdoor use with a maximum height of six (6) feet or at least one (1) foot higher than the receptacle, whichever is higher, and spaced at least three (3) feet from the receptacle.
4. Bollards or similar protective devices may be installed at the opening to prevent damage to the enclosure.
5. The enclosure shall be screened with five (5) foot high evergreens planted a minimum of six (6) feet apart wherever the enclosure wall is visible to a public street or residential district. See section 6.09 waste receptacles and mechanical equipment screening.

### **Section 3.17 FENCES**

Fences are permitted subject to the following regulations:

- A. Permits:** The erection, construction or alteration of any fence shall require a permit and shall be approved by the Zoning Administrator in compliance with the provisions of this Ordinance. All applications for fence permits shall be submitted to the Zoning administrator and shall be accompanied by the fence design information and a survey showing the location of the proposed fence. Fences located within the front, side or rear yards may be erected directly on the property line, unless otherwise mentioned in this ordinance, with the submission of written consent from all adjacent property owners or a certified survey verifying the location of the property lines. The fee for the fence permit shall be set by resolution of the City Council.
- B. General Fence Requirements:**
  1. Fence height shall be measured from the surrounding grade at every point along the fence line.
  2. Chicken wire fences are strictly prohibited.
  3. Fences that have one finished and one decorative side shall be erected with the finished or decorative side facing to the exterior of the lot to which the fence is associated. Any reconstruction of a non-conforming fence shall be require a permit and must meet current ordinance standards,

- unless otherwise specified in the ordinance.
4. There shall be a maximum of one fence per property line.
  5. Fence ownership shall be determined by the fence permit applicant.

**C. Location in front yards\*:** Fences of an ornamental nature may be located in a front yard of any lot of record up to a height of thirty-six (36) inches, provided that for corner lots adequate clear vision is provided as described in Section 3.08. No front yard fence shall be erected closer than six (6) inches to any public sidewalk or the property line, and shall not cross any public rights-of-way. Front yard fences are to be ornamental fences of approved materials, of a design as to be non-sight obscuring and of a fence type listed below:

1. Post and rail
2. Split rail
3. Picket
4. Wrought iron
5. Other types of ornamental fences must be approved by the Planning Commission prior to placement in the front yard area.

\*Exception – Corner lot are defined as having two (2) front yards. Both street frontages on a corner lot are considered the front yard. For the purpose of front yard fencing on corner lots, fences are permitted to meet the side yard fence requirements from the rear building line to the rear lot line. Four (4) foot fencing is not permitted past the rear building line.

**D. Side Yard fence standards:** Fences may be located in the side yard up to a height of six (6) feet, four (4) feet for corner lots. Fences shall only extend along the side property line equal distance to the length of the principle building and not extend beyond the front building line. A six (6) foot fence may extend perpendicular from the property line to the front building line.(refer to Figure 3.17a).

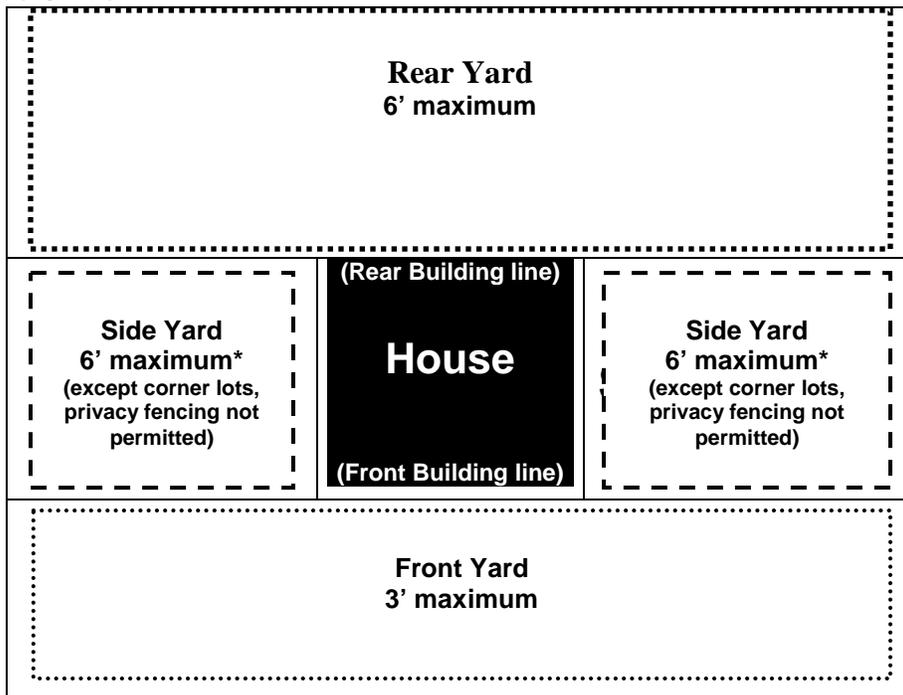
**E. Rear Yard Fence standards:** Privacy fences may be erected in a rear or side yard on any lot of record provided the privacy fence does not extend beyond the rear building line. Privacy fences shall be a maximum of six (6) feet in height measured from the surrounding grade at every point along the fence line. All other fence types are permitted (refer to Figure 3.17a).

**F. Prohibition in right-of way:** Fences shall not be erected in public rights-of-way.

**G. Location/height in industrial districts:** Fences in I-1, and RD Districts with a maximum height of eight (8) feet may be located in any yard except the front yard provided such fences shall be located on parcels with a principal building containing an approved industrial use, the fence is maintained in good condition and does not constitute an unreasonable hazard or nuisance.

- H. **Public fences:** Fences which enclose public parks, public institutions, playgrounds or other public areas, may be a maximum eight (8) feet in height, measured from the surrounding grade at every point along the fence line. Such fence shall not obstruct vision to an extent greater than twenty-five (25%) percent of the total fence area.
- I. **Restrictions:** Fences shall not contain electric current or charge of electricity. Barbed wire, spikes, nails or any other sharp instruments of any kind are prohibited on top of or on the sides of any fence. Fences protecting public utilities and property may use barbed wire or other security fencing measures.
- J. **Maintenance:** All fences shall be maintained in a good condition, in an upright position and shall not constitute an unreasonable hazard. Any fence, which is not maintained, as determined by the Zoning Administrator, shall be removed or replaced (any required fence shall be replaced) at the owner's expense.

Figure 3.17a



### Section 3.18 RECREATIONAL VEHICLE PARKING AND STORAGE

The outdoor parking or storage of a mobile home, camper trailer, motor home, race cars, snowmobiles, boats, ATV's and similar recreational vehicles for periods exceeding forty-eight (48) hours in the front yard on lands not approved for such use is prohibited, except that the Zoning Administrator may issue a temporary permit which shall allow the parking of such a recreational vehicle on private property for a period not exceeding two (2) consecutive weeks. Any parked or stored recreational vehicle shall be legally operable and licensed and shall not be connected to any sanitary facilities.

Recreational vehicles may be stored over 48 hours provided the vehicles shall be stored only within the confines of the rear yard or side yard when behind the front building line of the principal building; and shall further comply with the side and rear yard setback applicable to accessory buildings.

### **Section 3.19 EXTERIOR LIGHTING**

**Site Lighting Requirements:** Exterior site lighting shall be permitted in any zoning district subject to the restrictions provided in this section.

- A. **Purpose and Intent.** The purpose of this section is to regulate the placement, orientation, distribution patterns, and fixture types of outdoor lighting. The intent of this section is to encourage lighting that provides safety and security; also to prevent glare on public roadways, protect the privacy of residents; and reduce atmospheric light pollution and light trespassing.
- B. **Definitions:**
- 1) **FULLY SHIELDED FIXTURE.** An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixture.
  - 2) **LIGHTING DIAGRAM.** A plan showing all exterior proposed on-site lighting and the area to be illuminated by each lighting source. The lighting diagram will also show proposed site lighting - location, type, height, intensity, direction, and typical details.
  - 3) **GLARE.** Light that causes annoyance, discomfort, or loss in visual performance and ability because the luminance is sufficiently greater than the luminance to which the human eyes are adapted.
  - 4) **OUTDOOR LIGHTING FIXTURE.** An electrically powered illuminating device or other outdoor lighting fixture including all parts used to distribute the light and/or protect the lamp, permanently installed or portable, used for illumination. Such devices shall include, but are not limited to, search, spot, flood, and area lighting.
  - 5) **RECESSED CANOPY FIXTURE.** An outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling.
- C. **Outdoor Lighting Compliance Statement.** The applicant for any permit work involving outdoor lighting fixtures governed by this Section shall submit, as a part of the site plan, evidence that the proposed work will comply with this Section. This information shall contain but not be limited to the following:

- 1) The location, height, make, model, lamp type, intensity, direction, and wattage of each outdoor lighting fixture overlaid on the proposed site plan; and
- 2) A photometric lighting diagram indicating the outermost limits of exterior illumination provided by all exterior lighting sources on a site. (in foot candles)
- 3) Additional information that the City may determine is necessary, including but not limited to illuminance level profiles.

D. **Approved Materials and Methods of Construction.** The provisions of this section are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed by this Section, provided any such alternate has been approved. The City may approve any such proposed alternative provided it:

- 1) Provides at least approximate equivalent to the applicable specific requirement of this Section; and
- 2) Is otherwise satisfactory and complies with the purpose and intent of this Section.

E. **General Requirements.**

- 1) All outdoor lighting fixtures, including display lighting, shall be turned off after close-of-business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary as determined by the City. Outdoor lighting in residential districts shall be exempt from the provisions of this subsection, PROVIDED that any on-site lighting does not project onto adjacent properties or create glare on an adjacent roadway and motorists.
- 2) Auto/Truck filling stations. Island canopy ceiling fixtures shall be recessed.
- 3) Only non-glare, color-corrected lighting shall be permitted. For all non-residential uses, full cutoff shades are required for light sources so as to direct the light onto the site and away from adjoining properties. The light source shall be recessed into the fixture so as not to be visible from off site. Building and pole mounted fixtures shall be parallel to the ground. Wall-pak type lighting shall be prohibited.
- 4) On-site lighting, i.e. parking, building lights, etc. shall conform to the following regulations:
  - a. It is the goal of the City to minimize lighting levels to reduce off-site impacts, prevent the reflection and glare of light in a manner which

creates a nuisance or safety hazard to operators of motor vehicles, pedestrians, and neighboring land uses, and to promote “dark skies” in keeping with the character of the City.

- b. When site plan review is required, all lighting, including signage and ornamental lighting, shall be shown on site plans in sufficient detail with appropriate photometric studies to allow determination of the effects of such lighting upon adjacent properties, traffic safety, and overhead sky glow. The objectives of these specific actions are to minimize undesirable on-site effects.
- c. Lighting for uses adjacent to residentially zoned or used property shall be designed and maintained such that illumination levels do not exceed 0.1 foot-candles along property lines. Lighting for uses adjacent to non-residential properties shall be designed and maintained such that illumination levels do not exceed 0.3 foot-candles along property lines.

Where lighting is required, maximum light levels shall not exceed twenty-five (25) foot-candles directly beneath a light fixture. Lighting levels shall not exceed three (3) foot-candles as measured directly between two (2) fixtures. The City Council, after receiving a recommendation from the Planning Commission, may allow for an increased level of lighting above maximum permissible levels when the Council determines that the applicant has demonstrated that such lighting is necessary for safety and security purposes.

For the purposes of this ordinance, all lighting measurements shall be taken at ground level.

- d. For parking lots of less than one hundred (100) parking spaces, lighting fixtures shall not exceed a height of eighteen (18) feet measured from the ground level to the centerline of the light source. For parking lots of more than one hundred (100) spaces, lighting fixtures shall not exceed a height of twenty (20) feet measured from the ground level to the centerline of the light source. The City Council, after receiving a recommendation from the Planning Commission, may allow a pole height up to twenty-two (22) feet when the Council determines that the applicant has demonstrated that greater height is necessary.
- e. Signs shall be illuminated only in accordance with the regulations set forth in this ordinance. In addition, signs within residential districts shall not be illuminated.
- f. Building or roof-mounted lighting intended to attract attention to the

building and/or use and not strictly designed for security purposes shall not be permitted.

- g. Street lighting in all subdivisions, site condominiums, or other development is required. All street lighting shall conform to the City's Community Street Lighting Program. The City Council, after receiving a recommendation from the Planning Commission, may allow deviations to City street lighting standards when the Council determines that the applicant has adequately demonstrated that alternative lighting plans will meet the intent and purpose of this ordinance and will provide sufficient lighting necessary for safety and security purposes.

**F. Exemptions.** The following uses shall be exempt from the provisions of this ordinance:

- 1) Roadway and airport lighting;
- 2) Temporary circus, fair, carnival, or civic uses;
- 3) Construction or emergency lighting, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting;
- 4) Temporary lighting and lighting associated with agricultural activities.

## **Section 3.20 PERFORMANCE STANDARDS**

No lot, building, or structure in any district shall be used in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises. Uses in all districts shall comply with the following performance standards:

### **A. Fire Hazard**

- 1. Does not constitute a fire hazard per se;
- 2. Complies with the applicable laws of the State of Michigan (Act 207, P.A. 1941, as amended) and the rules and regulations promulgated thereunder by all authorized agencies - state and local.
- 3. Is protected by adequate and proper fire suppression and fire fighting equipment;
- 4. Provides isolated and approved storage for all flammable, explosive and corrosive materials and substances.

**B. Water Pollution**

1. Conforms to the applicable laws of the State of Michigan, (Act 245, PA. 1929, as amended) and rules and regulations promulgated thereunder by an authorized agencies - state and local.

**C. Air Pollution**

1. Conforms to the applicable laws of the State of Michigan, (Act 250, PA 1965, as amended, and Act 348, P.A. 1965, as amended).
2. Does not emit or cause fumes, gas, mist, odor, smoke, vapor, and dust including road or other earth dust or any. combination thereof in excess of minimum standards established under the authority of the laws of the State of Michigan, or in such volume as to create a public nuisance.

**D. Noise Abatement**

1. Is provided with noise abatement materials and equipment;
2. Will not generate unpleasant and objectionable noise greater in volume or intensity than the average traffic noises at exterior property lines;

**E. Vibrations:** No vibrations shall be permitted which are discernible without instruments on any adjoining lot or property.

**F. Glare:** No direct or reflected glare shall be permitted which is visible from any property, or from any public street, road or highway.

**G. Radioactive Hazards:** Any use or operation which involves the use, possession, or transportation of any form of radioactive materials or substances is expressly prohibited unless the use is in conformity to specifications, regulations and standards promulgated by the Nuclear Regulatory Commission of the United States and by the Michigan Department of Public Health or their successors.

**H. Electrical Disturbances:** Manufacturing and processing machinery, other equipment and domestic appliances using electrical power which generates radio frequency interferences at levels In excess of those approved by the Federal Communications Commission are prohibited.

**I. Erosion:** No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties, lakes, ponds, rivers, or streams. Any use of land shall be in accordance with the provisions of the Soil Erosion and Sedimentation Control Act of 1972, Act 347, P.A. 1972.

**Section 3.21 SANITARY SEWER AND WATER FACILITIES**

All uses put in place on or after the effective date of adoption or amendment of this Ordinance in any district, shall be connected to the public sanitary sewer and water supply systems. On-site facilities and privately owned and operated sewer and water

systems are prohibited. Any on-site system which is legal at the time of adoption of this Ordinance may be kept in operation until such system fails. Upon failure of such on-site system the use must be connected to the public system.

### **Section 3.22 COMPLETION OF CONSTRUCTION**

Nothing in this ordinance shall require a change in plans, construction, or designated use of any building for which actual construction was lawfully beginning prior to the effective date of operation of this Ordinance or later amendment which may apply.

Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastening them in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction provided that the work shall be carried on diligently. In the case of such excavation, demolition or removal, however, this provision shall expire and not be in effect three hundred sixty-five (365) days following the effective date of adoption or amendment of this ordinance, unless a permit for the actual construction of a new building has been issued by the Zoning Administrator.

Where a building permit has been issued in accordance with the law within three hundred sixty-five (365) days of such effective date and diligently pursued to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit was issued, and further, may upon completion be occupied by the use for which it was originally designed, subject thereafter to provisions of Article IV, Nonconformities, herein, if applicable.

Any basement, cellar, garage, or any incomplete structure without an occupancy permit in use as a dwelling on the effective date of adoption or amendment of this Ordinance shall not be used as a dwelling for more than twelve (12) months following said date, unless said structure has been completed in conformance with the regulations of the district in which located.

### **Section 3.23 ENGINEERING DESIGN SPECIFICATIONS**

The Dexter City Council shall, by ordinance, establish comprehensive, minimum engineering design specifications for site improvements applicable to all zoning districts in the City of Dexter. These standards shall constitute the minimum requirements adopted for promotion and preservation of the public health, safety, and general welfare of the City of Dexter. The standards shall not repeat, abrogate, annul or in any manner interfere with existing regulations, ordinances, or laws of the City of Dexter, nor conflict with any statutes or regulations of the State of Michigan or Washtenaw County; provided, that these standards shall control where they impose higher standards than provided by said existing regulations, ordinances, statutes, or laws. Proprietors are encouraged to design facilities which take into consideration actual site conditions. Where such conditions warrant, the proprietor is encouraged to design and construct

improvements which are compatible and appropriate and not merely in compliance with the standards.

The minimum engineering design specifications may, by ordinance of the Dexter City Council, be amended from time-to-time to reflect updates in the accepted state of construction standards, materials, and design.

## **Section 3.24 WIRELESS COMMUNICATION FACILITIES**

It is the general purpose and intent of the City of Dexter to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the City to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempts have been made to balance these potentially competing interests and promote the public health, safety and welfare.

### **A. Definitions**

1. **Wireless Communication Facilities** shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.
2. **Attached Wireless Communications Facilities** shall mean wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
3. **Wireless Communication Support Structures** shall mean structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
4. **Collocation** shall mean the location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the

overall number of structures required to support wireless communication antennas within the community.

**B. Authorization.** Subject to the standards and conditions set forth in this section, wireless communication facilities shall be permitted uses in the following circumstances. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

**1. Permitted Uses By Right.** The following uses are specifically permitted:

a. Antennas or towers located on property owned, leased, or otherwise controlled by the City, provided a license or lease authorizing such antenna or tower has been approved by the City Council.

**2. Administratively Approved Uses.**

a. Locating a tower or antenna, including the replacement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial zoning district.

b. Locating antennas on existing structures or towers consistent with the terms below:

(i) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multiple family structure of eight or more dwelling units, provided the antenna: does not exceed more than thirty (30) feet above the highest point of the structure; complies with all applicable FCC and FAA regulations; and complies with all applicable building codes.

(ii) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the zoning administrator. A tower which is modified or reconstructed to accommodate the collocation of additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole. An existing tower may be modified or rebuilt to a taller height not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.

- (iii) A tower which is being rebuilt to accommodate the collocation of an additional antenna. Such towers may be moved onsite within fifty (50) feet of its existing location. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

- 3. **Uses Approved by Special Use Permit.** If a tower is not a permitted use or permitted administratively as defined in items 1 and 2 of this subsection, a special use permit shall be required for the construction of a tower or the placement of an antenna.

**C. Standards for Approval.**

- 1. **Administratively Approved Uses.** The following provisions shall govern the issuance of administrative approval for towers and antennas:
  - a. The Zoning Administrator may administratively approve only those uses stipulated in this ordinance.
  - b. Each applicant for administrative approval shall apply to the zoning Administrator providing the information set forth in this ordinance and a non-refundable fee as established by Resolution of the City Council to reimburse the City for the costs of reviewing the application.
  - c. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with Section 3.26 C.
  - d. The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approval or denying the application. If the Zoning Administrator fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.
  - e. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements, up to fifty percent (50%).
  - f. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

- g. If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to Article 8 prior to filing an appeal that may be available under this ordinance.

- 2. **Special Use Permits.** Applications for special use permits under this section shall be subject to the procedures and requirements of Article 8 of this Ordinance. In granting a special use permit, the City Council may impose conditions to the extent the Council considers such conditions to be necessary to minimize any adverse effect of the proposed tower on adjoining properties.

In addition to any standards for consideration of special use permit applications pursuant to Article 8, the Planning Commission and Council shall consider the following factors in determining whether to issue a special use permit, although the City Council may waive or reduce the burden on the applicant of one or more of these criteria if the City Council concludes that the goals of this ordinance are better served thereby:

- a. Height of the proposed tower;
- b. Proximity of the tower to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Surrounding topography;
- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Proposed ingress and egress;
- h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures. No new towers shall be permitted unless the applicant demonstrates, to the reasonable satisfaction of the City Council, that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An application shall submit information requested by the Planning Commission and City Council related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower structure or alternative

technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (i) No existing towers or structures are located within the geographic area which meets applicant's engineering requirements;
  - (ii) Existing towers or structures are not of a sufficient height to meet applicant's engineering requirements;
  - (iii) Existing towers or structures do not have sufficient structural strength to support applicants proposed antenna and related equipment;
  - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;
  - (v) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs which exceed new tower development or tower lease costs are presumed to be unreasonable.
  - (vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- i. The applicant for a special use permit shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:
- (i) Proximity to an interstate or major thoroughfare
  - (ii) Areas of population concentration
  - (iii) Concentration of commercial, industrial, and/or other business centers
  - (iv) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions
  - (v) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate

- (vi) Other specifically identified reason(s) creating facility need
- j. In single-family residential neighborhoods, site locations shall be permitted on the following sites (not stated in any order of priority), subject to application of all other standards contained in this section:
  - (i) Municipally owned site
  - (ii) Other governmentally owned site
  - (iii) Religious or other institutional site
  - (iv) Public park and other large permanent open space areas when compatible
  - (v) Public or private school site
  - (vi) Other locations if none of the above is available

**C. General Regulations.** All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission or City Council in its discretion:

1. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
2. Facilities shall be located and designed to be harmonious with the surrounding areas.
3. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
4. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
5. **Height.** The maximum height of a new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to collocate on the structure). The accessory building contemplated to

enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.

6. **Setback, Residential.** The setback of the support structure from any residential district shall be at least the height of the highest point of any structure on the premises. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure.
7. **Setback, Non-residential.** Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located.
8. **Access.** There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts; minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
9. **Property Size Requirements.** The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
10. **Roof Mounted Equipment.** Where an attached wireless communication facility is proposed on the roof of a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.
11. **Aesthetics.** The Planning Commission shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.

- 12. Code Compliance.** The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
- 13. Maintenance.** A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
- 14. Signs.** No signs shall be allowed on an antenna or tower.
- 15. Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. The provisions of this section shall not prohibit security lighting for unmanned equipment shelters.
- 16. Fencing.** Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with appropriate devices to discourage climbing, provided however that the City Council may waive such requirements as it deems appropriate.
- 17. Landscaping.** Unless otherwise stipulated by this ordinance, the following requirements shall govern the landscaping surrounding towers for which a special use permit is required.

  - a. Tower facilities shall be landscaped with a type A buffer as described in Article 6, Section 6.05.
  - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer. This determination must be made by the City Council.

**18. Buildings or Equipment Storage.**

- a. Antennas mounted on structures or rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:
  - (i) The cabinet or structure shall not contain more than 200 square feet of gross floor area or be more than 12 feet in height;
  - (ii) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment shall not occupy more than 10 percent of the roof area; and
  - (iii) Equipment storage buildings or cabinets shall comply with all applicable building codes.
  
- b. Antennas mounted on utility or light poles. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
  - (i) In residential districts, in a side or rear yard, provided the cabinet or structure is no greater than 12 feet in height or 50 square feet of gross floor area and the cabinet/structure is located a minimum of 5 feet from all property lot lines. The cabinet/structure shall be screened by an evergreen hedge with a planted height of at least 36 inches.
  - (ii) In all other zoning districts, the equipment cabinet or structure shall be no greater than 15 feet in height or 400 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches. In all instances, structures or cabinets shall be screened from view of all residential properties, which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height and an evergreen hedge as stipulated above.
  
- c. Antennas located on towers. The related unmanned equipment structure shall not contain more than 400 square feet of gross floor area or be more than 12 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.

**19. Collocation.** All proposals shall be reviewed in conformity with the collocation requirements of this ordinance.

**D. Application Requirements** for uses permitted by right, administratively approved uses, and uses requiring special use permit approval.

**1. Site Plan.** A site plan prepared in accordance with Article 21 shall be submitted, including the location, size, screening and design of all buildings and structures, including fences and outdoor equipment.

**2. Landscaping Plan.** The site plan shall also include a detailed landscaping plan where the support structure is being placed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.

**3. Fencing.** Fencing shall be shown on the plan, which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.

**4. Engineering Statement.** The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.

**5. Security.** The application shall also include a description of security to be posted at the time the facility is to be removed when it has been abandoned or is no longer needed. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the attorney for the community and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section of the ordinance, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the community in securing removal.

**6. Inventory.** The application shall include a map showing existing and known proposed wireless communication facilities within the City, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the City in the location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed.

Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. MCLA 15.243(l)(g). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.

7. **Collocation Statement.** A notarized statement by the applicant as to whether construction of the owner will accommodate collocation of additional antennas for future users.

**E. Collocation**

1. **Statement of Policy.** It is the policy of the City to minimize the overall number of newly established locations for wireless communication facilities and Wireless Communication Support Structures within the community, and encourage the use of existing structures for Attached Wireless Communication Facility purposes. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress.

In light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the City that all users should collocate on Attached Wireless Communication Facilities and Wireless Communication Support Structures in the interest of achieving the purposes and intent of this section. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the City. The provisions of this subsection are designed to carry out and encourage conformity with this policy.

2. **Feasibility of Collocation.** Collocation shall be deemed to be "feasible" for purposes of this section where all of the following are met:
  - a. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.

- b. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- c. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the City, taking into consideration the several standards contained in this ordinance.

**3. Requirements for Collocation.**

- a. A special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
- b. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- c. The policy of the community is for collocation. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
- d. If a party who owns or otherwise controls a wireless communication facility fails or refuses to permit a feasible collocation, and this requires the construction and/or use of a new facility, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the City, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the City for a period of five (5) years from the date of the failure or refusal to permit the collocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless

communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

4. **Offer of Collocation Required.** An application for a new wireless communication support structure shall include a letter from the applicant to all potential users offering an opportunity for collocation.
5. **Approval.** Final approval for a wireless communication support structure shall be effective for a period of six (6) months.
6. **Incentive.** Review of an application for collocation, and review of an application for a permit for use of an existing facility shall be expedited by the City.

#### **F. Removal**

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

and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.