

ARTICLE 5
DIVISION 3: SPECIAL LAND USES

Sec. 86-280 Purpose

The intent of this Article is to provide standards for special land uses, which are uses that under usual circumstances could be detrimental to other land uses permitted within the same zoning district, but may be permitted because of circumstances unique to the location of the particular use. This Article provides standards for the Planning Commission to determine the appropriateness of a given special land use using factors such as: compatibility with adjacent zoning, location, design, size, intensity of use, impact on traffic operations, potential impact on groundwater, demand on public facilities and services, equipment used, and processes employed. Accordingly, special land uses should not be permitted without consideration of relevant restrictions or conditions being imposed which address their unique characteristics.

Sec. 86-281 Standards for Approval

- a. Prior to approving a special land use application the Planning Commission shall require that the following general standards, in addition to the specific standards noted for individual uses in this Division, *SECTION 86-287: SPECIAL LAND USE SPECIFIC REQUIREMENTS*, be satisfied. The proposed use or activity shall:
 1. Be compatible and in accordance with the goals, objectives, and policies of the City of Vassar Master Plan and promote the intent of the zoning district in which the use is proposed.
 2. Be constructed, operated, and maintained so as to be compatible with the existing or intended character of the general vicinity and so as not to change the essential character of the area in which it is proposed.
 3. Be served adequately by public facilities and services, such as highways, streets, police and fire protection, drainage structures, water and sewage facilities, and primary and secondary schools.
 4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to the natural environment, public health, safety, or welfare by reason of excessive production of traffic, noise, smoke, odors, or other such nuisance.
- b. Properties for which application for special land use approval is made shall also be subject to site plan review in accordance with the requirements of *ARTICLE 5, DIVISION 1: SITE PLAN REVIEW*. Failure to obtain site plan approval will constitute denial of the approved special land use.

Sec. 86-282 Application Procedure

- a. Any person owning or having an interest in the subject property may file an application for special land use approval as provided for in this Article.
- b. The following materials shall be submitted to the City at least sixty (60) days prior to the meeting at which the Planning Commission first considers the special land use application:
 1. Payment of the required fee.
 2. Copies of completed application forms.
 3. Copies of a site plan meeting the requirements of *ARTICLE 5, DIVISION 1: SITE PLAN REVIEW*.
 4. Impact assessment if required by the Planning Commission; the analysis shall be carried out by qualified individuals and shall include, but need not be limited to the impact on: natural features, stormwater management, surrounding land uses, public facilities/services, public utilities, and traffic.

Sec. 86-283 Designated Review Authority and Approval Procedure

- a. The Planning Commission shall have final review authority for all special land uses.
- b. Following the submission of the required application materials the Planning Commission shall hold a public hearing in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended and with ARTICLE 6, DIVISION 2, *SECTION 86-333: PUBLIC HEARINGS*.
- c. The Planning Commission shall review the application in terms of the requirements of this Division *SECTION 86-281: STANDARDS FOR APPROVAL*, and shall approve, approve with conditions, or deny the application.

Sec. 86-284 Conditions of Approval

- a. As part of any special land use approval, the Planning Commission may impose any additional conditions or limitations as, in its judgement, may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review considerations of this Division *SECTION 86-281: STANDARDS FOR APPROVAL*, and the applicable specific regulations of *SECTION 86-287: SPECIAL LAND USE SPECIFIC REQUIREMENTS*, are met.
- b. The approval of a special land use, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.
- c. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the special land use approval is approved.
- d. A record of the decision of the Planning Commission, the reasons for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.
- e.
- f. The Zoning Official shall make periodic investigations of developments authorized by special land use approval to ensure continued compliance with all requirements imposed by the Planning Commission and this Article. Noncompliance with the requirements and conditions approved for the special land use shall constitute grounds for the Planning Commission to terminate the approval following a public hearing. Such hearing shall be held in accordance with the procedures used for the original hearing as described in *ARTICLE 6, DIVISION 2, SECTION 86-333: PUBLIC HEARINGS*, and as required by this Article.

Sec. 86-285 Validity of Special Land Use Approval

- a. In cases where actual physical construction of a substantial nature of the structures authorized by a special land use approval has not commenced within one (1) year of issuance, and a written application for extension of the approval has not been filed as provided below, the approval shall automatically become null and void and all rights thereunder shall terminate.
- b. Upon written application filed prior to the termination of the one (1) year period, the Planning Commission may authorize a single extension of the time limit for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a reasonable likelihood of commencing construction within the one (1) year extension.

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- c. The granting of a special land use shall allow that particular use to be conforming on the subject property, as long as the standards of this Article are maintained.
- d. Any use for which a special land use approval has been granted and which ceases to continuously operate for a six (6) month period shall be considered abandoned and the special land use approval shall become null and void.
- e. No application for a special land use approval which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on the grounds of new evidence or proof of changed conditions relating to all of the reasons noted for the denial found to be valid by the Planning Commission.

Sec. 86-286 Special Land Use Amendments and Expansions

- a. **Amendments.** Any person or agency who has been granted a special land use approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan of the special land use. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with the requirements of *ARTICLE 5, DIVISION 1, SECTION 86-251: DEVIATIONS FROM APPROVED SITE PLAN*. A major amendment to a special land use approval shall comply with the application and review procedures contained in this Article.
- b. **Expansion or Change in Use.** The expansion, change in activity, reuse, or redevelopment of any use requiring a special land use approval, with an increase of ten percent (10%) or greater, shall require re-submittal in the manner described in this Article. A separate special land use approval shall be required for each use requiring special land use review on a lot, or for any expansions of a special land use on property which has not previously received special land use approval.

Sec.86-287 Special Land Use Specific Requirements

The general standards and requirements of this Division, *SECTION 86-281: STANDARDS FOR APPROVAL*, are basic to all uses authorized by a special land use approval. However, certain special land uses, because of their unique character and potential impacts on the welfare of adjacent properties and the City, require additional specific requirements. Such uses are listed below with specific standards and regulations that must be met in addition to the general standards of this Division, *SECTION 86-281: STANDARDS FOR APPROVAL*, and other Sections of this Ordinance.

The following are special land uses with specific site and/or use standards which are described on the following pages:

Land Uses with Specific Requirements
Adult entertainment regulated uses (<i>Section 86-287.a.</i>)
Amusement parks, carnivals, fairgrounds, fairs, and other types of outdoor entertainment facilities (<i>Section 86-287.b.</i>)
Automobile gasoline stations (<i>Section 86-287.c.</i>)

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Automobile repair establishments (major repair) and automobile service establishments (routine maintenance and minor repair) <i>(Section 86-287.d.)</i> .
Bed and breakfast inns <i>(Section 86-287.e.)</i> .
Churches, temples, and similar places of worship or public assembly <i>(Section 86-287.f.)</i> .
Commercial parking lots <i>(Section 86-287.g.)</i> .
Drive-through window facilities for banks, restaurants or other permitted uses <i>(Section 86-287.h.)</i> .
Essential public service buildings and structures <i>(Section 86-287.i.)</i> .
Extractive uses (commercial mining of sand, gravel, stone, and similar materials) <i>(Section 86-287.j.)</i> .
Garden centers <i>(Section 86-287.k.)</i> .
Golf courses <i>(Section 86-287.l.)</i> .
Golf driving ranges and miniature golf courses <i>(Section 86-287.m.)</i> .
Hospitals <i>(Section 86-287.n.)</i> .
Incinerators, cogeneration plants, recycling centers, and composting facilities <i>(Section 86-287.o.)</i> .
Outdoor storage <i>(Section 86-287.p.)</i> .
Parking structures <i>(Section 86-287.q.)</i> .
Retail businesses and centers exceeding 50,000 square feet <i>(Section 86-287.r.)</i> .
Retail businesses with adult novelties <i>(Section 86-287.s.)</i> .
Salvage yard <i>(Section 86-287.t.)</i> .
Schools, including public, private and parochial elementary, middle, and high <i>(Section 86-287.u.)</i> .
Theaters, cinemas, and similar assembly buildings <i>(Section 86-287.v.)</i> .
Wireless Communication Facilities <i>(Section 86-287.w.)</i> .

a. **Adult Entertainment Regulated Uses**

1. **Intent.** In the development and execution of these zoning regulations, it is recognized there are some uses that, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby causing a deleterious effect upon the adjacent areas. The proximity of adult entertainment regulated uses to certain uses considered particularly susceptible to the negative Impacts or the concentration of adult uses tends to erode the quality of life, adversely affect property values, disrupt business investment, encourage residents and businesses to move or avoid the community, increase crime, and contribute a blighting affect on the surrounding area. This subsection describes the uses regulated and the specific standards needed to insure that the adverse effects of these uses will not contribute to the deterioration of the surrounding neighborhood, to prevent undesirable concentration of these uses, and to require sufficient

spacing from uses considered most susceptible to negative impacts.

2. **Definitions.** The following definitions shall apply to adult entertainment regulated uses:
 - (a) **Specified Anatomical Areas.** Portions of the human body defined as follows:
 - (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below the point immediately above the top of the areola.
 - (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
 - (b) **Specified Sexual Activities.** The explicit display of one (1) or more of the following:
 - (1) Human genitals in a state of sexual stimulation or arousal.
 - (2) Acts of human masturbation, sexual intercourse, or sodomy.
 - (3) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.
3. **Uses Regulated.** The following uses are regulated by this subsection and defined for purposes of regulating adult entertainment regulated uses:
 - (a) **Adult Book or Supply Store.** An establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.
 - (b) **Adult Model Studio.** Any place where models who display specified anatomical areas as defined herein are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of consideration or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
 - (c) **Adult Motion Picture Arcade or Mini Motion Picture Theater.** Any place where motion picture machines, projectors, or other image producing devices are maintained to show images and where the images displayed depict, describe, or relate to specified sexual activities or specified anatomical areas as defined herein.
 - (d) **Adult Motion Picture Theater or Adult Live Stage Performing Theater.** An enclosed building wherein still or motion pictures, video tapes, or similar material is presented or viewed which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.
 - (e) **Adult Outdoor Motion Picture Theater.** A drive-in theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.
 - (f) **Adult Physical Cultural Establishment.** Any establishment, club, or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services, massages, body rubs, alcohol rubs, physical stimulation, baths, or other similar treatment by any person. An adult physical cultural establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses, and steam baths. The following uses shall not be included within the definition of an adult physical culture establishment:

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- (1) Establishments which routinely provide such services by a licensed physician, a licensed chiropractor, a licensed osteopath, a licensed physical therapist, a licensed practical nurse practitioner, a therapeutic massage practitioner as defined in this Ordinance or any other similarly licensed medical professional.
 - (2) Fitness center, as defined in this Ordinance.
 - (3) Electrolysis treatment by a licensed operator of electrolysis equipment.
 - (4) Continuing instruction in martial or performing arts, or in organized athletic activities.
 - (5) Hospitals, nursing homes, medical clinics, or medical offices.
 - (6) Barber shops or beauty parlors and salons which offer massages to the scalp, the face, the neck, or shoulders only.
 - (7) Adult photography studios whose principal business does not include the taking of photographs of specified anatomical areas as defined herein.
- (g) **Cabaret.** An establishment where live entertainment is provided, presented, permitted or performed, which performances are distinguished or characterized by an emphasis on or relationship to specified sexual activities or specified anatomical areas as defined herein for observation by or participation of patrons therein. Also, an establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, topless and/or bottomless waiters, waitresses and/or employees.
- (h) **Adult, Nude, Partially Nude Dancing.** A business having as its principal activity the live presentation of or display of nude or partially nude male or female impersonator(s), dancer(s), entertainers(s), waiter(s) or waitress(es), or employee(s) and which may or may not feature the service of food or beverage. For the purpose of this Article, nude or partially nude shall mean having any or all of the specified anatomical areas exposed as defined herein.
4. **Required Spacing.** The establishment of the types of adult entertainment regulated uses listed above shall meet all of the following space requirements, with the minimum distance between uses measured horizontally between the nearest points of each property line:
- (a) One thousand (1,000) feet from:
 - (1) Any other adult entertainment regulated use.
 - (2) All churches, convents, temples and similar religious institutions.
 - (3) All public, private or parochial nursery, primary or secondary schools, public parks, and hospitals.
 - (4) Any adult or child care facility.
 - (b) Eight hundred (800) feet from:
 - (1) Any Single-Family or Multiple-Family Residential District or use.
 - (2) Any pool or billiard hall, concreted amusement center, indoor and outdoor recreation such as miniature golf; dance club catering primarily to teenagers, movie theaters, ice or roller skating rinks, and similar uses generally frequented by children and teenagers.
5. **Special Site Design Standards**
- (a) The maximum size of the building shall be five thousand (5,000) square feet.
 - (b) The building and site shall be designed, constructed, and maintained so material such as a display, decoration, or sign depicting, describing, or relating to specified sexual activities or specified anatomical areas cannot be observed by pedestrians and motorists on a public right-of-way or from an adjacent land use.
 - (c) Adult entertainment regulated uses shall be located within a freestanding building. A shared or common wall structure or shopping center are not considered to be a freestanding building.
 - (d) The color of the building materials shall be reviewed and approved by the Planning Commission.

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- (e) The Planning Commission shall determine the type of buffer zone to be required and maintained along the side and rear lot lines, based on the site conditions, views from public streets, and distance and type of surrounding land uses.
 - (f) The hours of operation shall be approved by the Planning Commission.
 - (g) Access shall be from an arterial roadway.
 - (h) Any adult entertainment regulated use which allows customers to remain on the premises while viewing live, filmed, or recorded entertainment, or while using or consuming the products or services supplied on the premises shall provide at least one (1) security guard on duty outside the premises, patrolling the grounds and parking areas, at all times while the business is in operation.
6. **Obscene Material Strictly Prohibited.** The applicant for a special land use for any adult entertainment regulated use shall set forth in his or her application a statement in sufficient detail to describe the material contained in the adult entertainment regulated use. In the event that the Planning Commission finds the material proposed to be within the adult entertainment regulated use to be obscene, then the special land use shall not be granted. For purposes of this subsection, a form of expression shall be classified as obscene if the material meets all of the following criteria:
- (a) The average individual, applying contemporary community standards for the City would find that the material, taken as a whole, appeals to the prurient interest.
 - (b) The material, taken as a whole, lacks serious literary, artistic, political, or scientific value.
 - (c) The material depicts or describes, in a patently offensive way, sexual conduct.
7. **Waivers.** Upon denial of any application for an adult entertainment regulated use under this Section the applicant may appeal for a waiver of the location provisions above to the Zoning Board of Appeals (ZBA) consistent with the standards set forth below. The ZBA may waive the location provisions set forth in this Section, after all the following findings are made:
- (a) **Compliance with Regulations.** The proposed use will not be contrary to any other provision of these zoning regulations or injurious to nearby properties.
 - (b) **Not Enlarge District.** The proposed use will not enlarge or encourage the development of a "skid row" or "strip".
 - (c) **Consistent with Programs.** The establishment of an additional adult entertainment regulated use will not be contrary to, or interfere with, any program of urban renewal or neighborhood development.
 - (d) **Consistent with Law.** All applicable City, State or Federal laws and regulations will be observed.
 - (e) **Procedure for Waiver.** Prior to granting a waiver of the location restrictions set forth above, a public hearing in accordance with the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended and with *ARTICLE 6, DIVISION 2, SECTION 86-303: PUBLIC HEARINGS*, shall be held.
8. **Conditions of Approval.** Prior to the granting of approval for the establishment of any adult entertainment regulated use, the Planning Commission may impose any conditions or limitations upon the establishment, location, construction, maintenance, or operation of the adult entertainment regulated use which is necessary for the protection of the public interest. Any evidence, bond, or other performance and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
9. **Specific Penalties.** No person operating an adult entertainment regulated use shall permit any person under the age of eighteen (18) to be on the premises of the business as an employee, customer, or otherwise.
- b. **Amusement Parks, Carnivals, Fairgrounds, Fairs, and Other Types of Outdoor Entertainment Facilities**
- 1. Minimum lot size shall be ten (10) acres.
 - 2. Activity areas using fences, buildings, walkways, or other suitable barriers shall be clearly

defined on the site plan.

3. All buildings, structures, and parking shall be at least three hundred (300) feet from any dwelling unit, excluding any dwelling unit on the site.
4. Vehicle access shall be provided onto a primary road. Vehicle access shall be controlled, with capability to accommodate at least three (3) lanes of ingress traffic. At least three hundred (300) feet of stacking (queuing) area shall be provided on-site for parking fee collection.
5. The Planning Commission shall determine the sufficient amount of on-site parking.
6. Maximum lot coverage by buildings and structures shall be twenty percent (20%).
7. The Planning Commission may require posting of a financial performance guarantee, in an amount determined necessary by the City, to cover any potential damage or clean-up on the site or adjacent properties.
8. The Planning Commission may establish limits on hours of operation, time limits on the validity of the special land use approval, or any other measures deemed necessary to minimize negative impacts on nearby uses and traffic operations along public streets.
9. Prior to issuance of a special land use approval, the applicant shall provide evidence of public liability insurance and property damage insurance to cover potential liability for death or injury to persons or damage to property, which may result from the conduct of the activity.

c. **Automobile Gasoline Stations**

1. There shall be a minimum lot area of one (1) acre and minimum lot width of two hundred fifty (250) feet.
2. Pump islands shall be a minimum of forty (40) feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be set back at least fifteen (15) feet from any lot line.
3. Overhead canopies shall be setback at least twenty (20) feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. Any signs, logo, or identifying paint scheme shall be in accordance with *ARTICLE 4, DIVISION 4: SIGNS*. The canopy shall be no higher than the principal building. Lighting in the canopy shall be recessed, fully shielded, and directed downward to prevent off-site glare.
4. Only one (1) driveway shall be permitted from each street unless the Planning Commission determines additional driveways will be necessary to ensure safe and efficient access to the site.
5. The intensity of lighting within a site shall meet the requirements of *ARTICLE 4, DIVISION 5: LIGHTING STANDARDS*.
6. There shall be no outdoor storage or display of vehicle components and parts, supplies, or equipment except within an area defined on the site plan approved by the Planning Commission and which extends no more than ten (10) feet beyond the building.
7. The applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the City of Vassar Fire Department.
8. Any use involving maintenance, service, or repair shall also meet the standards for automobile service establishments.
9. In the event that an automobile service station use has been abandoned or terminated for a period of more than one (1) year, all underground gasoline storage tanks shall be removed from the premises, in accordance with State requirements.

- d. **Automobile Repair Establishments (Major Repair) and Automobile Service Establishments (Routine Maintenance and Minor Repair)**
1. All principal and accessory structures shall be set back a minimum of five hundred (500) feet from a Single-Family Residential District.
 2. There shall be a minimum lot frontage on a paved road of two hundred (200) feet.
 3. All maintenance and repair work shall be conducted completely within an enclosed building.
 4. There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies, or equipment.
 5. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted in a designated area. Such area shall be appropriately screened from public view as determined by the Planning Commission.
 6. The applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the City of Vassar Fire Department.
 7. Any use with gasoline sales shall also meet the standards for automobile gasoline stations.
- e. **Bed and Breakfast Inns/airbnb**
1. Parking areas shall be located off-street and shall not be located in any required front yard.
 2. No bed and breakfast inn shall be located closer than three hundred (300) feet to another bed and breakfast inn.
 3. Meals or other services provided on the premises shall only be available to residents, employees, and overnight guests of the inn.
 4. The dwelling unit in which the bed and breakfast establishment is located shall be the principal residence of the operator, and such operator shall live on the premises while the establishment is active. In the case of multiple ownership, at least one owner shall occupy the premises while the establishment is active.
 5. No guest of the bed and breakfast inn shall be permitted to reside on the premises for more than thirty (30) consecutive days.
 6. Any dwelling or structure proposed as a bed and breakfast inn must possess some historical or architectural significance that makes it a unique location for such an establishment. The exterior appearance of the bed and breakfast shall not be changed from its single-family or historic character.
 7. No more than five (5) rooms shall be available for rent at any time.
- f. **Churches, Temples, and Similar Places of Worship or Public Assembly**
1. Buildings of greater than the maximum height allowed in *ARTICLE 2, DIVISION 9: SCHEDULE OF REGULATIONS*, may be allowed provided front, side, and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed. The building height cannot exceed 35 ft.
 2. All principal and accessory buildings shall be set back a minimum of one hundred (100) feet from any single-family residential use. Parking shall be set back a minimum of fifty (50) feet from any single-family Residential use.
 3. Vehicle access to the site shall be provided from a street classified as a "major street" or collector street on the City's Act 51 map.
 4. The Planning Commission may require an operations plan and/or parking generation studies to determine parking needs.
 5. All churches, temples, and similar places of worship or public assembly in existence at the time of adoption of this Ordinance shall be considered conforming, but must meet the standards of this Ordinance for any expansions.

g. Commercial Parking Lots

1. A commercial parking lot may be permitted as an expansion of an existing parking lot or new construction that is abutting a principal permitted or special land use.
2. The applicant must demonstrate that there is an on-site parking shortage that cannot be economically resolved without expanding onto an abutting lot.
3. All access to the lot shall be provided from the commercial property and/or the street on which the commercial use fronts; not onto a residential (local) street.

h. Drive-through Window Facilities for Banks, Restaurants or Other Permitted Uses

1. Sufficient stacking capacity in accordance with *ARTICLE 4, DIVISION 1: OFF-STREET PARKING AND LOADING STANDARDS*, for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way.
2. A bypass lane shall be provided around the stacking spaces.
3. In addition to parking space requirements, at least three (3) parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation to allow for customers waiting for delivery of orders.
4. Only one (1) ingress/egress driveway shall be permitted on any single street. If the use is located on a corner lot access to the drive-through facility shall be only from the street which carries the least amount of daily traffic at the time the application is approved, except that such access from any other street may be shared with an adjoining property.
5. The Planning Commission may require direct vehicular access connections with adjacent commercial developments where feasible.
6. Access driveways shall be located no less than one hundred (100) feet from the centerline of the intersection of any street or seventy-five (75) feet from the centerline of any other driveway.
7. Overhead canopies shall be setback at least twenty (20) feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. The canopy shall be no higher than the principal building.
8. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

i. Essential Public Service Buildings and Structures

1. Such facilities shall not be located closer than one hundred fifty (150) feet from any lot occupied by a residential use or located in a residential district.
2. Electric or gas regulator equipment and apparatus shall be set back a minimum of fifty (50) feet from any public right-of-way and thirty (30) feet from all other lot lines.
3. An open-air fence six (6) feet in height shall be constructed for security purposes as determined by the Planning Commission.

j. Extractive Uses (Commercial Mining of Sand, Gravel, Stone, and Similar Materials)

1. Extractive operations reasonably related to site development for building foundations, parking lot grading and preparation, grading for approved detention or retention ponds, and/or intended to accommodate swimming pools, in accordance *ARTICLE 2, DIVISION 1: GENERAL PROVISIONS*, and *ARTICLE 5, DIVISION 1: SITE PLAN REVIEW*, and as determined by the Zoning Administrator, shall not require a special land use approval.
2. All extractive uses shall be established and maintained in accordance with all applicable State of Michigan statutes
3. The applicant shall submit a written statement describing:
 - (a) Equipment to be used and the process involved including hauling capacity, noise ratings, and size.
 - (b) Planned travel routes for haulers.

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- (c) Time period by which the excavation shall be completed, including a specified extension period should undue weather conditions arise.
 - (d) Indication of the proposed use of the property following the extraction.
 - (e) Approved reclamation plan.
 - (f) Agreement to conform to the standards of this subsection and other applicable Sections of this Ordinance.
 - (g) Documentation that demonstrates to the satisfaction of the Planning Commission that the extractive activities will not produce any serious consequences which will adversely affect the natural topography, drainage patterns, water bodies, floodplains, street conditions, nearby property values, or use of adjacent land. The Planning Commission may require separate environmental, engineering, and/or traffic impact or marketing studies supporting the need for and minimal consequences of such extraction.
- 4. The Planning Commission may require a performance bond or other guarantee to ensure compliance with the standards of this Section. In addition, the Planning Commission may require an occupancy permit to allow extractive activities for a time not exceeding one (1) year. The permit may be renewed upon the finding by the Building Official/Zoning Administrator that the applicant has complied with the requirements by the City and other appropriate agencies.
 - 5. In order to ensure sublater support, no material may be removed from an area and no machinery shall be erected or maintained within fifty (50) feet of any property line or street right-of-way or within two hundred (200) feet of any Residential District.
 - 6. Creation of a lake or pond shall only be permitted where the applicant can demonstrate, using engineering and hydrologic studies, that the water can be maintained in a non-polluted condition; with side slopes not exceeding a one (1) foot of vertical rise to three (3) feet of horizontal distance; and that the applicant meets any requirements by the Michigan Department of Environmental Quality (MDEQ).
 - 7. Truck routing shall be restricted to those streets designed to accommodate truck traffic on a year-round basis. The Planning Commission may restrict access routes to protect the character or surrounding areas and/or street pavement and base conditions.
 - 8. A minimum three hundred (300) foot paved segment at the site entrance shall be provided to help remove materials from truck tires.
 - 9. A reclamation plan shall be provided indicating final grades which are harmonious with surrounding grades and not in excess of five percent (5%) unless demonstrably necessary for the proposed reclamation land use. No topsoil shall be removed from the site; topsoil shall be redistributed properly upon completion of the extractive activities, or phase thereof. A reclamation plan should demonstrate that the end use of the site is feasible for the uses in the zoning district.
 - 10. The Planning Commission may require that the site be enclosed with a six (6) foot high security fence with a locking access gate. Such fences shall be placed no closer than fifty (50) feet to the top or bottom of any slope.
 - 11. No slope shall exceed an angle with the horizontal of forty-five (45) degrees.
 - 12. No building or structure shall be erected on the site except as may be permitted in that zoning district or if approved as a temporary structure for machinery or field office.
 - 13. Proper measures shall be utilized to minimize the nuisance of noise and dust or airborne materials, as determined by the Building Official, and may include requirements on stockpiling size, height, and/or covering of stockpiles.
- k. **Garden Centers**
- 1. The outdoor storage or material display areas shall not be permitted in any front yard as determined by the Planning Commission. Such areas shall meet all other yard setback requirements applicable to any building in the district.
 - 2. All loading activities and parking areas shall be provided off-street and on the same premises.

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3. The storage of any soil, sand, mulch, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials shall be prohibited.
4. Decorative fences, knee walls, and other architectural features may be required by the Planning Commission for outdoor sales, display, and storage areas to assure compatibility with the existing or intended character of the general vicinity.
5. All materials stored outdoors shall not be piled or stacked higher than the height of any garden center fencing or wall.

i. Golf Courses

1. Minimum size for properties involved for the use shall be forty (40) acres.
2. The principal and accessory buildings, including maintenance sheds, shall be set back at least seventy-five (75) feet from all property and street lines.
3. Accessory buildings, structures, and storage areas shall be screened on all sides from adjacent residential areas and public street rights-of-way as determined by the Planning Commission.
4. Operational hours for maintenance vehicles, course maintenance, and/or irrigation may be restricted by the Planning Commission to protect nearby Residential Districts.

m. Golf Driving Ranges and Miniature Golf Courses

1. All traffic ingress and egress shall be from a major traffic route in the City of Vassar Master Plan, or as a local or collector street on the City's Act 51 map.
2. Whenever any such use abuts a Residential District, a transition buffer area at least one hundred (100) feet in width shall be provided between all operations, buildings, and structures, including fences, and the residential property. Landscaping, berms, and structural screens of a type approved by the Planning Commission may be placed within the buffer strip.
3. All buildings, uses, operations, and structures, including fences, shall be located a minimum of one hundred (100) feet from any public right-of-way. This yard shall be landscaped as determined by the Planning Commission.

n. Hospitals

1. Minimum site area shall be ten (10) acres.
2. The proposed site shall have at least one (1) property line abutting a "major street", as identified in the City's Act 51 map or identified as a major traffic route in the City of Vassar Master Plan.
3. The front, side, and rear yard minimum setbacks shall be fifty (50) feet.
4. Parking setbacks shall be forty (40) feet in the front yard, twenty (20) feet for side and rear yards.
5. Whenever any such use abuts a Residential District, a transition buffer area of at least one hundred (100) feet in width shall be provided. Walls, fences, or landscaping may be required as part of this buffer area as determined by the Planning Commission.
6. Emergency room, ambulance, and delivery areas shall be screened from public view with an obscuring wall and/or landscaping with a minimum height of six (6) feet.
7. Auxiliary uses, such as a pharmacy, gift shop, cafeteria, day care, and similar customary hospital related uses shall be allowed.
8. Parking for professional and outpatient buildings, or sections of a hospital building, shall be calculated as separate uses as noted in *ARTICLE 19, OFF-STREET PARKING AND LOADING REQUIREMENTS*. Only one-half (1/2) of the total number of parking spaces within gated or restricted physician parking lots shall be included for required parking calculations.

o. Incinerators, Cogeneration Plants, Recycling Centers, and Composting Facilities

1. All operations shall be at least five hundred (500) feet from any Residential District or use.
2. All operations shall be at least two hundred (200) feet from the boundary of any lake, stream, drain, wetland, or other surface water body.
3. Documentation shall be provided regarding the proposed control of odors from the facility.
4. All storage areas shall be within an enclosed building or waste receptacles.

p. Outdoor Storage

1. A special land use approval may be granted for outdoor display, sales, or storage on the same property as an approved mini-storage use, marina, or other principal use deemed compatible by the Planning Commission.
2. Stored vehicles or goods on a site without a building, shall meet the setback requirements of the zoning district. If a building is located on the site, no outdoor storage shall be permitted in any required yard of buildings for the district in which the commercial outdoor storage use is located.
3. If retail activity is associated with the use, an enclosed building of at least five hundred (500) square feet of gross floor area for office and sales use is required.
4. The storage of soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing into adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials is prohibited.
5. All stored materials including loosely packaged materials shall not be piled or stacked higher than the height of the obscuring screen. Vehicles, implements, and recreational vehicles may exceed the height of the screen provided that they are set back from the screen a distance equal to their height.
6. All outdoor storage areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
7. All loading and truck maneuvering shall be accommodated on-site or on a dedicated easement.
8. Fencing and lighting for security purposes may be required as determined by the Planning Commission. All lighting shall be shielded from adjacent residential areas in accordance with *ARTICLE 4, DIVISION 5: LIGHTING STANDARDS*.

q. Parking Structures

1. Any parking structure shall comply with the required setbacks and height requirements for principal buildings for the district in which it is located.
2. Parking structures shall be designed as integral elements of the overall site plan, taking into account the relationship to the principal building and other structures on the site.
3. The facade of the parking structure shall be compatible in design, color, and type of material to the principal building(s) on the site or on adjacent sites.
4. Vehicle access design must ensure safe and efficient traffic operation along the public or private roadway serving such structure.

r. Retail Businesses and Centers Exceeding 50,000 Square Feet

1. Retail businesses and shopping centers exceeding 50,000 square feet shall only be located where they can be accessed by major traffic routes, as classified in the City of Vassar Master Plan, or streets classified as "major streets" on the City's Act 51 map.
2. The design of buildings or shopping centers shall ensure that vehicular circulation patterns are appropriately designed and regulated to eliminate potential conflicts between traffic generated by the building or shopping center, and traffic on adjacent streets and thoroughfares. The Planning Commission, prior to making a recommendation on an application for such use, may require a traffic analysis which compares the projected trip generating capacity of the proposed development to existing and projected traffic volumes and the carrying capacity of adjacent streets. The traffic analysis shall be prepared by a

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- firm or individual experienced in such studies.
3. Whenever any such use abuts a Residential District, a building setback of at least two hundred (200) feet shall be provided. Areas of impervious surfaces (parking and driveways) shall be set back a minimum of one hundred (100) feet.
 4. Maximum lot coverage of all buildings shall be twenty-five percent (25%), maximum lot coverage of all buildings, parking, and paved areas shall be seventy percent (70%) of the site.
 5. Internal circulation shall be designed such that no intersection includes more than four (4) aisles or drives.
 6. Site entrances shall be restricted to three-way movements, with unrestricted inbound movements.
 7. Internal drives defined by the ends of aisles shall have raised curbed, landscaped islands at appropriate locations to define circulation paths and control movements through the parking lot.
 8. Loading facilities which serve the principal building shall be screened from public view.
 9. Outdoor storage of trucks, trailers, or pallets shall be prohibited. The outdoor display, sale or storage of merchandise shall require a separate special land use approval under *Section 86-287(y), Outdoor Display, Sales, or Storage*.
 10. Any outlots shall have circulation and parking designed to complement the remainder of the site.
 11. An operations plan including uses, hours of operation, delivery times, truck routes, security provisions, maintenance procedures, and other operations as determined by the Planning Commission may be required as part of special land use review to assure compatibility with the surrounding neighborhoods.
- s. **Retail Businesses with Adult Novelty Items.**
1. Intent. Same as *Section 86-287(a)(1)*.
 2. Definitions.
 - (a) Adult materials: one or a combination of more than one of the following types of materials: adult books and adult novelty items.
 - (b) Adult books: books, magazines, newspapers, advertisements, displays, posters, video tapes, video discs and motion picture films which are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse, or sodomy.
 - (c) Adult novelty items: devices of simulated human genitals or devices designed for sexual stimulation.
 - (d) Retail Businesses with Adult Novelty Items: See *Section 86-339, Definitions (Retail Businesses with Adult Novelty Items)*.
 3. Requirements and regulated uses. The following requirements and regulated uses are included in this subsection and defined for purposes of regulating retail businesses with adult novelty items:
 - (a) Except for transitory movement by customers to the cash register and exiting the store, and except for temporary movement for delivery of inventory into the store and subsequent shelf placement, adult materials shall not be visible to the public, except for within a designated area meeting the following requirements:
 - i. separate room (hereinafter referred to as adult material room) with a minimum of six (6) foot high walls that screen or substantially limit view by persons in the remaining areas of the store.
 - ii. Minors under the age of eighteen (18) years of age shall not be permitted in the adult material room.
 - iii. The ceiling in the adult material room shall not be utilized for the display, storage or reflection of any adult materials.

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- iv. A bathroom and/or mechanical room adjacent to the adult material room shall at no time be used for the display or storage of adult materials.
- (b) Adult materials are prohibited in any location visible to the public outside of a retail business, including any area visible to the public through front windows of a retail business.
- (c) There shall not be any live modeling or similar activity of any sort on the property.
- (d) There shall be only one public entrance to the retail business located at the front of the retail business only, excluding required emergency exits and loading doors.
- (e) Retail businesses with adult novelty items shall be located at least five hundred (500) feet from:
 - (i) All churches, convents, temples and similar religious institutions.
 - (ii) All public, private or parochial nursery, primary or secondary schools, public parks, and hospitals.
 - (iii) All child care centers or day care centers.
- (f) Pre-viewing of any adult materials on or from any televisions, audio players, video screens, monitors or other devices in the retail business is prohibited.

s. **Salvage Yard**

1. The salvage yard shall be enclosed on all sides by a solid wall or fence at least six (6) feet in height. The wall or fence shall be maintained in good repair and shall be free of handbills or other advertising except for approved signs. Non-transparent gates not exceeding forty-eight (48) feet in width shall be permitted in the enclosure.
2. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot continuous loop drives separating each row of vehicles.
3. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
4. No vehicle, vehicle bodies, or other materials shall be stored in a manner as to be visible from any residence, business, or street from a height at or below the top of the fence enclosing the yard.
5. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil, and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
6. The property shall include at least six (6) acres.
7. The front obscuring fence shall be set back the same distance as a principal building in the Industrial District, and all such fences shall be set back a minimum of five hundred (500) feet from any Residential District or use.
8. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours, provided that such activities shall not be conducted on Sundays or federally recognized holidays.
9. The applicant shall submit written assurances that the activities of the salvage yard will comply with all State and Federal regulations.
10. The Planning Commission may impose other conditions which have a reasonable relationship to the health, safety, and general welfare of the City. These conditions can include a provision for an annual inspection by the Building Official to ensure continuing compliance with the above standards.

t. **Schools, including Public, Private, and Parochial Elementary, Middle, and High**

1. At least one (1) street access shall be onto a street classified as a "major street" or "collector street" on the City's Act 51 transportation map.
2. All play areas adjacent to a Residential District must be fenced.
3. Bus and automobile drop-off and pickup drives must be provided and shall be separate

from, and not conflict with, through travel lanes of any street classified as a “major street “ or “collector street” on the City's Act 51 map.

u. **Theaters, Cinemas, and Similar Assembly Buildings**

1. The principal and accessory buildings and structures shall be not be located within two hundred (200) feet of any Residential District or use. Parking and other impervious surfaces shall be set back a minimum of one hundred (100) feet from any residential district or permitted use.
2. All uses shall be conducted completely within a fully enclosed building.
3. At least one (1) street access shall be onto a street classified as a “major street” or “collector street” on the City's Act 51 transportation map.
4. The arrangement of buildings and parking shall ensure that vehicular circulation patterns are appropriately designed and regulated to eliminate potential conflicts between traffic generated by the use, and traffic on adjacent streets and thoroughfares. The Planning Commission may require a traffic analysis which compares the projected trip generating capacity of the proposed development to existing and projected traffic volumes and the carrying capacity of adjacent streets. The traffic analysis shall be prepared by a firm or individual experienced in such studies.

v. **Wireless Communication Facilities**

All applications for wireless communication towers 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 tower is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission in its discretion.

1. **Co-Location**

- (a) The applicant must demonstrate to the Planning Commission that a feasible co-location on an existing tower, building, or other structure for the new wireless communication facility is not available for the coverage and capacity needs and that a location on municipal property is not practical.
- (b) Antennae which are attached to an existing tower, building, or other structure are encouraged to minimize the adverse visual impacts associated with the proliferation and clustering of towers. Co-location of antennas by more than one (1) carrier on existing towers, buildings, or other structures shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:
 - (1) A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower.
 - (2) 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 co-location of an additional antenna.
 - (3) A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site when approved by the Planning Commission.
- (c) Any proposed tower for commercial wireless telecommunication services shall be designed structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable equipment for at least two (2) additional users. Towers must be designed to allow for future rearrangement of equipment upon the tower and to accept equipment mounted at varying heights.
- (d) Where an attached wireless communication facility is proposed on the roof of a building, the equipment enclosure, if proposed, 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 and building height.
2. **Use.** Wireless communication towers may be considered either a principal use or accessory use when no other principal use exists on the site.
 3. **Design**
 - (a) Towers for commercial wireless telecommunication services shall be located and designed to be harmonious with the surrounding area through the use of color and architectural treatment, except in instances where color is dictated by other State or Federal authorities. Towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend into the surrounding environment.
 - (b) All accessory buildings shall be constructed of brick, provided the Planning Commission may waive this requirement for a building that is located in the Industrial District and is not visible from a public right-of-way or Non-Industrial District.
 4. **Setbacks.** Setback provisions shall not apply to towers located on existing buildings, towers, or other existing structures. Any part of the structure or equipment placed on the ground pertaining to the tower for commercial wireless telecommunication services shall comply with the following minimum setback.
 - (a) **Adjacent to any Residential District.** The height of the structure.
 - (b) **Adjacent to any Non-Residential District.** One-half (1/2) of the height of the structure.
 - (c) **Public Rights-of-Way.** One-half (1/2) of the height of the structure plus an additional twenty-five (25) feet.
 5. **Separation.** A minimum of two-thousand (2,000) feet of separation shall exist between freestanding towers.
 6. **Height.** The maximum height of the new or modified support structure and antennae shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure). Any accessory building contemplated to enclose such things as switching equipment, shall be limited to the maximum height for accessory structures or buildings within the respective district.
 7. **Screening.** The structure base, accessory buildings, equipment, and enclosures shall be screened with landscaping, berms, walls, or a combination of these elements as determined by the Planning Commission in accordance with the standards of *ARTICLE 4, DIVISION 3: LANDSCAPE STANDARDS AND TREE REPLACEMENT*.
 8. **Lighting.** Towers for commercial wireless telecommunication services shall not be illuminated unless required by other State or Federal authorities.
 9. **Signs.** Signs or other advertising not related to safety or hazard warnings shall not be permitted on any part of the tower or associated equipment or buildings.
 10. **Fencing.** Fencing shall be provided for protection of the support structure and security to prohibit unauthorized persons from accessing the facility.
 11. **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 and minimizing disturbance to the natural landscape; and the type of equipment which will need to access the site.
 12. **Maintenance Plan.** 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.

13. **Abandoned or Unused Towers.** Towers for commercial wireless telecommunication services which are abandoned or unused shall be removed, along with any associated structures or equipment, within twelve (12) months of the cessation of operations, unless a time extension is granted by the Zoning Administrator. One (1) three (3) month extension shall be permitted only if the Zoning Administrator finds that the owner or former operator of the facility is taking active steps to ensure its removal.
14. **Applicable Site Conditions.** Any non-conforming building or use on the site, such as outdoor storage, signs, inadequate landscaping, unpaved parking, lack of a sidewalk, improper lighting, or similar conditions shall be brought into conformance prior to the erection of the wireless communication tower.
15. **Application Requirements.** The following information shall be provided in addition to the requirements of *ARTICLE 5, DIVISION 1: SITE PLAN REVIEW*:
 - (a) Signed certification by a professional engineer licensed by the State of Michigan with regard to the manner in which the proposed structure will fall in the event of damage, accident or injury (i.e. "fall zone"), and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails.
 - (b) A description of the performance guarantee to be posted at the time of receiving a special land use approval for the facility to ensure removal of the facility when it is abandoned or is no longer needed.
 - (c) A map that illustrates existing and known proposed wireless communication facilities within the City of Vassar and adjacent communities, which are relevant in terms of potential co-location or to demonstrate the need for the proposed facility.
 - (d) For all new facilities, in recognition of the City's policy to promote co-location, a written agreement, transferable to all assessors and assigns, that the operator shall make space available on the facility for co-location.
 - (e) Elevation drawings of the accessory buildings and equipment shall be provided.
 - (f) 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.