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ORDINANCE NO. 1445

AN ORDINANCE TO AMEND SECTION 50-38 OF ARTICLE II - ADMINISTRATION AND ENFORCEMENT - OF CHAPTER 50 - ZONING - OF THE CODE OF THE CITY OF EAST LANSING AND TO ADD SECTION 50-821 TO ARTICLE VIII – OFF STREET PARKING REQUIREMENTS – TO CHAPTER 50 – ZONING - TO ESTABLISH REQUIREMENTS TO PROVIDE FOR CHARGING STATIONS FOR ELECTRIC VEHICLES.

THE CITY OF EAST LANSING ORDAINS:

Section 50-38 of Article II of Chapter 50 of the Code of the City of East Lansing is hereby amended and Section 50-821 of Article VIII of Chapter 50 is hereby added to read as follows:

Sec. 50-38. Standards of review for site plan approval.

A site plan application shall meet the development standards of the use district in which it is to be located and all other required conditions for development in this chapter, comply with other applicable local ordinances and state and federal statutes, and be consistent with the objectives of the comprehensive plan as approved and amended by the city. A site plan application shall also substantially comply with the standards of review specified below. A site plan may be approved subject to certain conditions or modifications necessary to bring the plan into conformance with these requirements, including the approval of any variance that may be granted by the zoning board of appeals.

- (1) *General site conditions.* The site shall be designed and developed to provide a logical relationship between functional elements, to effectively serve the purposes for which it is to be developed, and to be reasonably compatible with surrounding properties.
 - a. The size, height, design and architectural treatment of buildings shall be reasonably compatible with surrounding properties; except, if the site is in an area which is expected to redevelop in accordance with the provisions of the comprehensive plan, the size, height, design and architectural treatment of buildings shall be consistent with the objectives in the comprehensive plan.

- b. Buildings, including windows, balconies and other openings, shall be located and designed to provide reasonable privacy for residents and employees on the site and those adjacent to the site; buffers such as walls, fencing, landscape plantings or additional setbacks may be required to protect residents and employees from adverse impacts from adjacent uses or streets.
 - c. Yard areas on the site shall be arranged and improved to provide adequate light and ventilation; separation between buildings, roads and other activity areas; trees and other vegetation; passive and active recreational areas; and to improve the appearance of the property, ensure reasonable privacy and enjoyment for residents and employees and promote the public health, safety and welfare.
 - d. Outdoor activity areas, such as pools, playgrounds, courts, cooking or dining facilities, shall be located and screened sufficiently to minimize impacts on adjacent properties or dwelling units on the site and to provide appropriate security.
- (2) *Natural features.* The site shall be designed and developed to minimize the disruption or loss of its desirable natural elements and to enhance its overall appearance by incorporating those elements into required open spaces and setbacks.
- a. The design and placement of buildings, other site improvements and open space shall respect the natural topography of the site to minimize the extent of site grading, excavation and filling.
 - b. Mature trees and significant clusters of trees and shrubs shall be retained where possible to provide shade for buildings and over parking areas and driveways, to maintain privacy between adjacent properties and to enhance the appearance of the site.
 - c. Within a regulated wetland, no filling, grading, dredging, excavating, draining or construction shall be permitted unless the required permit is first obtained from the Michigan Department of Environmental Quality and/or the city in accordance with chapter 49 of the City Code. Existing wetland areas not regulated by the state or the city and surface drainageways shall be preserved to the maximum practicable extent to maintain stormwater control, water quality, natural habitat and open space.
 - d. Buildings and other site improvements shall be set back an appropriate distance from the perimeter of preserved natural features to protect them from encroachment, damage, degradation or pollution, both during and after construction, to preserve the aesthetic and functional values of the

resources and to provide access to use and maintain the site improvements. All construction activities within the drip line of existing trees shall be minimized to avoid damage to their root systems. Buildings and other site improvements shall be set back from the edge of a wetland or other surface water feature the following minimum distances:

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| Setbacks from preserved wetlands and other surface water features: | Minimum distance: |
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- Principal buildings25 feet
- Accessory buildings and site features supported by frost footings15 feet
- Decks, stairways and other features supported by post footings10 feet
- Parking areas, driveways and curbing15 feet
- Sidewalks, patios and other flatwork10 feet
- Stormwater collection, detention or retention facilities10 feet

A vegetation strip at least ten feet wide consisting of plant species that are consistent with a wetland habitat shall be provided and maintained around the perimeter of a preserved wetland or surface water feature. Existing trees, shrubs and ground cover may be preserved within this strip or appropriate trees, shrubs and other perennial species native to a Michigan wetland habitat shall be installed to enhance the strip. Once established, this strip shall not be mowed or clear cut, except for vegetation that requires cutting to reseed and maintain healthy growth, and trees and shrubs may be selectively pruned to maintain views of the wetland or water feature and to protect and maintain access to buildings and other site improvements. Pathways no more that ten feet in width may be cleared and maintained to provide access to the wetland or surface water feature. Observation decks or docks may also be permitted to allow viewing of the water feature or wetland.

The setback and vegetation strip requirements in this subsection may be increased or decreased if it is determined that a proposed activity is in the public interest. In determining whether the proposed activity is in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the construction or activity, taking into consideration the local, state and national concern for the protection and preservation of the environmental feature in question. The following general criteria shall be applied in undertaking this balancing test:

1. The relative extent of the public and private need for the proposed activity.
2. The availability of feasible and prudent alternative locations and

methods to accomplish the expected benefits from the activity.

3. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or natural feature open space provides.
 4. The probable impact of the activity in relation to the cumulative effect created by other existing and anticipated activities in or near the natural feature to be protected.
 5. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values, and on fish, wildlife and public health.
 6. The size and quantity of the natural feature open space being considered.
 7. The amount and quantity of the remaining natural feature open space.
 8. Proximity of the proposed activity in relation to the natural feature, taking into consideration the degree of slope and the soil type within and adjacent to the natural feature and the setback area, the quantity and speed of surface runoff expected and the nature of the natural feature to be protected.
 9. Economic value, both public and private, of the proposed activity and economic value, both public and private, if the proposed activity were not permitted.
- e. Development within designated floodplain areas shall be accomplished in a way that does not alter or obstruct stormwater flow within a designated floodway, maintains the overall stormwater storage capacity of the site and does not increase risks to persons and property.
 - f. Appropriate ground cover, trees and other vegetation shall be planted and maintained on the site to control stormwater runoff and prevent erosion, siltation and dust, to provide privacy between adjacent uses and mitigate impacts from noise and lights, and to enhance the appearance of the site.
 - g. Parking and access facilities shall be landscaped in accordance with the requirements of subsection 50-816(8) of this chapter.
- (3) *Traffic access.* The site shall be designed and developed to provide safe and efficient access for all forms of travel and to minimize impacts on adjacent public

facilities.

- a. The site shall not overburden adjacent public streets nor cause significant hazards to public safety due to excessive traffic generation or inadequate traffic control.
- b. Existing and proposed public streets shall be designed and constructed in accordance with the requirements of chapter 40 of the City Code and applicable local standards and specifications.
- c. Roadway or driveway connections between the site and adjacent public streets shall be spaced sufficiently apart and may be limited in number to minimize congestion and delays in traffic flow along the adjacent public streets and to minimize conflicts with other turning movements on adjacent public streets or private driveways.
- d. Where practicable, principal access to and from the site shall be provided from major streets; access to local streets shall be designed to avoid excessive traffic volumes and speed through adjacent neighborhoods.
- e. Appropriate curb radii and lane widths shall be provided and acceleration and deceleration lanes may be required at roadway or driveway openings to protect public safety and minimize congestion and delays along adjacent public streets.
- f. Separate turn lanes may be required at roadway or driveway openings to reduce on-site stacking and congestion and such lanes shall be clearly marked.
- g. Secondary access may be required to adjacent public streets or alleys or through adjacent private parking areas to provide sufficient access for emergency vehicles.
- h. Where two or more adjacent sites may be developed for similar or complementary uses, the city may require the creation of shared or linked access facilities, which may be constructed in phases, to minimize turning movements on public streets and provide access between the adjacent uses.
- i. Roadways and driveways within the site shall be designed to provide safe and efficient access while minimizing speeds and safety risks; the placement of traffic control devices within the site may be required to regulate speeds and minimize safety risks.
- j. Sidewalks shall be installed to provide safe and convenient pedestrian and bicycle access to and within the site, including sidewalks along public

street frontages and linkages between such sidewalks and all principal buildings, between the principal buildings and parking facilities on the site, and between adjacent sites, where practicable.

- k. Sidewalks and other pedestrian access pathways within the site shall be located to minimize conflicts with vehicular traffic and enhance safety; pavement markings and signs may be required at principal points where pedestrians would cross driveways within the site.
 - l. Sidewalks and ramps within the site shall be designed to provide safe and convenient barrier-free access.
 - m. Parking facilities shall be located and designed to provide safe and convenient access to the building(s) they are intended to serve and, where practicable, to separate maneuvering areas from principal routes of traffic flow through the site.
 - n. Parking areas shall be located or sufficiently screened to avoid headlights projecting into windows of residential dwellings.
 - o. Parking and access facilities shall be designed and constructed in accordance with the requirements of section 50-816 of this chapter.
 - p. Bicycle parking and storage facilities shall be provided in accordance with the requirements of section 50-820 of this chapter.
 - q. Parking facilities shall be designed to provide the required electric vehicle charging stations required by section 50-821.
- (4) *Utilities and public services.* The site shall be designed and developed to facilitate the efficient provision and maintenance of adequate public services.
- a. Existing and proposed utility services to and within the site shall be of adequate size and design to serve the expected needs of the development.
 - b. Appropriate easements shall be provided to the city to afford access to all existing, proposed and known future extensions of public utilities on or adjacent to the site.
 - c. The site shall be designed and developed to afford adequate access for fire suppression and other emergency services; fire hydrants, stand pipes and similar water service connections may be required; designated fire lanes may also be required.
 - d. Stormwater collection and discharge facilities shall be provided and designed to minimize the risk of flooding or soil erosion, on or off the site;

stormwater detention or retention facilities may be required to regulate the rate of flow of stormwater off the site to avoid flooding and to comply with the requirements of article IV, chapter 34, of the City Code.

- e. Stormwater collection and discharge facilities and site grading shall be designed to avoid runoff onto adjacent properties and public streets and sidewalks.
 - f. Stormwater treatment facilities shall be provided as required by the city engineer to comply with the city's Michigan Department of Environmental Quality NPDES Phase II Stormwater Permit.
 - g. Loading docks, loading spaces and other service areas and external utility and mechanical equipment shall be located and screened to minimize noise, vibration, or visual impacts which may affect adjacent properties or residents within the development; walls or other solid screens may be required to attenuate noise impacts.
 - h. Adequate containers or compactors shall be provided on the site to collect and store trash or other waste materials and recyclable materials; such containers or compactors shall be effectively screened to obscure them from view, prohibit materials from blowing away and to control access; such containers shall also be located as inconspicuously as possible on the site.
 - i. In order to further the goal of the city to minimize the disposal of solid waste and to maximize waste diversion through recycling, every owner of a multiple dwelling approved for construction after January 1, 2007, shall construct, provide, and maintain adequate and safe facilities or containers for the collection, storage, and disposal of recyclable materials placed for collection by their tenants, unless such premises is approved by the Director of Public Works for city curbside recycling services as provided in article III of chapter 36 of this code.
 - j. Exterior lighting shall be installed as necessary to provide adequate safety and security; all exterior lighting shall be designed and shielded to direct the light downward and avoid projecting light onto adjacent properties or creating glare along public streets; pole-mounted lights shall be restricted in height to be in scale with the site and its environment and avoid projecting light onto adjacent properties.
- (5) *Environmental protection.* The site shall be designed and developed to minimize any risk of pollution of natural resources and to protect the public health, safety and welfare.
- a. The project and related improvements shall be designed to protect land and water resources from pollution, including pollution of soils,

groundwater, rivers, streams, lakes, ponds, open drains and wetlands.

- b. Stormwater retention, detention, transport, and drainage facilities shall be designed to use or enhance the natural stormwater system on-site, including the storage and filtering capacity of wetlands, watercourses, and water bodies, and/or the infiltration capability of the natural landscape. Stormwater facilities shall not cause flooding or the potential for pollution of surface or groundwater, on-site or off-site. Stormwater facilities shall not damage natural features by depositing pollutants in them, by draining them or by depriving them of sufficient stormwater runoff to maintain their natural condition.
- c. General purpose floor drains shall be connected to a public sanitary or combined sewer system or an on-site holding tank (not a septic system) in accordance with state, county and municipal requirements, unless a groundwater discharge permit has been obtained from the Michigan Department of Environmental Quality. General purpose floor drains which discharge to the public stormwater system or into the groundwater are generally prohibited.
- d. Sites at which hazardous substances, hazardous wastes, or potentially polluting materials are stored, used, or generated shall be designed to prevent spills and discharges of such materials to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
- e. Secondary containment facilities shall be provided for aboveground storage of hazardous substances, hazardous wastes, or potentially polluting materials in accordance with state and federal requirements. Aboveground secondary containment facilities shall be designed and constructed so that the potentially polluting material cannot escape from the unit by gravity through sewers, drains, or other means, directly or indirectly into a sewer system, or to the waters of the state (including groundwater).
- f. Underground storage tanks shall be registered, installed, operated, maintained, closed or removed in accordance with regulations of the Michigan Department of Environmental Quality.
- g. Aboveground storage tanks shall be certified, installed, operated, maintained, closed or removed in accordance with regulations of the Michigan Department of Environmental Quality.
- h. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.
- i. Abandoned water wells (wells that are no longer in use or are in disrepair), abandoned monitoring wells, and cisterns shall be plugged in accordance

with regulations and procedures of the Michigan Department of Environmental Quality.

- j. State and federal requirements for storage, spill prevention, recordkeeping, emergency response, transport and disposal of hazardous substances, hazardous wastes, liquid industrial waste or potentially polluting materials shall be met. No discharge to surface water or groundwater, including direct and indirect discharges of waste, waste effluent, wastewater, pollutants, or cooling water, shall be allowed without approval from appropriate state, county and local agencies.

(6) *Public art requirement.* Unless the project is exempt from this requirement pursuant to subparagraph (6)-d of this paragraph, the site shall be designed and developed to contain public art as defined by Sec 2-313 of the City Code and in accordance with the following:

- a. A budget for the public art required by this section shall be established based on the allocation of 1% of the total project cost up to \$25,000 to be committed to the procurement and display of public art on the site.
- b. The public art shall be a work of art as defined by Sec 2-313 of the City Code and shall be approved by the City's Arts Commission in accordance with the definition of public art and the standards set forth in Sec. 2-315(a)(1) & (7) of the City Code and the City Council prior to site plan approval. The approval by the Arts Commission and City Council shall not be unreasonably withheld.
- c. The total allocation as established pursuant to subparagraph (6)-a shall be expended on those items listed in Sec. 2-314 (a) (1) through (4) of the City Code and shall not include any other expenditures. Maintenance shall be the responsibility of the owner of the property in addition to the allocation established by subparagraph (6)-a. Failure to install the public art as required by this subparagraph and in accordance with the approved site plan shall result in denial of a certificate of occupancy. Failure to properly maintain the public art in accordance with the approved site plan is a violation of the zoning code and subject to enforcement pursuant to the provisions of Sec. 50-33. Prior to any enforcement action a violation notice shall be sent to the responsible party. A failure to cure the violation within 30 days shall constitute a violation and each day thereafter that the violation remains uncured shall constitute a separate offense.
- d. The following projects are exempt from the public art requirements of this section:
 - 1. Projects where the application of this requirement would constitute a governmental taking or otherwise be contrary to law, as

determined by the Zoning Administrator, under the particular facts and circumstances of that case as explained in detail by the applicant. The Zoning Administrator may request additional information from the applicant if insufficient information is provided with the site plan to make a determination. The applicant has all appeal rights as would otherwise be applicable to any determination by the Zoning Administrator.

2. Projects where the total project cost is less than \$500,000.00.
 3. Residential projects containing less than 4 residential units.
 4. Projects where, upon issuance of the building permit, the applicant donates an amount equivalent to the amount established pursuant to subparagraph (6)-a of this paragraph to the public art fund as established pursuant to Sec 2-312 of the City Code or donates a “work of art” approved by the art commission of equal value to the fund as established pursuant to subparagraph (6)-a of this paragraph.
- e. A developer may choose to partially exempt a project from the public art requirement of this section to the extent the developer chooses to donate funds or works of art less than the amount established pursuant to subparagraph (6)-a of this paragraph in which case the budget required for public art shall be reduced by a corresponding amount.

Sec. 50-821. Electric Vehicle Charging Stations.

- (1) Definitions for the purposes of this section:
 - a. *Electric Vehicle* means a fully electric automobile or hybrid gas and electric automobile.
 - b. *Level 2 or better charging station* means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy by conductive or inductive means to a battery or other energy storage device in an electric vehicle equipped with a level 2 or better charging equipment.
 - c. *Private restricted use charging station* means an electric vehicle charging station that is (1) privately owned and restricted access; for example executive parking or designated employee parking, or (2) publicly owned and restricted; for example fleet parking with no access to the general public.
 - d. *Public use charging station* means an electric vehicle charging station that is (1) publicly owned and publicly available; for example park and ride, public

library lot, or on street parking or (2) privately owned and available to visitors of the use; for example shopping center parking.

(2) Each non-residential use of a property, combined residential with a non-residential use, or multiple family residential property with at least 50 required parking spaces shall have one Level 2 or better charging station installed in the parking lot. The charging stations on private property may be either private restricted use charging stations or public use charging stations at the property owner's discretion. One additional Level 2 or better charger shall be installed for each 50 additional parking spaces required or installed on the premises identified in this provision. All chargers required by this provision shall be maintained operational.

(3) This provision shall apply to each new site plan and to each revised or amended site plan which expands the current parking on the premises.

(4) An electric vehicle charging station required pursuant to this section may be counted as a parking space in the calculation of the parking spaces required by this code.

(5) Public use charging stations shall be reserved for parking and charging of electric vehicles only. Electric vehicles may be parked in any space designated for parking subject to the restrictions that would apply to any other vehicle that would park in that space.

(6) A developer or property owner may apply for an exemption to this requirement or a reduction in the number of stations required if the developer or property owner can show one or more of the following:

- a. That the anticipated parking duration due to the particular use of the property, or similar considerations, would not make the presence of charging stations reasonable due to the lack of the likelihood of use of the station or stations.
- b. That the expense of complying with this requirement significantly outweighs the level of cost of the improvement so as to preclude the improvement if this requirement was imposed.
- c. That the imposition of this requirement would constitute a governmental taking as defined by law.