

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF AUGUST 4, 2008**

Clark called the meeting to order at 7:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Clark led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Bruno, Clark, Mulvany, Naeyaert, Preadmore, Waltz, Whipple
Also present: Martin Colburn, City Administrator
Kathy Revels, Finance Director
David Haywood, Zoning and Development Director
Rolland Olney, Public Works Director
Dennis O'Brien, Cemetery & Parks Superintendent
Dennis McGinty, City Attorney
Deborah Cwierniewicz, Deputy City Clerk

APPROVAL OF MINUTES - REGULAR COUNCIL MEETING: July 21, 2008

The Minutes of July 21, 2008, were approved as submitted.

APPROVAL OF BILLS

MOTION by Naeyaert, second by Preadmore,
to approve the payment of bills in the amount of \$167,383.93 as submitted.
MOTION APPROVED UNANIMOUSLY

PEOPLE FROM THE FLOOR

Elaine Ferris of 417 W. Sycamore encouraged Council to vote yes for the Capital Area District Library millage proposal on the ballot, August 5, 2008.

REGULAR BUSINESS

Ordinance No. 166 – An Ordinance to Amend the City of Mason Zoning Ordinance to Permit Outdoor Food and Drink Service by Right in the Commercial Zoning District and Establish Standards for Food and Drink Service Areas Located in the Public Right-of-Way – Second Reading and Adoption

MOTION by Preadmore, second by Naeyaert,
To consider Ordinance No. 166 read for the second time and adopted.

MOTION by Whipple, second by Naeyaert,
To amend Ordinance No. 166 by adding subsection 94-223(3) to explicitly give administrative review authority to the Zoning Administrator for outdoor seating areas on private property, now shown in the ordinance title; and replace standards for outdoor seating on private property, including screening and lighting standards to Section 94-173(j)(1)(d) and (e) when adjacent to residential property; and replace subsection 94-173(j)(2)(c) specifying that licenses are annually renewable for one calendar year.
MOTION APPROVED UNANIMOUSLY

Discussion ensued. Haywood spoke regarding the intent of the ordinance language pertaining to drawing specifications and McGinty spoke regarding his recommendation for setting a definite term for the license.

MOTION by Whipple, second by Naeyaert,
To amend Ordinance No. 166 by striking section 94-173(j)(2)(c)
specifying that licenses are annually renewable for one calendar year.
MOTION APPROVED UNANIMOUSLY

VOTE ON MAIN MOTION:
MOTION APPROVED UNANIMOUSLY

**CITY OF MASON
ORDINANCE NO. 166**

AN ORDINANCE TO AMEND SECTIONS 94-141 - C-1 CENTRAL BUSINESS DISTRICT, 94-142 - C-2 GENERAL BUSINESS DISTRICT, AND 94-143 - C-3 LOCAL BUSINESS DISTRICT – OF CHAPTER 94 OF THE CODE OF THE CITY OF MASON – TO PERMIT, AS A USE BY RIGHT, OUTDOOR FOOD AND DRINK SERVICE, AND TO AMEND SECTION 94-173 – SUPPLEMENTAL USE REGULATIONS – BY ADDING SUBSECTION (j) ESTABLISHING SPECIAL CONDITIONS FOR OUTDOOR FOOD AND DRINK SERVICE AREAS, AND TO AMEND SECTION 94-223 – ADMINISTRATIVE SITE PLAN REVIEW AUTHORITY – BY ADDING SUBSECTION (3) ESTABLISHING ADMINISTRATIVE SITE PLAN REVIEW AUTHORITY FOR OUTDOOR FOOD AND DRINK SERVICE AREAS.

THE CITY OF MASON ORDAINS:

Section 94-141 of Chapter 94 of the Mason City Code is hereby amended at subsections (b)(9) and (d)(6) thereof to permit outdoor food and drink service as a use permitted by right in the C-1 Central Business zoning district, which amended section shall read as follows:

Sec. 94-141. C-1: Central business district.

(a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments in the area generally referred to as the Downtown Center in the city master plan that address the local day-to-day office, retail, and service needs of residents of, and visitors to, the city. It is the intent of this district to prohibit uses that draw from a regional population causing excessive traffic levels or that may otherwise undermine the intended function and character of the historic business area of the city.

(b) *Uses permitted by right.*

- (1) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.
- (2) Photographic studios.
- (3) Professional services establishments providing human health care on an outpatient basis.
- (4) Medical, optical and dental offices and laboratories.
- (5) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.
- (6) Music, dance, or performing arts studios.
- (7) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.
- (8) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities and similar professions, and the operation of professional associations, societies, and institutes.
- (9) Retail trade, office and personal service businesses including financial institutions, hardware and appliance stores, barber and beauty shops, clothing, food, restaurants, with or without outdoor food and drink service (refer to section 94-173(j)), drug, variety, furniture, jewelry, self-service and/or drop-off laundry including dry cleaning performed off-premise, small job printing provided non-explosive fluids are used and similar uses when conducted within a building and no part of which consists of manufacturing or processing on the premises.
- (10) Bed and breakfast (refer to section 94-192(7)).
- (11) Residential use located above a business use that meets the minimum floor area standards of the RM multiple-family residential district.
- (12) Establishments licensed for the sale of alcoholic beverages where consumption is allowed on and/or off the premises.
- (13) Public assembly buildings, indoor theaters, and auditoriums.

(c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.

(d) *Uses authorized by special use permit.*

- (1) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).
- (2) Public or private educational structures or uses (refer to section 94-192(8)).
- (3) Vehicular drive-in service when associated with a principal use.
- (4) Off-street public or private parking facilities (refer to section 94-192(8)).
- (5) Boarding and rooming houses.
- (6) Pub, tavern, or restaurant with outdoor entertainment, including music.

- (7) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.
- (8) Monopole telecommunication towers and antennae in accordance with the requirements of section 94-173(d)(13)(a)(5).

THE CITY OF MASON FUTHER ORDAINS:

Section 94-142 of Chapter 94 of the Mason City Code is hereby amended at subsection (d)(13) to permit outdoor food and drink service as a use permitted by right in the C-2 General Commercial zoning district, which amended section shall read as follows:
Sec. 94-142. C-2: General commercial district.

- (a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments that address the retail and service needs of both local and regional populations, including the highway traveler and uses that draw from a regional market or which uniquely benefit from close proximity to the US-127 interchanges.
- (b) *Uses permitted by right.*
 - (1) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.
 - (2) Photographic studios.
 - (3) Professional services establishments providing human health care on an outpatient basis.
 - (4) Medical, optical and dental offices and laboratories.
 - (5) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.
 - (6) Music, dance, or performing arts studios.
 - (7) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.
 - (8) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities and similar professions, and the operation of professional associations, societies, and institutes.
 - (9) Retail trade, office and personal service businesses including financial institutions, hardware and appliance stores, barber and beauty shops, clothing, food, restaurants with or without outdoor food and drink service (refer to section 94-173(j)), drug, variety, furniture, jewelry, self-service and/or drop-off laundry including dry cleaning performed off-premise, small job printing provided non-explosive fluids are used and similar uses when conducted within a building and no part of which consists of manufacturing or processing on the premises.
 - (10) Boarding and rooming houses.
 - (11) Bed and breakfast (refer to section 94-192(7)).
 - (12) Residential use located above a business use that meets the minimum floor area standards of the RM multiple-family residential district.
 - (13) Establishments licensed for the sale of alcoholic beverages where consumption is allowed on and/or off the premises.
 - (14) Outdoor retail sales and service.
 - (15) Wholesale businesses.
 - (16) Plumbing, heating, retail sales and service and other similar uses.
 - (17) Farm machinery and implement sales.
 - (18) Nursery, shrubbery, and garden supply centers.
- (c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.
- (d) *Uses authorized by special use permit.*
 - (1) Community commercial centers (refer to section 94-192(5)).
 - (2) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).
 - (3) Public or private educational structures or uses (refer to section 94-192(8)).
 - (4) Vehicular drive-in service.
 - (5) Off-street public or private parking facilities.
 - (6) Communication towers and antennas (refer to section 94-173(d)).
 - (7) Hotels and motels.
 - (8) New and used motor vehicle, boat and trailer sales and service.
 - (9) Automobile service stations and automobile repair garages (refer section 94-192(2)).
 - (10) Automatic and self-serve car wash.
 - (11) Mini-warehouse.
 - (12) Adult businesses (refer to section 94-173(h)).
 - (13) Pub, tavern, or restaurant with outdoor entertainment including music.
 - (14) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.
- (e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

THE CITY OF MASON FUTHER ORDAINS:

Section 94-143 of Chapter 94 of the Mason City Code is hereby amended at subsection (d)(6) to permit outdoor food and drink service as a use permitted by right in the C-3 Local Commercial zoning district, which amended section shall read as follows:
Sec. 94-143. C-3: Local commercial district.

- (a) *Intent and purpose.* It is the primary purpose of this district to provide opportunities for business establishments that address the local day-to-day office, retail, and service needs of the City's residents and visitors, and nearby surrounding populations, and which are not located in the City's historic business area (C-1 District) nor cater to the highway traveler or serve more regional populations, for which the C-2 District has been established.

- (b) *Uses permitted by right.*
- (1) Offices for financial institutions, real estate offices, insurance offices, investment brokers, credit reporting agencies, business management and consulting, information technology services and consulting, and similar business offices.
 - (2) Photographic studios.
 - (3) Professional services establishments providing human health care on an outpatient basis.
 - (4) Medical, optical and dental offices and laboratories.
 - (5) Offices for non-profit organizations, professional associations, labor unions, civic-social-fraternal organizations, political organizations, and religious organizations.
 - (6) Music, dance, or performing arts studios.
 - (7) Offices for professional practitioners in the component fields of medicine, dentistry, psychiatry, and psychology including practitioners committed to ministering to individual and community health. These offices can include group or clinical practice and therapeutic paramedical services.
 - (8) Offices for the practice of law, professional services, business services, scientific endeavors, creative activities and similar professions, and the operation of professional associations, societies, and institutes.
 - (9) Retail trade, office and personal service businesses including financial institutions, hardware and appliance stores, barber and beauty shops, clothing, food, restaurants with or without outdoor food and drink service (refer to section 94-173(j)), drug, variety, furniture, jewelry, self-service and/or drop-off laundry including dry cleaning performed off-premise, small job printing provided non-explosive fluids are used and similar uses when conducted within a building and no part of which consists of manufacturing or processing on the premises.
 - (10) Bed and breakfast (refer to section 94-192(7)).
 - (11) Residential use located above a business use that meets the minimum floor area standards of the RM multiple-family residential district.
 - (12) Establishments licensed for the sale of alcoholic beverages where consumption is allowed on and/or off the premises.
- (c) *Permitted accessory uses.* Accessory uses and structures as defined in this chapter.
- (d) *Uses authorized by special use permit.*
- (1) Public buildings including nonresidential governmental, utility, or public service use excluding storage yards, transformer stations, and substations (refer to section 94-192(8)).
 - (2) Public or private educational structures or uses (refer to section 94-192(8)).
 - (3) Vehicular drive-in service when associated with a principal use.
 - (4) Off-street public or private parking facilities (refer to section 94-192(8)).
 - (5) Boarding and rooming houses.
 - (6) Pub, tavern, or restaurant with outdoor entertainment, including music.
 - (7) Any use permitted in this district involving one or more structures that occupy, either individually or collectively, more than 15,000 square feet of gross floor area.
- (e) *Development standards.* Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

THE CITY OF MASON FURTHER ORDAINS:

Section 94-173 of Chapter 94 of the Mason City Code is hereby amended by adding subsection (j) to establish special conditions for outdoor food and drink service areas, which amended section shall read as follows:

Sec. 94-173. Supplemental use regulations.

- (a) *Home occupation.*
- (1) Intent. It is the intent of this section to set forth the requirements for establishing a home occupation as an accessory use of a single-family detached dwelling unit. Such home occupations could involve crafting, electronic or mail order sale or marketing of goods, the provision of services, or instruction in a craft or the fine arts which is conducted entirely within the dwelling unit by one or more persons, all of whom reside within the dwelling, and which is clearly incidental and secondary to the use of the dwelling as a residence.
 - (2) Location. Home occupations shall be allowed only as an accessory use in those districts specifically allowing such use as provided in article IV of this chapter.
 - (3) Regulations and standards. Home occupations shall meet the following regulations and standards:
 - a. There shall be no outdoor on-site storage of materials, inventory, equipment, or accessory items, or display of materials, inventory, goods, or supplies used in the conduct of the home occupation.
 - b. Only members of the immediate family who reside on the premises shall be employed in any part of the operation of the home occupation. All activities related to the home occupation shall be carried on entirely within the dwelling unit.
 - c. Home occupations are permitted only in the principal structure/building. However, in no case shall more than 25 percent or 480 square feet, whichever is smaller, of the gross floor area of the principal building be utilized for a home occupation.
 - d. A home occupation shall not generate an undue amount of traffic in excess of that prevailing or expected for the general area in which it is located. The home occupation shall not generate more than ten round trips per day, excluding trips generated by the occupants of the home. Adequate parking spaces shall be provided on the premises for persons patronizing the establishment.
 - e. Home occupations shall maintain at least two on-site parking spaces dedicated for the permanent residents. All parking spaces shall be located in compliance with article IX of this chapter.
 - f. The establishment of a home occupation shall not necessitate exterior modification or alter the fire rating, except as may be required by the building official, of any structure/building on the property.
 - g. Home occupations shall not be open to the public except between the hours of 7 a.m. to 8 p.m., unless otherwise provided by special use permit.
 - h. No food or beverages shall be sold to be consumed on the premises.
 - i. No amusement games or devices shall be provided for or by customers on the premises.
 - j. Uses prohibited as home occupations shall include the following:
 1. Convalescent and nursing homes.
 2. Day care centers or nursery schools, except as provided for in this chapter.

3. Funeral homes.
 4. Kennels.
 5. Medical or dental clinics or hospitals, or animal hospitals.
 6. Refuse collection businesses.
 7. Repair of automobiles, motorcycles, boats, trailers, trucks or similar equipment or vehicles.
 - k. The use of a detached garage or accessory building for home occupation is not permitted.
 - l. One sign shall be permitted if the sign does not exceed two square feet in area, is not illuminated, and is mounted flat against the wall of the dwelling.
 - m. The home shall be in compliance with all other applicable laws and ordinances.
- (b) *Solid waste disposal.*
- (1) Intent. Receptacles for the temporary storage of refuse or recyclable material are permitted in all districts as an accessory use to any use other than single family residential uses, subject to the requirements of this section and division 2 of article VII of this chapter. The requirements of this section shall apply to any receptacle commonly referred to as a dumpster or any other container or group of containers having a total capacity of more than four 30-gallon cans.
 - (2) Location. All receptacles shall be located in a rear or side yard, shall not encroach upon required parking areas, and shall be clearly accessible to servicing vehicles. Receptacles shall be located as far as practicable from any adjoining residential district or use but shall in no instance be located closer than 15 feet, or the minimum side yard setback of the particular zoning district in which it is located, whichever is greater, of any residential property line or district.
 - (3) Regulations and standards.
 - a. Screening. Receptacles shall be screened from view from adjoining property and public streets and thoroughfares. Receptacles shall be screened on three sides with a permanent wall or fence of not less than the minimum height required in section 94-241(h) or two feet above the highest wall of the enclosed receptacle, whichever is higher. The fourth side of the receptacle screening shall be equipped with an opaque lockable gate that is the same height as the other sides. The wall or fence should blend with the materials, color and style of the development.
 - b. The location and method of screening of all receptacles shall be shown on the site plans and shall be subject to the approval of the designated site plan approval body in accordance with division 1 of article VII of this chapter.
 - c. Receptacle locations shall be consolidated to minimize the number of collection sites and located so as to reasonably equalize the distance from the buildings they serve.
 - d. Receptacles shall be situated so as to not cause excessive nuisance or offense to occupants of the development they serve or of nearby buildings.
 - e. Concrete pads of appropriate size and construction shall be provided for all receptacles regulated by this section. Aprons shall be provided for loading of a single receptacle with a capacity of one and one-half cubic yards or more.
 - f. If a receptacle enclosure is situated directly adjacent to parking spaces or drives, it shall be protected at its base by concrete curb blocks.
 - g. The area inside and around the outside of a receptacle enclosure shall be maintained and litter free at all times. The enclosure shall also be maintained and repaired as necessary.
 - (4) Compost piles. Composting shall be limited to manufactured commercial compost containers or equivalent containers and shall be regulated the same as other types of receptacles covered in this section.
- (c) *Satellite dish antenna.*
- (1) Intent. The use of a satellite dish antenna shall be permitted in all districts as an accessory use. A satellite dish antenna is an apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit.
 - (2) Location.
 - a. No satellite dish antenna may be located in any front yard or side yard open space unless mounted to and located completely within four feet of a building wall.
 - b. No satellite dish antenna may be located within any required parking area.
 - c. No satellite dish antenna may be constructed such that any part of the antenna or supporting structure is closer to a lot line than the minimum setback for the district in which the antenna is located.
 - d. Satellite dish antennas greater than 24 inches in diameter are prohibited on the roof or walls of any building in residentially zoned districts.
 - e. Roof-mounted satellite dish antennas shall be mounted directly upon the roof of a building and shall not be mounted upon appurtenances such as chimneys, towers, poles, or spires.
 - (3) Regulations and standards.
 - a. The placement of any satellite dish antenna greater than 24 inches in diameter by any means in any zoning district is prohibited unless a site plan thereof is approved by the planning commission in accordance with the standards contained in division 1 of article VII of this chapter.
 - b. Only one satellite dish antenna per residential dwelling unit shall be permitted.
 - c. All satellite dish antennas and the construction and installation thereof shall conform to the building code.
 - d. The surface of any satellite dish antenna shall be painted or treated so as not to reflect glare from sunlight or artificial lighting.
 - e. No satellite dish antenna shall be:
 1. Linked physically to or with any structure which is not on the same lot.
 2. In excess of an overall diameter of 12 feet.
 3. Located such that any portion of a roof-mounted antenna is more than ten feet above the highest point of a roof.
 4. Located such that any portion of a roof-mounted antenna is less than four feet from the edge of the roof.
 5. Supported by structural supports other than corrosion-resistant metal.
 6. Wired to a receiver, except by wires located at least four inches beneath the ground in a rigid conduit or other wiring configuration approved by the building official.
- (d) *Wireless telecommunications towers and antennas.* The purpose of this section is to establish the procedures and guidelines for the siting of wireless communications towers and antennas. In furtherance of this purpose, the city shall give due consideration to the master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas, subject to the following definitions, review requirements, and criteria. The objectives of this section are to:
- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - (2) Direct the location of towers to appropriate nonresidential areas;
 - (3) Minimize the total number of towers throughout the community;

- (4) Encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, positioning, landscape screening, and innovative camouflaging techniques;
- (7) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- (8) Consider the public health and safety of communication towers;
- (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- (10) Applicability. All towers or antennas in the city shall be subject to these regulations, except as provided in the following.
 - a. Amateur radio station operators/receive-only antennas. Other than the provisions of subsections 94-173(d)(11)e. and f., this chapter shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned by or operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
 - b. AM array. For purposes of implementing this chapter, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
- (11) General requirements.
 - a. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
 - b. Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
 - c. Aesthetics. Towers and antennas shall meet the following requirements:
 1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - d. 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.
 - e. State or federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
 - f. Building codes and safety standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in the state construction codes and the applicable standards for towers that are published by the Electronic Industries Association. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna as a public nuisance at the owner's expense.
 - g. Not essential services. Towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.
 - h. Signs. No signs shall be allowed on an antenna or tower.
 - i. Buildings and support equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of subsection 94-173(d)(13)b.
- (12) Uses permitted by administrative review. The zoning official may administratively approve a permit for any wireless communication facility for which all support equipment is screened from view and which complies with one of the following criteria:
 - a. A roof mounted antenna not exceeding ten feet in height and located on a nonresidential structure.
 - b. Antennas and supporting equipment cabinets and structures which are architecturally integrated with a principal building or structure so as not to be recognized as antennas.
 - c. Up to three whip antennas with a maximum height of 20 feet.
 - d. Collocation of a wireless communication antenna on an existing monopole support structure, on a public water tower, athletic field light standard, electrical utility transmission tower or distribution pole, or on an existing tower or pole within the right-of-way or easement of an electrical utility company in any district of the city, provided:
 1. The antenna does not extend more than 30 feet above the highest point of the structure;
 2. The antenna complies with all applicable FCC and FAA regulations; and
 3. The antenna complies with all applicable building codes.
- (13) Uses permitted by special use permit. No wireless communications facilities other than those permitted by administrative review by subsection 94-173(d)(12) of this chapter shall be permitted except subject to the granting of a special use permit after review and approval by the planning commission pursuant to article VI of this chapter, subject to

the general standards applicable to a special use permit as set forth at subsection 94- 191(f), the goals set forth at subsection 94-191(a), and the following additional standards:

- a. Location criteria.
 1. Facilities shall be sited to minimize views to the extent reasonably possible from residential areas or the public right-of-way.
 2. Support structures will be located in all geographic districts to minimize their view from neighboring properties and public rights-of-way.
 3. Monopoles and similar support structures are permitted as a principal or accessory use only in the M-2 general manufacturing district, and those portions of the M-1 light manufacturing district and the C-2 general commercial district lying south of a line created by Kipp Road extended and north and west of lines created by North Street and Buhl Street extended. Mounted wireless communication facilities are permitted in all districts except single-family and two-family districts, except that roof-mounted antennas are not permitted in any residential district.
 4. Monopoles and similar support structures are prohibited in parks, school grounds or other areas heavily trafficked by children.
 5. Lattice or guyed towers or antennas or similar structures are prohibited in all districts.
- b. Development and design standards.
 1. Setbacks.
 - i. Wireless communications facilities including all anchors or pads shall be sited so that the anchors and pads for the structure meet the minimum setback requirements of the zoning district where they are located and do not cross into another zoning district.
 - ii. Separation requirements for towers shall comply with the minimum standards shown in table 100-3 in chapter 100.
 - iii. Mounted wireless communication facilities shall meet the required setbacks for the structure upon which they are located and shall be situated to provide for maximum safety on the site.
 2. Spacing requirements. Monopole tower structures shall be separated from all other towers by a minimum of 750 feet. For purposes of this subsection, the separation distance between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan, of the proposed tower. The minimum tower separation distance shall be calculated and applied irrespective of city jurisdictional boundaries.
 3. Height of the support structure must be the minimum necessary to support the required coverage; however, in no case shall the antenna or its support structure exceed:
 - i. For a single user, 90 feet.
 - ii. For two users, 120 feet.
 - iii. For three or more users, 150 feet.
 4. Support structures shall be painted in unobtrusive colors, unless in accordance with any other statutory or regulatory requirements.
 5. Where an equipment building accompanying the support structure is erected, it shall be designed to be compatible with the adjacent architecture.
 6. Landscaping and visual impact requirements.
 - i. Landscaping shall be provided in sufficient quantity around the perimeter of the required security fencing, as well as adjacent to any buildings and anchors. Site access entrances shall also be landscaped. This information shall be presented on a landscape plan.
 - ii. When located on an otherwise undeveloped site, the existing natural vegetation of the property shall be maintained to the greatest extent possible. The applicants shall provide information on a landscape plan regarding existing vegetation which is proposed to be removed and methods for replacement. In no case shall an entire site be graded and/or cleared for installation of a wireless communication tower.
 - iii. Whether a freestanding or mounted wireless communications facility is proposed, the applicants shall demonstrate how the accessory building's design will limit adverse visual impacts to neighboring property owners.
 - iv. Lighting at the facility and accessory structures shall be designed so not to adversely affect adjacent property owners and shall be in compliance with FAA standards.
- c. Safety and security requirements.
 1. All new wireless communication facilities shall be designed within the applicable ANSI/EIA standards (RSA-22, Revision E), and so as not to be in conflict with existing airport locations and flight patterns.
 2. The applicant shall, in conjunction with the application, submit a statement that is certified and sealed by a licensed architect or engineer indicating that the proposed wireless communication facility is in compliance with all Federal Communications Commission (FCC) regulations and all building code requirements.
 3. All wireless communication facilities shall maintain comprehensive general liability insurance issued by a company authorized to do business in Michigan with combined limits of not less than \$1,000,000, and the applicant shall supply the city with proof of same prior to construction.
 4. Security fencing shall be installed completely around freestanding facilities, any accessory utility structures and guy anchors. Access shall be provided only by a locked gate. Security fencing shall not be required for mounted facilities.
 5. All towers or similar facilities, antenna structures, accessory utility structures and guy anchors and pads shall be equipped with anti-climbing devices.
- d. Collocation.
 1. In order to maximize the efficiency of the provision of wireless communication services, while also minimizing the impact of such facilities on the community, collocation shall be encouraged. All applicants for wireless communication facilities shall be required to provide information regarding the feasibility of collocation at proposed or existing sites. Furthermore, all applicants shall be required to provide a notarized letter of intent to lease excess space on the proposed facility and commit itself to the following:
 - i. Respond to any requests for information from another potential shared use applicant;
 - ii. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically feasible; and
 - iii. Make no more than a reasonable charge for a shared use lease.

2. Should collocation be proposed at a wireless communication facility, accessory mechanical buildings shall either be situated directly adjacent to or abutting each other and separated by a firewall, shall be placed underground, or shall be designed in a manner which limits the number and size of the building(s) on the site. On-site constraints, such as existing topographical and other natural features, may be considered when reviewing a proposed collocation design. Accessory mechanical buildings shall be designed to be consistent in design, style and exterior appearance. Review and approval of accessory mechanical building(s) at a collocation-site shall be made by the planning commission.
- e. Abandonment.
 1. Wireless communication facilities which have been abandoned or are unused or disconnected from the network for a period of 12 months shall be immediately removed from the site at the cost of the facility applicant or successor.
 2. Upon removal of a tower from a site, the foundation shall also be removed to a depth of at least six feet. Additionally, the fencing and accessory structure(s) shall be demolished and removed from the site at the cost of the facility applicant or successor.
- f. Application requirements. Applications for a special use permit as set forth in this section shall contain the following in addition to the requirements or article VI of this chapter:
 1. An explanation of the need of the applicant's clientele for this communications capacity.
 2. Site and landscape plans drawn to scale.
 3. The method of fencing and finished color and, if applicable, the method of camouflage and illumination.
 4. A report including a description of the tower with technical support for the tower design.
 5. Documentation establishing the structural integrity of the tower for the proposed uses.
 6. The general capacity of the tower, and information necessary to assure that ANSI standards are met.
 7. A statement of intent on whether excess space will be leased.
 8. Proof of ownership or authorization to utilize the proposed site.
 9. Copies of any easements necessary.
 10. An analysis of the area containing existing topographical contours.
 11. A presentation size map which shows an inventory of existing and proposed tower installations within the city and within one mile of the border thereof, including specific information about the location, height and design of each tower. The zoning official may share such information with other applicants applying for administrative approvals or seeking special use permits under this chapter or other organizations seeking to locate antennas within the city, provided, however, that the zoning official is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
 12. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicant's telecommunications facilities on towers or usable antenna support structures owned by the city or other persons located within a one-mile radius of the proposed tower site.
 13. A written statement from a registered professional engineer that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structure located within a one-mile radius of the proposed tower site.
- (e) *Swimming pools.* Pools used for swimming or bathing shall not be located in any front yard and shall conform to the applicable yard and setback requirements for a principle structure. Any fencing, barriers, and structures shall comply with the state construction code and county health department specifications. Any lights used for illumination of a swimming pool shall be arranged or shaded so as to reflect light away from adjoining premises.
- (f) *Junk storage, inoperable vehicles, restorable vehicles.*
 - (1) Junk storage.
 - a. No person shall store, place, abandon or permit to be stored, placed, abandoned, or allow to remain, in any district, a dismantled, partially dismantled, unlicensed, unrestorable, or inoperable motor vehicle, junk, rubbish, trash, old furniture, used lumber, unused or discarded machines or equipment, or litter upon any premises, except in an approved and licensed salvage or junk yard or in the case of motor vehicles unless confined in a wholly enclosed structure.
 - b. No person shall store, place, abandon or permit to be stored, placed, abandoned, or allow to remain, in any district, wrecked or inoperable farm machinery, unless hidden from all vantage points from the general public.
 - (2) Restorable vehicles.
 - a. A junk vehicle is considered an inoperable vehicle that is not a "restorable vehicle". A "restorable vehicle" is defined as a vehicle actively being restored in connection with a hobby.
 - b. The restorable vehicle must be in active use as the object of the restoration effort.
 - c. All junk vehicles or inoperable vehicles that do not qualify as restorable vehicles shall not be parked or stored in the open in any zoning district of the city. The only exception is vehicles parked in connection with a business legitimately using such vehicles, such as a body shop or wrecking yard, in zoning districts where such businesses are authorized. In such cases vehicle storage must meet the screening requirements in division 2 of article VII of this chapter.
 - (3) Standards.
 - a. No inoperative, restorable vehicle shall be parked or stored in the front yard or within the required setback of the side yard of property in any zoning district.
 - b. No more than one restorable vehicle may be stored in the open in inoperable condition on any residential lot. A cover or wrap is to be provided to conceal the vehicle parked in the open.
 - c. All doors, hatches, and trunk lids shall be secured against entry by small children.
 - d. Inoperable vehicles described in this section are not permitted in the RS-1, RS-2, and RS-3 districts unless such vehicles qualify as restorable vehicles.
 - e. Open storage of parts, tools, and materials is forbidden.
- (g) *Accessory structures.* Any garage or other structure used for motor vehicle storage or as an accessory structure shall satisfy the following:
 - (1) Authorized accessory structures may be erected as a part of the principal structure, may be connected to the principle structure by a roofed over porch, patio, breeze way, or similar structure, or may be completely detached from the principle structure. If connected to the principal structure, an accessory structure shall be made an integral part of it, and shall comply in all respects with the requirements applicable to the principal structure. An accessory structure not

- attached and not made a part of the principal structure shall not be nearer than ten feet from any other structure on the same lot and shall also comply with the front, rear and side yard requirements of this chapter.
- (2) In all residential zoning districts, the storage of commercial vehicles in accessory structures shall be limited as provided in subsection 94-292(d) of this chapter.
 - (3) Space in a garage accessory to a multiple-family unit or a motel shall not be rented out except to occupants of the principal dwelling.
 - (4) The total lot coverage of all accessory structures shall not exceed 35 percent of the area of any rear yard.
 - (5) Side yard. In all districts accessory structures shall not be erected nearer to a side lot line than the permitted setback distance for the district unless otherwise permitted by this chapter. In the RS-1, RS-2, RS-3, and R2F districts, an accessory structure may be erected not closer than two feet from the side lot lines if the following requirements are satisfied:
 - a. The accessory structure is not attached to, and is located completely behind, the associated principal structure.
 - b. The interior and/or exterior surfaces of the wall facing a side lot line are constructed of fire-resistant material as approved by the building official if any portion of that wall is closer than five feet from a side lot line.
 - (6) Rear yard. In all districts accessory structures shall not be erected nearer to a rear lot line than the permitted setback distance for the district unless otherwise permitted by this chapter. In the RS-1, RS-2, RS-3 and R2F districts, an accessory structure may be erected nearer to a rear lot line than the permitted setback distance for the district provided the accessory structure is not attached to, and is located completely behind, the associated principal structure, and pursuant to the following:
 - a. Where there is a public alley abutting the rear of a lot for the full width of that lot, an accessory structure may be erected not closer than ten feet from a rear lot line.
 - b. Where there is not a public alley abutting the rear of a lot for the full width of that lot, an accessory structure may be erected not closer than five feet from a rear lot line.
 - (7) Corner lot. Where the rear line of a corner lot coincides with the side line of an adjoining lot in a residential district, an accessory building shall not be closer than the side yard setback requirement of said adjoining lot.
 - (8) Accessory structures shall not include structures, fabrications, items, or enclosures originally designed for other purposes. The following are specifically prohibited from being used as accessory structures in the city.
 - a. Mobile home.
 - b. Travel trailers.
 - c. Former vehicles such as buses and ambulances.
 - d. Motor homes.
 - e. Semi-trailer.
 - f. Other similar structures, fabrications, items, or enclosures.
- (h) *Adult businesses.*
- (1) Intent. The intent of this section is to regulate the location of, but not to exclude, adult businesses in the city by preventing the concentration of such uses in close proximity to each other and to minimize the negative impacts of their operation by separating such uses from residential, office/commercial and other areas of public congregation. This regulation is done with the understanding that the city recognizes that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly if several of them are concentrated under circumstances having a deleterious effect upon adjacent residential, office and commercial areas. The city recognizes that the regulation of such uses is necessary to ensure that adverse effects will not contribute to the blighting or downgrading of surrounding residential neighborhoods, nonresidential areas or other places of public congregation.
 - (2) Definitions. As used in this chapter, the following terms shall have the meanings set forth below:
 - a. *Adult bookstore* means an establishment which has, as a significant portion of its stock in trade, books, periodicals, magazines, newspapers, pamphlets, pictures, photographs, motion picture films and/or videotapes, or novelty items or paraphernalia 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 which exceeds 35 percent of the floor area of the establishment.
 - b. *Adult business* means adult bookstores, adult movie theaters, adult personal service businesses, adult cabarets, adult novelty businesses, massage parlors and nude modeling studios, or any combination thereof, as defined in this section.
 - c. *Adult business, significant portion* means a business where the stock in trade or services provided meets one or more of the following criteria:
 1. Thirty-five percent or more of the stock, materials, novelties or services provided are classified as adult materials and/or services as defined in subsection 94-173(h)(2).
 2. Thirty-five percent or more of the usable floor area of the building in which the adult business is located, is used for the sale, display and/or provision of services classified as adult materials and/or services, as defined in subsection 94-173(h)(2).
 3. Thirty-five percent of the gross revenues of the business are derived from the sale or payment of an admission fee for adult materials and/or services as defined in subsection 94-173(h)(2).
 4. The advertising (signs, publications, television, radio, and other media) associated with the business depicts, describes or relates to specified sexual activities and/or specified anatomical areas.
 - d. *Adult cabaret* means an establishment (which may or may not include the service of food or beverages) having as an activity the presentation or display of male or female impersonators, dancers, entertainers, waiters, waitresses or employees who display specified anatomical areas as defined herein.
 - e. *Adult motion picture theater* means an establishment which offers for sale the viewing of motion picture films, videotapes, pictures or photographs, television, or other visual media, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, as defined herein, for the observation of patrons therein.
 - f. *Adult novelties* means objects, items, and/or devices offered for sale which are designed for sexual stimulation or which stimulate human genitals.
 - g. *Adult personal service business* means a business having as its principal activity a person, while nude or while displaying specified anatomical areas, as defined herein, providing personal services for another person. Such businesses include modeling studios, body painting studios, wrestling studios, personal dance rooms, and conversation parlors.

- h. *Massage parlor* means an establishment wherein private massage is practiced, used or made available as a principal use of the premises.
 - i. *Massage* means offering for sale through the use of physical, mechanical or other devices, the manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating of the body of another.
 - j. *Nude modeling studio* means a place which offers as its principal activity the providing of models to display specified anatomical areas, as defined herein, for artists and photographers for a fee.
 - k. *Offered for sale* means offered in exchange for money, a membership fee or any other valuable consideration.
 - l. *Sodomy* means sexual intercourse with a member of the same sex or an animal.
 - m. *Specified anatomical areas means:*
 - 1. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
 - 2. Less than a fully opaque covering of:
 - i. A female individual's breast below a point immediately above the top of the nipple and areola.
 - ii. Any individual's genitals.
 - iii. Any individual's anus.
 - n. *Sexual intercourse* includes genital coitus, fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any person's body.
 - o. *Specified sexual activities means:*
 - 1. Acts of human masturbation, sexual intercourse or sodomy.
 - 2. Fondling or other erotic touching of specified anatomical areas.
 - 3. Human genitalia in a state of sexual stimulation or arousal.
- (3) Location of uses. Any existing building or land, or new building hereinafter erected, converted or structurally altered or used for an adult business, shall meet all of the following conditions:
- a. An adult business shall only be permitted in the C-2 general commercial district with the approval of a special use permit.
 - b. No adult business, as defined herein, shall be permitted within a 600-foot radius of an existing adult business. Measurement of the 600-foot radius shall be made from the outermost boundaries of the lots or parcels upon which the existing and proposed adult uses are situated.
 - c. No adult business, as defined herein, shall be permitted within a 600 foot radius of any residentially used or zoned land as depicted on the official zoning map and defined in this chapter. Measurement of the 600-foot radius shall be made from the outermost boundaries of the lots or parcels upon which the proposed adult use and the residential use are situated.
 - d. No adult business, as defined herein, shall be permitted within a 1,000-foot radius of a school, library, park, playground, licensed group day care center, church, convent, monastery, synagogue or similar place of worship or public congregation. Measurement of the 1,000-foot radius shall be made from the outermost boundaries of the lots or parcels upon which the proposed adult use and the place of worship or public congregation are situated.
- (4) Miscellaneous requirements.
- a. No person shall reside in or permit any person to reside in the premises of an adult business.
 - b. The provisions of this section regarding massage parlors shall not apply to hospitals, sanitariums, nursing homes, medical clinics or the offices of a physician, surgeon, chiropractor, osteopath, psychologist, clinical social worker or family counselor who is licensed to practice his or her respective profession in the State of Michigan, or who is permitted to practice temporarily under the auspices of an associate or an establishment duly licensed in the state of Michigan, clergymen, certified members of the American Massage and Therapy Association and certified members of the International Myomassethics Federation who have a current massage therapist license.
- (i) *Hotel, motel, transient lodging facilities.*
- (1) Intent. The following shall set forth the requirements for construction and site development of transient housing accommodations within the city.
 - (2) Standards.
 - a. Minimum floor area for each guest unit shall contain not less than 250 square feet.
 - b. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be at least 800 square feet of lot area for each guest.
 - c. The maximum lot coverage of all buildings, including accessory building shall not exceed more than 25 percent of the area within the boundary lines of land developed at any one time.
 - d. Minimum yard dimensions. All buildings shall observe a setback of not less than 75 feet from any road right-of-way, and not less than 40 feet from any side or rear property line.
 - e. The maximum building height shall not exceed two stories or 35 feet.
 - f. Site screening. The site may be enclosed by open structure wood or wire fences, shrubs and/or trees which, along any yard line, shall not exceed six feet in height. No screening shall impair safe vertical or horizontal sight distance for any moving vehicles. Screening at least four feet high shall be erected to prevent headlight glare on adjacent residential or agricultural property. No screening shall be closer than 50 feet to any street line, except headlight screening shall not be closer than 30 feet.
 - g. Lighting. All outdoor lighting shall be arranged so that it is deflected from adjacent properties, streets and thoroughfares, and shall not impair the safe movement of traffic.
 - (3) Accessory uses. Accessory uses such as meeting rooms, taverns, bars, or similar uses are permitted provided such shall be conducted within the same building as the principal use. A caretaker or proprietor's residence shall be permitted as an accessory use.
 - (4) Motor vehicle access.
 - a. Site plans. All site plan proposals submitted for this use shall provide for the proper handling of traffic on the highway, frontage road, or street giving access to the district. No access by motor vehicles, other than stated herein, shall be permitted to a minor or residential street. All points of entrance or exit shall be no closer than 50 feet from the intersection of the right-of-way lines of two streets.
 - b. Interstate or interchange site location. Whenever a proposed use is located adjacent to or within one-half mile of an existing, or planned state or interstate limited access highway interchange, it shall be incumbent upon the applicant to show that the proposed site location shall not cause unsafe traffic congestion resulting at or in conjunction with said limited access interchange, and the applicant shall request and submit with the application a written recommendation from the Traffic Division of the Michigan Department of State Highways. In no case, shall private access drives be less than 200 feet from an interchange.

- (5) Signs shall be those identifying any of the permitted uses within the zoning district and shall be in accordance with the provisions of any applicable city chapter.
 - (6) Off-street parking and loading requirements shall be in accordance with the provisions of article IX of this chapter except that required parking shall be furnished on the immediate premises.
 - (7) The storage of refuse and space required for the accumulation and out loading of garbage, trash, scrap, waste, and containers therefore shall comply with the standards in section 94-173(b).
- (j) Outdoor food and drink service areas. It is the intent of this section to set forth the requirements for establishing outdoor food and drink service areas at a pub, tavern, or restaurant.
- (1) General standards.
 - a. Provide a drawing to scale showing the seating plan and the layout of the outdoor dining space to be used in relation to adjacent properties and other public and private fixtures and amenities.
 - b. Trash receptacles shall be provided in food and drink service areas where table service is not provided. Trash receptacles shall be emptied when full and maintained in a clean and sanitary condition at all times.
 - c. Seating may not be placed in a way that obstructs pedestrian circulation or interferes with the opening of doors of buildings or parked vehicles.
 - d. An opaque fence or wall six feet in height shall be erected along all property lines abutting residentially zoned or used property.
 - e. Lighting shall be deflected away from abutting residentially zoned or used property.
 - (2) Establishments utilizing the public right-of-way shall do so only under a license granted by the City Council which shall be revocable at the will of the Council and shall include the following minimum standards in addition to the general standards of this section:
 - a. Establishments shall agree to defend, indemnify, and hold the city and its elected and appointed officers, agents, and employees harmless from all liability for damages or personal injuries resulting from any occurrence on the licensed property as a result of the establishment's use or occupancy of the public right-of-way and shall provide public liability insurance naming the city as an additional named insured in a form and with limits acceptable to the city.
 - b. Establishments must maintain a minimum of four feet of unobstructed sidewalk within the public right-of-way.

THE CITY OF MASON FURTHER ORDAINS:

Section 94-223 of Chapter 94 of the Mason City Code is hereby amended by adding subsection (3) establishing administrative site plan review authority of outdoor food and drink service areas, which amended section shall read as follows:

Sec. 94-223. Administrative site plan review authority.

The zoning official may approve or deny any site plan for the use of land and structures listed in this section. The zoning official may refer any submitted site plan to the planning commission for review and approval.

- (1) All uses of existing principal and accessory buildings which do not increase the base or footprint of the structure.
- (2) All uses of land and building which do not increase the number of required off-street parking spaces by more than two spaces.
- (3) Outdoor food and drink service areas at a pub, tavern, or restaurant unless otherwise permitted by special use permit.

The foregoing Ordinance was moved for adoption by Council Member Preadmore and supported by Council Member Waltz, with a vote thereon being: YES (7) NO (0), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the 4th day of August, 2008. Ordinance No. 166 declared adopted this 4th day of August, 2008.

ORDINANCE APPROVED UNANIMOUSLY

Resolution No. 2008-31 – Mayor’s Appointment to the Downtown Development Authority

Resolution No. 2008-31 was introduced by Preadmore and seconded by Whipple.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2008-31
MAYOR’S APPOINTMENT TO THE DOWNTOWN DEVELOPMENT
August 4, 2008**

WHEREAS, a resignation created a vacancy on the Downtown Development Authority; and

WHEREAS, the term of the vacancy expires on December 31, 2009;

BE IT HEREBY RESOLVED that the Mayor, with confirmation by the City Council, does hereby appoint Michelle Bontrager to the Downtown Development Authority of the city to fill the remainder of the unexpired term, commencing August 31, 2008.

RESOLUTION APPROVED

Resolution No. 2008-32 – Resolution to Approve the Purchase of a 2009 Three-Quarter Ton Plow Truck

Resolution No. 2008-32 was introduced by Whipple and seconded by Preadmore.

CITY OF MASON

**CITY COUNCIL RESOLUTION NO. 2008-32
RESOLUTION TO APPROVE THE PURCHASE
OF A 2009 THREE-QUARTER TON PLOW TRUCK
AUGUST 4, 2008**

WHEREAS, it is in the best interest of the City of Mason to purchase equipment to maintain its new water treatment plant within the motor vehicle pool fleet; and

WHEREAS, the scheduled purchase of a three-quarter ton plow truck for the water treatment plant was planned for the approved Fiscal Year 2008 - 2009 Budget.

NOW THEREFORE BE IT RESOLVED, that the Mason City Council does hereby approve the purchase of one (1) 2009 Chevrolet three-quarter ton plow truck for \$26,365.20 from Buff Whelan Chevrolet.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2008-33 – A Resolution Approving the Purchase and Installation of Playground Equipment at Austin Park and a Gazebo for Griffin Park

Rolland Olney, Public Works Director, and Dennis O'Brien, Cemetery and Parks Superintendent, informed City Council regarding playground equipment and arrangement plans for Austin Park and the construction of a Gazebo at Griffin Park.

MOTION by Naeyaert, second by Waltz,
to consider Resolution No. 2008-33 as read.

MOTION by Whipple, second by Naeyaert,
to amend Resolution No. 2008-33 in the *now therefore be it resolved* paragraph, in the first line, following the word "hereby", by inserting the phrase, "waive the bid process and".

MOTION APPROVED UNANIMOUSLY

VOTE ON MAIN MOTION:
MOTION APPROVED UNANIMOUSLY

Resolution No. 2008-33 was introduced by Waltz and seconded by Preadmore.

It was discussed that there was a discrepancy between the total amount of the quotes received from All About Play, Inc. and the total amount cited in the resolution. Colburn stated that staff will pick up play equipment pieces at the warehouse located in Litchfield rather than have it delivered. The quote amount shown reflects the deduction for the delivery and freight charge; however the deduction was not reflected in the resolution because he was recommending maintaining the quoted amount to allow for contingencies. Discussion ensued.

MOTION by Bruno, second by Preadmore,
to amend Resolution No. 2008-33 in the *now therefore be it resolved* paragraph, by changing the dollar amount from \$54,168.36, to read \$52,970.36.

MOTION APPROVED UNANIMOUSLY

Whipple stated that the original and approved park improvement budget is \$70,000.00. At the last meeting \$113,000.00 was committed to park improvements. He sees that it is more than 100% increase and would like to have council discuss the ramifications of spending funds that were not discussed for spending \$283,000.00 this fiscal year on park improvements. Discussion ensued.

MOTION by Whipple, second by Bruno,
to defer Resolution No. 2008-33 to no later than the first meeting in

September to hold a council work session to discuss the park improvements budget and its relationship to the total budget.

ROLL CALL VOTE:

Yes (3) Bruno, Preadmore, Whipple

No (4) Clark, Mulvany, Naeyaert, Waltz

MOTION FAILED

VOTE ON MAIN MOTION:

Yes (5) Clark, Mulvany, Naeyaert, Preadmore, Waltz

No (2) Bruno, Whipple

MOTION APPROVED

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2008-33
A RESOLUTION APPROVING THE PURCHASE AND INSTALLATION OF NEW
PLAYGROUND EQUIPMENT FOR AUSTIN PARK AND A GAZEBO FOR GRIFFIN PARK
AUGUST 4, 2008**

WHEREAS, the Mason City Council has determined improvements to the city park system as a priority within the city goals and objectives; and

WHEREAS, Austin Park improvements are to include a tot playground and Health Quest System located along the Hayhoe Riverwalk; and

WHEREAS, Griffin Park improvements include a gazebo and additional landscaping; and

WHEREAS, funding was allocated and approved in the City of Mason Fiscal Year Budget 2008-2009; and

WHEREAS, the city obtained public bids from playground equipment providers for a previous project; and

WHEREAS, based on the previous bid acceptance the city selected a Michigan supplier, All About Play, Inc., qualified to provide the equipment and installation for the playground equipment and gazebo.

NOW THEREFORE BE IT RESOLVED, that Mason City Council does hereby waive the bid process and award the quote for the purchase and installation of playground equipment for park improvements at Austin Park and Griffin Park to All About Play, Inc., not to exceed \$52,970.36

Yes (5) Clark, Mulvany, Naeyaert, Preadmore, Waltz

No (2) Bruno, Whipple

RESOLUTION APPROVED

Motion – Bid – Purchase and Installation of Variable Frequency Drives for Franklin Farms Well - #6, Hayes Park Well - #4, and Kipp Road Well - #7

Olney informed Council regarding the bid opening held July 22, 2008, for the purchase and installation of three (3) Variable Frequency Drives (VFD) for the Franklin Farms Well - #6, Hayes Park Well - #4, and Kipp Road Well - #7. He stated that staff recommended accepting the bid from Ballard Electric Company based on their previous service to the city and that they are a local business.

MOTION by Bruno, second by Preadmore,
to approve the Ballard Electric Company bid in the amount of \$13,800.00 for the purchase and installation of three (3) Variable Frequency Drives for three city wells, Franklin Farms Well - #6, Hayes Park Well - #4, and Kipp Road Well - #7.

MOTION APPROVED UNANIMOUSLY

Motion – Michigan Department of Transportation (MDOT) – Traffic Signal Located at Jefferson Street and Ash Street

Colburn addressed Council regarding the Michigan Department of Transportation (MDOT) timeline for choosing the style of traffic signal the city would prefer for the intersection of Jefferson and Ash Streets. To meet new traffic light standards, MDOT's basic installation model is the box span. For visual preference, staff suggested the dual post double mast arm traffic signal as an alternative. Cost estimates for the dual post double mast arm system were \$85,000 more versus the box span. However, the most recent estimate indicates that the double mast arm system will cost approximately \$35,000 more than the box span. Discussion ensued regarding the style of post that would be appropriate and financially sound.

MOTION by Mulvany, second by Preadmore,
to accept the MDOT proposal for the double mast arm system in the amount of
\$35,000.00.

Discussion ensued regarding the color of the posts, the location of the control box, and traffic signal style options. Discussion ensued regarding the need for further information prior to making a decision.

ROLL CALL VOTE:

Yes (3) Mulvany, Preadmore, Waltz
No (4) Bruno, Clark, Naeyaert, Whipple

MOTION FAILED

MOTION by Whipple, second by Bruno,
to direct the City Administrator to meet with MDOT to diligently pursue a better
location to place the traffic light control box.

MOTION APPROVED UNANIMOUSLY

Motion – Amendment to 2008 Annual Street Program

Colburn stated that \$85,000 was appropriated from the capital street maintenance fund in the 2008 Budget for a traffic signal at the intersection of Jefferson and Ash Streets. Originally, because of the amount of money being spent on the water treatment plant, staff reduced the amount of asphalt used for road paving at the plant until monies were available for full road construction during another fiscal year. As a result of Council choosing the box span traffic light for the intersection of Jefferson and Ash Streets, Colburn recommended that the remaining funds designated for the traffic signal at the intersection of Jefferson and Ash Streets be used for the road leading to the new water treatment plant. The cost is estimated to be \$54,000.00. Discussion was held regarding the excessive cost of asphalt estimated for the road.

MOTION by Naeyaert, second by Preadmore,
to defer the request to amend the 2008 annual street program to the August 18, 2008,
meeting to permit staff to verify the cost of asphalt for the public road to the water
treatment plant.

MOTION APPROVED UNANIMOUSLY

Motion – Street Closure Requests for Bailey Park Homeowners Association's First Annual Picnic Basket Social and Holt Street Neighborhood Block Party

The Bailey Park neighborhood is requesting street closures at the corner of Ann and Monroe Streets, as well as the corner of North Bailey and East Bailey Streets, Sunday, August 10, 2008, between 12:30 p.m. and 3:00 p.m. to hold the "Bailey Park Homeowners Association's First Annual Picnic Basket Social". Music will be performed during those hours by a nine-piece non-amplified band. An agreement for signatures was circulated to each address in the subdivision

informing residents of the street closure and band; of the twenty-three residents approached, eighteen homeowners signed the agreement and five were not home at the time of the survey.

The neighborhood of Holt Street between South and Bond Streets is planning a neighborhood block party Saturday, August 9, 2008, from 12:00 noon to 12:00 midnight. A letter was submitted requesting street closures at the corner of Holt and South Streets and Holt and Bond Streets. Staff recommends allowing the block party between the hours of 12:00 noon to 10:00 p.m.

MOTION by Bruno, second by Naeyaert,
to approve two requests for street closures for the corners of Ann and Monroe Streets and North Bailey and East Bailey Streets on August 10, 2008, between 12:30 p.m. and 3:00 p.m. to hold the "Bailey Park Homeowners Association's First Annual Picnic Basket Social", and the corner of Holt and South Streets and Holt and Bond Streets, Saturday, August 9, 2008, from 12:00 noon to 10:00 p.m. to hold a neighborhood block party.

MOTION APPROVED UNANIMOUSLY

Motion – Use of Public Right-of-Way for Collection of Charitable Contributions

Lynne Lindsay of 305 W. Elm Street stated that Capital Area Community Services is sponsoring her in her campaign to unite the community and meet the need of local food banks by collecting non-perishable food items. She will also collect classroom school supplies that will be given to the Mason Public School District. Ms. Lindsay requested permission to use the public right-of-way Saturday, August 16, from 7:30 a.m. to 5:30 p.m.

MOTION by Naeyaert, second by Waltz,
to approve the Capital Area Community Services to allow resident Lynne Lindsay to use the public right-of-way to collect non-perishable food items; and allow Ms. Lindsay to collect classroom school supplies that will be donated to Mason Public School District on the sidewalk located in front of 108 West Maple Street, the Maple Street Mall, Saturday, August 16, 2008, from 7:30 a.m. to 5:30 p.m.

MOTION APPROVED UNANIMOUSLY

Motion – Use of Public Right-of-Way for Property Maintenance at 344 S. Jefferson Street

Daniel Schlattman, owner of Freedom Tax Services located at 344 S. Jefferson Street, requested closing the portion of Ingham Court between his building and Mason State Bank located at 322 S. Jefferson Street for the purpose of painting the building. A high reach manlift will be used on the project. He is committing to complete the task within two Saturdays, working 4 - 6 hours each day, and is proposing the following "rain" dates; August 9, 16, 23, 30, September 6, or 13. He is requesting to block off the delivery parking area to place scaffolding to allow cleaning and painting of the iron work under the stairwell on the building on a Saturday following the painting of the building, which will not impede Ingham Court traffic. He is also requesting to block off a portion of the sidewalk in front of the building when needed to erect scaffolding with walls. The sidewalk will be passable by pedestrians during the maintenance to the front of the building.

MOTION by Whipple, second by Preadmore,
to approve the request of Dan Schlattman for closing Ingham Court and a portion of the sidewalk in front of 244 S. Jefferson Street per his submitted letter for August 9, 16, 28, 30, September 6 or 13.

MOTION APPROVED UNANIMOUSLY

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

CORRESPONDENCE

Distributed.

LIAISON REPORTS

Whipple inquired about the dead trees in Bond Park and other locations. O'Brien informed Council that there was a plan in place and that funds were appropriated in the current budget to deal with the removal of Ash trees attacked by the Emerald Ash Bore. Bruno informed Council regarding the successful treatment he has been using on the Autumn Purple Ash at Bond Park.

ADMINISTRATOR'S REPORT

Colburn informed the Council regarding current city business.

PEOPLE FROM THE FLOOR

None.

ADJOURNMENT

The meeting adjourned at 9:20 p.m.

Martin A. Colburn, City Clerk

Leon Clark, Mayor