STAFF REPORT
July 5, 2019
Text Amendment – Universal Design Requirements
Ordinance 1460

SUBJECT

An application to consider Ordinance 1460, an ordinance to amend The Code of the City of East Lansing by adding a new section, which new section shall be designated as Section 50-532, of Division I – Generally – of Article VI – Business, Office, and Industrial Districts and amending Section 50-793, of Division VI – East Village District – of Chapter 50 – Zoning – of The Code of The City of East Lansing to require universal design features in multiple family housing within business districts.

BACKGROUND

On November 9, 2016 City Council approved Ordinance 1385 that requires universal design features in multi-family housing. The requirements were placed in Article V of the zoning code which applies to multi-family districts. Since that time, it has come to staff’s attention that the requirement does not apply to multi-family and mixed-use developments in business districts. The proposed ordinance is intended to expand the applicability of the universal design requirements as intended by the Senior Commission.

SUMMARY COMMENTS

The draft ordinance proposes to make the universal design requirements listed in Division 1 of Article V of Chapter 50 of the Zoning Ordinance applicable to new construction of multi-family dwellings in all residential and mixed-use development projects in business, office, industrial, and East Village districts and to townhouse and duplex development projects with greater than ten dwellings.

CONCERNS FROM COMMISSIONERS – JUNE 26, 2019

1. Have there been any developments since the adoption of Ordinance 1385 that the current requirements would apply to? There have been no multi-family developments that would have been subject to this requirement since the adoption of 1385.

2. Provide the relevant sections of the zoning ordinance that require universal design? Attached is Division 1 of Article V, Multiple-Family Residential Districts,
that includes the purpose and scope, findings at time of adoption, definitions, obligation to install universal design features, and exemptions.

There was also a question from a member of the audience that asked if any of the larger recent developments downtown, such as Center City, are being built to universal design standards. The proposed standards do not apply as written since they are currently only applicable to multi-family zoning districts. However, there are provisions in the Michigan Building code that do require minimum accessibility requirements for multiple-family developments, which requires a minimum of 2% of the units where there are more than 20 units to be type A units. In general, Type A units are required to provide for turning radiuses, lower shelving, lever door handles, accessible thresholds, electrical controls, and lower kitchen workstations and lavatories, for example. The recent large mixed-use developments downtown, such as the HUB, Center City, and Park District multi-family units meet this requirement.
DIVISION 1. - GENERALLY

Sec. 50-361. - Purpose and scope.

(a) The purposes of this division are to require the development of dwelling units in multiple-family residential districts that are visitable, usable, and safe for occupancy by persons with disabilities and to accommodate a wide range of individual preferences and functional abilities while not significantly impacting housing costs and affordability.

(b) This division shall apply to the new construction of all multifamily residential dwellings in all residential development projects in the city's multiple family residential districts constructed under the Michigan Building Code and to townhouse and duplex development projects with greater than ten dwelling units constructed under the Michigan Residential Code, in the aggregate of all phases.

(Ord. No. 1385, 11-9-2016)

Sec. 50-362. - Findings at time of adoption.

(a) Individuals with mobility difficulties may require special accommodations to their homes to allow for continued independent living. This chapter is reasonably necessary to serve this population as well as those anticipating a disability by enhancing opportunities for the full life cycle use of housing without regard to the physical abilities or disabilities of a home's occupants or guests.

(b) There has been a significant increase, locally, of persons in need of accommodations in their housing related to Michigan State University. Michigan State University reports 1,592 students (up four percent over last year) with permanent disabilities that received services from Michigan State University's Resource Center for Persons with Disabilities (RCPD) with 111 additional receiving services for temporary conditions. Fifty students reported an open case with Michigan Rehabilitation Services while five reported working with the Bureau of Services for Blind Persons.

(c) The RCPD staff assessed and registered 411 new students with permanent disabilities via the Academic Orientation Program and ongoing self-identification activities which evidences a trend for the increased need of accommodations for housing. The disability counts by major characteristic (permanent disabilities only) and the relationship to the previous year's count were reported to be as follows:

1. Deaf/hard of hearing—57 (up 14% from last year)
2. Blindness/visual impairment—45 (down 2% from last year)
3. Mobility—142 (up 14%)
4. Brain injury—70 (up 4%)
5. Learning disability—783 (up 2%)
6. Psychiatric—570 (up 16%)
7. Chronic health—349 (up 7%)
8. Autism spectrum—57 (up 14%)
9. Other—44 (up 25%)
10. Multiple—426 (up 12%)

(d) Michigan State University reported 163 employees (up 19 percent over last year) with active permanent disabilities were current with the RCPD; 40 were newly registered this year with a net population increase of 26 given retirements and other transitions which is further evidence of a trend for the increased need in housing accommodations. Disability counts by major characteristic
(permanent disabilities only) and the relationship to the previous year's count were reported to be as follows:

(1) Deaf/hard of hearing—23 (up 44% over last year)
(2) Blindness/visual impairment—16 (down 6%)
(3) Mobility—67 (up 14%)
(4) Brain injury—14 (up 56%)
(5) Learning disability—11 (no change)
(6) Psychiatric—24 (up 20%)
(7) Chronic health—56 (up 22%)
(8) Autism spectrum—1 (no change)
(9) Other—13 (up 100%)
(10) Multiple—31 (up 29%)

According to the U.S. Census Bureau, 14.9 percent of U.S. residents were 65 and older in 2015, while 3.8 percent were 80 and older. By 2050 these percentages are projected to increase to approximately 22 percent and eight percent respectively. In that same period overall population is projected to increase 24 percent resulting in a near doubling of the 65 and older population. These demographic trends will increase the demand for senior housing with accommodations.

(Ord. No. 1385, 11-9-2016)

Sec. 50-363. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section where defined herein, except where the context clearly indicates a different meaning:

**Dwelling** means a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

**Dwelling unit** means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Multistory unit** means a dwelling unit or sleeping unit with habitable space located on more than one story.

**Sleeping unit** means a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**Type A dwelling/sleeping unit** means a residential dwelling unit meeting the criteria for a Type A design and construction requirements as specified in the Michigan Building Code.

**Type B dwelling/sleeping unit** means a residential dwelling unit meeting the criteria for a Type B design and construction requirements as specified in the Michigan Building Code.

(Ord. No. 1385, 11-9-2016)

Sec. 50-364. - Obligation to install universal design features.
(a) The developer of residential dwelling/sleeping units that are subject to this division shall design and construct, at a minimum, clear width of 32 inches for all door openings and must always meet the minimum Michigan Building Code/Michigan Residential Code.

(b) The developer of residential dwellings that are subject to this division shall design and construct all hallways connecting residential units to be a minimum clear width of 64 inches.

(c) Where there are four or more dwelling/sleeping units intended to be occupied as a residence in a single structure, except for Type A dwelling/sleeping units, every dwelling/sleeping unit shall be a Type B dwelling unit.

Exception: Structures without elevator service and unable to be made accessible need not comply.

(d) Where ten or more dwelling units are to be constructed, in the aggregate, regardless of phasing, a minimum of five percent of the residential units to be constructed shall be Type A dwelling units. This minimum percentage requirement shall be met regardless of the number of residential units constructed in excess of the number of units that are evenly divisible by 20. There must be at least one Type A dwelling unit on each residential floor of a building containing multiple floors of residential units where there are ten or more residential units on that floor.

(e) Where a Type A dwelling unit is constructed within a building as required by this section, there shall be, at a minimum, an exterior accessible route that is not less than 64 inches wide having a maximum slope of one unit vertical in 12 units horizontal.

(f) The following shall be installed unless an exemption of this universal design feature is granted under section 50-365:

1. Rocker light switches and controls.
2. Lever operated door hardware.
3. Flooring throughout the residential dwelling unit consistent with ANSI A117.1, Chapter 10.
4. The installation of all receptacle outlets, lighting controls and environmental controls throughout the balance of the residential dwelling unit must comply with ANSI A117.1, Chapter 10 or applicable provisions of the Michigan Electrical Code.
5. Outlets at the bottom and top of any stairs to facilitate the use of a chair lift.

(Ord. No. 1385, 11-9-2016)

Sec. 50-365. - Exemptions.

(a) A developer may apply to the building official for an exemption from one or more of the universal design requirements required to be constructed under this chapter. The building official shall establish policies and procedures that provide for building official review of requests for exemptions under this section. The policies and procedures shall require the building official to provide a written decision within ten calendar days of the filing of a completed request for the exemption. A copy of the decision shall be delivered to the developer personally or sent to him or her by ordinary mail. Requests for exemptions shall be submitted on a form prescribed by the building official.

(b) The building official shall approve a request for an exemption of a universal design requirement if the building official finds either one or more of the following:

1. That the developer has demonstrated that compliance with the requirement to meet the universal design standards under this chapter would create an undue hardship due to site constraints.
2. That the developer has demonstrated that compliance with the requirement to meet the universal design standards under this chapter would result in an unreasonable delay in construction or would result in unreasonable costs.
(3) An alternate number or location of Type A dwelling units will satisfy the intent of this section.

(4) That the developer has demonstrated that compliance with the requirement to meet the universal design requirements under this chapter would constitute a regulatory taking.

(c) Any person aggrieved by the building official's decision under this section may appeal the decision to the zoning board of appeals. The appeal shall be filed, processed, and heard in the manner set forth in division 2 of article II of chapter 50 of the Code. The board shall consider the standards set forth herein for any appeals of a decision under this section and the opinion and report of the building official. Any appeals regarding other interpretations made by the planning and zoning official or requests for variances shall be decided by the zoning board of appeals under the usual procedures in the manner set forth in division 2 of article II of chapter 50 of the Code.

(Ord. No. 1385, 11-9-2016)

Secs. 50-366—50-380. - Reserved.